



Financial Services and Markets Act 2023

2023 CHAPTER 29

PART 6

MISCELLANEOUS

Amendments to FSMA 2000

59 Application of provisions to regulatory functions under this Act

- (1) FSMA 2000 is amended as follows.
- (2) In section 1A (the FCA), in subsection (6) after paragraph (czb) insert—
“(czc) the Financial Services and Markets Act 2023,”.
- (3) In section 2AB (functions of the PRA), in subsection (3) after paragraph (c) insert—
“(ca) the Financial Services and Markets Act 2023,”.

Commencement Information

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|-----------|---|
| I1 | S. 59 not in force at Royal Assent, see s. 86(3) |
| I2 | S. 59 in force at 29.8.2023 by S.I. 2023/779 , reg. 4(oo) |

60 Formerly authorised persons

- (1) FSMA 2000 is amended as follows.
- (2) In section 404C after “(which” insert “, subject to section 415AA(1),”.
- (3) After section 415A insert—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

“415AA Application of powers to formerly authorised persons

- (1) A power in the following provisions may be exercised in relation to persons who were at any time authorised persons (in addition to persons who are authorised persons at the time when the power is exercised)—
- (a) section 168 (appointment of investigators in certain cases);
 - (b) section 205 (public censure);
 - (c) section 206 (financial penalties);
 - (d) section 384 (power to require restitution).
- (2) Accordingly, references in the provisions listed in subsection (1), and in sections 207 to 209, to an authorised person are (so far as appropriate) to be read as including a person who was at any time an authorised person but who has ceased to be an authorised person.”
- (4) The amendments made by this section have effect only in relation to persons who cease to be authorised persons on or after 20 July 2022.

Commencement Information

I3 S. 60 in force at 29.8.2023, see s. 86(2)(f)

61 Control over authorised persons

In Part 12 of FSMA 2000 (control over authorised persons), in section 187 (approval with conditions), in subsection (2)—

- (a) at the end of paragraph (a) omit “or”, and
- (b) after that paragraph insert—
 - “(aa) it appears to that regulator that it is desirable to impose those conditions in order to advance any of that regulator’s objectives (subject to section 185(2)(c)), or”.

Commencement Information

I4 S. 61 in force at 29.8.2023, see s. 86(2)(g)

62 Financial services compensation scheme

- (1) FSMA 2000 is amended as set out in subsections (2) and (3).
- (2) In section 212 (the scheme manager), in subsection (3)(aa) omit the words “(who is to be the accounting officer)”.
- (3) Omit section 218B (Treasury’s power to receive information).
- (4) Omit section 15 of the Financial Services (Banking Reform) Act 2013 (which inserted section 218B of FSMA 2000).

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

Commencement Information

I5 S. 62 in force at 29.8.2023, see [s. 86\(2\)\(h\)](#)

63 The Ombudsman scheme

- (1) FSMA 2000 is amended as follows.
- (2) In section 429 (Parliamentary control of statutory instruments), in subsection (2B) after paragraph (c) insert—
 - “(d) provision made under paragraph 15(3) of Schedule 17.”
- (3) Paragraph 15 of Schedule 17 (the Ombudsman scheme: power of scheme operator to charge fees) is amended as set out in subsections (4) and (5).
- (4) In sub-paragraph (1) after “respondent” insert “or other persons of a specified description”.
- (5) After sub-paragraph (2) insert—
 - “(3) The reference in sub-paragraph (1) to persons of a specified description is a reference to such descriptions of persons as may be specified in regulations made by the Treasury.
 - (4) The power conferred by sub-paragraph (3) to specify descriptions of persons may not be exercised so as to provide for eligible complainants to fall within a specified description of persons.
 - (5) The reference in sub-paragraph (4) to “eligible complainants” is a reference to complainants who are eligible in relation to the compulsory or voluntary jurisdiction of the ombudsman scheme (see section 226(6) and 227(7)).
 - (6) Before making regulations under sub-paragraph (3) the Treasury must consult the scheme operator.”

Commencement Information

I6 S. 63 not in force at Royal Assent, see [s. 86\(3\)](#)
I7 S. 63 in force at 29.8.2023 by [S.I. 2023/779](#), [reg. 4\(pp\)](#)

PROSPECTIVE

64 Unauthorised co-ownership AIFs

- (1) FSMA 2000 is amended as follows.
- (2) In section 261E (authorised contractual schemes: holding of units)—
 - (a) before subsection (1) insert—

“(A1) This section sets out requirements for the purposes of section 261D(1) (a) (authorisation orders).”;
 - (b) in subsection (1) for “a contractual” substitute “the”.

