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STATUTORY INSTRUMENTS

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**2013 No. 442**

**The Financial Services Act 2012 (Transitional Provisions) (Miscellaneous Provisions) Order 2013**

**PART 11**

**Investigation of complaints**

**Complaints made before the commencement date**

- 61.**—(1) Paragraph (2) applies if, before the commencement date—
- (a) a complaint was made to the Authority;
  - (b) the complaint was eligible for investigation in accordance with the complaints scheme made under paragraph 7 of Schedule 1(1) (arrangements for the investigation of complaints) (“the old scheme”); and
  - (c) the investigation of the complaint was not completed.
- (2) Unless both the Authority and the investigator appointed under that paragraph 7 decided, before the commencement date, not to investigate the complaint—
- (a) the complaint is to be treated as if it had been made to the FCA under the complaints scheme made under section 84 of the 2012 Act (arrangements for the investigation of complaints) (“the new scheme”);
  - (b) anything done by the Authority for the purposes of, or in connection with, the investigation of the complaint in accordance with the old scheme is to be treated as if it had been done by the FCA for the purposes of, or in connection with, the investigation of the complaint in accordance with the new scheme;
  - (c) subject to section 87(9) of the 2012 Act (investigation of complaints), anything done by the investigator or a person appointed by the investigator for the purposes of, or in connection with, the investigation of the complaint in accordance with the old scheme is to be treated as if it had been done by the investigator or the person appointed by the investigator (as the case may be) for the purposes of, or in connection with, the investigation of the complaint in accordance with the new scheme.
- (3) For the purposes of paragraph (2)(a)—
- (a) section 84(1)(a) of the 2012 Act applies as if the reference to the relevant functions of the FCA were a reference to the functions of the Authority (other than its legislative functions) within the meaning of paragraph 7(1)(a) of Schedule 1 as it applied immediately before the commencement date; and
  - (b) section 85 of the 2012 Act is to be treated as if it were omitted.
- (4) Paragraphs (5) and (6) apply if, before the commencement date—

- (a) the investigator reported that a complaint was well-founded or criticised the Authority in a report; and
  - (b) the Authority did not inform the investigator and the complainant in accordance with paragraph 8(6) of Schedule 1 (investigation of complaints) of the steps it proposed to take in response to the report.
- (5) The report is to be treated as if it had been made to the FCA under the new scheme.
- (6) The FCA must inform the investigator and the complainant in accordance with section 87(6) of the 2012 Act of the steps it proposes to take in response to the report.
- (7) Paragraph (8) applies if, before the commencement date—
- (a) the investigator required the Authority under paragraph 8(7) of Schedule 1 to publish the whole or a specified part of the Authority’s response to the investigator’s report; and
  - (b) the Authority had not complied with the requirement.
- (8) The FCA must publish the response or the specified part.

**The investigator**

**62.**—(1) Paragraph (2) applies in respect of the person who, immediately before the commencement date, was the investigator appointed by the Authority in accordance with paragraph 7(1)(b) and (3) of Schedule 1.

(2) The person is to be treated as if appointed by the FCA, the PRA and the Bank of England in accordance with section 84(1)(b) and (4) of the 2012 Act.

(3) If the terms and conditions on which that person was appointed by the Authority are not, on the commencement date, in accordance with section 84(5) of the 2012 Act, the FCA, the PRA and the Bank of England must amend the terms and conditions of the appointment.

**Complaints made on or after the commencement date about a function of the Authority**

**63.**—(1) Paragraph (2) applies in respect of a complaint made on or after the commencement date arising in connection with the exercise by the Authority, or failure to exercise, any of its functions (other than its legislative functions) before the commencement date.

(2) Sections 84 and 85 apply as if the relevant functions of the FCA include the functions, before the commencement date, of the Authority (other than the Authority’s legislative functions).