



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 4

CONDUCT OF PERSONS WORKING IN FINANCIAL SERVICES SECTOR

Amendments of FSMA 2000

26 Variation of approval

After section 63 of FSMA 2000 insert—

“63ZA Variation of senior manager's approval at request of relevant authorised person

- (1) Where an application for approval under section 59 is granted subject to conditions, the authorised person concerned may apply to the appropriate regulator to vary the approval by—
 - (a) varying a condition,
 - (b) removing a condition, or
 - (c) imposing a new condition.
- (2) “The appropriate regulator”—
 - (a) in the case of an application for variation of an approval in a way described in subsection (1)(a) or (b), means whichever of the FCA or the PRA imposed the condition concerned;
 - (b) in the case of an application for variation of an approval in the way described in subsection (1)(c), means the regulator who gave the approval.

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- (3) The PRA must consult the FCA before determining an application under this section, unless the application relates to the variation or removal of a condition which was imposed by the PRA in exercise of its power under section 63ZB.
- (4) The regulator to which an application is made under this section must, before the end of the period for consideration, determine whether—
 - (a) to grant the application; or
 - (b) to give a warning notice under section 62(2).
- (5) “The period for consideration” means the period of 3 months beginning with the date on which the regulator receives the application.
- (6) The FCA may refuse an application under this section if it appears to the FCA that it is desirable to do so in order to advance one or more of its operational objectives.
- (7) The PRA may refuse an application under this section if it appears to the PRA that it is desirable to do so in order to advance any of its objectives.
- (8) The following provisions apply to an application made under this section for variation of an approval as they apply to an application for approval made under section 60—
 - section 60(2) to (8),
 - section 61(4) and (5),
 - section 62.

63ZB Variation of senior manager's approval on initiative of regulator

- (1) The FCA may vary an approval under section 59 given by the FCA or the PRA for the performance of a designated senior management function in relation to the carrying on of a regulated activity by a relevant authorised person if the FCA considers that it is desirable to do so in order to advance one or more of its operational objectives.
- (2) The PRA may vary an approval under section 59 for the performance of a designated senior management function in relation to the carrying on of a regulated activity by a relevant authorised person if—
 - (a) either—
 - (i) the PRA gave the approval, or
 - (ii) the FCA gave the approval and the relevant authorised person is a PRA-authorised person, and
 - (b) the PRA considers that it is desirable to do so in order to advance any of its objectives.
- (3) A regulator may vary an approval by—
 - (a) imposing a condition,
 - (b) varying a condition,
 - (c) removing a condition, or
 - (d) limiting the period for which the approval is to have effect.
- (4) Before one regulator varies an approval given by the other regulator, it must consult the other regulator.

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- (5) In this section “designated senior management function” means a function designated as a senior management function under section 59(6A) or (6B).
- (6) For the meaning of “relevant authorised person”, see section 71A.

63ZC Exercise of power under section 63ZB: procedure

- (1) This section applies to an exercise, by either regulator, of the power to vary an approval under section 63ZB.
- (2) A variation takes effect—
- (a) immediately, if the notice given under subsection (4) states that that is the case,
 - (b) on such date as is specified in the notice, or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (3) A variation may be expressed to take effect immediately (or on a specified date) only if the regulator concerned, having regard to the ground on which it is exercising the power to vary, reasonably considers that it is necessary for the variation to take effect immediately (or on that date).
- (4) If either regulator proposes to vary an approval or varies an approval with immediate effect, it must give each of the interested parties written notice.
- (5) The notice must—
- (a) give details of the variation,
 - (b) state the regulator's reasons for the variation,
 - (c) inform the interested parties that each of them may make representations to the regulator within such period as may be specified in the notice (whether or not any of the interested parties has referred the matter to the Tribunal),
 - (d) inform the interested parties of when the variation takes effect, and
 - (e) inform the interested parties of the right of each of them to refer the matter to the Tribunal.
- (6) “The interested parties”, in relation to an approval, are—
- (a) the person on whose application it was given (“A”),
 - (b) the person in respect of whom it was given (“B”), and
 - (c) the person by whom B's services are retained, if not A.
- (7) The regulator giving the notice may extend the period allowed under the notice for making representations.
- (8) If having considered the representations made by the interested parties, the regulator decides—
- (a) to vary the approval, or
 - (b) if the variation has taken effect, not to rescind it,
- it must give each of the interested parties written notice.
- (9) If having considered the representations made by the interested parties, the regulator decides—

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- (a) not to vary the approval,
 - (b) to vary the approval in a different way, or
 - (c) if the variation has taken effect, to rescind it,
- it must give each of the interested parties written notice.
- (10) A notice under subsection (8) must inform the interested parties of the right of each of them to refer the matter to the Tribunal.
 - (11) A notice under subsection (9)(b) must comply with subsection (5).
 - (12) If a notice informs the interested parties of the right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
 - (13) For the purposes of subsection (2)(c), whether a matter is open to review is to be determined in accordance with section 391(8).
 - (14) “Approval” means an approval under section 59.”

Commencement Information

- II** S. 26 in force at 7.3.2016 by S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

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