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(3) After section 261Z5 insert—

“CHAPTER 3B

UNAUTHORISED CO-OWNERSHIP AIFs

261Z6 Power to make provision about unauthorised co-ownership AIFs

- (1) The Treasury may by regulations make provision about unauthorised co-ownership AIFs that corresponds or is similar to, or applies with modifications, any of sections 261M to 261O and section 261P(1) and (2) (rights and liabilities of participants in authorised co-ownership schemes).
- (2) Regulations under subsection (1) may make provision about unauthorised co-ownership AIFs generally, or about unauthorised co-ownership AIFs of a description specified in the regulations.
- (3) In this section “unauthorised co-ownership AIF” means a co-ownership scheme that—
 - (a) is an AIF, and
 - (b) is not authorised for the purposes of this Act by an authorisation order in force under section 261D(1).”

Commencement Information

18 S. 64 not in force at Royal Assent, see [s. 86\(3\)](#)

65 Power to amend enactments in consequence of rules

- (1) FSMA 2000 is amended as follows.
- (2) After section 141A insert—

“141B Power to consequentially amend enactments

- (1) The Treasury may by regulations make provision amending an enactment that is consequential on rules.
- (2) In this section—

“enactment” includes—

 - (a) an enactment comprised in subordinate legislation,
 - (b) retained direct EU legislation,
 - (c) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru,
 - (d) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (e) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (see section 21 of that Act) but does not include rules of either regulator.”

- (3) Omit section 144F (power to consequentially amend enactments).
- (4) In section 429 (Parliamentary control of statutory instruments), in subsection (2), in the list of sections beginning with “90B”—
 - (a) insert at the appropriate place “141B,”;
 - (b) omit “144F.”

Commencement Information

- I9** S. 65 not in force at Royal Assent, see [s. 86\(3\)](#)
I10 S. 65 in force at 29.8.2023 by [S.I. 2023/779, reg. 4\(qq\)](#)

66 Ambulatory references

- (1) FSMA 2000 is amended as follows.
- (2) In section 137T (regulator rules: general supplementary powers), after paragraph (a) insert—
 - “(aa) may make provision for any reference in the rules to an enactment (including an enactment comprised in subordinate legislation) to be read as a reference to that enactment as it has effect from time to time.”.
- (3) In section 428 (regulations and orders)—
 - (a) in subsection (3) before paragraph (a) insert—
 - “(za) make provision by reference to any rules or other instruments as they have effect from time to time;”;
 - (b) after subsection (3) insert—
 - “(4) In subsection (3)(za) “rules” includes rules made by the Bank of England under this Act.”

Commencement Information

- I11** S. 66 not in force at Royal Assent, see [s. 86\(3\)](#)
I12 S. 66 in force at 29.8.2023 by [S.I. 2023/779, reg. 4\(rr\)](#)

67 Power to amend or repeal certain provisions of FSMA 2000

- (1) The Treasury may by regulations amend or repeal the following provisions in Part 9C of FSMA 2000—
 - (a) section 143C (duty to make rules applying to FCA investment firms);
 - (b) section 143D (duty to make rules applying to parent undertakings);
 - (c) section 143G (matters to consider when making Part 9C rules).
- (2) In consequence of provision made in regulations under subsection (1), the Treasury may by regulations amend or repeal other provisions of FSMA 2000.

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(3) Regulations under this section are subject to the affirmative procedure.

Commencement Information

- I13** S. 67 not in force at Royal Assent, see [s. 86\(3\)](#)
I14 S. 67 in force at 29.8.2023 by [S.I. 2023/779](#), [reg. 4\(ss\)](#)

68 Power under FSMA 2000 to make transitional provisions

- (1) FSMA 2000 is amended as follows.
- (2) In section 427 (transitional provisions)—
- (a) in subsection (2)(a) to (c), for “the Authority”, in each place, substitute “a regulator”;
 - (b) in subsection (2)(f), for “the Authority’s” substitute “the FCA’s”;
 - (c) in subsection (3)(a), for “the Authority” substitute “a regulator”.
- (3) In Schedule 17A, after paragraph 31A (inserted by section 50), insert—

“Transitional provisions

- 31B Section 427 (transitional provisions), so far as it relates to an order under section 426 which makes provision in connection with this Part of this Act, applies in relation to the Bank.”

