

SCHEDULE 1

Amendment, or application with modifications, of provisions of FSMA 2000 and secondary legislation made under it

PART 2

Application with modifications of provisions of FSMA 2000 and secondary legislation

Interpretation

7. In this Part of this Schedule “regulated person” has the meaning given in regulation 35.

Hearings and appeals

8.—(1) Part 9 of FSMA 2000 (hearings and appeals) applies in respect of references made to the Tribunal under these Regulations as it applies in respect of references made to the Tribunal under FSMA 2000 in respect of a decision of the FCA or the PRA, but with the modifications set out in sub-paragraphs (2) and (3).

(2) Section 133 of FSMA 2000(1) (proceedings before Tribunal: general provision) is to be read as if—

(a) in subsection (1), the words “(whether made under this or any other Act)” were omitted, and

(b) for subsection (7A) there were substituted—

“(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of a decision to—

(a) impose a temporary prohibition under regulation 37 of the Securitisation Regulations 2023;

(b) publish a statement under regulation 41 of those Regulations;

(c) impose a penalty under regulation 42 of those Regulations.”.

(3) Section 133A of FSMA 2000(2) (proceedings before Tribunal: decision and supervisory notices, etc) is to be read as if in subsection (1) the words “as a result of section 388(2)” were omitted.

FCA rules and guidance

9.—(1) The provisions of Part 9A of FSMA 2000(3) listed in sub-paragraph (2) apply in relation to rules made by the FCA under regulation 22 or 34(1) of these Regulations as they apply in relation to rules made by the FCA under FSMA 2000, but subject to the modification in sub-paragraph (3).

(2) Those provisions are—

(a) section 137T (general supplementary powers);

(1) Section 133 was substituted by S.I. 2010/22 and relevant amendments were made by section 23(2) of the Financial Services Act 2012, section 4(2) of the Financial Services (Banking Reform) Act 2013, paragraph 3 of Part 2 of Schedule 2 to the Financial Services Act 2021, paragraph 6 of Part 2 of Schedule 10 and paragraph 160 of Part 10 of Schedule 11 to the Financial Services and Markets Act 2023 and S.I. 2016/680, 2017/1064 and 2013/1388.

(2) Substituted by S.I. 2010/22. Relevant amendments were made by section 23 of the Financial Services Act 2012.

(3) Part 9A was inserted by section 24 of the Financial Services Act 2012 and section 138BA was inserted by section 34 of the Financial Services and Markets Act 2023.

- (b) section 138A (modification or waiver of rules);
 - (c) section 138C (evidential provisions);
 - (d) section 138E (limits on effect of contravening rules);
 - (e) sections 138F, 138G and 138H (notification, making and verification of rules);
 - (f) sections 138I and 138L (consultation);
 - (g) section 141A (power to make consequential amendments of references to rules).
- (3) The modification is that section 137T(4) (general supplementary powers) is to be read as if any reference to authorised persons were—
- (a) in the case of rules under regulation 22, a reference to securitisation repositories registered under Part 5;
 - (b) in the case of rules under regulation 34(1), a reference to small registered UK AIFMs.

Information gathering and investigations

10.—(1) Part 11 of FSMA 2000 (information gathering and investigations) applies in relation to the FCA’s and the PRA’s functions under these Regulations as it applies in relation to the FCA’s and the PRA’s functions under FSMA 2000, but with the modifications set out in sub-paragraphs (2) to (11).

(2) Part 11 is to be read as if any reference to an authorised person included a reference to a regulated person.

(3) Section 167 (appointment of persons to carry out general investigations) is to be read as if in subsection (5), for “regulated activities” there were substituted “the activities subject to regulation as a result of the Securitisation Regulations 2023”.

(4) Section 169(5) (investigations etc in support of overseas regulator) is to be read as if—

- (a) subsection (2A) were omitted, and
- (b) for subsection (13) there were substituted—

“(13) “Overseas regulator” means an authority in a country or territory outside the United Kingdom which has functions corresponding to those of the FCA or the PRA under the Securitisation Regulations 2023.”.

(5) Section 169A(6) (support of overseas regulator with respect to financial stability) does not apply.

(6) Section 170 (investigations: general) is to be read as if subsection (3)(b) were omitted.

(7) Section 171 (powers of persons appointed under section 167) is to be read as if subsections (3A) and (7) were omitted.

(8) Section 173 (powers of persons appointed as a result of section 168(2)) does not apply.

