
STATUTORY INSTRUMENTS

2019 No. 1136

**The Bank of England and Financial Services
Act 2016 (Commencement No. 6 and
Transitional Provisions) Regulations 2019**

PART 3

Transitional Provisions

Application of the amendments to solo-regulated firms carrying on claims management activity

3.—(1) The amendments made by Schedule 4 to the Act so far as brought into force by regulation 2(4) do not apply in relation to an authorised person who, immediately before 9th December 2019—

- (a) had temporary permission to carry on claims management activity, and
- (b) did not have permission to carry on any other regulated activity,

until that person has full permission to carry on claims management activity or has permission to carry on any other regulated activity.

(2) The amendments made by paragraphs 11, 18 and 22(5) of Schedule 4 to the Act so far as brought into force by regulation 2(6) do not apply in relation to an authorised person who—

- (a) immediately before 9th December 2019 had temporary permission to carry on claims management activity, and
- (b) did not, immediately before [^{F1}31st March 2021], have permission to carry on any other regulated activity,

until that person has had full permission to carry on claims management activity for [^{F2}15 months and 22 days] or has permission to carry on any other regulated activity.

(3) Paragraph (2) does not apply to a person who, at any time on or after 9th December 2019 and before [^{F3}31st March 2021], had permission to carry on any regulated activity other than claims management activity.

(4) For the purposes of paragraphs (1) to (3), having permission to carry on a regulated activity other than claims management activity does not include having permission to carry on an activity of the kind specified by article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(1) so far as relevant to claims management activity.

(5) In this regulation—

“claims management activity” means an activity of a kind specified by any of articles 89G to 89M of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(2);

(1) Article 64 was amended by [S.I. 2013/1881](#), [2018/135](#), [2018/1253](#).
(2) Articles 89G to 89M were inserted by [S.I. 2018/1253](#).

“full permission” means permission given by the FCA under Part 4A of FSMA (permission to carry on regulated activities)(3);

“permission” has the same meaning as in FSMA (see section 20(1) of FSMA(4));

“temporary permission” means permission under article 80 of the Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018(5).

- | |
|---|
| <p>F1 Words in reg. 3(2)(b) substituted (1.9.2020) by The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) (Amendment) Regulations 2020 (S.I. 2020/929), reg. 2(3)(a)(i)</p> <p>F2 Words in reg. 3(2) substituted (1.9.2020) by The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) (Amendment) Regulations 2020 (S.I. 2020/929), reg. 2(3)(a)(ii)</p> <p>F3 Words in reg. 3(3) substituted (1.9.2020) by The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) (Amendment) Regulations 2020 (S.I. 2020/929), reg. 2(3)(b)</p> |
|---|

Commencement Information

- I1** Reg. 3 in force at 17.7.2019

Prohibition orders and related notices

4.—(1) Paragraph (3) applies to—

- (a) a warning notice or a decision notice under section 57 of FSMA (prohibition orders: procedure and right to refer to Tribunal)(6),
- (b) a further decision notice under section 390(2A) of FSMA(7) about a prohibition order,
- (c) a final notice under section 390(1) or (2A) of FSMA(8) about a prohibition order, or
- (d) a prohibition order,

which is given or made before the relevant date.

(2) In this regulation—

“prohibition order” means a prohibition order under section 56 of FSMA(9);

“the relevant date” means—

- (a) where the notice or order concerns the performance of functions in relation to a regulated activity carried on by a solo-regulated firm other than a benchmark firm, 9th December 2019;
- (b) where the notice or order concerns the performance of functions in relation to a regulated activity carried on by a benchmark firm, 7th December 2020.

(3) The notice or prohibition order is not affected by—

- (a) the amendments made to section 59 of FSMA (approval of persons to perform controlled functions) by Schedule 4 to the Act so far as brought into force by regulation 2(4) or (5) (as the case may be), or

(3) Part 4A was inserted by section 11(2) of the Financial Services Act 2012.

(4) Section 20(1) was amended by paragraph 2(2) of Schedule 9 to the Financial Services Act 2012.

(5) [S.I. 2018/1253](#).

(6) Section 57 was amended by section 13(10) to (12) of the Financial Services Act 2012.

(7) Subsection (2A) of section 390 was inserted by paragraph 29(4) of Schedule 9 to the Financial Services Act 2012.

(8) Section 390(1) was amended by paragraph 29(2) of Schedule 9 to the Financial Services Act 2012 and paragraph 47 of Schedule 2 to the Transfer of Tribunal Functions Order 2010 ([S.I. 2010/22](#)).

(9) Section 56 was amended by section 13(1) to (9) of the Financial Services Act 2012.

- (b) rules made by the FCA or the PRA before the relevant date in connection with the coming into force of those amendments, which alter or replace a description of a controlled function to which the notice or prohibition order relates.
- (4) But paragraph (3) does not prevent a prohibition order that—
 - (a) is made on or after the relevant date, and
 - (b) in respect of which a warning notice or a decision notice was given under section 57 of FSMA before that date,

from describing or referring to the functions to which the order relates differently from the way in which those functions were described or referred to in the notice.

Commencement Information

I2 Reg. 4 in force at 17.7.2019

Deemed approval to perform designated senior management functions: requirement to provide statement of responsibilities

5.—(1) This regulation applies to a solo-regulated firm in relation to which the conditions in paragraphs (2) and (3) are met.