Commencement Information

- I15** S. 68 not in force at Royal Assent, see [s. 86\(3\)](#)
I16 S. 68 in force at 29.8.2023 by [S.I. 2023/779](#), [reg. 4\(tt\)](#)

69 Cryptoassets

- (1) FSMA 2000 is amended as follows.
- (2) In section 21 (restrictions on financial promotion), in subsection (14) at end insert “(including where an asset, right or interest is, or comprises or represents, a cryptoasset)”.
- (3) In section 22 (regulated activities), in subsection (4) at end insert “(including where an asset, right or interest is, or comprises or represents, a cryptoasset)”.
- (4) In section 417 (definitions)—
- (a) in subsection (1), insert at the appropriate place—

““cryptoasset” means any cryptographically secured digital representation of value or contractual rights that—

 - (a) can be transferred, stored or traded electronically, and
 - (b) that uses technology supporting the recording or storage of data (which may include distributed ledger technology).”;
 - (b) at end insert—

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“(5) The Treasury may by regulations amend the definition of “cryptoasset” in subsection (1).”

(5) In section 429 (Parliamentary control of statutory instruments), in subsection (2) leave out “or 333T” and insert “, 333T or 417(5)”.

Commencement Information

I17 S. 69 not in force at Royal Assent, see **s. 86(3)**

I18 S. 69 in force at 29.8.2023 by **S.I. 2023/779, reg. 4(uu)**

Bank of England levy

70 Bank of England levy

(1) The Bank of England Act 1998 is amended as follows.

(2) Omit section 6 and Schedule 2 (cash ratio deposits).

(3) Before section 7 insert—

“6A Bank of England levy

Schedule 2ZA makes provision for the Bank to impose a charge on financial institutions in connection with the pursuit of its financial stability and monetary policy objectives.”

(4) Before Schedule 2A (financial policy committee) insert—

“SCHEDULE 2ZA

Section 6A

BANK OF ENGLAND LEVY

“The levy”

- 1 (1) The Bank may impose a charge on eligible institutions in accordance with this Schedule.
- (2) The charge is to be known as the Bank of England levy (and is referred to in this Schedule as “the levy”).

“Eligible institutions”

- 2 (1) For the purposes of this Schedule, an “eligible institution” is a person who, at any time during a levy year, is an authorised deposit-taker.
- (2) An “authorised deposit-taker” for these purposes is a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits, other than—
 - (a) a credit union;
 - (b) a friendly society;

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- (c) a person who has such permission only in the course of effecting or carrying out contracts of insurance in accordance with that permission.

(3) In this paragraph—

“credit union” has the meaning given by section 31(1) of the Credit Unions Act 1979 or Article 2(2) of the Credit Unions (Northern Ireland) Order 1985;

“friendly society” means a society that is registered within the meaning of the Friendly Societies Act 1974 or incorporated under the Friendly Societies Act 1992;

“levy year” has the meaning given by paragraph 3.

(4) The Treasury may by regulations—

- (a) amend the foregoing provisions of this paragraph;
 (b) amend any other provision of this Schedule in consequence of provision made under paragraph (a).

“Levy year”

- 3 (1) For the purposes of this Schedule, a “levy year” is—
- (a) the period of 12 months beginning on such day as the Bank may determine, and
- (b) each subsequent period of 12 months.
- (2) The day determined under sub-paragraph (1)(a) may not be before the day on which the Financial Services and Markets Act 2023 is passed.

“Anticipated levy requirement”

- 4 (1) The Bank must, in respect of a levy year—
- (a) determine which of its policy functions it intends to fund (in whole or in part) by means of the levy;
- (b) determine the total amount of the levy it reasonably considers it requires in connection with the funding of those functions (“the anticipated levy requirement”).
- (2) The Bank may add to the anticipated levy requirement for a levy year such amount (if any) that—
- (a) was required in connection with the funding of policy functions in the previous levy year, and
- (b) was in excess of the total amount of the levy that it received in respect of that previous levy year.
- (3) For the purposes of this Schedule, a function of the Bank is a “policy function” if it is exercised in pursuit of—
- (a) the Financial Stability Objective (see section 2A), or
- (b) its objectives in relation to monetary policy (see section 11).
- (4) In making a determination in accordance with sub-paragraph (1), the Bank must take account of any other amounts which are, or are likely to be, available in the levy year to fund policy functions (for example, amounts

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of the levy received in respect of a previous levy year or amounts available from sources other than the levy).

