
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Securitisation Regulations 2023

PART 8

Monitoring, disciplinary measures and procedures

Procedure for imposition, variation or revocation of a temporary ban on STS notifications

- 40.**—(1) Where the FCA exercises its functions under regulation 39, its decision takes effect—
- (a) immediately, if the notice under paragraph (3) states that is the case,
 - (b) on such other date as may be specified in the notice, or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (2) A decision of the FCA made under regulation 39 may be expressed to take effect immediately (or on a specified date) only if the FCA, having regard to the ground on which it is exercising this power, reasonably considers that it is necessary for the decision to take effect immediately (or on that date).
- (3) If the FCA proposes to exercise, or exercises, its functions under regulation 39, it must give the originator or sponsor a written notice.
- (4) The notice must—
- (a) give details of the temporary ban or variation,
 - (b) state the FCA's reasons for the temporary ban, or the revocation of the temporary ban or the variation of the temporary ban,
 - (c) inform the originator or sponsor that they may make representations to the FCA within such period as may be specified in the notice (whether or not the originator or sponsor has referred the matter to the Tribunal),
 - (d) inform the originator or sponsor when the temporary ban, or the revocation or variation of the temporary ban, takes effect, and
 - (e) inform the originator or sponsor of their right to refer the matter to the Tribunal and an indication of the procedure for such a reference.
- (5) The FCA may extend the period allowed under the notice for making representations.
- (6) If, having considered any representations made by a person to whom the notice was given, the FCA decides—
- (a) to impose the temporary ban, or revoke or vary the temporary ban, in the way proposed,
 - (b) not to impose the temporary ban, or revoke or vary the temporary ban, in the way proposed,
 - (c) to revoke the temporary ban, or the variation of the temporary ban, which has taken effect,
 - (d) if the temporary ban has been imposed or varied, not to revoke the temporary ban or variation of the temporary ban, or
 - (e) to impose or vary the temporary ban in a different way,

it must give the person written notice.

(7) A notice given under paragraph (6)(a), (d) or (e) must inform the person to whom it is given of the person's right to refer the matter to the Tribunal and provide an indication of the procedure for such a reference.

(8) For the purposes of paragraph (1)(c), whether a matter is open to review is to be determined in accordance with section 391(8) of FSMA 2000.