



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART V

#### PERFORMANCE OF REGULATED ACTIVITIES

##### **Modifications etc. (not altering text)**

**C1** Pt. V (ss. 56-71) modified (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), [114\(3\)\(a\)](#), [128\(3\)\(a\)](#) (with [art. 23\(2\)](#))

#### *Prohibition orders*

#### **56 Prohibition orders.**

- (1) Subsection (2) applies if it appears to the Authority that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person.
- (2) The Authority may make an order (“a prohibition order”) prohibiting the individual from performing a specified function, any function falling within a specified description or any function.
- (3) A prohibition order may relate to—
  - (a) a specified regulated activity, any regulated activity falling within a specified description or all regulated activities;
  - (b) authorised persons generally or any person within a specified class of authorised person.
- (4) An individual who performs or agrees to perform a function in breach of a prohibition order is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (5) In proceedings for an offence under subsection (4) it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (6) An authorised person must take reasonable care to ensure that no function of his, in relation to the carrying on of a regulated activity, is performed by a person who is prohibited from performing that function by a prohibition order.
- (7) The Authority may, on the application of the individual named in a prohibition order, vary or revoke it.
- (8) This section applies to the performance of functions in relation to a regulated activity carried on by—
  - (a) a person who is an exempt person in relation to that activity, and
  - (b) a person to whom, as a result of Part XX, the general prohibition does not apply in relation to that activity,
 as it applies to the performance of functions in relation to a regulated activity carried on by an authorised person.
- (9) “Specified” means specified in the prohibition order.

#### Modifications etc. (not altering text)

- C2** S. 56 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2)**, 3(3); S.I. 2001/3538, **art. 2(1)**  
S. 56 modified (*temp.* from 31.10.2001) by S.I. 2001/3374, **arts. 1**, 11  
S. 56 extended (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 79(1); S.I. 2001/3538, **art. 2(1)**
- C3** Ss. 56, 60 modified (*temp.*) (8.4.2002) by The Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (S.I. 2002/704), **art. 7**
- C4** Ss. 56-58 applied (with modifications) (31.12.2011) by The Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), **art. 8**
- C5** S. 56(7) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 55(5) (with art. 23(2))
- C6** S. 56(8) amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2)**, 3(4); S.I. 2001/3538, **art. 2(1)**

#### Commencement Information

- II** S. 56 wholly in force at 1.12.2001; s. 56 not in force at Royal Assent see s. 431(2); s. 56 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, **art. 2(2)**, **Sch. Pt. 2**; s. 56 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

## 57 Prohibition orders: procedure and right to refer to Tribunal.

- (1) If the Authority proposes to make a prohibition order it must give the individual concerned a warning notice.
- (2) The warning notice must set out the terms of the prohibition.
- (3) If the Authority decides to make a prohibition order it must give the individual concerned a decision notice.
- (4) The decision notice must—
  - (a) name the individual to whom the prohibition order applies;

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (b) set out the terms of the order; and
  - (c) be given to the individual named in the order.
- (5) A person against whom a decision to make a prohibition order is made may refer the matter to the Tribunal.

**Modifications etc. (not altering text)**

- C7** S. 57 excluded (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 110(3) (with [art. 23\(2\)](#))
- C8** Ss. 56-58 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 8](#)
- C9** S. 57(1) extended (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 55(1) (with [art. 23\(2\)](#))

**Commencement Information**

- I2** S. 57 wholly in force at 1.12.2001; s. 57 not in force at Royal Assent see s. 431(2); s. 57 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); s. 57 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

**58 Applications relating to prohibitions: procedure and right to refer to Tribunal.**

- (1) This section applies to an application for the variation or revocation of a prohibition order.
- (2) If the Authority decides to grant the application, it must give the applicant written notice of its decision.
- (3) If the Authority proposes to refuse the application, it must give the applicant a warning notice.
- (4) If the Authority decides to refuse the application, it must give the applicant a decision notice.
- (5) If the Authority gives the applicant a decision notice, he may refer the matter to the Tribunal.

