



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 5A

DESIGNATED ACTIVITIES

Textual Amendments

F1 Pt. 5A inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\), ss. 8\(2\), 86\(3\)](#); S.I. 2023/779, reg. 4(e)

71K Designated activities

- (1) The Treasury may by regulations provide for an activity of a specified description to be a designated activity for the purposes of this Act.
- (2) Regulations under this section are referred to in this Act as designated activity regulations.
- (3) Designated activity regulations may provide for an activity to be a designated activity only if the activity relates or is connected to—
 - (a) the financial markets or exchanges of the United Kingdom, or
 - (b) financial instruments, financial products or financial investments that are (or are proposed to be) issued or sold to, or by, persons in the United Kingdom.
- (4) The description of an activity as a designated activity may be framed by reference to—
 - (a) the way in which the activity is carried on, or
 - (b) the description of persons who carry on the activity.
- (5) Schedule 6B contains examples of activities that may be specified as designated activities.
- (6) Nothing in Schedule 6B limits the powers conferred by subsection (1).

Changes to legislation: Financial Services and Markets Act 2000, PART 5A is up to date with all changes known to be in force on or before 10 May 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) View outstanding changes

- (7) The financial instruments, financial products and financial investments mentioned in subsection (3)(b) may include cryptoassets.

71L Restrictions on carrying on of designated activities

- (1) A person must not carry on a designated activity if, or to the extent that, designated activity regulations prohibit the carrying on of that activity.
- (2) A person carrying on a designated activity that is not prohibited by virtue of subsection (1) must comply with—
- (a) designated activity rules relating to that activity, and
 - (b) any other requirements imposed in relation to that activity by designated activity regulations.
- (3) For the purposes of this Act designated activity rules are rules made under section 71N.

71M Designated activity regulations: general

- (1) Designated activity regulations may make provision generally in relation to the carrying on of designated activities.
- (2) The following are examples of provision that may be made by designated activity regulations—
- (a) provision about cases in which the restrictions imposed by section 71L are to apply to persons carrying on a designated activity outside the United Kingdom;
 - (b) provision supplementing, or in connection with, any requirements relating to a designated activity under designated activity rules.
- (3) Designated activity regulations may—
- (a) provide for exemptions (including exemptions that are subject to specified conditions);
 - (b) confer powers on the Treasury or the FCA.

71N Designated activities: rules

- (1) The FCA may make rules relating to designated activities.
- (2) The power under subsection (1) is only exercisable in so far as designated activity regulations provide for the FCA to make rules—
- (a) relating to the designated activity, or
 - (b) relating to specified matters relating to designated activities.
- (3) The FCA may by notice suspend any rules made under subsection (1) for such period as it considers appropriate.
- (4) Rules under subsection (1) may include provision enabling requirements imposed by the rules to be dispensed with, or modified, in such cases or circumstances as may be determined by the FCA under the rules (subject to subsection (5)).
- (5) The powers under subsections (3) and (4) are only exercisable in such circumstances as may be specified in designated activity regulations.

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- (6) Before suspending any rules in accordance with subsection (3), the FCA must consult the PRA.
- (7) A notice under subsection (3) must be published by the FCA in the way appearing to the FCA to be best calculated to bring it to the attention of persons likely to be affected by it.
- (8) The reference in section 137T(a) (supplementary powers) to “authorised persons” includes, in relation to rules made under this section, a reference to any persons to whom the rules under this section apply.

