

SCHEDULES

SCHEDULE 12

AMENDMENTS OF PARTS 11 AND 23 OF FSMA 2000

PART 1

PART 11 OF FSMA 2000: INFORMATION GATHERING AND INVESTIGATIONS

6 After section 166 insert—

“166A Appointment of skilled person to collect and update information

- (1) This section applies if either regulator considers that an authorised person has contravened a requirement in rules made by that regulator to collect, and keep up to date, information of a description specified in the rules.
- (2) The regulator may either—
 - (a) require the authorised person to appoint a skilled person to collect or update the information, or
 - (b) itself appoint a skilled person to do so.
- (3) References in this section to a skilled person are to a person—
 - (a) appearing to the regulator to have the skills necessary to collect or update the information in question, and
 - (b) where the appointment is to be made by the authorised person, nominated or approved by the regulator.
- (4) The regulator must give notice of an appointment under subsection (2)(b) to the authorised person.
- (5) The skilled person may require any person to provide all such assistance as the skilled person may reasonably require to collect or update the information in question.
- (6) A requirement imposed under subsection (5) is enforceable, on the application of the regulator in question, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (7) A contractual or other requirement imposed on a person (“P”) to keep any information in confidence does not apply if—
 - (a) the information is or may be relevant to anything required to be done as a result of this section,
 - (b) an authorised person or a skilled person requests or requires P to provide the information for the purpose of securing that those things are done, and

Status: This is the original version (as it was originally enacted).

- (c) the regulator in question has approved the making of the request or the imposition of the requirement before it is made or imposed.
- (8) An authorised person may provide information (whether received under subsection (7) or otherwise) that would otherwise be subject to a contractual or other requirement to keep it in confidence if it is provided for the purposes of anything required to be done as a result of this section.
- (9) A regulator may make rules providing for expenses incurred by it in relation to an appointment under subsection (2)(b) to be payable as a fee by the authorised person.
- (10) In this section “authorised person”, in relation to the PRA, means PRA-authorised person.”