- (5) The Bank must publish a determination made in accordance with sub-paragraph (1)—
 - (a) at such time before or during the levy year to which the determination relates as the Bank considers appropriate, and
 - (b) in such manner as the Bank considers appropriate.
- (6) The reference in sub-paragraph (3) to the exercise of a function includes anything done in preparation for, to facilitate, or otherwise in connection with, the exercise of the function.

Liability to pay the levy

- 5 (1) The amount of the levy that an eligible institution is liable to pay in respect of a levy year is to be determined by the Bank in accordance with regulations made by the Treasury.
- (2) Regulations under sub-paragraph (1) may—
 - (a) make provision by reference to the Bank’s anticipated levy requirement in respect of the levy year (see paragraph 4);
 - (b) make provision by reference to specified liabilities of an eligible institution;
 - (c) make provision for cases in which no amount of the levy or a reduced amount of the levy is payable.
- (3) Regulations made by virtue of sub-paragraph (2)(b) may include (among other things) provision—
 - (a) specifying types of liability that may or may not be taken into account for specified purposes;
 - (b) about how and when liabilities of a specified type are to be taken into account for specified purposes;
 - (c) about how the amount of a liability of a specified type is to be determined, including specifying times, or periods of time, by reference to which the amount is to be determined;
 - (d) for an amount of a liability of a specified type to be treated as reduced by the amount of assets of a specified type.
- (4) Regulations under sub-paragraph (1) may include provision conferring a discretion on the Bank to determine specified matters (including matters mentioned in sub-paragraph (2)(b) or (3)).
- (5) Regulations made by virtue of sub-paragraph (4) may, in particular, confer a discretion—
 - (a) to determine the method used to determine a matter, and
 - (b) to determine different methods to be used in relation to different eligible institutions.
- (6) In this section, “specified” means specified in the regulations.

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Payment of the levy

- 6 (1) The Bank must notify each eligible institution that is liable to pay the levy in respect of a levy year of the following matters—
- (a) the levy year in respect of which the levy is payable;
 - (b) the amount of the levy the institution is liable to pay;
 - (c) the time by which the levy must be paid (or, if the Bank determines that the levy may be paid in instalments, the times by which each instalment must be paid);
 - (d) the methods by which the levy may be paid.
- (2) A time notified in accordance with sub-paragraph (1)(c) (or if more than one time is notified, the earliest of them) may not be before the end of the period of 30 days beginning with the day on which the notification is given.
- (3) Notification may be given in such form or in such manner as the Bank considers appropriate (and may be given in a different form or manner to different eligible institutions or eligible institutions of a different description).

Recovery of the levy

- 7 The levy is recoverable as a civil debt due to the Bank.
- See also paragraph 8 (interest on unpaid amounts of the levy).

Interest

- 8 (1) This paragraph applies where an eligible person has been notified—
- (a) of an amount of the levy that is payable, and
 - (b) the time by which the amount must be paid.
- (2) Interest is payable, at the rate mentioned in sub-paragraph (3), on any part of the amount mentioned in sub-paragraph (1)(a) which remains unpaid after the time mentioned in sub-paragraph (1)(b).
- (3) The rate mentioned in this sub-paragraph is the rate equivalent to an annual percentage rate of 4% above the benchmark rate.
- (4) The “benchmark rate” is—
- (a) the percentage rate announced from time to time by the Monetary Policy Committee of the Bank as the official dealing rate, or
 - (b) where an order under section 19 (Treasury reserve powers) is in force, any equivalent percentage rate determined by the Treasury under that order.
- (5) The Treasury may by regulations amend this paragraph so as to change the rate of interest payable on an unpaid amount of the levy.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
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Power to obtain information

- 9 (1) The Bank may, by written notice, require an eligible institution to provide information or documents in connection with the levy.
- (2) The notice must specify—
- (a) the information required;
 - (b) the form or manner in which the information must be provided;
 - (c) the time at which, or period within which, the information must be provided;
 - (d) the period to which the information must relate.