710 Designated activities: directions

- (1) The FCA may by directions impose such requirements on a person, or such description of persons, relating to the carrying on of designated activities as the FCA considers appropriate.
- (2) The power under subsection (1) is only exercisable in so far as designated activity regulations provide for the FCA to make directions relating to the designated activity.
- (3) A requirement may, in particular, be imposed so as to require the person concerned—
 - (a) to take specified action, or
 - (b) to refrain from taking specified action.
- (4) A requirement may extend to activities which are not designated activities.
- (5) A direction under this section—
 - (a) may specify the way in which, and the time by which, a thing is to be done;
 - (b) may be varied;
 - (c) may be expressed to have effect during a specified period or until revoked.
- (6) The FCA may at any time revoke a direction under this section by notice.
- (7) The revocation of a direction does not affect the validity of anything previously done in accordance with it.
- (8) A direction or notice under this section must be given in writing to the person or persons to whom it applies.
- (9) But if in the circumstances the FCA considers it appropriate, the FCA may, in addition to, or instead of, proceeding under subsection (8), publish the direction or notice in the way appearing to the FCA to be best calculated to bring it to the attention of persons likely to be affected by it.
- (10) Designated activity regulations may make provision for the exercise of the power under subsection (1) to be subject to such conditions as may be specified in the regulations.
- (11) Provision under subsection (10) may (among other things) require, where the exercise of the power relates to a PRA-authorised person, consultation with the PRA.
- (12) The imposition of a requirement that expires at the end of a specified period does not affect the FCA’s power to impose a new requirement.

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71P Designated activities: liability

- (1) Designated activity regulations may make provision about liability and compensation in connection with this Part.
- (2) A contravention of a requirement under designated activity regulations or designated activity rules—
 - (a) does not, except as provided by designated activity regulations under section 71Q or by regulations under section 71R, make a person guilty of an offence;
 - (b) does not, except as provided by designated activity regulations—
 - (i) make any transaction void or unenforceable, or
 - (ii) give rise to any action for breach of statutory duty.
- (3) Designated activity regulations may in particular—
 - (a) in cases where the regulations make provision for liability, make provision excluding civil liability (whether generally or to such extent as may be specified),
 - (b) make provision for liability to be determined in accordance with designated activity rules,
 - (c) make provision so that a person being subject to a liability includes another person being entitled as against that person to rescind or repudiate an agreement, and
 - (d) make provision for the purposes of subsection (1) by applying provisions of this Act with or without modifications.

71Q Designated activities: enforcement

- (1) Designated activity regulations may make provision about enforcement in connection with this Part.
- (2) Provision about enforcement includes (among other things) provision—
 - (a) requiring the supply of information;
 - (b) about investigations (including the making of reports);
 - (c) conferring powers of entry;
 - (d) conferring powers of inspection, search and seizure;
 - (e) conferring powers of censure;
 - (f) imposing monetary penalties;
 - (g) about appeals;
 - (h) conferring functions (including functions involving the exercise of a discretion) on a person.
- (3) Designated activity regulations may in particular make provision for the purposes of subsection (1) by applying provisions of this Act with or without modifications, including any criminal offences created by this Act (and modifications made by virtue of this subsection may widen the scope of any such offences).
- (4) The power under this section includes power to amend or repeal provisions of this Act.

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71R Designated activities and rules: connected amendments

- (1) The Treasury may by regulations make such modifications to provision made by or under this Act or any other enactment as the Treasury consider appropriate for purposes of, or connected with, any designated activity regulations or designated activity rules.
- (2) The power under subsection (1) may in particular be exercised for the purpose of removing or varying any requirement imposed by or under this Act so far as applying to the carrying on of any designated activity.
- (3) The power under subsection (1) includes power to modify any criminal offence created by this Act (including by widening the scope of any such offence).
- (4) In this section—
 - “enactment” includes—
 - (a) an enactment comprised in subordinate legislation (within the meaning given by section 21 of the Interpretation Act 1978),
 - (b) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru,
 - (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (d) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
 - “modify” includes amend, repeal or revoke.

71S Designated activities regulations: Parliamentary control

- (1) This section applies to regulations which contain provision made under section 71K which provides for an activity of a specified description to be a designated activity.
- (2) A statutory instrument containing regulations to which this section applies, other than regulations to which subsection (3) applies, may not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.
- (3) This subsection applies to regulations which contain a statement made by the Treasury that they are of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft of the statutory instrument containing the regulations being laid and approved under subsection (2).
- (4) Where subsection (3) applies to regulations, a statutory instrument containing the regulations must be laid before Parliament after being made.
- (5) Regulations contained in a statutory instrument laid before Parliament under subsection (4) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (6) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (7) If regulations cease to have effect as a result of subsection (5), that does not—

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- (a) affect the validity of anything previously done under the regulations, or
- (b) prevent the making of new regulations.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(iia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))