**Modifications etc. (not altering text)**

- C10** S. 58 excluded (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 110(3) (with [art. 23\(2\)](#))
- C11** Ss. 56-58 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 8](#)

**Commencement Information**

- I3** S. 58 wholly in force at 1.12.2001; s. 58 not in force at Royal Assent see s. 431(2); s. 58 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); s. 58 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

## *Approval*

### **59 Approval for particular arrangements.**

- (1) An authorised person (“A”) must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by A in relation to the carrying on by A of a regulated activity, unless the Authority approves the performance by that person of the controlled function to which the arrangement relates.
- (2) An authorised person (“A”) must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by a contractor of A in relation to the carrying on by A of a regulated activity, unless the Authority approves the performance by that person of the controlled function to which the arrangement relates.
- (3) “Controlled function” means a function of a description specified in rules.
- (4) The Authority may specify a description of function under subsection (3) only if, in relation to the carrying on of a regulated activity by an authorised person, it is satisfied that the first, second or third condition is met.
- (5) The first condition is that the function is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the authorised person’s affairs, so far as relating to the regulated activity.
- (6) The second condition is that the function will involve the person performing it in dealing with customers of the authorised person in a manner substantially connected with the carrying on of the regulated activity.
- (7) The third condition is that the function will involve the person performing it in dealing with property of customers of the authorised person in a manner substantially connected with the carrying on of the regulated activity.
- (8) Neither subsection (1) nor subsection (2) applies to an arrangement which allows a person to perform a function if the question of whether he is a fit and proper person to perform the function is reserved under any of the single market directives [<sup>F1</sup>or the emission allowance auctioning regulation] to an authority in a country or territory outside the United Kingdom.
- (9) In determining whether the first condition is met, the Authority may take into account the likely consequences of a failure to discharge that function properly.
- (10) “Arrangement”—
  - (a) means any kind of arrangement for the performance of a function of A which is entered into by A or any contractor of his with another person; and
  - (b) includes, in particular, that other person’s appointment to an office, his becoming a partner or his employment (whether under a contract of service or otherwise).
- (11) “Customer”, in relation to an authorised person, means a person who is using, or who is or may be contemplating using, any of the services provided by the authorised person.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

#### Textual Amendments

- F1** Words in s. 59(8) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **3(4)**

#### Modifications etc. (not altering text)

- C12** S. 59 extended (1.12.2001) by [S.I. 2001/2636](#), arts. **1(2)(b)**, 74(2), 76(2); [S.I. 2001/3538](#), art. **2(1)**  
S. 59 extended (1.12.2001) by [S.I. 2001/3592](#), arts. **1(2)**, 49(1) (with art. 23(2))
- C13** S. 59 modified (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), art. **15(1)**
- C14** S. 59 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. **1(2)**, 34, {Sch. paras. 1, 3}
- C15** S. 59 modified (1.1.2010) by [The Northern Rock plc Transfer Order 2009 \(S.I. 2009/3226\)](#), arts. 1(2) (b), **10**
- C16** S. 59(1) extended (1.12.2001) by [S.I. 2001/2636](#), arts. **1(2)(b)**, 75(2); [S.I. 2001/3538](#), art. **2(1)**

#### Commencement Information

- I4** S. 59 wholly in force at 1.12.2001; s. 59 not in force at Royal Assent see s. 431(2); s. 59 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, **Sch.**; s. 59 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), art. 2(2), **Sch. Pt. 2**; s. 59 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. **2(1)**

### [<sup>F2</sup>59A Specifying functions as controlled functions: supplementary

- (1) The FCA must—
  - (a) keep under review the exercise of its power under section 59(3)(a) to specify any significant-influence function as a controlled function, and
  - (b) exercise that power in a way that it considers will minimise the likelihood that approvals fall to be given by both the FCA and the PRA in respect of the performance by a person of significant-influence functions in relation to the carrying on of a regulated activity by the same PRA-authorized person.
- (2) The FCA and the PRA must each consult the other before exercising any power under section 59(3)(a).
- (3) Any reference in this section to the exercise of a power includes its exercise by way of amendment or revocation of provision previously made in the exercise of the power.
- (4) “Approval” means an approval under section 59.
- (5) Any expression which is used both in this section and section 59 has the same meaning in this section as in that section.

#### Textual Amendments

- F2** Ss. 59A, 59B inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), ss. **14(2)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

## 59B Role of FCA in relation to PRA decisions

- (1) The FCA may arrange with the PRA that in such cases as may be described in the arrangements the PRA may give approval under section 59 without obtaining the consent of the FCA.
- (2) Arrangements under this section must be in writing, and must specify the date on which they come into force.
- (3) The regulators must publish any arrangements under this section in such manner as they think fit.
- (4) Section 59(4)(b) has effect subject to any arrangements in force under this section.]