Regulations

- 10 (1) Before making regulations under this Schedule the Treasury must consult—
- (a) the Bank, and
 - (b) such other persons who appear to the Treasury to be representative of persons who are likely to be affected by the regulations.
- (2) When making regulations under this Schedule the Treasury must have regard to the financial needs of the Bank.
- (3) Regulations under this Schedule are to be made by statutory instrument.
- (4) Regulations under this Schedule may—
- (a) make different provision for different purposes;
 - (b) make incidental, supplemental, consequential, saving or transitional provision.
- (5) A statutory instrument containing (whether alone or with other provision) regulations under paragraphs 2(4) or 5(1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing only regulations under paragraph 8(5) is subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

- I19** S. 70 not in force at Royal Assent, see **s. 86(3)**
- I20** S. 70(1)(3)(4) in force at 1.1.2024 for specified purposes by **S.I. 2023/1382, reg. 9(1)(c)**
- I21** S. 70(1)(3)(4) in force at 1.3.2024 in so far as not already in force by **S.I. 2024/250, reg. 2(b)**
- I22** S. 70(2) in force at 1.3.2024 by **S.I. 2024/250, reg. 2(b)**

71 Bank of England levy: consequential amendments

- (1) The Bank of England Act 1998 is amended as follows in consequence of provision made by section 70.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

- (2) In section 37 (restriction on disclosure of information), for “cash ratio deposit” substitute “Bank of England levy”.
- (3) In section 38 (offences in relation to supplying information to the Bank), in each of subsections (1) and (3), for “paragraph 9 of Schedule 2” substitute “paragraph 9 of Schedule 2ZA”.
- (4) In section 40 (orders)—
 - (a) in subsection (2)—
 - (i) after “section 17(4) or (5),” insert “or”;
 - (ii) omit “paragraph 1(2) or 5 of Schedule 2, or”;
 - (b) in subsection (3) omit “paragraph 2(2) or 8 of Schedule 2”.
- (5) Schedule 7 (restriction on disclosure of information) is amended in accordance with subsections (6) to (8).
- (6) In paragraph 1(1)(a), for “paragraph 9 of Schedule 2” substitute “paragraph 9 of Schedule 2ZA”.
- (7) In paragraph 2(1)(c), for “Schedule 2” substitute “Schedule 2ZA”.
- (8) In paragraph 5(a), for “Schedule 2 (payment in lieu of cash ratio deposit)” substitute “Schedule 2ZA (Bank of England levy)”.

Commencement Information

I23 S. 71 not in force at Royal Assent, see **s. 86(3)**

I24 S. 71 in force at 1.3.2024 by **S.I. 2024/250, reg. 2(c)**

Other miscellaneous provisions

72 Liability of payment service providers for fraudulent transactions

- (1) The Payment Systems Regulator must prepare and publish a draft of a relevant requirement for reimbursement in such qualifying cases of payment orders as the Regulator considers should be eligible for reimbursement.
- (2) A case is a “qualifying case” for the purposes of this section if—
 - (a) the case relates to a payment order executed over the Faster Payments Scheme, and
 - (b) the payment order was executed subsequent to fraud or dishonesty.
- (3) The draft of the relevant requirement must—
 - (a) be published in the way appearing to the Payment Systems Regulator to be best calculated to bring it to the attention of the public;
 - (b) be accompanied by notice that representations about the proposed relevant requirement may be made to the Payment Systems Regulator within a specified time.
- (4) The duty imposed by subsection (1) must be carried out before the end of two months beginning with the day on which this section comes into force.

Status: This version of this part contains provisions that are prospective.

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- (5) The Payment Systems Regulator must impose a relevant requirement, in whatever way and to whatever extent it considers appropriate, for reimbursement to be made in qualifying cases of payment orders.
- (6) In complying with the duty imposed by subsection (5) the Payment Systems Regulator must have regard to any representations made in accordance with subsection (3)(b).
- (7) The duty imposed by subsection (5) must be carried out before the end of 6 months beginning with the day on which this section comes into force.
- (8) The duty under subsections (1) to (3), and under section 104(2) of the Financial Services (Banking Reform) Act 2013 in the application of that section to a relevant requirement imposed under subsection (5) of this section, may be satisfied by things done before (as well as after) this section comes into force.
- (9) Nothing in subsections (1) to (8) is to be taken as limiting the power of the Payment Systems Regulator—
 - (a) to vary or revoke a relevant requirement imposed under the duty imposed by subsection (5), or
 - (b) to impose further relevant requirements (after that duty is complied with) in connection with reimbursement of payment orders executed subsequent to fraud or dishonesty.
- (10) In subsections (1) to (9)—

