
Changes to legislation: Financial Services Act 2012, Paragraph 34 is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 9

DISCIPLINE AND ENFORCEMENT

PART 6

NOTICE PROCEDURES

- 34 (1) Section 395 (the Authority's procedures) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Each regulator must determine the procedure that it proposes to follow in relation to the following—
- (a) a decision which gives rise to an obligation to give a supervisory notice,
 - (b) in the case of the FCA, a decision which—
 - (i) gives rise to an obligation for it to give a warning notice or decision notice, or
 - (ii) gives rise to an obligation for the PRA to include a statement under section 387(1A) in a warning notice or a statement under section 388(1A) in a decision notice,
 - (c) in the case of the PRA, a decision which gives rise to an obligation for it to give a warning notice or decision notice, other than a decision which depends entirely on a decision of the FCA of the kind mentioned in paragraph (b)(ii), and
 - (d) a decision under section 391(1)(c) to publish information about the matter to which a warning notice relates.”
- (3) In subsection (2), omit the words from “, that the decision” to the end and insert “that—
- (a) a decision falling within any of paragraphs (a) to (c) of subsection (1) is taken—
 - (i) by a person not directly involved in establishing the evidence on which the decision is based, or
 - (ii) by 2 or more persons who include a person not directly involved in establishing that evidence,
 - (b) a decision falling within paragraph (d) of subsection (1) is taken—
 - (i) by a person other than the person by whom the decision was first proposed, or
 - (ii) by 2 or more persons not including the person by whom the decision was first proposed, and
 - (c) a decision falling within paragraph (d) of subsection (1) is taken in accordance with a procedure which is, as far as possible, the same

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as that applicable to a decision which gives rise to an obligation to give a warning notice and which falls within paragraph (b) or (c) of subsection (1).”

- (4) In subsection (3), for the words from “taken” to the end substitute “taken otherwise than as mentioned in subsection (2) if the person taking the decision is of a level of seniority laid down by the procedure and—
- (a) in the case of procedure proposed by the FCA, the FCA considers that, in the particular case, it is necessary in order to advance one or more of its operational objectives, or
 - (b) in the case of procedure proposed by the PRA, the PRA considers that, in the particular case, it is necessary in order to advance any of its objectives.”
- (5) In subsection (5)—
- (a) for “The Authority” substitute “ Each regulator ”, and
 - (b) for “the procedure” substitute “ its procedure ”.
- (6) In subsection (6)—
- (a) for “the Authority” substitute “ the regulator issuing it ”, and
 - (b) for “it” substitute “ the statement ”.
- (7) In subsection (7), for “The Authority” substitute “ The regulator issuing the statement ”.
- (8) In subsection (8)—
- (a) for “The Authority” substitute “ The regulator issuing a statement under this section ”, and
 - (b) for “any statement which it issues under this section” substitute “ the statement ”.
- (9) In subsection (9)—
- (a) for “giving” substitute “ a regulator gives ”,
 - (b) after “decision notice,” insert “ 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) ”, and
 - (c) for “the Authority” substitute “ the regulator ”.
- (10) After subsection (9) insert—
- “(9A) When the FCA takes a decision falling within subsection (1)(b)(ii), it must follow its stated procedure.”
- (11) In subsection (10)—
- (a) for “the Authority” substitute “ a regulator ”, and
 - (b) for “the procedure” substitute “ its procedure ”.
- (12) In subsection (11), for “The Authority's” substitute “A regulator's”.
- (13) In subsection (13), for paragraph (a) substitute—
- “(a) 55Y(4), (7) or (8)(b);”.
- (14) In the heading, for “Authority's” substitute “FCA's and PRA's”.

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(15) In the italic heading before that section, for “Authority's” substitute “FCA's and PRA's”.

Commencement Information

- I1** Sch. 9 para. 34 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
I2 Sch. 9 para. 34 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)