



Financial Services Act 2012

2012 CHAPTER 21

PART 6

INVESTIGATION OF COMPLAINTS AGAINST REGULATORS

85 Relevant functions in relation to complaints scheme

(1) This section has effect for the interpretation of the reference in section 84(1)(a) to the relevant functions of the regulators.

[^{F1}(2) The relevant functions of the FCA or the PRA are—

- (a) its functions conferred by or under FSMA 2000, other than its legislative functions [^{F2}and its standards review functions], and
- (b) such other functions as the Treasury may by order provide.]

[^{F3}(3) The relevant functions of the Bank of England are—

- (a) its functions under Part 18 of FSMA 2000 (recognised clearing houses [^{F4}and CSDs]) or under Part 5 of the Banking Act 2009 (^{F5}... payment systems) [^{F6}or Part 5A of that Act (wholesale cash distribution)], other than its legislative functions, and
- (b) such other functions as the Treasury may by order provide.]

(4) For the purposes of [^{F7}subsection (2)(a)], the following are the FCA's legislative functions—

- (a) making rules under FSMA 2000;
- (b) issuing codes under section ^{F8}... 119 of FSMA 2000;
- (c) issuing statements under—
 - (i) section [^{F9}63ZD,] 63C, ^{F10}... 69, 88C, 89S, 93, 124, 131J, 138N, 192H, 192N, 210 [^{F11}or 312J] of FSMA 2000,
 - (ii) section 345D of FSMA 2000 (whether as a result of section 345(2) or 345A(3) or section 249(1) [^{F12}or 261K(1)] of that Act), or
 - (iii) section 80 of the Financial Services Act 2012;
- (d) giving directions under section 316, 318 or 328 of FSMA 2000;

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- (e) issuing general guidance, as defined in section 139B(5) ^{F13}... of FSMA 2000.
 - ^{F14}(f)
 - ^{F15}(g) making technical standards in accordance with Chapter 2A of Part 9A of FSMA 2000;
 - (h) making EU Exit instruments under the Financial Regulators’ Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018.]
- ^{F16}(4A) For the purposes of subsection (2)(a), the FCA's standards review functions are the FCA's functions under sections 9(2) and 10 of the Financial Guidance and Claims Act 2018 (approving and reviewing standards set by ^{F17}Money and Pensions Service).]
- (5) For the purposes of ^{F18}subsection (2)(a)], the following are the PRA's legislative functions—
- (a) making rules under FSMA 2000;
 - ^{F19}(b)
 - (c) issuing statements under—
 - (i) section ^{F20}63ZD,] 63C, ^{F21}... 69, 192H, 192N, 210 or 345D of FSMA 2000, or
 - (ii) section 80 of the Financial Services Act 2012;
 - (d) giving directions under section 316 or 318 of FSMA 2000;
 - (e) issuing guidance under section 2I of FSMA 2000.
 - ^{F22}(f) making technical standards in accordance with Chapter 2A of Part 9A of FSMA 2000;
 - (g) making EU Exit instruments under the Financial Regulators’ Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018.]
- (6) For the purposes of ^{F23}subsection (3)(a)], the following functions of the Bank of England under Part 18 of FSMA 2000 are legislative functions—
- (a) making rules;
 - (b) issuing statements—
 - (i) under section 312J, or
 - (ii) by virtue of the application by Schedule 17A of a provision mentioned in subsection (5)(c)(i) of this section.
- (7) For the purposes of ^{F24}subsection (3)(a)], the following functions of the Bank of England under ^{F25}Parts 5 and 5A] of the Banking Act 2009 are legislative functions—
- (a) publishing principles or codes of practice under sections 188 ^{F26},189, 206K and 206L];
 - (b) preparing statements under section 198(3) ^{F27}and 206T(3)].
- ^{F28}(8) For the purposes of subsection (2), sections 1A(6) and ^{F29}2AB(3)] of FSMA 2000 do not apply.]

Textual Amendments

- F1** S. 85(2) substituted (1.3.2014 for specified purposes, 1.6.2014 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 148\(5\), Sch. 10 para. 10\(2\); S.I. 2014/377, art. 2\(1\)\(b\)\(3\), Sch. Pt. 2](#)
- F2** Words in s. 85(2)(a) inserted (1.10.2018) by [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\), Sch. 3 para. 30\(a\); S.I. 2018/1029, reg. 2\(q\)](#)

