
DRAFT STATUTORY INSTRUMENTS

2015 No.

The Small and Medium Sized Business
(Finance Platforms) Regulations 2015

PART 5

Monitoring of compliance and enforcement

CHAPTER 3

Investigatory powers

Information gathering and investigations under Part 11 of the 2000 Act

23. Part 11 (information gathering and investigations) of the 2000 Act⁽¹⁾ applies for the purposes of this Part as if—

- (a) each reference in that Part to the 2000 Act were a reference to this Part;
- (b) each reference in that Part to an authorised person were a reference to a designated firm;
- (c) each reference in that Part to the PRA were omitted;
- (d) each reference in that Part to either regulator were a reference to the FCA only;
- (e) in section 165(7) (regulators’ power to require information: authorised persons etc.), paragraphs (b) to (e) were omitted;
- (f) sections 165A (PRA’s power to require information: financial stability), 165B (safeguards etc in relation to exercise of power under section 165A) and 165C (orders under section 165A(2)(d)) were omitted;
- (g) in section 166 (reports by skilled persons), subsections (10) and (11) were omitted;
- (h) in section 166A (appointment of skilled person to collect and update information)—
 - (i) in subsection (1) for “rules made by that regulator to collect, and keep up to date, information of a description specified in the rules” there were substituted “regulation 21 of the Small and Medium Sized Business (Finance Platforms) Regulations 2015 to maintain relevant records as specified in those Regulations”;
 - (ii) each reference in that section to “information” were a reference to “relevant records”;
 - (iii) subsection (10) were omitted;
- (i) in section 167 (appointment of persons to carry out general investigations)—
 - (i) in subsection (1)—
 - (aa) for “an investigating authority” and “the investigating authority” there were substituted “the FCA”;

(1) Part 11 is amended by paragraph 33 of Schedule 7 to the Counter Terrorism Act 2008 (c.28), section 18 of and Schedule 2 to the Financial Services Act 2010 (c.28), Schedule 12 to and paragraph 8 of Schedule 18 to the Financial Services Act 2012, S.I. 2001/1090, S.I. 2007/126, S.I. 2011/1043, S.I. 2012/2554, S.I. 2013/1773 and S.I. 2015/575. Other amendments are not relevant here.

- (bb) in paragraphs (a) and (c) of subsection (1) the words “a recognised investment exchange or” were omitted;
- (cc) in paragraph (a) of subsection (1) the words “or of an appointed representative” were omitted;
- (ii) in subsection (4) the words “(or appointed representative)” were omitted in each place;
- (iii) subsections (2)(c), (3A), (5A) and (6) were omitted;
- (j) in section 168 (appointment of persons to carry out investigations in particular cases)—
 - (i) in subsection (1)—
 - (aa) for “an investigating authority” there were substituted “the FCA”;
 - (bb) for paragraph (b) there were substituted—
 - “(b) a designated firm may have contravened a requirement imposed by or under the Small and Medium Sized Business (Finance Platforms) Regulations 2015, or a person may be guilty of an offence under regulation 31 of those Regulations (misleading the FCA).”;
 - (ii) in subsection (3) for “investigating authority” there were substituted “FCA”; and
 - (iii) subsections (2), (4), (5) and (6) were omitted;
 - (k) sections 169 (investigations etc. in support of overseas regulator) and 169A (support of overseas regulator with respect to financial stability) were omitted;
 - (l) in section 170 (investigations: general)—
 - (i) in subsection (1) “or (5)” were omitted;
 - (ii) in subsection (3)(a) “or (4)” were omitted;
 - (iii) subsection (3)(b) and the preceding “; or” were omitted; and
 - (iv) for subsection (10) the following were substituted—
 - “(10) “Investigating authority” in this Part is to be read as a reference to the FCA.”;
 - (m) in section 171 (powers of persons appointed under section 167), subsections (3A) and (7) were omitted;
 - (n) in section 172 (additional power of persons appointed as a result of section 168(1) or (4)), in the heading and in subsection (4), “or (4)” were omitted;
 - (o) section 173 (powers of persons appointed as a result of section 168(2)) were omitted;
 - (p) in section 174 (admissibility of statements made to investigators)—
 - (i) in subsection (2) “or in proceedings in relation to action to be taken against that person under section 123” were omitted;
 - (ii) in subsection (3)(a) for “398” there were substituted “regulation 31 of the Small and Medium Sized Business (Finance Platforms) Regulations 2015 (misleading the FCA)”;
 - (iii) in subsection (4), “or (5)” were omitted;
 - (iv) in subsection (5) “, 173” were omitted;
 - (q) in section 175(8) (information and documents: supplemental provisions) “or (5)” were omitted;
 - (r) in section 176 (entry of premises under warrant)—

- (i) in subsection (1) “the Secretary of State,” were omitted and “first or second” were substituted for “first, second or third”;
- (ii) in subsection (3)(a) “or an appointed representative” were omitted;
- (iii) subsection (4) were omitted;
- (iv) in subsection (10) “or (5)” were omitted;
- (v) in subsection (11)—
 - (aa) in paragraph (a) “87C, 87J,” and “,165A, 169A” were omitted; and
 - (bb) in paragraph (b) “, 173” were omitted.