- (2) The condition in this paragraph is that, before the relevant date—
 - (a) the FCA granted an application under section 60 of FSMA⁽¹⁰⁾ by the firm for approval under section 59 of FSMA for a person (“the approved person”) to perform a controlled function, or
 - (b) the firm was given an approval (however described) under any enactment which has effect as an approval under section 59 of FSMA for a person (“the approved person”) to perform a controlled function.
- (3) The condition in this paragraph is that—
 - (a) the approval mentioned in paragraph (2) is in force at the beginning of the relevant date,
 - (b) that approval is deemed at that time, under rules made by the FCA before that date, to be an approval to perform a designated senior management function on or after that date, and
 - (c) the approved person is, at the beginning of the relevant date, retained to perform that designated senior management function.

(4) Within five days beginning with the relevant date, the firm must prepare a statement setting out the aspects of the affairs of the firm which the approved person is, at the beginning of that date, responsible for managing in performing the designated senior management function referred to in paragraph (3).

(5) For the purposes of paragraph (4), managing an aspect of a firm’s affairs includes taking decisions, or participating in the taking of decisions, about how that aspect of those affairs should be carried on.

(6) The firm is not required to prepare a statement under paragraph (4) where it has provided a statement containing the same information to the FCA in accordance with rules made by the FCA before the relevant date in connection with the coming into force of the amendments to Part 5 of FSMA made by Schedule 4 to the Act so far as brought into force by regulation 2(4) or (5) (as the case may be).

⁽¹⁰⁾ Section 60 was amended by paragraph 4 of Schedule 5 to the Financial Services Act 2012 and section 20 of the Financial Services (Banking Reform) Act 2013.

(7) Subsections (4) and (5) of section 60 of FSMA (form and verification of information in statement of responsibilities) apply in relation to the information which a solo-regulated firm is required to include in a statement under paragraph (4) as they apply in relation to the information which an authorised person is required to give in a statement of responsibilities provided under subsection (2A) of that section.

(8) In section 60(4) and (5) of FSMA as applied by paragraph (7)—

- (a) in subsection (4), references to “the appropriate regulator” are to be read as references to the FCA, and
- (b) in subsection (5), the references to applications are to be read as references to statements under paragraph (4).

(9) The requirement to prepare a statement under paragraph (4) has effect—

- (a) for the purposes of any enactment that refers to a requirement imposed by FSMA, and
- (b) so far as the context of the reference permits,

as if it were imposed (in the circumstances in which it is imposed under this regulation) under section 62A(2) of FSMA⁽¹¹⁾.

(10) In this regulation—

“designated senior management function” has the meaning given by section 59ZB of FSMA⁽¹²⁾;

“the relevant date” means—

- (a) in relation to a solo-regulated firm other than a benchmark firm, 9th December 2019;
- (b) in relation to a benchmark firm, 7th December 2020.

Commencement Information

I3 Reg. 5 in force at 17.7.2019

Application of section 62A of FSMA to statement of responsibilities under regulation 5

6.—(1) Subsections (2) and (3) of section 62A of FSMA (changes in responsibilities of senior managers: requirement for revised statement) apply where a solo-regulated firm has—

- (a) prepared a statement under regulation 5(4), or
- (b) provided a statement mentioned in regulation 5(6) to the FCA,

as they apply in the circumstances in subsection (1) of that section.

(2) In section 62A(2) of FSMA as it applies by virtue of paragraph (1)—

- (a) the reference to the granting of the application is to be read as a reference to the beginning of the relevant date (within the meaning given by regulation 5(10));
- (b) the reference to “the appropriate regulator” is to be read as a reference to the FCA;
- (c) the reference to a revised statement of responsibilities is to be read as a reference to a revised version of the statement prepared under regulation 5(4) or the statement mentioned in regulation 5(6), as the case may be.

(3) In section 62A(3) of FSMA as it applies by virtue of paragraph (1), the references to “the appropriate regulator” are to be read as references to the FCA.

⁽¹¹⁾ Section 62A was inserted by section 24 of the Financial Services (Banking Reform) Act 2013 and amended by paragraph 7 of Schedule 4 to the Bank of England and Financial Services Act 2016.

⁽¹²⁾ Section 59ZB was inserted by paragraph 3 of Schedule 4 to the Bank of England and Financial Services Act 2016.

Commencement Information

I4 Reg. 6 in force at 17.7.2019

Requirements to consult etc satisfied by things done before commencement

7.—(1) This regulation applies where any provision of Part 9A of FSMA (rules and guidance)(**13**) imposes a procedural requirement on the FCA or the PRA in connection with the making or issuing of any rules or other instrument or document under any provision of Part 5 of FSMA (performance of regulated activities) by virtue of an amendment to that Part (“the relevant amendment”) brought into force by these Regulations.

(2) In paragraph (1) a “procedural requirement” means a requirement, however expressed, to—

- (a) publish a draft of the rules, instrument or other document with or without other material and to invite representations about it, or
- (b) consult with particular persons.

(3) The procedural requirement may be satisfied by things done by the FCA or the PRA (as the case may be) wholly or in part before the date on which the relevant amendment comes into force.

Commencement Information

I5 Reg. 7 in force at 17.7.2019

(13) Part 9A was inserted by section 24(1) of the Financial Services Act 2012.

Changes to legislation:

There are currently no known outstanding effects for the The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) Regulations 2019, PART 3.