
STATUTORY INSTRUMENTS

2018 No. 1253

The Financial Services and Markets Act 2000
(Claims Management Activity) Order 2018

PART 3

Transitional provisions

CHAPTER 5

Temporary Permission

Duration of temporary permission

82.—(1) In this article a reference to a numbered section is a reference to the section so numbered in the 2000 Act.

(2) In this article—

“last application date” means the last date on which a person (“A”) who has a temporary permission to carry on an activity referred to in article 80(4) (temporary permission) may make a relevant application; and

“relevant application” means—

- (a) where, immediately before 1st April 2019, A is a 2000 Act authorised person, an application by A under section 55H (variation by FCA at request of authorised person) to vary A’s Part 4A permission by adding regulated claims management activity to the activities to which the permission relates;
 - (b) where, immediately before 1st April 2019, A is not a 2000 Act authorised person, an application by A under section 55A (application for permission) for permission to carry on regulated claims management activity.
- (3) The FCA must give a direction specifying the last application date.
- (4) A’s temporary permission ceases to have effect—
- (a) where A makes a relevant application on or before the last application date, on the date on which that application is determined;
 - (b) where A does not make a relevant application on or before the last application date, on the date on which the period of 30 days, beginning with the day after the last application date, expires;
 - (c) on the date specified by the FCA in a notice of cancellation of A’s temporary permission, which may be given where—
 - (i) by virtue of article 80(5)(a), A’s temporary permission has effect as a Part 4A permission suspended by the FCA under section 206A of the 2000 Act; and
 - (ii) A’s relevant appeal (within the meaning of article 80(7)) is determined otherwise than in A’s favour.

(5) Paragraph (4) does not affect the exercise by the FCA, in relation to A's temporary permission, of the powers conferred on it by the 2000 Act to vary, cancel or suspend a Part 4A permission.

(6) For the purposes of paragraph (4)(a), the date on which a relevant application is determined is—

- (a) where A withdraws the application by written notice under section 55V(4), the date on which the period of 30 days beginning with the date on which the notice is given expires;
- (b) where the FCA grants the application, the date stated in its written notice under section 55V(5) as the date from which the permission has effect;
- (c) where the FCA decides to—
 - (i) give or vary a Part 4A permission under section 55X(4)(a), (b), (c) or (d); or
 - (ii) refuse the application under section 55X(4)(f),

the date on which the period of 30 days, beginning with the date on which the FCA gives the decision notice under that section, expires.

(7) During the period of 30 days referred to in paragraphs (4)(b) and (6)(a) and (c), A may not enter, or offer to enter, into an agreement the making or performance of which would constitute regulated claims management activity.

(8) The prohibition in paragraph (7) has the same effect as a requirement imposed by the FCA under section 55L.

(9) A direction given under paragraph (3) may—

- (a) specify different dates for different classes of person or for different descriptions of activities;
- (b) specify a date before which a relevant application may not be made (“the opening date”), provided that the opening date is not less than two months before the last application date;
- (c) be amended by further direction.

(10) Subject to article 83(7) and (8), a relevant application made before the opening date is to be treated as if it had not been made.

(11) Paragraphs (12) and (13) apply where—

- (a) A's temporary permission ceases to have effect by virtue of paragraph (4) or the exercise by the FCA of the powers conferred on it by the 2000 Act to cancel a Part 4A permission; and
- (b) A consequently ceases, on the date on which A's temporary permission ceases (“the cessation date”), to be a 2000 Act authorised person.

(12) Paragraph 13 applies in relation to—

- (a) any act or omission by A which occurred before the cessation date; or
- (b) the contravention by A of any requirement imposed on A under section 55L (imposition of requirements by FCA) or 404F(7) (other definitions) which—
 - (i) is in effect immediately before the cessation date; and
 - (ii) which continues to have effect in accordance with paragraph (14).

(13) Part 11 (information gathering and investigations), Part 14 (disciplinary measures) and section 384 (power of the FCA to require restitution) of the 2000 Act are to be read as if a reference to an authorised person included a reference to A.

(14) The requirement referred to in paragraph 12(b) continues to have effect after the cessation date until such time as it is cancelled by the FCA, which the FCA must do when it is satisfied that it is no longer necessary for that requirement to continue to have effect.