### Textual Amendments

**F2** Ss. 59A, 59B inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), ss. 14\(2\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)

## 60 Applications for approval.

- (1) An application for the [<sup>F3</sup>appropriate regulator's] approval under section 59 may be made by the authorised person concerned.
- (2) The application must—
  - (a) be made in such manner as the [<sup>F3</sup>appropriate regulator] may direct; and
  - (b) contain, or be accompanied by, such information as the [<sup>F3</sup>appropriate regulator] may reasonably require.
- [<sup>F4</sup>(3) At any time after the application is received and before it is determined, the appropriate regulator may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application or, as the case requires, to decide whether to give consent.]
- (4) The [<sup>F3</sup>appropriate regulator] may require an applicant to present information which he is required to give under this section in such form, or to verify it in such a way, as the [<sup>F3</sup>appropriate regulator] may direct.
- (5) Different directions may be given, and different requirements imposed, in relation to different applications or categories of application.
- (6) “The authorised person concerned” includes a person who has applied for permission under [<sup>F5</sup>Part 4A] and will be the authorised person concerned if permission is given.
- [<sup>F6</sup>(7) The PRA must consult the FCA before—
  - (a) giving a direction under subsection (2)(a) in relation to a class of applicants, or
  - (b) imposing a requirement under subsection (2)(b) on a class of applicants.
- (8) The PRA must as soon as practicable notify the FCA of the receipt or withdrawal of an application to the PRA, unless the case is one in which by virtue of arrangements under section 59B the consent of the FCA is not required.
- (9) “The appropriate regulator”—

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (a) in relation to a controlled function which is of a description specified in rules made by the FCA, means the FCA;
- (b) in relation to a controlled function which is of a description specified in rules made by the PRA, means the PRA, and for the purposes of subsection (3) also includes the FCA in cases where the consent of the FCA is required.]

#### Textual Amendments

- F3** Words in s. 60 substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 5 para. 4\(1\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F4** S. 60(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 5 para. 4\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F5** Words in s. 60(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 5 para. 4\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F6** S. 60(7)-(9) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 5 para. 4\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)

#### Modifications etc. (not altering text)

- C17** S. 60 amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659, arts. 1\(2\), 3\(3\)](#); [S.I. 2001/3538, art. 2\(1\)](#)  
S. 60 modified (*temp.* from 31.10.2001) by [S.I. 2001/3374, arts. 1, 11](#)  
S. 60: “the authorised person concerned” extended (1.12.2001) by [S.I. 2001/2511, regs. 1\(1\), 10](#); [S.I. 2001/3538, art. 2\(1\)](#)  
S. 60 extended (1.12.2001) by [S.I. 2001/3592, arts. 1\(2\), 50\(1\), 51\(1\), 53\(1\)](#) (with [art. 23\(2\)](#))
- C18** Ss. 56, 60 modified (*temp.*) (8.4.2002) by [The Financial Services and Markets Act 2000 \(Permission and Applications\) \(Credit Unions etc.\) Order 2002 \(S.I. 2002/704\)](#), [art. 7](#)
- C19** S. 60 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), [arts. 1\(2\), 34](#), {[Sch. paras. 1, 3](#)}
- C20** Ss. 60-63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 8](#)
- C21** S. 60(3) extended (1.12.2001) by [S.I. 2001/3592, arts. 1\(2\), 50\(5\)](#) (with [art. 23\(2\)](#))

#### Commencement Information

- I5** S. 60 wholly in force at 1.12.2001; s. 60 not in force at Royal Assent see s. 431(2); s. 60(2)(4) in force for specified purposes at 18.6.2001 by [S.I. 2001/1820, art. 2, Sch.](#); s. 60 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#); s. 60 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

## 61 Determination of applications.

- (1) The Authority may grant an application made under section 60 only if it is satisfied that the person in respect of whom the application is made (“the candidate”) is a fit and proper person to perform the function to which the application relates.
- (2) In deciding that question, the Authority may have regard (among other things) to whether the candidate, or any person who may perform a function on his behalf—

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (a) has obtained a qualification,
  - (b) has undergone, or is undergoing, training, or
  - (c) possesses a level of competence,
- required by general rules in relation to persons performing functions of the kind to which the application relates.
- (3) The Authority must, before the end of the period of three months beginning with the date on which it receives an application made under section 60 (“the period for consideration”), determine whether—
- (a) to grant the application; or
  - (b) to give a warning notice under section 62(2).
- (4) If the Authority imposes a requirement under section 60(3), the period for consideration stops running on the day on which the requirement is imposed but starts running again—
- (a) on the day on which the required information is received by the Authority; or
  - (b) if the information is not provided on a single day, on the last of the days on which it is received by the Authority.
- (5) A person who makes an application under section 60 may withdraw his application by giving written notice to the Authority at any time before the Authority determines it, but only with the consent of—
- (a) the candidate; and
  - (b) the person by whom the candidate is to be retained to perform the function concerned, if not the applicant.

