
STATUTORY INSTRUMENTS

2017 No. 692

**The Money Laundering, Terrorist Financing and Transfer
of Funds (Information on the Payer) Regulations 2017**

PART 9

Enforcement

CHAPTER 2

Civil penalties and notices

The FCA: disciplinary measures (procedure)

81.—(1) When determining the type of sanction, and level of any penalty, to be imposed on a person (“P”) under regulation 76, 77 or 78, the FCA must take into account all relevant circumstances, including where appropriate—

- (a) the gravity and the duration of the contravention or failure;
- (b) the degree of responsibility of P;
- (c) the financial strength of P;
- (d) the amount of profits gained or losses avoided by P;
- (e) the losses for third parties caused by the contravention or failure;
- (f) the level of co-operation of P with the FCA;
- (g) previous contraventions or failures by P; and
- (h) any potential systemic consequences of the contravention or failure.

[^{F1}(1A) Before imposing a sanction on P under regulation 76, 77 or 78, the FCA must check whether P has any criminal convictions that may be relevant to the determination referred to in paragraph (1).]

(2) If the FCA proposes to impose a sanction on P under regulation 76, 77 or 78 it must give P a warning notice.

(3) Where the FCA proposes to impose a penalty on a PRA-authorized person or on a person who has a qualifying relationship with a PRA-authorized person, it must consult the PRA.

(4) Section 387 of FSMA (warning notices) ^{M1} applies in relation to a notice given under paragraph (2) as it applies in relation to a warning notice given by the FCA under that Act, subject to paragraph (5).

(5) In complying with section 387(1)(a), a warning notice must—

- (a) if it is about a proposal to publish a statement, set out the terms of the statement;
- (b) if it is about a proposal to impose a penalty, specify the amount of the penalty;
- (c) if it is about a proposal to impose a suspension, limitation or other restriction—
 - (i) state the period for which the suspension, limitation or restriction is to have effect,

- (ii) sets out the terms of the suspension, limitation or other restriction;
 - (d) if it is about a proposal to cancel, state the date from which the cancellation is to have effect;
 - (e) if it is about a proposal to impose a prohibition on an individual, set out the terms of the proposed prohibition.
- (6) If the FCA decides to impose a sanction on P under regulation 76, 77 or 78 it must without undue delay give P a decision notice.
- (7) If the decision is to publish a statement, the decision notice must set out the terms of the statement.
- (8) If the decision is to impose a penalty, the decision notice must specify the amount of the penalty.
- (9) If the decision is to impose a suspension, limitation or other restriction, the decision notice must—
- (a) state the period for which the suspension, limitation or restriction is to have effect;
 - (b) sets out the terms of the suspension, limitation or other restriction.
- (10) If the decision is to cancel a permission, registration or authorisation, the decision notice must state the date from which the cancellation is to have effect.
- (11) If the decision is to impose a prohibition on an individual, the decision notice must set out the terms of the prohibition.
- (12) Section 388 of FSMA (decision notices)^{M2} applies in relation to a decision notice given under paragraph (6) as it applies in relation to a decision notice given by the FCA under FSMA, subject to paragraph (13).
- (13) Section 388 of FSMA has effect for the purposes of paragraph (12) as if—
- (a) in subsection (1)(e)(i) for “this Act” there were substituted “ regulation 93(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ”, and
 - (b) subsections (1A) and (2) were omitted.

Textual Amendments

- F1** Reg. 81(1A) inserted (10.1.2020) by [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019 \(S.I. 2019/1511\)](#), regs. 1(2), **9(1)**
-

Marginal Citations

- M1** Section 387 was amended by paragraph 26 of Schedule 9 to the [Financial Services Act 2012 \(c.21\)](#), paragraph 12 of Schedule 3 to the [Financial Services \(Banking Reform\) Act 2013 \(c.33\)](#).
- M2** Section 388 was amended (and subsection (1A) inserted) by paragraph 27 of Schedule 9 to the Financial Services Act 2012 and paragraph 13 of Schedule 3 to the Financial Services (Banking Reform) Act 2013.

Changes to legislation:

There are currently no known outstanding effects for the The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, Section 81.