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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1ZA

#### THE FINANCIAL CONDUCT AUTHORITY

##### Textual Amendments

- F1** Schs. 1ZA, 1ZB substituted for Sch. 1 (24.1.2013 for specified purposes, 19.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 3](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(b\)\(c\)\(2\), Sch. Pts. 2, 3, 4](#); [S.I. 2013/423, art. 3, Sch.](#)

### PART 3

#### PENALTIES AND FEES

##### *Penalties*

- 19 In determining its policy with respect to the amounts of penalties to be imposed by it under this Act, the FCA must take no account of the expenses which it incurs, or expects to incur, in discharging its functions.

##### Modifications etc. (not altering text)

- C1** Sch. 1ZA para. 19 applied (with modifications) by [S.I. 2008/346, reg. 37](#) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 134\(b\)](#))
- C2** Sch. 1ZA paras. 19-22 applied (with modifications) (E.W.) (9.7.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Referral Fees\) Regulations 2013 \(S.I. 2013/1635\), regs. 1, 7\(2\)](#)
- C3** Sch. 1ZA paras. 19-22 applied (with modifications) (12.12.2014) by [The Immigration Act 2014 \(Bank Accounts\) Regulations 2014 \(S.I. 2014/3085\), regs. 1, 6](#)

- 20 (1) The FCA must in respect of each of its financial years pay to the Treasury its penalty receipts after deducting its enforcement costs.
- (2) The FCA's "penalty receipts" in respect of a financial year are any amounts received by it during the year by way of penalties imposed under this Act.
- (3) The FCA's "enforcement costs" in respect of a financial year are the expenses incurred by it during the year in connection with—
- (a) the exercise, or consideration of the possible exercise, of any of its enforcement powers in particular cases, or
- (b) the recovery of penalties imposed under this Act [<sup>F2</sup>or under a provision mentioned in sub-paragraph (4A)].
- (4) For this purpose the FCA's enforcement powers are—

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- (a) its powers under any of the provisions mentioned in section 133(7A),
  - (b) its powers under section 56 (prohibition orders),
  - (c) its powers under Part 25 of this Act (injunctions and restitution),
  - [ its powers under the relevant competition provisions (as applied by Part 16A
  - <sup>F3</sup>(ca) of this Act),]
  - (d) its powers under any other enactment specified by the Treasury by order,
  - (e) its powers in relation to the investigation of relevant offences, and
  - (f) its powers in England and Wales or Northern Ireland in relation to the prosecution of relevant offences.
- [ The relevant competition provisions” are—
- <sup>F4</sup>(4A) (a) section 31E of the Competition Act 1998 (enforcement of commitments);
  - (b) section 34 of that Act (enforcement of directions);
  - (c) section 36 of that Act (penalties);
  - (d) section 40A of that Act (penalties: failure to comply with requirements);
  - (e) section 174A of the Enterprise Act 2002 (penalties).]
- (5) “Relevant offences” are—
- (a) offences under [<sup>F5</sup>this Act],
  - (b) offences under subordinate legislation made under [<sup>F6</sup>this Act],
  - (c) offences falling within section 402(1) <sup>F7</sup>...,
  - [ offences under Part 1 of the Competition Act 1998,
  - <sup>F8</sup>(ca) (cb) offences under Part 4 of the Enterprise Act 2002,]
  - (d) offences under Part 7 of the Financial Services Act 2012, and
  - (e) any other offences specified by the Treasury by order.
- (6) The Treasury may give directions to the FCA as to how the FCA is to comply with its duty under sub-paragraph (1).
- (7) The directions may in particular—
- (a) specify descriptions of expenditure that are, or are not, to be regarded as incurred in connection with either of the matters mentioned in sub-paragraph (3),
  - (b) relate to the calculation and timing of the deduction in respect of the FCA's enforcement costs, and
  - (c) specify the time when any payment is required to be made to the Treasury.
- (8) The directions may also require the FCA to provide the Treasury at specified times with specified information relating to—
- (a) penalties that the FCA has imposed under this Act, or
  - (b) the FCA's enforcement costs.
- (9) The Treasury must pay into the Consolidated Fund any sums received by them under this paragraph.