“the Faster Payments Scheme” means the payment system, known as the Faster Payments Scheme, designated as a regulated payment system for the purposes of Part 5 of the Financial Services (Banking Reform) Act 2013 by order made by the Treasury in exercise of the power conferred by section 43(1) of that Act;

“relevant requirement” means a requirement imposed by or under section 54 or 55 of the Financial Services (Banking Reform) Act 2013 (or by or under a combination of those sections).
- (11) In regulation 90 of the Payment Services Regulations 2017 ([S.I. 2017/752](#)) (liability of payment service providers for incorrect unique identifiers), after paragraph (5) insert—
 - (6) Nothing in this regulation affects the liability of a payment service provider under a relevant requirement in a case where the payment order is executed subsequent to fraud or dishonesty (and the requirements imposed by this regulation are subject to any such relevant requirements).
 - (7) In this regulation, a “relevant requirement” means a requirement imposed by or under—
 - (a) a direction given under regulation 125,
 - (b) a direction given under section 54 of the Financial Services (Banking Reform) Act 2013,
 - (c) a rule made under section 55 of that Act,
 - (d) an order made under section 56(3) of that Act, or
 - (e) a variation of an agreement under section 57(2) of that Act.”

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
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Commencement Information

I25 S. 72 in force at 29.8.2023, see s. 86(2)(i)

73 Credit unions

Schedule 14 amends the Credit Unions Act 1979 to make provision about additional financial activities credit unions may choose to carry on.

Commencement Information

I26 S. 73 not in force at Royal Assent, see s. 86(3)

I27 S. 73 in force at 29.8.2023 by S.I. 2023/779, reg. 4(vv)

74 Reinsurance for acts of terrorism

- (1) The Reinsurance (Acts of Terrorism) Act 1993 is amended as follows.
- (2) After section 2, insert—

“2A Directions

- (1) A relevant person must comply with any directions given to it by the Treasury under this section.
- (2) For the purposes of this section, a “relevant person” means—
 - (a) a person who—
 - (i) has entered into arrangements to which this Act applies (see section 2(1)) (whether before or after the passing of this Act), and
 - (ii) has been classified as a public sector body by the Office for National Statistics (whether before or after the passing of this Act), or
 - (b) a group undertaking of a person falling within paragraph (a) (within the meaning of section 1161 of the Companies Act 2006).
- (3) The Treasury may direct a relevant person to appoint a person to perform the functions of an accounting officer.
- (4) The Treasury may give a direction to a relevant person under this subsection if the Treasury consider it necessary for the purpose of ensuring compliance with any requirements associated with the classification, as mentioned in subsection (2)(a)(ii), of a person falling within subsection (2)(a).
- (5) Directions under subsection (4) may include provision about compliance with requirements relating to—
 - (a) auditing;
 - (b) accounting;
 - (c) budgeting;
 - (d) arm’s length bodies;

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- (e) public sector bodies.
- (6) Before giving a direction under this section the Treasury must consult the relevant person to whom the Treasury intend to give a direction.
- (7) A direction under this section must be accompanied by a notice that—
 - (a) states when the direction takes effect (see subsection (8)), and
 - (b) gives the Treasury’s reasons for giving the direction.
- (8) A direction may, if the Treasury reasonably consider it necessary, take effect—
 - (a) immediately it is given to the relevant person, or
 - (b) on a later date specified in the direction.
- (9) A direction may be given so as to have effect—
 - (a) for a specified period, or
 - (b) until the occurrence of a specified event.
- (10) A direction under this section must be given in writing.
- (11) A direction under this section must—
 - (a) be published in whatever manner the Treasury consider appropriate, and
 - (b) be laid before Parliament.
- (12) A direction under this section may be varied or revoked by another direction under this section.

2B Compliance

- (1) Compliance with a direction given under section 2A is enforceable—
 - (a) by injunction, or
 - (b) in Scotland, by interdict or by an order for specific performance under section 45 of the Court of Session Act 1988.
- (2) Proceedings under subsection (1) may be brought only by the Treasury.”

