
STATUTORY INSTRUMENTS

2013 No. 655

**The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment) Order 2013**

PART 4

TRANSITIONAL PROVISIONS

Transitional provisions

- 7.—(1) Paragraph (2) applies to a person (“A”) who, on the business day before 2nd April 2013—
- (a) had a Part 4 permission; and
 - (b) provided, or was required to provide, any information or expression of opinion to the administrator of a benchmark, that was required by the administrator for the purpose of determining that benchmark where, if provided on 2nd April 2013, the information or expression of opinion would have been provided in relation to a specified benchmark.
- (2) A is to be treated as having a Part 4A permission to carry on the activity of providing information in relation to a specified benchmark.
- (3) A Part 4A permission that is given under this article is to be treated as being given by—
- (a) in the case of a PRA authorised person, the PRA; or
 - (b) in the case of any other authorised firm, the FCA.
- (4) For the purposes of this article, the administrator of a benchmark is a person who is—
- (a) administering the arrangements for determining the benchmark;
 - (b) collecting, analysing or processing information or expressions of opinion provided by third parties for the purpose of determining the benchmark; or
 - (c) determining the benchmark through the application of a formula or other method of calculation to the information or expressions of opinion provided for that purpose.

Interim permission

- 8.—(1) Paragraph (2) applies to a person (“B”) who, immediately before 2nd April 2013 was carrying on any of the following activities in relation to a benchmark that, on 2nd April 2013 is a specified benchmark—
- (a) administering the arrangements for determining the benchmark;
 - (b) collecting, analysing or processing information or expressions of opinion provided by third parties for the purpose of determining the benchmark;
 - (c) determining the benchmark through the application of a formula or other method of calculation to the information or expressions of opinion provided for that purpose.
- (2) B is to be treated as having a Part 4A permission to carry on the activity of administering a specified benchmark.

(3) The Part 4A permission which B is to be treated as having is referred to in this Order as an “interim permission”.

(4) B’s interim permission lapses on the earliest of—

- (a) the date specified in a notice of cancellation of permission given under this article by the FCA;
- (b) the cancellation of the permission by the FCA under section 55H of the Act (variation by FCA at request of authorised person); or
- (c) the exercise by the FCA of its power under section 55J of the Act (variation or cancellation on initiative of regulator).

(5) A notice of cancellation of permission under paragraph (4)(a) may only be given by the FCA when, whether in relation to B or another person, a Part 4A permission is given or an existing Part 4A permission is varied so as to include permission to carry on the activity of administering a specified benchmark.

(6) A notice of cancellation of permission given to B under paragraph (4)(a) must be given—

- (a) in writing; and
- (b) at least 7 days in advance of the cancellation of the interim permission.

(7) For the purposes of paragraph (4)(a), section 55Z of the Act (cancellation of permission: procedure) does not apply.

Application of the FCA’s rules etc to persons with interim permission

9.—(1) The FCA may direct in writing that any relevant provision which would otherwise apply to a person by virtue of an interim permission is not to apply, or is to apply to that person as modified in the way specified in the direction.

(2) Where the FCA makes a rule, gives guidance or issues a statement or code which applies only to persons with an interim permission (or only to a class of such persons), sections 63D(1) (statement of policy: procedure), 65 (statements and codes: procedure) and 138I (consultation by the FCA) and subsection (3) of section 139A(2) (power of the FCA to give guidance) of the Act do not apply to that rule, guidance, statement or code.

(3) For the purposes of paragraph (1), a “relevant provision” is any provision made as a result of the exercise by the FCA of any of its legislative functions mentioned in paragraph 8(3) of Schedule 1ZA to the Act (the Financial Conduct Authority).

Application of the Act to persons with an interim permission

10.—(1) This article applies to every person with an interim permission.

(2) A person with an interim permission is to be treated as an authorised person for the purposes of the Act (and any provision made under the Act), unless otherwise expressly provided for by this article.

(3) For the purpose of section 20(3) (authorised persons acting without permission) of the Act, a person’s interim permission is treated as having been given to that person under Part 4A of the Act.

(4) For the purpose of section 55L(2) (imposition of requirements by FCA) of the Act, a person’s interim permission is treated as having been given to that person by the FCA.

(5) A person’s interim permission is to be disregarded for the purposes of—

(1) Inserted by section 11 of the Financial Services Act 2010.

(2) Inserted by section 24 of the Financial Services Act 2012.

(3) as amended by paragraph 2 of Schedule 9 to the Financial Services Act 2012.

- (a) section 38(2) (exemption orders) of the Act;
- (b) section 55A(3) (application for permission) of the Act;
- (c) section 55E (giving permission: the FCA) of the Act; and
- (d) section 55F (giving permission: the PRA) of the Act.