

Status: Point in time view as at 01/04/2013.

Changes to legislation: Financial Services Act 2012, PART 1 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 18

FURTHER MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS OF FSMA 2000

1 FSMA 2000 is amended as follows.

Commencement Information

II Sch. 18 para. 1 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 2 (1) Section 33 (withdrawal of authorisation) is amended as follows.
- (2) In subsection (1)(a), for “Part IV permission” substitute “ Part 4A permission ”.
- (3) In subsection (2), for “Authority” substitute “ appropriate regulator ”.
- (4) After that subsection insert—
- “(2A) In subsection (2) “the appropriate regulator” means—
- (a) in the case of a PRA-authorised person, the PRA, and
- (b) in any other case, the FCA.”
- (5) In the heading, omit “by the Authority”.

Commencement Information

I2 Sch. 18 para. 2 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 3 (1) Section 36 (persons authorised as a result of being concerned in collective investment schemes) is amended as follows.
- (2) In subsection (1), for “Authority” substitute “ FCA ”.
- (3) In subsection (2), for “Part IV permission” substitute “ Part 4A permission ”.

Commencement Information

I3 Sch. 18 para. 3 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 4 In section 38 (exemption orders), in subsection (2), for “Part IV permission” substitute “ Part 4A permission ”.

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Commencement Information

I4 Sch. 18 para. 4 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 5 (1) Section 39 (exemption of appointed representatives) is amended as follows.
- (2) In subsection (1B), for “Authority”, in each place, substitute “ FCA ”.
- (3) For subsection (4) substitute—
- “ (4) In determining whether an authorised person has complied with—
- (a) a provision contained in or made under this Act, or
- (b) a qualifying EU provision that is specified, or of a description specified, for the purposes of this subsection by the Treasury by order,
- anything which a relevant person has done or omitted as respects business for which the authorised person has accepted responsibility is to be treated as having been done or omitted by the authorised person.”

Commencement Information

I5 Sch. 18 para. 5 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2

I6 Sch. 18 para. 5 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 6 In section 39A (tied agents operating outside the United Kingdom), for “Authority”, in each place, substitute “ FCA ”.

Commencement Information

I7 Sch. 18 para. 6 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 7 In section 97(1)(d) (contravention of Part 6 rules: appointment of persons to carry out investigations), for “83, 85, 87G or 98” substitute “ 85 or 87G ”.

Commencement Information

I8 Sch. 18 para. 7 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 8 In section 177 (offences), in subsection (2), after “director or” insert “ other ”.

Commencement Information

I9 Sch. 18 para. 8 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 9 (1) In each of the provisions of Part 17 (collective investment schemes) mentioned in sub-paragraph (2), for “Authority”, or “Authority's”, in each place, substitute “ FCA ” or “FCA's”.
- (2) Those provisions are—
- (a) sections 237 to 239;
- (b) sections 242 to 252A;

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- (c) sections 254 to 262 (including the heading to section 259);
- (d) section 264;
- (e) section 266;
- (f) sections 271 to 283B.

Commencement Information

I10 Sch. 18 para. 9 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 10 (1) Section 249 (disqualification of auditor for breach of trust scheme rules) is amended as follows.
- (2) In subsection (1) for the words from “it may” to the end substitute “it may do one or more of the following—
- (a) disqualify the auditor from being the auditor of any authorised unit trust scheme or authorised open-ended investment company;
 - (b) publish a statement to the effect that it appears to the FCA that the auditor has failed to comply with the duty;
 - (c) impose on the auditor a penalty, payable to the FCA, of such amount as the FCA considers appropriate.”
- (3) For subsection (2) substitute—
- “(2) Sections 345B to 345E have effect in relation to the taking of action under subsection (1) as they have effect in relation to the taking of action under section 345(2).”
- (4) For the heading substitute “ Disciplinary measures ”.

Commencement Information

I11 Sch. 18 para. 10 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

I12 Sch. 18 para. 10 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 11 (1) Section 250 (modification or waiver of rules) is amended as follows.
- (2) In subsection (4)—
- (a) for “Subsections (3) to (9) and (11) of section 148” substitute “ Section 138A and subsections (1) to (3), (5) and (6) of section 138B ”,
 - (b) for “section 148(2)” substitute “ section 138A(1) ”, and
 - (c) in paragraph (c), for “subsection (7)(b)” substitute “ section 138B(3)(c) ”.
- (3) In subsection (5)—
- (a) for “Subsections (3) to (9) and (11) of section 148” substitute “ Section 138A and subsections (1) to (3), (5) and (6) of section 138B ”,
 - (b) for “section 148(2)” substitute “ section 138A(1) ”,
 - (c) in paragraph (a), for “subsection (4)(a)” substitute “ subsection (4)(a) of section 138A ”,
 - (d) in paragraph (b), for “subsection (7)(b) and (11)” substitute “ section 138B(3)(c) and the definition of “immediate group” in section 421ZA as it applies to that section ”,
 - (e) in paragraph (c), for “subsection (7)(b)” substitute “ section 138B(3)(c) ”,

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- (f) in paragraph (d), for “subsection (8)” substitute “ section 138B(5) ”, and
- (g) in paragraph (e), for “subsection (9)” substitute “ section 138A(7) ”.

Commencement Information

I13 Sch. 18 para. 11 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 12 In section 257 (directions), in subsection (5), for “section 150” substitute “ section 138D ”.

