
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Securitisation Regulations 2023

PART 8

Monitoring, disciplinary measures and procedures

Statement of policy

- 46.**—(1) Each regulator must prepare and issue a statement of policy with respect to—
- (a) the imposition of a prohibition under regulation 37,
 - (b) the period of a prohibition under that regulation,
 - (c) the imposition of penalties under regulation 42, and
 - (d) the amount of penalties under that regulation.
- (2) The policy must require the regulator, in determining the amount of the penalty to be imposed on any person, to take account of all relevant circumstances including, where appropriate—
- (a) the impact, gravity and duration of the contravention for which the penalty is to be imposed;
 - (b) the extent of the person’s responsibility for the contravention;
 - (c) the financial position of the person;
 - (d) the amount of profit gained or loss avoided as a result of the contravention, so far as this can be determined;
 - (e) the amount of loss sustained as a result of the contravention by any other person, so far as this can be determined;
 - (f) the level of co-operation by the person with the regulator (without prejudice to the need to ensure that the person accounts for or makes good any profit sustained or loss avoided as a result of the contravention);
 - (g) any previous contravention by the person for which a penalty was or could have been imposed under regulation 42.
- (3) A regulator may at any time alter or replace a statement issued by it under this regulation.
- (4) If a statement issued under this regulation is altered or replaced by a regulator, the regulator must issue the altered or replacement statement.
- (5) A regulator must, without delay, give the Treasury a copy of any statement which it issues under this regulation.
- (6) A statement issued under this regulation by a regulator must be published by the regulator in the way appearing to the regulator to be best calculated to bring it to the attention of the public.
- (7) The regulator may charge a reasonable fee for providing a person with a copy of the statement.
- (8) In exercising, or deciding whether to exercise, its power under regulation 37 (temporary prohibition relating to management functions) or under regulation 42 (financial penalties) in the case

of any particular contravention, a regulator must have regard to any statement of policy published by it under this regulation and in force at the time when the contravention in question occurred.