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- F3** S. 85(3) substituted (1.3.2014 for specified purposes, 1.6.2014 in so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 10 para. 10(3)**; S.I. 2014/377, art. 2(1)(b)(3), Sch. Pt. 2
- F4** Words in s. 85(3)(a) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), reg. 1, **Sch. para. 17(4)** (with regs. 7(4), 9(1))
- F5** Word in s. 85(3)(a) omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 33**
- F6** Words in s. 85(3)(a) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(d), **Sch. 9 para. 14(2)**
- F7** Words in s. 85(4) substituted (1.3.2014 for specified purposes, 1.6.2014 in so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 10 para. 10(4)**; S.I. 2014/377, art. 2(1)(b)(3), Sch. Pt. 2
- F8** Words in s. 85(4)(b) omitted (7.3.2016) by virtue of Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 3 para. 19(2)(a)**; S.I. 2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F9** Word in s. 85(4)(c)(i) inserted (25.7.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 3 para. 19(2)(b)(i)**; S.I. 2014/1819, art. 2(4)(b)
- F10** Word in s. 85(4)(c)(i) omitted (7.3.2016) by virtue of Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 3 para. 19(2)(b)(ii)**; S.I. 2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F11** Words in s. 85(4)(c)(i) substituted (1.1.2019) by Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), **Sch. 3 para. 30(b)(i)**; S.I. 2018/1330, reg. 2(g)(vi)
- F12** Words in s. 85(4)(c)(ii) inserted (6.6.2013) by The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013 (S.I. 2013/1388), regs. 1, **6** (with reg. 24)
- F13** Words in s. 85(4)(e) omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), **Sch. 3 para. 30(b)(ii)**; S.I. 2018/1330, reg. 2(g)(vi)
- F14** S. 85(4)(f) omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), **Sch. 3 para. 30(b)(iii)**; S.I. 2018/1330, reg. 2(g)(vi)
- F15** S. 85(4)(g)(h) inserted (26.10.2018) by The Financial Regulators Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 1(2), **9(a)**
- F16** S. 85(4A) inserted (1.10.2018) by Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), **Sch. 3 para. 30(c)**; S.I. 2018/1029, reg. 2(q) (with Sch. para. 2)
- F17** Words in s. 85(4A) substituted (6.4.2019) by The Financial Guidance and Claims Act 2018 (Naming and Consequential Amendments) Regulations 2019 (S.I. 2019/383), reg. 1(1), **Sch. para. 10**
- F18** Words in s. 85(5) substituted (1.3.2014 for specified purposes, 1.6.2014 in so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 10 para. 10(4)**; S.I. 2014/377, art. 2(1)(b)(3), Sch. Pt. 2
- F19** S. 85(5)(b) omitted (7.3.2016) by virtue of Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 3 para. 19(3)(a)**; S.I. 2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F20** Word in s. 85(5)(c)(i) inserted (25.7.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 3 para. 19(3)(b)(i)**; S.I. 2014/1819, art. 2(4)(b)
- F21** Word in s. 85(5)(c)(i) omitted (7.3.2016) by virtue of Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 3 para. 19(3)(b)(ii)**; S.I. 2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F22** S. 85(5)(f)(g) inserted (26.10.2018) by The Financial Regulators Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 1(2), **9(b)**
- F23** Words in s. 85(6) substituted (1.3.2014 for specified purposes, 1.6.2014 in so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 10 para. 10(5)**; S.I. 2014/377, art. 2(1)(b)(3), Sch. Pt. 2
- F24** Words in s. 85(7) substituted (1.3.2014 for specified purposes, 1.6.2014 in so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 10 para. 10(5)**; S.I. 2014/377, art. 2(1)(b)(3), Sch. Pt. 2

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- F25** Words in s. 85(7) substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(d), **Sch. 9 para. 14(3)(a)**
- F26** Words in s. 85(7)(a) substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(d), **Sch. 9 para. 14(3)(b)**
- F27** Words in s. 85(7)(b) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(d), **Sch. 9 para. 14(3)(c)**
- F28** S. 85(8) inserted (1.3.2014 for specified purposes, 1.6.2014 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 10 para. 10(6)**; S.I. 2014/377, art. 2(1)(b)(3), Sch. Pt. 2
- F29** Word in s. 85(8) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), **Sch. 2 para. 65** (with Sch. 3); S.I. 2017/43, reg. 2(g)

Modifications etc. (not altering text)

- C1** S. 85 modified (20.2.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Rules and Miscellaneous Provisions\) Order 2013 \(S.I. 2013/161\)](#), arts. 1(1), **3(8)(c)**
- C2** S. 85 modified (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Miscellaneous Provisions\) Order 2013 \(S.I. 2013/442\)](#), arts. 1(3), **61(3)(b)**
- C3** S. 85 applied (with modifications) (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Miscellaneous Provisions\) Order 2013 \(S.I. 2013/442\)](#), arts. 1(3), **63(2)**
- C4** Ss. 84-86 applied by SI 2001/2326 art. 18(2) (as amended) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 paras. 49(b)(bb)-(ff)**, (ii)

Commencement Information

- I1** S. 85 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), **Sch. Pt. 3**
- I2** S. 85 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\(10\)](#)