



# Financial Services Act 2012

## 2012 CHAPTER 21

### PART 6

#### INVESTIGATION OF COMPLAINTS AGAINST REGULATORS

#### **87 Investigation of complaints**

- (1) A regulator is not obliged to investigate in accordance with the complaints scheme a complaint which it reasonably considers would be more appropriately dealt with in another way (for example by referring the matter to the Upper Tribunal or by the institution of other legal proceedings).
- (2) The complaints scheme must provide—
  - (a) for reference to the investigator of any complaint which a regulator is investigating,
  - (b) for the investigator—
    - (i) to have the means to conduct a full investigation of the complaint,
    - (ii) to report to the regulator to which the complaint relates and the complainant on the result of the investigator's investigation, and
    - (iii) to be able to publish the investigator's report (or part of it) if the investigator considers that it (or the part) ought to be brought to the attention of the public, and
  - (c) for the meeting by the regulators of the expenses of the scheme.
- (3) If a regulator has decided not to investigate a complaint, it must notify the investigator.
- (4) If the investigator considers that a complaint of which the investigator has been notified under subsection (3) ought to be investigated, the investigator may proceed as if the complaint had been referred to the investigator under the complaints scheme.
- (5) The complaints scheme must confer on the investigator the power to recommend, if the investigator thinks it appropriate, that the regulator to which a complaint relates takes either or both of the following steps—
  - (a) makes a compensatory payment to the complainant, or

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- (b) remedies the matter complained of.
- (6) The complaints scheme must require the regulator to which a complaint relates, in a case where the investigator—
  - (a) has reported that the complaint is well-founded, or
  - (b) has criticised the regulator in a report,
 to inform the investigator and the complainant of the steps which it proposes to take in response to the report.
- (7) The investigator may require the regulator to which a complaint relates to publish the whole or a specified part of the response.
- (8) The investigator may appoint a person to conduct the investigation on the investigator's behalf but subject to the investigator's direction.
- (9) An officer or employee of any of the regulators may not be appointed under subsection (8).
- [<sup>F1</sup>(9A) The complaints scheme must provide—
  - (a) for the investigator to prepare an annual report on its investigations under the scheme, to publish it and send a copy of it to each regulator and to the Treasury;
  - (b) for each regulator to respond to any recommendations or criticisms relating to it in the report, to publish the response and send a copy of it to the investigator and the Treasury;
  - [ for the regulator's response under paragraph (b) to include a summary of—
  - <sup>F2</sup>(ba) (i) the cases in which the regulator decided not to follow any relevant recommendations, and
  - (ii) the reasons for not following those recommendations;]
  - (c) for the Treasury to lay the annual report and any response before Parliament.
- (9B) The complaints scheme may make provision about the period to which each annual report must relate (“the reporting period”) and the contents of the report and must in particular provide for it to include—
  - (a) information concerning any general trends emerging from the investigations undertaken during the reporting period;
  - (b) any recommendations which the investigator considers appropriate as to the steps a regulator should take in response to such trends;
  - (c) a review of the effectiveness during the reporting period of the procedures (both formal and informal) of each regulator for handling and resolving complaints which have been investigated by the investigator during the reporting period;
  - (d) an assessment of the extent to which those procedures were accessible and fair, including where appropriate an assessment in relation to different categories of complainant;
  - (e) any recommendations about how those procedures, or the way in which they are operated, could be improved.]
  - [<sup>F3</sup>(f) such other matters as the Treasury may from time to time direct.]
- [<sup>F4</sup>(9C) In subsection (9A)(ba) the reference to “relevant recommendations”, in relation to the regulator's response in respect of an annual report, is a reference to—
  - (a) any recommendations to the regulator contained in that annual report, and

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- (b) any recommendations to the regulator contained in final reports relating to individual complaints given during the period to which that annual report relates.]

(10) Subsection (2) is not to be taken as preventing a regulator from making arrangements for the initial investigation of a complaint to be conducted by the regulator.

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**Textual Amendments**

- F1** S. 87(9A)(9B) inserted (1.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), ss. 20, 164(1); S.I. 2015/1689, reg. 2(a)
- F2** S. 87(9A)(ba) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), ss. 76(3)(a), 86(3); S.I. 2023/779, reg. 4(xx)
- F3** S. 87(9B)(f) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), ss. 76(3)(b), 86(3); S.I. 2023/779, reg. 4(xx)
- F4** S. 87(9C) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), ss. 76(3)(c), 86(3); S.I. 2023/779, reg. 4(xx)

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**Commencement Information**

- I1** S. 87 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I2** S. 87 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\(10\)](#)