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STATUTORY INSTRUMENTS

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**2018 No. 1253**

**The Financial Services and Markets Act 2000  
(Claims Management Activity) Order 2018**

**PART 3**

Transitional provisions

**CHAPTER 2**

Authorisation and regulation of 2006 Act authorised persons

**Penalties for conduct for which the Regulator has not given notice of proposed penalty**

**51.—**(1) This article applies where—

- (a) the FCA is satisfied that, after 28th December 2014 but before 1st April 2019, a relevant person (“A”)—
  - (i) failed to comply with any of the conditions of authorisation referred to in regulation 12(5)(a), (b), (d) or (i)(1) of the 2006 Regulations;
  - (ii) failed to comply with a notice in writing given by the Regulator under regulation 36 of the 2006 Regulations; or
  - (iii) in relation to a warrant issued under regulation 40 of the 2006 Regulations (issue of warrants generally)(2), obstructed an attempt to—
    - (aa) enter and search premises in accordance with the warrant;
    - (bb) take possession of written or electronic records in accordance with an authorisation under paragraph (4) of that regulation; or
    - (cc) take copies of written or electronic records in accordance with regulation 43(3) of the 2006 Regulations (copying of documents); and
- (b) on 1st April 2019, the Regulator has not given written notice to A under regulation 51(4) of the 2006 Regulations (notice of proposed penalty and written submissions) that the Regulator proposed to impose a penalty on A for the failure or the obstruction concerned (“the relevant default”).

(2) For the purposes of the following sections of the 2000 Act, the relevant default is to be treated as a contravention of a relevant requirement (within the meaning given by section 204A(2) of that Act)—

- (a) section 206 (financial penalties);
- (b) section 206A (suspending permission to carry on regulated activities etc);
- (c) section 208 (decision notice).

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(1) Regulation 12(5) was amended by [S.I. 2015/42](#).  
(2) Regulation 40 was amended by [S.I. 2008/1441](#).  
(3) Regulation 42 was amended by [S.I. 2008/1441](#).  
(4) Regulation 51 was amended by [S.I. 2008/1441](#).

(3) For the purposes of paragraph (2), sections 206 and 208 of the 2000 Act are to be read as if a reference to an authorised person included a person who was, at any time before 1st April 2019, a 2006 Act authorised person.

- (4) In determining what, if any, financial penalty to impose on A, the FCA must have regard to—
- (a) any penalty or fine that has been imposed on A for the relevant default by another body;
  - (b) any other steps that the Regulator or the FCA has taken, or that the FCA might take, in relation to the relevant default;
  - (c) the nature and seriousness of the relevant default; and
  - (d) the relevant turnover (within the meaning given by regulation 50(5)) of A's business.
- (5) A financial penalty imposed by the FCA for the relevant default—
- (a) where the relevant turnover of A's business is less than £500,000, may not exceed £100,000;
  - (b) where the relevant turnover of A's business is £500,000 or more, may not exceed an amount equal to 20 per cent of that turnover.