



# Financial Services Act 2012

## 2012 CHAPTER 21

### PART 9

#### MISCELLANEOUS

##### *Penalties received by Financial Services Authority or Bank of England*

#### **109 Payment to Treasury of penalties received by Financial Services Authority**

- (1) The Financial Services Authority (“the FSA”) must in respect of its financial year beginning with 1 April 2012 and each subsequent financial year pay to the Treasury its penalty receipts after deducting its enforcement costs.
- (2) The FSA's “penalty receipts” in respect of a financial year are any amounts received by it during the year by way of penalties imposed under FSMA 2000.
- (3) The FSA'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 FSMA 2000.
- (4) For this purpose the FSA's enforcement powers are—
  - (a) its powers under any of the provisions mentioned in subsection (5),
  - (b) its powers under any other enactment specified by the Treasury by order,
  - (c) its powers in relation to the investigation of relevant offences, and
  - (d) its powers in England and Wales or Northern Ireland in relation to the prosecution of relevant offences.
- (5) The provisions referred to in subsection (4)(a) are the following provisions of FSMA 2000—
  - (a) section 56 (prohibition orders),
  - (b) section 63A (penalties relating to performance of controlled functions without approval),

*Status: Point in time view as at 24/01/2013.*

*Changes to legislation: Financial Services Act 2012, Cross Heading: Penalties received by Financial Services Authority or Bank of England is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) section 66 (disciplinary powers in relation to approved persons),
  - (d) section 87M (public censure of issuer),
  - (e) section 89 (public censure of sponsor),
  - (f) section 89K (public censure of issuer),
  - (g) section 91 (penalties for breach of Part 6 rules),
  - (h) section 123 (penalties in case of market abuse),
  - (i) section 131G (short selling etc: power to impose penalty or issue censure),
  - (j) sections 205, 206 and 206A (disciplinary measures),
  - (k) section 249 (disqualification of auditor for breach of trust scheme rules),
  - (l) section 345 (disqualification of auditor or actuary), and
  - (m) Part 25 (injunctions and restitution).
- (6) “Relevant offences” are—
- (a) offences under FSMA 2000,
  - (b) offences under subordinate legislation made under that Act,
  - (c) offences falling within section 402(1) of that Act, and
  - (d) any other offences specified by the Treasury by order.
- (7) The Treasury may give directions to the FSA as to how the FSA is to comply with its duty under subsection (1).
- (8) 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 subsection (3),
  - (b) relate to the calculation and timing of the deduction in respect of the FSA's enforcement costs, and
  - (c) specify the time when any payment is required to be made to the Treasury.
- (9) The directions may also require the FSA to provide the Treasury at specified times with information relating to—
- (a) penalties that the FSA has imposed under FSMA 2000, or
  - (b) the FSA's enforcement costs.
- (10) The Treasury must pay into the Consolidated Fund any sums received by them under this section.
- (11) The scheme operated by the FSA under paragraph 16 of Schedule 1 to FSMA 2000 is, in the case of penalties received by the FSA on or after 1 April 2012, to apply only in relation to sums retained by the FSA as a result of the deduction for which subsection (1) provides.
- (12) When section 6(2) is fully in force, the Treasury may by order repeal this section.

## **110 Payment to Treasury of penalties received by Bank of England**

- (1) The Bank of England (“the Bank”) must in respect of each of its financial years pay to the Treasury its penalty receipts after deducting its enforcement costs.
- (2) The Bank's “penalty receipts” in respect of a financial year are any amounts received by the Bank during the year by way of penalties imposed under any of the following provisions—
  - (a) sections 192K and 312F of FSMA 2000, and

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- (b) section 198 of the Banking Act 2009.
- (3) The Bank'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 any of the provisions mentioned in subsection (2).
- (4) For this purpose the Bank's enforcement powers are—
- (a) its powers under any of the provisions mentioned in subsection (5),
  - (b) its powers under any other enactment specified by the Treasury by order,
  - (c) its powers in relation to the investigation of offences under FSMA 2000 or of any other offences specified by the Treasury by order, and
  - (d) its powers in England and Wales or Northern Ireland in relation to the prosecution of offences under FSMA 2000 or of any other offences specified by the Treasury by order.
- (5) The provisions referred to in subsection (4)(a) are as follows—
- (a) sections 192K to 192N of FSMA 2000 (parent undertakings), as applied to the Bank by Schedule 17A to that Act,
  - (b) sections 312E and 312F of that Act (disciplinary measures in relation to clearing houses),
  - (c) sections 380, 382 and 384 of that Act (injunctions and restitution), as applied to the Bank by Schedule 17A to that Act, and
  - (d) sections 197 to 200 and 202A of the Banking Act 2009 (inter-bank payment systems).
- (6) The Treasury may give directions to the Bank as to how the Bank is to comply with its duty under subsection (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 subsection (3),
  - (b) relate to the calculation and timing of the deduction in respect of the Bank'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 Bank to provide the Treasury at specified times with specified information relating to—
- (a) penalties that the Bank has imposed under the provisions mentioned in subsection (2), or
  - (b) the Bank's enforcement costs.
- (9) The Treasury must pay into the Consolidated Fund any sums received by them under this section.

#### **Commencement Information**

**II** S. 110 in force at 24.1.2013 for specified purposes by [S.I. 2013/113](#), [art. 2\(1\)\(b\)](#), [Sch. Pt. 2](#)

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