(9) Section 174(7) (admissibility of statements made to investigators) is to be read as if—

- (a) in subsection (2), the words from “or in proceedings” to “this subsection applies” were omitted,
- (b) subsection (3A) were omitted,
- (c) in subsection (4), the words from “or (5)” to the end were omitted, and

(4) Section 137T was amended by section 66 of the Financial Services and Markets Act 2023.

(5) In section 169, subsection (2A) was inserted by [S.I. 2016/680](#).

(6) Section 169A was inserted by section 18 of the Financial Services Act 2010.

(7) Relevant amendments were made to section 174 by paragraph 12 of Schedule 12 to the Financial Services Act 2012 and [S.I. 2016/680](#).

- (d) in subsection (5) “, 173” were omitted.
- (10) Section 176(8) (entry of premises under warrant) is to be read as if—
 - (a) in subsection (1), “the Secretary of State” were omitted,
 - (b) subsection (3)(b) were omitted,
 - (c) in subsection (10), “or (5)” were omitted, and
 - (d) in subsection (11)—
 - (i) in paragraph (a), “87C, 87J,” and “,165A, 169A” were omitted, and
 - (ii) in paragraph (b), “, 173” were omitted.

Injunctions and restitution

- 11.**—(1) Part 25 of FSMA 2000 (injunctions and restitution) applies in respect of—
- (a) a relevant requirement as defined in regulation 35, or
 - (b) a requirement imposed by the PRA under regulation 37, or
 - (c) the requirement imposed by regulation 38 in a case where the temporary prohibition was imposed by the PRA,

as it applies in respect of a relevant requirement as defined for the purposes of a provision of that Part, but with the modifications set out in this paragraph.

- (2) Part 25 is to be read as if—
 - (a) each reference to the Act included a reference to these Regulations,
 - (b) each reference to a section of the Act were a reference to that Act as applied by these Regulations,
 - (c) references to the Secretary of State were omitted, and
 - (d) each reference to an authorised person included a reference to a regulated person.
- (3) Section 380 (injunctions) is to be read as if—
 - (a) references to the appropriate regulator were references to the PRA where the requirement falls within sub-paragraph (1)(b) or (c) and references to the FCA in any other case, and
 - (b) subsections (7) to (12) were omitted.
- (4) Section 381 (injunctions in case of market abuse) does not apply.
- (5) Section 382 (restitution orders) is to be read as if—
 - (a) references to the appropriate regulator were references to the PRA where the requirement falls within sub-paragraph (1)(b) or (c) and references to the FCA in any other case, and
 - (b) subsections (10) to (15) were omitted.
- (6) Section 383 (restitution orders in cases of market abuse) does not apply.
- (7) Section 384 (power of FCA or PRA to require restitution) is to be read as if—
 - (a) references to the appropriate regulator were references to the PRA where the requirement falls within sub-paragraph (1)(b) or (c) and references to the FCA in any other case,
 - (b) subsections (2) and (3) and references to those subsections were omitted, and
 - (c) subsections (7) to (13) were omitted.

(8) Relevant amendments were made to section 176 by paragraph 17 of Part 1 of Schedule 2 to the Financial Services Act 2010, paragraph 14 of Schedule 12 to the Financial Services Act 2012 and [S.I. 2005/1433](#).

Notices

12.—(1) Part 26 of FSMA 2000 (notices), other than sections 391A, 391B, 391C, 391D, 391E and 391F, applies with respect to the giving of notices by the FCA or the PRA under regulations 11, 30, 40, 43 and 44 of these Regulations and under FSMA 2000 as applied by these Regulations as it applies with respect to the giving of notices by the FCA or the PRA under FSMA 2000, but with the following modifications.

(2) Section 387 (warning notices) is to be read as if subsections (1A) and (3A) were omitted.

(3) Section 388 (decision notices) is to be read as if subsections (1A) and (2) were omitted.

(4) Section 391(9) (publication) is to be read as if—

(a) references to a supervisory notice were references to a notice under regulation 11(2) or (5), 30(3) or (6)(a), (d) or (e) or 40(3) or (6)(a), (d) or (e);

(b) in subsection (1), the reference to a warning notice falling within subsection (1ZB) were a reference to a warning notice given under regulation 43;

(c) subsections (1ZA), (1ZB), (4A), (5A), (6A), (7A), (7B), (8A), (8B), (8C), (8D) and (8E) were omitted.

(5) Section 392 (application of sections 393 and 394) is to be read as if—

(a) for paragraphs (a) and (b) there were substituted—

“(a) a warning notice given in accordance with regulation 43 of the Securitisation Regulations 2023 or section 385 as applied by those Regulations;

(b) a decision notice given in accordance with regulation 44 of those Regulations, or section 386 as applied by those Regulations.”.

