

SCHEDULES

SCHEDULE 3

Section 35

CONSEQUENTIAL AMENDMENTS RELATING TO PART 4

Financial Services and Markets Act 2000

- 1 (1) Section 59 of FSMA 2000 (approval for particular arrangements) is amended as follows.
 - (2) In subsection (1), for the words from “the appropriate regulator” to the end substitute “that person is acting in accordance with an approval given by the appropriate regulator under this section.”
 - (3) In subsection (2), for the words from “the appropriate regulator” to the end substitute “that person is acting in accordance with an approval given by the appropriate regulator under this section.”
- 2 (1) Section 59A of FSMA 2000 (specifying functions as controlled functions: supplementary) is amended as follows.
 - (2) In subsection (1)(a) and (b), for “significant-influence” substitute “senior management”.
 - (3) After subsection (3) insert—

“(3A) Senior management function” has the meaning given by section 59ZA.”
- 3 (1) Section 63 of FSMA 2000 (withdrawal of approval) is amended as follows.
 - (2) In subsection (1A)(a), for “significant-influence function” substitute “relevant senior management function”.
 - (3) For subsection (1B) substitute—

“(1B) In subsection (1A) “relevant senior management function” means a function which the PRA is satisfied is a senior management function as defined in section 59ZA (whether or not the function has been designated as such by the FCA).”
- 4 In section 63A of FSMA 2000 (power to impose penalties), in subsection (2), for paragraph (b) substitute—

“(b) P, when performing the function, is not acting in accordance with an approval given under section 59.”
- 5 (1) Section 66 of FSMA 2000 (disciplinary powers) is amended as follows.
 - (2) In subsection (3), for paragraph (ab) (and the “or” following it) substitute—
 - “(ab) impose, for such period as it considers appropriate, any conditions in relation to any such approval which it considers appropriate;
 - “(ac) limit the period for which any such approval is to have effect;”.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (3A), for “restriction” substitute “condition”.
- (4) In subsection (3B), for “or restriction” substitute “, condition or limitation”.
- (5) In subsection (3C), for “restriction” substitute “condition”.
- (6) In subsection (3D)—
 - (a) in paragraph (a), for “or restriction” substitute “, condition or limitation”,
 - (b) omit the “or” at the end of paragraph (a),
 - (c) in paragraph (b), for “restriction” substitute “condition”, and
 - (d) after that paragraph insert—
 - “(c) vary a limitation so as to increase the period for which the approval is to have effect.”
- (7) In subsection (9), for “restriction” substitute “condition”.
- 6 (1) Section 67 of FSMA 2000 (disciplinary measures: procedure and right to refer to Tribunal) is amended as follows.
 - (2) In subsection (1), for “or (ab)” substitute “, (ab) or (ac)”.
 - (3) In subsection (2A), for “restriction” (in both places) substitute “condition”.
 - (4) After subsection (2A) insert—
 - “(2B) A warning notice about a proposal to limit the period for which an approval is to have effect must state the length of that period.”
 - (5) In subsection (4), for “or (ab)” substitute “, (ab) or (ac)”.
 - (6) In subsection (5A), for “restriction” (in both places) substitute “condition”.
 - (7) After subsection (5A) insert—
 - “(5B) A decision notice about limiting the period for which an approval is to have effect must state the length of that period.”
 - (8) In subsection (7), for “or (ab)” substitute “, (ab) or (ac)”.
- 7 In section 69 of FSMA 2000 (statement of policy), in subsection (1)—
 - (a) in paragraph (a), for “or restrictions” substitute “, conditions or limitations”;
 - (b) omit the “and” at the end of paragraph (b);
 - (c) in paragraph (c), for “restrictions” substitute “conditions”;
 - (d) at the end of paragraph (c) insert “; and
 - (d) the period for which approvals under section 59 are to have effect as a result of a limitation under section 66.”
- 8 In section 138A of FSMA 2000 (modification or waiver of rules), in subsection (2), before paragraph (a) insert—
 - “(za) rules made by either regulator under section 64A (rules of conduct);”.
- 9 In section 138D of FSMA 2000 (actions for damages), in subsection (5), before paragraph (a) insert—
 - “(za) rules under section 64A (rules of conduct);”.

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

- 10 In section 140A of FSMA 2000 (interpretation), in the definition of “regulating provisions”—
- (a) in paragraph (a)—
 - (i) omit sub-paragraph (iii), and
 - (ii) in sub-paragraph (iv), omit “64 or”;
 - (b) in paragraph (b), omit sub-paragraphs (ii) and (iii).
- 11 In section 347 of FSMA 2000 (the record of authorised persons etc.), in subsection (2) (g), in sub-paragraphs (ii) and (iii), for “relevant authorised person” substitute “authorised person concerned”.
- 12 In section 387 of FSMA 2000 (warning notices), in subsection (1A), for “or 55I(8)” substitute “, 55I(8) or 61(2D)”.
- 13 In section 388 of FSMA 2000 (decision notices), in subsection (1A), for “or 55I(8)” substitute “, 55I(8) or 61(2D)”.
- 14 In section 395 of FSMA 2000 (supervisory notices), in subsection (13), after paragraph (a) insert—
- “(aa) 63ZC(4), (8) or (9)(b);”.
- 15 (1) Section 415B of FSMA 2000 (consultation in relation to taking certain enforcement action) is amended as follows.
- (2) In subsection (4)—
- (a) in paragraph (b), for “significant-influence” substitute “relevant senior management”, and
 - (b) omit the definitions appearing after that paragraph.
- (3) After subsection (4) insert—
- “(5) In subsection (4)—
- “arrangement” has the same meaning as in section 59;
 - “relevant senior management function” means a function which the FCA is satisfied is a senior management function as defined in section 59ZA (whether or not it has been designated as such under section 59(6A) or (6B)).”
- 16 In Schedule 1ZA to FSMA 2000 (the Financial Conduct Authority), in paragraph 8(3)—
- (a) in paragraph (b), omit “64 or”;
 - (b) in paragraph (c)(i)—
 - (i) after “section” insert “63ZD,”, and
 - (ii) omit “64,”.
- 17 In Schedule 1ZB to FSMA 2000 (the Prudential Regulation Authority), in paragraph 16(3)—
- (a) omit paragraph (b);
 - (b) in paragraph (c)(i)—
 - (i) after “section” insert “63ZD,”, and
 - (ii) omit “64,”.

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

Financial Services Act 2012

- 18 In section 14 of the Financial Services Act 2012, omit subsection (4).
- 19 (1) Section 85 of the Financial Services Act 2012 (relevant functions in relation to complaints scheme) is amended as follows.
- (2) In subsection (4)—
- (a) in paragraph (b), omit “64 or”;
 - (b) in paragraph (c)(i)—
 - (i) after “section” insert “63ZD,”, and
 - (ii) omit “64,”.
- (3) In subsection (5)—
- (a) omit paragraph (b);
 - (b) in paragraph (c)(i)—
 - (i) after “section” insert “63ZD,”, and
 - (ii) omit “64,”.