
STATUTORY INSTRUMENTS

2013 No. 441

The Financial Services Act 2012 (Transitional Provisions) (Enforcement) Order 2013

PART 9

Injunctions and restitution

Injunctions

15.—(1) Paragraph (2) applies if—

- (a) a contravention of a relevant requirement occurred or began to occur before the commencement date;
- (b) the Authority had not, before the commencement date, made an application to the court under section 380(1) (injunctions) in respect of the contravention; and
- (c) the act or omission which constituted the contravention would have constituted a contravention in respect of which the PRA is the appropriate regulator within the meaning of section 380(8) to (10) had the act or omission occurred or begun to occur on the commencement date.

(2) Section 380 applies as if it defined both the FCA and PRA as the appropriate regulator in respect of the relevant requirement which was contravened.

(3) In this article “relevant requirement” means a relevant requirement within the meaning of section 380 as it applied at the time of the contravention.

Restitution orders

16.—(1) Paragraph (2) applies if—

- (a) a contravention of a relevant requirement occurred or began to occur before the commencement date;
- (b) the Authority had not, before the commencement date, made an application to the court under section 382(2) (restitution orders) in respect of the contravention; and
- (c) the act or omission which constituted the contravention would have constituted a contravention for which the PRA is the appropriate regulator within the meaning of section 382(11) to (13) had the act or omission occurred or begun to occur on the commencement date.

(2) Section 382 applies as if it defined both the FCA and PRA as the appropriate regulator in respect of the relevant requirement which was contravened.

(1) Section 380 was amended by [S.I. 2007/126](#), [2011/1613](#) and [2012/1906](#) and [2554](#) and is further amended by the 2012 Act, Schedule 9, Part 5, paragraph 19.

(2) Section 382 was amended by [S.I. 2007/126](#), [2011/1613](#) and [2012/1906](#) and [2554](#) and is further amended by the 2012 Act, Schedule 9, Part 5, paragraph 21.

(3) In this article “relevant requirement” means a relevant requirement within the meaning of section 382 as it applied at the time of the contravention.

Power to require restitution

17.—(1) Paragraph (2) applies if—

- (a) a contravention of a relevant requirement occurred or began to occur before the commencement date;
- (b) the Authority had not given a warning notice under section 385(1) before the commencement date in respect of the contravention; and
- (c) the act or omission which constituted the contravention would have constituted a contravention for which the PRA is the appropriate regulator within the meaning of section 384(9) to (11)(3) (power to require restitution) had the act or omission occurred or begun on the commencement date.

(2) Section 384 applies as if it defined both the FCA and PRA as the appropriate regulator in respect of the relevant requirement which was contravened.

(3) In this article “relevant requirement” means a relevant requirement within the meaning of section 384 as it applied at the time of the contravention.

Injunctions and restitution in respect of certain post-commencement contraventions

18.—(1) Paragraph (3) applies in respect of a contravention, beginning on or after the commencement date, of a requirement which—

- (a) was imposed before the commencement date under a provision listed in paragraph (2); and
- (b) is to be treated as if it had been imposed by the PRA by virtue of an order made under section 119(3) of the 2012 Act.

(2) The provisions are—

- (a) section 43 (imposition of requirements);
- (b) section 44 (variation etc. at request of authorised person);
- (c) section 45 (variation etc. on the Authority’s own initiative), including the exercise of powers under section 45 by virtue of section 47 (exercise of power in support of overseas regulator);
- (d) section 46 (variation of permission on acquisition of control);
- (e) section 196 (the power of intervention).

(3) Sections 380, 382 and 384 apply as if they defined both the PRA and the FCA as the appropriate regulator in respect of the contravention.

(3) Section 384 was amended by [S.I. 2007/126](#), [2011/1613](#) and [2012/1906](#) and is further amended by the 2012 Act, Schedule 9, Part 5, paragraph 23.