Commencement Information

I28 S. 74 in force at 29.8.2023, see s. 86(2)(j)

75 Banking Act 2009: miscellaneous amendments

- (1) The Banking Act 2009 is amended as follows.
- (2) In section 7A (effect on other group members, financial stability in UK etc)—
 - (a) in subsection (1), for “(4)(b)(ii)” substitute “(4), (4B)(b),”;
 - (b) after subsection (1) insert—
 - “(1A) Subsection (1) does not apply in relation to a requirement under section 3A(4) for a person to maintain (but not issue) a particular kind of bail-in liability.”

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

- (3) In section 83ZD (appointment of person to carry out investigations in particular cases), in subsection (3)(a), for “83ZN” substitute “83ZR”.
- (4) In section 89H (recognition of third-country resolution actions), in subsection (7), in the definition of “third-country resolution action”—
 - (a) in the words before paragraph (a), for “, third country parent undertaking or a bank, building society, credit union or investment firm” substitute “or third-country parent undertaking”;
 - (b) in paragraph (a), omit “or a bank, building society, credit union or investment firm”.
- (5) In section 182 (interpretation: “payment system”)—
 - (a) in subsection (1), after “arrangements” insert “, or proposed arrangements,”;
 - (b) in subsection (5), after “operates” insert “, or is intended to operate,”.
- (6) In section 244 (immunity), in subsection (2)(c) after “2000,” insert “of its functions under, or as a result of regulations made under, the Financial Services and Markets Act 2023,”.

Commencement Information

I29 S. 75 not in force at Royal Assent, see [s. 86\(3\)](#)

I30 S. 75 in force at 29.8.2023 by [S.I. 2023/779, reg. 4\(ww\)](#)

76 Arrangements for the investigation of complaints

- (1) The Financial Services Act 2012 is amended in accordance with subsections (2) and (3).
- (2) In section 84 (arrangements for the investigation of complaints)—
 - (a) omit the “and” at the end of subsection (1)(a);
 - (b) omit subsection (1)(b);
 - (c) after subsection (1) insert—

“(1A) The Treasury must appoint an independent person (“the investigator”) to be responsible for the conduct of investigations in accordance with the complaints scheme.”;
 - (d) omit subsection (4);
 - (e) in subsection (5), in the opening words, for “regulators” substitute “Treasury”.
- (3) In section 87 (investigation of complaints)—
 - (a) in subsection (9A), after paragraph (b) insert—

“(ba) for the regulator’s response under paragraph (b) to include a summary of—

 - (i) the cases in which the regulator decided not to follow any relevant recommendations, and
 - (ii) the reasons for not following those recommendations;”;
 - (b) in subsection (9B), after paragraph (e) insert—

“(f) such other matters as the Treasury may from time to time direct.”;

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

(c) after subsection (9B) insert—

“(9C) In subsection (9A)(ba) the reference to “relevant recommendations”, in relation to the regulator’s response in respect of an annual report, is a reference to—

- (a) any recommendations to the regulator contained in that annual report, and
- (b) any recommendations to the regulator contained in final reports relating to individual complaints given during the period to which that annual report relates.”

Commencement Information

I31 S. 76 not in force at Royal Assent, see [s. 86\(3\)](#)

I32 S. 76 in force at 29.8.2023 by [S.I. 2023/779](#), [reg. 4\(xx\)](#)

77 Politically exposed persons: money laundering and terrorist financing

- (1) The Treasury must exercise the power conferred by section 49 of the Sanctions and Anti-Money Laundering Act 2018 (power of appropriate Minister to make regulations about money laundering etc) for the purpose mentioned in subsection (2).
- (2) The purpose is to make provision amending Part 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ([S.I. 2017/692](#)) (“the 2017 Regulations”) (customer due diligence) so as to secure the result required by subsection (3).
- (3) The result required by this subsection is that, where a customer is a domestic PEP, or a family member or a known close associate of a domestic PEP—
 - (a) the starting point for the relevant person’s assessment under regulation 35(3) of the 2017 Regulations is that the customer presents a lower level of risk than a non-domestic PEP, and
 - (b) if no enhanced risk factors are present, the extent of enhanced customer due diligence measures to be applied in relation to that customer is less than the extent to be applied in the case of a non-domestic PEP.
- (4) In this section—
 - (a) “customer” includes a potential customer;
 - (b) “domestic PEP” means a politically exposed person entrusted with prominent public functions by the United Kingdom;
 - (c) “enhanced risk factors”, in relation to a customer who is a domestic PEP or a family member or a known close associate of that domestic PEP, mean risk factors other than the customer’s position as a domestic PEP or as a family member or known close associate of that domestic PEP;
 - (d) “non-domestic PEP” means a politically exposed person who is not a domestic PEP;
 - (e) the following terms have the same meaning as in regulation 35(12) of the 2017 Regulations—
 - “politically exposed person” or “PEP”;
 - “family member”;
 - “known close associate”.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

