

SCHEDULE

Articles 63, 80 and 95

Modification of the Financial Services and Markets Tribunal Rules

1. In this Schedule—
 - (a) “the Rules” means The Financial Services and Markets Tribunal Rules 2001;
 - (b) “the Tribunal” means the Financial Services and Markets Tribunal established under Part IX of the Act;
 - (c) a reference to a rule by number alone means the rule so numbered in the Rules.
2. The Tribunal may adapt the Rules when considering a reference made under article 62, 79 or 95 in any manner it considers necessary or expedient having regard to the provisions of Part VI of this Order and the modifications made to the Rules by this Schedule are without prejudice to that power.
3. Where a matter is referred to the Tribunal under article 62, the Rules apply to that reference with the modifications set out in paragraphs 4 to 12.
4. The references in the following rules to “the Authority notice” are to be taken as references to the determination of the interim tribunal under article 58(3)—
 - (a) rule 4(2), (3)(e) and (5);
 - (b) rule 10(1)(e) and (6);
5. In a reference where the applicant is the Authority, rule 4(7) has effect as if—
 - (a) the reference to the applicant were a reference to the Authority;
 - (b) the reference to the Authority were a reference to the other party.
6. In a case where the Authority is not the applicant rule 5(1) and (2) applies as if the references to the referred action were references to the determination of the interim tribunal.
7. In a case where the Authority is the applicant—
 - (a) rule 5(1) applies as if for the words “in support of the referred action” were substituted “identifying all the matters contained in the determination of the interim tribunal that it disputes, giving the reasons for disputing them”;
 - (b) rule 5(2) applies as if the references to the referred action were references to the incomplete disciplinary proceedings which the interim tribunal had determined.
8. In a case where the Authority is the applicant, the following rules apply as if references to the applicant were references to the other party—
 - (a) rule 6 (applicant’s reply);
 - (b) rule 7 (secondary disclosure by the Authority);
 - (c) rule 8 (exceptions to disclosure);
 - (d) rule 10(9)(b) (omission of reference particulars from the register);
 - (e) rule 11 (filing of subsequent notices);
 - (f) rule 14(3)(c) (failure to file reply within time);
 - (g) rule 17(3)(b)(ii)(hearings in public);
 - (h) rule 31(3)(b)(sending notices).
9. Rule 10(2)
applies as if the words from “interests of justice” to the end of that paragraph were omitted.

Status: This is the original version (as it was originally made).

10. Rule 11 applies as if the reference to the referred action were a reference to the failure, misconduct or other contravention which was the subject of the incomplete disciplinary proceedings determined by the interim tribunal.

11. In a case where the Authority is the applicant, rule 14 has effect as if the references to the Authority in paragraphs (2) and (3)(a) were references to the other party.

12. The duties of the Authority to set out information under rule 5(2) (statement of case) or to list material under rule 5(3) or 7(1) (lists of documents and further material) apply only to information, documents or material which relates to the issue that the Tribunal may consider in accordance with article 62(2)

13. Where a matter is referred to the Tribunal under article 79, the Rules apply to that reference with the modifications set out in paragraphs 14 to 16.

14. The references in the following rules to “the Authority notice” are to be taken to be references to the decision to impose a disciplinary measure within the meaning of article 76—

- (a) rule 4(5) (filing of copy of decision);
- (b) rule 10(1)(e) and (6) (direction suspending effect of decision);
- (c) rule 10(2) (notification of right to make reference).

15. The references in the following rules to the “referred action” are to be taken to be references to the decision to impose a disciplinary measure within the meaning of article 76—

- (a) rule 5 (Authority’s Statement of case);
- (b) rule 10(2)(a) (notification of right to make reference).

16. The duties of the Authority to set out information under rule 5(2) (statement of case) or to list material under rule 5(3) or 7(1) (lists of documents and further material) apply only to information, documents or material which relate to the issues that the Tribunal may consider in accordance with article 79(2).

17. Where a matter is referred to the Tribunal by a third party under article 95(2), the Rules apply to that reference—

- (a) as if the references to the “Authority’s notice” were to the Authority’s notice under section 53(7) or (8)(b) or section 197(6) or (7)(b) which was copied to the applicant pursuant to article 94;
- (b) as if “referred action” means the action set out in the notice given under 53(7) or (8)(b) or section 197(6) or (7)(b);
- (c) the duties of the Authority to set out information under rule 5(2) (statement of case) or to list material under rule 5(3) or 7(1) (lists of documents and further material) apply only to information documents or material which relate to the matters referred to the Tribunal in accordance with article 95(2).