
STATUTORY INSTRUMENTS

2014 No. 3085

The Immigration Act 2014 (Bank Accounts) Regulations 2014

PART 6

Notices

Requirement to issue warning notice

24.—(1) Where the FCA proposes to—

- (a) publish a statement under regulation 15 (public censure) or 16 (statement of misconduct),
- (b) impose a penalty under regulation 17 (financial penalties),
- (c) impose a restriction on a permission under regulation 18 (restrictions on permission to carry on regulated activities), or
- (d) suspend or restrict an approval under regulation 19 (suspension of and restrictions on approval to carry on functions),

it must give the person concerned a warning notice.

(2) The warning notice must set out the following—

- (a) in the case of a statement under regulation 15 or 16, the terms of the proposed statement;
- (b) in the case of a penalty under regulation 17, the amount of the proposed penalty;
- (c) in the case of a restriction on a permission under regulation 18, the restriction and the period for which it is to have effect;
- (d) in the case of a suspension or restriction on an approval under regulation 19, the suspension or restriction and the period for which it is to have effect.

Requirement to issue decision notice

25.—(1) If, having considered any representations made in response to the warning notice, the FCA decides to—

- (a) publish a statement under regulation 15 (public censure) or 16 (statement of misconduct);
- (b) impose a penalty under regulation 17 (financial penalties);
- (c) impose a restriction on a permission under regulation 18 (restriction on permission to carry on regulated activities);
- (d) suspend or restrict an approval under regulation 19 (suspension of and restriction on approval to carry on functions),

it must without delay give the person concerned a decision notice.

(2) The decision notice must set out the following—

- (a) in the case of a statement under regulation 15 or 16, the terms of the statement;
- (b) in the case of a penalty under regulation 17, the amount of the penalty;

- (c) in the case of a restriction on a permission under regulation 18, the restriction and the period for which it is to have effect;
- (d) in the case of a suspension or restriction on an approval under regulation 19, the suspension or restriction and the period for which it is to have effect.

Notices: other interested parties and third party rights

26.—(1) Where the FCA proposes to suspend or restrict an approval under regulation 19 (suspension of and restriction on approval to carry on functions), a warning notice and decision notice must also be given to each of the other interested parties.

(2) “Other interested parties” has the meaning given in section 67(9) (disciplinary measures: procedure and right to refer to Tribunal) of the 2000 Act(1).

(3) After a statement under regulation 15 (public censure) or 16 (statement of misconduct) is published, the FCA must send a copy of it to the person concerned and to any person to whom a copy of the decision notice was given under section 393(4) (third party rights) of the 2000 Act(2) (as applied by regulation 29 (application of Part 26 of the 2000 Act)).

Referral to Tribunal

27. If the FCA decides to—

- (a) publish a statement under regulation 15 (public censure) or 16 (statement of misconduct);
- (b) impose a penalty under regulation 17 (financial penalties);
- (c) impose a restriction on a permission under regulation 18 (restriction on permission to carry on regulated activities); or
- (d) impose a suspension or restriction on an approval under regulation 19 (suspension of and restriction on approval to carry on functions),

the person concerned may refer the matter to the Tribunal.

Statements of policy

28.—(1) Sections 69 (statements of policy) and 70 (statements of policy: procedure) of the 2000 Act(3) apply in relation to the preparation and issuance by the FCA of statements of policy with respect to—

- (a) the imposition of penalties, suspensions or restrictions under regulations 17(2) (financial penalties) and 19 (suspension of and restriction on approval to carry on functions);
- (b) the amount of penalties imposed under regulation 17(2); and
- (c) the period for which suspensions or restrictions imposed under regulation 19 are to have effect;

as they apply in relation to the preparation and issuance by the FCA of statements of policy with respect to action the FCA may take under section 66 (disciplinary powers) of the 2000 Act(4).

(1) Section 67(9) is amended by paragraph 15 of Schedule 5 to the Financial Services Act 2012.

(2) Section 393(4) is amended by paragraph 32 of Schedule 9 to the Financial Services Act 2012.

(3) Section 69 is amended by paragraph 10 of Schedule 2 to the Financial Services Act 2010, paragraph 17 of Schedule 5 to the Financial Services Act 2012, and paragraph 7 of Schedule 3 to the Financial Services (Banking Reform) Act 2013. Section 70 is amended by paragraph 18 of Schedule 5 to the Financial Services Act 2012.