(6) Section 395 (the FCA’s and PRA’s procedures) is to be read as if references to a supervisory notice were references to a notice under regulation 11(2) or (5), 30(3) or (6)(a), (d) or (e) or under regulation 40(3) or (6)(a), (d) or (e).

Offences

13.—(1) Section 398 of FSMA 2000 applies in relation to requirements imposed by or under these Regulations as it applies in relation to requirements imposed by or under FSMA 2000.

(2) Section 400 of FSMA 2000 (offences by bodies corporate etc) applies in respect of offences under FSMA 2000 as applied by these Regulations as it applies in respect of offences under FSMA 2000.

(3) Section 401 of FSMA 2000 (proceedings for offences) applies in respect of offences under FSMA 2000 as applied by these Regulations as it applies in respect of offences under FSMA 2000 but as if—

(a) subsection (1)(c) were omitted;

(b) references to the Secretary of State were omitted;

(c) subsections (3A), (3AB) and (3B) were omitted.

(4) Section 403 of FSMA 2000 (jurisdiction and procedure in respect of offences) applies in respect of offences under FSMA 2000 as applied by these Regulations as it applies in respect of offences under FSMA 2000.

(9) Section 391(1) was substituted by paragraph 30 of Part 6 of Schedule 9 to the Financial Services Act 2012.

Limitation on power to require documents

14. Section 413 of FSMA 2000 (protected items) applies for the purposes of these Regulations as it applies for the purposes of FSMA 2000.

Consultation in relation to taking of certain enforcement action

15. Section 415B of FSMA 2000(10) (consultation in relation to taking certain enforcement action) applies in respect of—

- (a) notices given by the FCA or the PRA under regulation 43 or 44 of these Regulations, and
- (b) applications to the court by the FCA or the PRA under a provision of FSMA 2000 as applied by these Regulations.

Penalties

16.—(1) Paragraphs 19 to 21 (penalties) of Schedule 1ZA to FSMA 2000(11) apply with respect to penalties imposed by the FCA under these Regulations and under FSMA 2000 as applied by these Regulations as they apply with respect to penalties imposed by the FCA under FSMA 2000, but with the following modifications.

(2) For the purposes of paragraph 20, the FCA’s enforcement powers are to be taken to include—

- (a) its powers under the provisions mentioned in section 133(7A) as applied by this Schedule and under Part 25 of FSMA 2000 as applied by this Schedule;
- (b) its powers in relation to the investigation of offences under any provision of FSMA 2000 as applied by this Schedule;
- (c) its powers in England and Wales or Northern Ireland in relation to the prosecution of such offences.

(3) For the purposes of paragraph 21, “regulated persons” include regulated persons within the meaning of this Part of this Schedule.

17.—(1) Paragraphs 27 to 30 (penalties) of Schedule 1ZB to FSMA 2000(12) apply with respect to penalties imposed by the PRA under these Regulations and under FSMA 2000 as applied by these Regulations as they apply with respect to penalties imposed by the FCA under FSMA 2000, but with the following modifications.

(2) For the purposes of paragraph 28, the PRA’s enforcement powers are to be taken to include—

- (a) its powers under the provisions mentioned in section 133(7A) as applied by this Schedule;
- (b) its powers in relation to the investigation of offences under any provision of FSMA 2000 as applied by this Schedule;
- (c) its powers in England and Wales or Northern Ireland in relation to the prosecution of such offences.

(3) For the purposes of paragraph 29, “PRA-authorised persons” include regulated persons within the meaning of this Part of this Schedule.

(10) Section 415B was inserted by paragraph 41 of Part 8 of Schedule 9 to the Financial Services Act 2012.

(11) Schedule 1ZA was inserted by Schedule 3 to the Financial Services Act 2012.

(12) Schedule 1ZB was inserted by Schedule 3 to the Financial Services Act 2012.

Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001

18. The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001(**13**) (“the Notice Regulations”) apply in respect of a notice or document given by the FCA or the PRA under these Regulations or under FSMA 2000 as applied by these Regulations as they apply in respect of a notice or document given by the FCA or the PRA under FSMA 2000, as if—

- (a) that notice or document were a “relevant document” under the Notice Regulations;
- (b) each reference to “the Act” included a reference to these Regulations and to FSMA 2000 as applied by these Regulations;
- (c) each reference to a section of FSMA 2000 were a reference to that section as applied by these Regulations;
- (d) each reference to an investigating authority were a reference to the FCA or the PRA.

(13) [S.I. 2001/1420](#).