Commencement Information

I14 Sch. 18 para. 12 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 13 In section 267 (power to suspend promotion of scheme)—
- (a) in subsections (1), (2), (4) (in both places) and (5) (in both places), for “Authority” substitute “ FCA ”, and
 - (b) in the heading for “Authority” substitute “ FCA ”.

Commencement Information

I15 Sch. 18 para. 13 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 14 In section 268 (section 267: procedure)—
- (a) in subsection (2), for “Authority” substitute “ FCA ”,
 - (b) in subsection (3), for “the Authority” substitute “ the FCA ”,
 - (c) in subsection (4)(c), for “Authority's” substitute “FCA's”,
 - (d) in subsections (4)(d), (5) and (6) for “Authority” substitute “ FCA ”,
 - (e) in subsection (7), for “The Authority” substitute “ The FCA ”,
 - (f) in subsection (8), for “Authority” substitute “ FCA ”,
 - (g) in subsection (9), for “The Authority” substitute “ The FCA ”,
 - (h) in subsection (13), for “Authority's” substitute “FCA's”, and
 - (i) in the heading, for “Authority's” substitute “FCA's”.

Commencement Information

I16 Sch. 18 para. 14 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 15 In section 269 (procedure: application for variation or revocation of direction)—
- (a) in subsections (1), (2), (4) and (5), for “Authority” substitute “ FCA ”, and
 - (b) in subsection (6), for “The Authority” substitute “ The FCA ”.

Commencement Information

I17 Sch. 18 para. 15 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 16 In section 270 (schemes authorised in designated countries or territories)—
- (a) in subsection (1), in each place, for “Authority” substitute “ FCA ”,

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- (b) in subsections (2)(b) and (5) (in both places), for “the Authority” substitute “ the FCA ”, and
- (c) in subsection (6), for “Authority” substitute “ FCA ”.

Commencement Information

I18 Sch. 18 para. 16 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 17 In section 284 (power to investigate), in subsection (11), for “the Authority” substitute “ the FCA ”.

Commencement Information

I19 Sch. 18 para. 17 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 18 In section 404 (consumer redress scheme), for “Authority”, in each place, substitute “ FCA ”.

Commencement Information

I20 Sch. 18 para. 18 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 19 In section 404A (supplementary provision relating to rules under section 404), for “Authority” or “Authority's”, in each place, substitute “ FCA ” or “FCA's”.

Commencement Information

I21 Sch. 18 para. 19 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 20 (1) Section 404F (definitions etc.) is amended as follows.
- (2) For “Authority”, in each place, substitute “ FCA ”.
 - (3) In subsection (8), for paragraph (a) substitute—
 - “(a) the variation under section 55H or 55J of a Part 4A permission,
 - (aa) the imposition or variation of a requirement under section 55L, or”.

Commencement Information

I22 Sch. 18 para. 20 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 21 (1) Section 405 (directions) is amended as follows.
- (2) In subsection (1)—
 - (a) for “Authority” substitute “ appropriate regulator ”,
 - (b) in paragraph (a), for “Part IV” substitute “ Part 4A ”, and
 - (c) in paragraphs (c) and (d), for “notice of control” substitute “ section 178 notice ”.
 - (3) In subsection (2)(b), for “notices of control” substitute “ section 178 notices ”.
 - (4) After subsection (4) insert—

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“(4A) The appropriate regulator”—

- (a) for the purposes of subsection (1)(a) and (b), is the regulator to which the application for permission under Part 4A is made;
- (b) for the purposes of subsection (1)(c) and (d), is the appropriate regulator as defined in section 178(2A).

(4B) “Section 178 notice” means a notice given under section 178.”

Commencement Information

I23 Sch. 18 para. 21 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

22 (1) Section 407 (consequences of a direction under section 405) is amended as follows.

(2) In subsection (1)—

- (a) for “the Authority”, in the first place, substitute “ a regulator ”,
- (b) in paragraph (a), for “subsections (7) to (9) of section 52 do” substitute “ section 55X does ”, and
- (c) in paragraph (b), for “Authority” substitute “ regulator ”.

(3) In subsection (2)—

- (a) for “the Authority”, in the first place, substitute “ a regulator ”,
- (b) in paragraph (a), for “section 52(1) and (2)” substitute “ subsections (1) to (3) of section 55V ”, and
- (c) in paragraph (b), for “Authority” substitute “ regulator ”.

(4) In subsection (3)—

- (a) for “the Authority”, in the first place, substitute “ a regulator ”, and
- (b) in paragraph (b), for “Authority” substitute “ regulator ”.

Commencement Information

I24 Sch. 18 para. 22 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

23 In section 409 (Gibraltar), in subsection (2), for “Part IV permission” substitute “ Part 4A permission ”.

Commencement Information

I25 Sch. 18 para. 23 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

24 In section 415 (jurisdiction in civil proceedings), in subsection (1), for paragraph (a) substitute—

- “(a) the FCA,
- (aa) the PRA,
- (ab) the Bank of England.”.

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I26 Sch. 18 para. 24 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 25 (1) Section 415A (interpretation of powers under the Act) is amended as follows.
- (2) For “Authority” substitute “ FCA, the PRA or the Bank of England ”.
- (3) In the heading to the section and the italic heading before it, for “of the Authority” substitute “ under the Act ”.

Commencement Information

I27 Sch. 18 para. 25 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 26 In paragraph 8 of Schedule 6 (additional threshold conditions), in sub-paragraph (2) (b), for “the Authority” substitute “ such of the FCA or the PRA as may be specified, ”.

Commencement Information

I28 Sch. 18 para. 26 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

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