

Status: Point in time view as at 30/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020, Cross Heading: Offences. (See end of Document for details)

SCHEDULE 3 CAMPAIGN RULES

PART 6

CONTROL OF LOANS AND CREDIT

Offences

- 53 (1) An individual who is a permitted participant commits an offence if—
- (a) the individual enters into a regulated transaction of a description mentioned in paragraph 47(1) or (2) to which another party is not an authorised participant, and
 - (b) the individual knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (2) A permitted participant that is not an individual commits an offence if—
- (a) it enters into a regulated transaction of a description mentioned in paragraph 47(1) or (2) to which another party is not an authorised participant, and
 - (b) an officer of the permitted participant knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (3) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—
- (a) the permitted participant enters into a regulated transaction of a description mentioned in paragraph 47(1) or (2) to which another party is not an authorised participant, and
 - (b) the person knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (4) An individual who is a permitted participant commits an offence if—
- (a) the individual enters into a regulated transaction of a description mentioned in paragraph 47(1) or (2) to which another party is not an authorised participant,
 - (b) the individual neither knew nor ought reasonably to have known that the other party is not an authorised participant, and
 - (c) as soon as practicable after knowledge of the matters mentioned in paragraph (a) comes to the individual, the individual fails to take all reasonable steps to repay any money which the individual has received by virtue of the transaction.
- (5) A permitted participant that is not an individual commits an offence if—
- (a) it enters into a regulated transaction of a description mentioned in paragraph 47(1) or (2) to which another party is not an authorised participant,
 - (b) no officer of the permitted participant knew or ought reasonably to have known that the other party is not an authorised participant, and
 - (c) as soon as practicable after knowledge of the matters mentioned in paragraph (a) comes to the responsible person, the responsible person fails to take all reasonable steps to repay any money which the permitted participant has received by virtue of the transaction.

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- (6) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—
- (a) the permitted participant enters into a regulated transaction of a description mentioned in paragraph 47(1) or (2) to which another party is not an authorised participant,
 - (b) sub-paragraph (3)(b) does not apply to the person, and
 - (c) as soon as practicable after knowledge of the matters mentioned in paragraph (a) comes to the person, the person fails to take all reasonable steps to repay any money which the permitted participant has received by virtue of the transaction.
- (7) An individual who is a permitted participant commits an offence if—
- (a) the individual benefits from or falls to benefit in consequence of a connected transaction to which any of the parties is not an authorised participant, and
 - (b) the individual knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (8) A permitted participant that is not an individual commits an offence if—
- (a) it benefits from or falls to benefit in consequence of a connected transaction to which any of the parties is not an authorised participant, and
 - (b) an officer of the permitted participant knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (9) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—
- (a) the permitted participant benefits from or falls to benefit in consequence of a connected transaction to which any of the parties is not an authorised participant, and
 - (b) the person knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (10) An individual who is a permitted participant commits an offence if—
- (a) the individual is a party to a transaction of a description mentioned in paragraph 47(3)(a),
 - (b) the individual benefits from or falls to benefit in consequence of a connected transaction to which any of the parties is not an authorised participant,
 - (c) the individual neither knew nor ought reasonably to have known of the matters mentioned in paragraphs (a) and (b), and
 - (d) as soon as practicable after knowledge of the matters mentioned in paragraphs (a) and (b) comes to the individual, the individual fails to take all reasonable steps to pay to any person who has provided the individual with any benefit in consequence of the connected transaction the value of the benefit.
- (11) A permitted participant that is not an individual commits an offence if—
- (a) it is a party to a transaction of a description mentioned in paragraph 47(3)(a),
 - (b) it benefits from or falls to benefit in consequence of a connected transaction to which any of the parties is not an authorised participant,
 - (c) no officer of the permitted participant knew or ought reasonably to have known of the matters mentioned in paragraphs (a) and (b), and

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- (d) as soon as practicable after knowledge of the matters mentioned in paragraphs (a) and (b) comes to the responsible person, the responsible person fails to take all reasonable steps to pay to any person who has provided the permitted participant with any benefit in consequence of the connected transaction the value of the benefit.
- (12) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—
- (a) the permitted participant is a party to a transaction of a description mentioned in paragraph 47(3)(a),
 - (b) the permitted participant benefits from or falls to benefit in consequence of a connected transaction to which any of the parties is not an authorised participant,
 - (c) sub-paragraph (9)(b) does not apply to the person, and
 - (d) as soon as practicable after knowledge of the matters mentioned in paragraphs (a) and (b) comes to the person, the person fails to take all reasonable steps to pay to any person who has provided the permitted participant with any benefit in consequence of the connected transaction the value of the benefit.
- (13) A person commits an offence if the person—
- (a) knowingly enters into, or
 - (b) knowingly does any act in furtherance of,
- any arrangement which facilitates or is likely to facilitate, whether by means of concealment or disguise or otherwise, the participation by a permitted participant in a regulated transaction with a person other than an authorised participant.
- (14) It is a defence for a person charged with an offence under sub-paragraph (3) to prove that the person took all reasonable steps to prevent the permitted participant entering into the transaction.
- (15) It is a defence for a person charged with an offence under sub-paragraph (9) to prove that the person took all reasonable steps to prevent the permitted participant benefiting in consequence of the connected transaction.
- (16) A reference to a permitted participant entering into a regulated transaction includes a reference to any circumstances in which the terms of a regulated transaction are varied so as to increase the amount of money to which the permitted participant is entitled in consequence of the transaction.
- (17) A reference in sub-paragraphs (1) to (6) to entering into a regulated transaction of a description mentioned in paragraph 47(1) or (2) to which another party is not an authorised participant includes a reference to receiving an amount of money under a regulated transaction of a description mentioned in paragraph 47(1) or (2) at a time when a person who is also a party to the transaction (and who was an authorised participant when the transaction was entered into) has ceased to be an authorised participant.
- (18) It is a defence for a person charged with an offence under any of sub-paragraphs (1) to (3) by virtue of sub-paragraph (17) to prove that the person took all reasonable steps, as soon as practicable, to repay money received as mentioned in sub-paragraph (17).
- (19) Where a person is charged with an offence under sub-paragraph (3) by virtue of sub-paragraph (17), sub-paragraph (14) does not apply.

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- (20) In relation to a case where sub-paragraph (4)(a) and (b), (5)(a) and (b) or (6)(a) and (b) applies by virtue of sub-paragraph (17), the reference in sub-paragraph (4)(c), (5)(c) or, as the case may be, (6)(c) to any money received by virtue of the transaction is to be read as a reference to any money so received after the party in question ceased to be an authorised participant.

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