- (5) Section 55 of the Sanctions and Anti-Money Laundering Act 2018 (Parliamentary procedure for regulations) does not apply to regulations made in compliance with the duty imposed by subsection (1).
- (6) Regulations made in compliance with the duty imposed by subsection (1)—
 - (a) are subject to the negative procedure, and
 - (b) must be laid before Parliament in accordance with paragraph (a) before the end of 12 months starting with the day on which this section comes into force.
- (7) The Treasury must, before the end of 6 months starting with the day on which this section comes into force, lay before Parliament a statement setting out what progress has been made towards making the regulations in compliance with the duty imposed by subsection (1).
- (8) The duty in subsection (7) does not apply where the regulations have been laid before Parliament in accordance with subsection (6)(a) before the end of 6 months starting with the day on which this section comes into force.

Commencement Information

I33 S. 77 in force at Royal Assent, see [s. 86\(1\)\(f\)](#)

78 Politically exposed persons: review of guidance

- (1) The FCA must review its guidance on politically exposed persons (“PEPs”) given under section 139A of FSMA 2000 and in compliance with the requirements under regulation 48 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ([S.I. 2017/692](#)) (“the 2017 Regulations”).
- (2) The review required under subsection (1) must include—
 - (a) an assessment of the extent to which the guidance is followed by those persons to whom it is given under regulation 48 of the 2017 Regulations, and
 - (b) in the light of that assessment, consideration as to whether the guidance remains appropriate or whether it should be revised.
- (3) The FCA must—
 - (a) before the end of 3 months beginning with the day on which this section comes into force, publish an update on the FCA’s plan for the review required under subsection (1), and
 - (b) before the end of 12 months beginning with the day on which this section comes into force—
 - (i) publish the conclusions of the review, and
 - (ii) where the FCA concludes that the guidance should be revised, publish draft revised guidance for consultation.
- (4) Publication as required by subsection (3) must be in the way appearing to the FCA to be best calculated to bring the publication to the attention of persons likely to be affected by it.
- (5) The FCA is not required under this section to publish any information whose publication would be against the public interest.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Financial Services and Markets Act 2023, PART 6. (See end of Document for details)

- (6) In this section—
- (a) “domestic PEP” means a politically exposed person entrusted with prominent public functions by the United Kingdom;
 - (b) the following terms have the same meaning as in regulation 35(12) of the 2017 Regulations—
 - “politically exposed person” or “PEP”;
 - “family member”;
 - “known close associate”.

Commencement Information

I34 S. 78 in force at Royal Assent, see [s. 86\(1\)\(g\)](#)

79 Forest risk commodities: review

- (1) The Treasury must carry out a review to assess the extent to which regulation of the UK financial system is adequate for the purpose of eliminating the financing of the use of prohibited forest risk commodities.
- (2) In subsection (1) the reference to “prohibited” forest risk commodities is a reference to forest risk commodities, or products derived from forest risk commodities, the use of which is prohibited by paragraph 2 of Schedule 17 to the Environment Act 2021.
- (3) Having carried out a review the Treasury must lay before Parliament, and publish, a report stating—
 - (a) the conclusions of the review, and
 - (b) the steps the Treasury consider it appropriate to take to improve the effectiveness of the regulation of the UK financial system for the purpose stated in subsection (1).
- (4) Subsection (3) must be complied with before the end of 9 months beginning with the day on which the first regulations under paragraph 1 of Schedule 17 to the Environment Act 2021 are made.
- (5) In this section—
 - “forest risk commodities” has the same meaning as in Schedule 17 to the Environment Act 2021;
 - “UK financial system” has the same meaning as in FSMA 2000 (see section 11 of that Act).

Commencement Information

I35 S. 79 not in force at Royal Assent, see [s. 86\(3\)](#)

I36 S. 79 in force at 29.8.2023 by [S.I. 2023/779](#), [reg. 4\(yy\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Financial Services and Markets Act 2023, PART 6.