#### Textual Amendments

- F2** Words in Sch. 1ZA para. 20(3)(b) inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013](#) (c. 33), s. 148(5), [Sch. 10 para. 4\(2\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1

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- F3** Sch. 1ZA para. 20(4)(ca) inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 4\(3\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1
- F4** Sch. 1ZA para. 20(4A) inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 4\(4\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1
- F5** Words in Sch. 1ZA para. 20(5)(a) substituted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 4\(5\)\(a\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1
- F6** Words in Sch. 1ZA para. 20(5)(b) substituted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 4\(5\)\(b\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1
- F7** Words in Sch. 1ZA para. 20(5)(c) omitted (1.3.2014) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 4\(5\)\(c\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1
- F8** Sch. 1ZA para. 20(5)(ca)(cb) inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 4\(5\)\(d\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1

#### Modifications etc. (not altering text)

- C2** Sch. 1ZA paras. 19-22 applied (with modifications) (E.W.) (9.7.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Referral Fees\) Regulations 2013 \(S.I. 2013/1635\)](#), regs. 1, [7\(2\)](#)
- C3** Sch. 1ZA paras. 19-22 applied (with modifications) (12.12.2014) by [The Immigration Act 2014 \(Bank Accounts\) Regulations 2014 \(S.I. 2014/3085\)](#), regs. 1, [6](#)
- C4** Sch. 1ZA para. 20 applied (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), regs. 1, [71\(3\)](#)
- C5** Sch. 1ZA para. 20 applied (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), arts. 1(5), [23\(4\)](#) (with Pt. 4)

- 21 (1) The FCA must prepare and operate a scheme (“the financial penalty scheme”) for ensuring that the amounts that, as a result of the deduction for which paragraph 20(1) provides, are retained by the FCA in respect of amounts paid to it by way of penalties imposed under this Act are applied for the benefit of regulated persons.
- (2) “Regulated persons” means—
- authorised persons,
  - recognised investment exchanges,
  - issuers of securities admitted to the official list,<sup>F9</sup>...
  - issuers who have requested or approved the admission of financial instruments to trading on a regulated market<sup>F10</sup>, and
  - designated guidance providers.]
- (3) The financial penalty scheme may, in particular, make different provision with respect to different classes of regulated person.
- (4) The financial penalty scheme must ensure that those who have become liable to pay a penalty to the FCA in any financial year of the FCA do not receive any benefit under the scheme in the following financial year.
- (5) Up-to-date details of the financial penalty scheme must be set out in a document (“the scheme details”).

#### Textual Amendments

- F9** Word in Sch. 1ZA para. 21(2)(c) omitted (3.3.2015) by virtue of [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(a), [Sch. 3 para. 15\(a\)](#) (with s. 87)
- F10** Sch. 1ZA para. 21(2)(e) and word inserted (3.3.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(a), [Sch. 3 para. 15\(b\)](#) (with s. 87)

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**Modifications etc. (not altering text)**

- C2** Sch. 1ZA paras. 19-22 applied (with modifications) (E.W.) (9.7.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Referral Fees\) Regulations 2013 \(S.I. 2013/1635\)](#), regs. 1, **7(2)**
- C3** Sch. 1ZA paras. 19-22 applied (with modifications) (12.12.2014) by [The Immigration Act 2014 \(Bank Accounts\) Regulations 2014 \(S.I. 2014/3085\)](#), regs. 1, **6**
- C6** Sch. 1ZA para. 21 modified (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), arts. 1(5), **23(5)** (with Pt. 4)

- 22 (1) The scheme details must be published by the FCA in the way appearing to it to be best calculated to bring them to the attention of the public.
- (2) Before making the financial penalty scheme, the FCA must publish a draft of the proposed scheme in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (3) The draft must be accompanied by notice that representations about the proposals may be made to the FCA within a specified time.
- (4) Before making the scheme, the FCA must have regard to any representations made to it in accordance with sub-paragraph (3).
- (5) If the FCA makes the proposed scheme, it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with sub-paragraph (3), and
  - (b) its response to them.
- (6) If the scheme differs from the draft published under sub-paragraph (2) in a way which is, in the opinion of the FCA, significant, the FCA must (in addition to complying with sub-paragraph (5)) publish details of the difference.
- (7) The FCA must, without delay, give the Treasury a copy of any scheme details published by it.
- (8) The FCA may charge a reasonable fee for providing a person with a copy of—
- (a) a draft published under sub-paragraph (2);
  - (b) scheme details.
- (9) Sub-paragraphs (2) to (6) and (8)(a) also apply to a proposal to alter or replace the financial penalty scheme.]

**Modifications etc. (not altering text)**

- C2** Sch. 1ZA paras. 19-22 applied (with modifications) (E.W.) (9.7.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Referral Fees\) Regulations 2013 \(S.I. 2013/1635\)](#), regs. 1, **7(2)**
- C3** Sch. 1ZA paras. 19-22 applied (with modifications) (12.12.2014) by [The Immigration Act 2014 \(Bank Accounts\) Regulations 2014 \(S.I. 2014/3085\)](#), regs. 1, **6**

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