(4) Section 66 is amended by section 12 of and paragraph 8 of Schedule 2 to the Financial Services Act 2010, paragraph 14 of Schedule 5 to the Financial Services Act 2012, sections 28 and 32 of and paragraph 5 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 and [S.I. 2013/1773](#).

(2) Sections 210 (statements of policy) and 211 (statements of policy: procedure) of the 2000 Act(5) apply in relation to the preparation and issuance by the FCA of statements of policy with respect to—

- (a) the imposition of penalties or restrictions under regulations 17(1) (financial penalties) and 18 (restrictions on permission to carry on regulated activities);
- (b) the amount of penalties imposed under regulation 17(1); and
- (c) the period for which restrictions imposed under regulation 18 are to have effect;

as they apply in relation to the preparation and issuance by the FCA of statements of policy with respect to action the FCA may take under Part 14 (disciplinary measures) of the 2000 Act(6).

Application of Part 26 of the 2000 Act

29.—(1) Part 26 (notices) of the 2000 Act(7) applies with respect to the discharge by the FCA of its functions under regulations 24 (requirement to issue warning notice), 25 (requirement to issue decision notice) or 26 (notices: other interested parties and third party rights) as if references to the PRA in that Part were omitted.

- (2) With respect to the discharge by the FCA of its functions under regulations 24, 25 or 26—
 - (a) section 387 (warning notices) of the 2000 Act applies as if subsections (1A) and (3A) were omitted;
 - (b) section 388 (decision notices) of the 2000 Act applies as if subsections (1A) and (2) were omitted;
 - (c) section 390 (final notices) of the 2000 Act applies as if—
 - (i) subsections (6) and (10) were omitted;
 - (ii) in subsection (7) for “In any other case, the” the word “The” were substituted, and
 - (iii) in subsection (8) the words “or (6)(c)” were omitted;
 - (d) section 391 (publication) of the 2000 Act applies as if—
 - (i) subsections (1), (1ZB), (5), (5A), (6A), (7A), (7B), (8), (10) and (11) were omitted, and
 - (ii) for subsection (1ZA) were substituted—

“(1ZA) Neither the FCA nor a person to whom a warning notice is given or copied may publish the notice or any details concerning it.”;
 - (e) sections 393 (third party rights) and 394 (access to FCA or PRA material) of the 2000 Act apply in respect of a warning notice or a decision notice given in accordance with these Regulations;
 - (f) Section 395 (the FCA’s and PRA’s procedures) of the 2000 Act applies as if—
 - (i) for subsection (1) there were substituted—

“(1) The FCA must determine the procedure that it proposes to follow in relation to a decision which gives rise to an obligation for it to give a warning notice or decision notice.”;

(5) Section 210 is amended by paragraph 20 of Schedule 2 to the Financial Services Act 2010 and paragraph 17 of Schedule 9 to the Financial Services Act 2012. Section 211 is amended by paragraph 18 of Schedule 9 to the Financial Services Act 2012.

(6) Part 14 is amended by sections 9 and 10 of and Schedule 2 to the Financial Services Act 2010, Schedule 9 to the Financial Services Act 2012 and S.I. 2013/1773.

(7) Part 26 is amended by paragraph 11 of Schedule 4 to the Regulation of Investigatory Powers Act 2000 (c.23), sections 13 and 24 of and paragraphs 28 and 29 of Schedule 2 to the Financial Services Act 2010, sections 17, 18, 19 and 24 of and paragraph 37 of Schedule 8, Schedule 9 and paragraph 8 of Schedule 13 to the Financial Services Act 2012, section 4 of and Schedule 3 to the Financial Services (Banking Reform) Act 2013, S.I. 2005/381, S.I. 2005/1433, S.I. 2007/126, S.I. 2007/1973, S.I. 2009/534, S.I. 2010/22, S.I. 2010/747, S.I. 2012/916, S.I. 2013/1388 and S.I. 2013/3115.

- (ii) for subsection (2) there were substituted—
 - “(2) That procedure must be designed to secure, among other things, that a decision falling within subsection (1) is taken—
 - (a) by a person not directly involved in establishing the evidence on which the decision is based, or
 - (b) by 2 or more persons who include a person not directly involved in establishing that evidence.”;
- (iii) subsections (3), (4), (9A) and (13) were omitted, and
- (iv) in subsection (9), the words “supervisory notice, or a” and “other than a warning notice or decision notice relating to a decision of the PRA that is required by a decision of the FCA of the kind mentioned in subsection (1)(b)(ii)” were omitted.