#### **Modifications etc. (not altering text)**

- C22** S. 61 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), **arts. 1(2), 34**, {Sch. paras. 1, 3}
- C23** Ss. 60-63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), **art. 8**
- C24** S. 61(3) modified (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2), 49(3), 53(2)** (with art. 23(2))
- C25** S. 61(3) excluded (1.1.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(2), **28(2)**
- C26** S. 61(3) excluded (1.1.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(2), **24(2), 26(2)**

#### **Commencement Information**

- I6** S. 61 wholly in force at 1.12.2001; s. 61 not in force at Royal Assent see s. 431(2); s. 61 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 61 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

## **62 Applications for approval: procedure and right to refer to Tribunal.**

- (1) If the Authority decides to grant an application made under section 60 (“an application”), it must give written notice of its decision to each of the interested parties.



*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (2) If the Authority proposes to refuse an application, it must give a warning notice to each of the interested parties.
- (3) If the Authority decides to refuse an application, it must give a decision notice to each of the interested parties.
- (4) If the Authority decides to refuse an application, each of the interested parties may refer the matter to the Tribunal.
- (5) “The interested parties”, in relation to an application, are—
  - (a) the applicant;
  - (b) the person in respect of whom the application is made (“A”); and
  - (c) the person by whom A’s services are to be retained, if not the applicant.

#### **Modifications etc. (not altering text)**

- C27** S. 62 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), **arts. 1(2), 34**, {Sch. paras. 1, 3}
- C28** Ss. 60-63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), **art. 8**

#### **Commencement Information**

- I7** S. 62 wholly in force at 1.12.2001; s. 62 not in force at Royal Assent see s. 431(2); s. 62 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 62 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

## **63 Withdrawal of approval.**

- (1) The Authority may withdraw an approval given under section 59 if it considers that the person in respect of whom it was given is not a fit and proper person to perform the function to which the approval relates.
- (2) When considering whether to withdraw its approval, the Authority may take into account any matter which it could take into account if it were considering an application made under section 60 in respect of the performance of the function to which the approval relates.
- (3) If the Authority proposes to withdraw its approval, it must give each of the interested parties a warning notice.
- (4) If the Authority decides to withdraw its approval, it must give each of the interested parties a decision notice.
- (5) If the Authority decides to withdraw its approval, each of the interested parties may refer the matter to the Tribunal.
- (6) “The interested parties”, in relation to an approval, are—
  - (a) the person on whose application it was given (“A”);
  - (b) the person in respect of whom it was given (“B”); and
  - (c) the person by whom B’s services are retained, if not A.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

#### Modifications etc. (not altering text)

- C29** S. 63 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), 34, [Sch. paras. 1, 3](#)
- C30** Ss. 60-63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 8](#)
- C31** S. 63 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), [art. 6\(3\)](#)
- C32** S. 63(1)(3)-(6) excluded (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 61(2) (with [art. 23\(2\)](#))
- C33** S. 63(3) extended (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 52(2) (with [art. 23\(2\)](#))
- C34** S. 63(4) modified (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 75(2) (with [art. 23\(2\)](#))

#### Commencement Information

- I8** S. 63 wholly in force at 1.12.2001; s. 63 not in force at Royal Assent see s. 431(2); s. 63 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); s. 63 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

### *[<sup>F7</sup>Performance of controlled functions without approval*

#### Textual Amendments

- F7** Ss. 63A-63D and preceding cross-heading inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 11, 26\(2\)\(b\)](#)

## **63A Power to impose penalties**

- (1) If the Authority is satisfied that—
- (a) a person (“P”) has at any time performed a controlled function without approval, and
  - (b) at that time P knew, or could reasonably be expected to have known, that P was performing a controlled function without approval,
- it may impose a penalty on P of such amount as it considers appropriate.
- (2) For the purposes of this section P performs a controlled function without approval at any time if at that time—
- (a) P performs a controlled function under an arrangement entered into by an authorised person (“A”), or by a contractor of A, in relation to the carrying on by A of a regulated activity; and
  - (b) the performance by P of the function was not approved under section 59.
- (3) The Authority may not impose a penalty under this section after the end of the limitation period unless, before the end of that period, it has given a warning notice to the person concerned under section 63B(1).
- (4) “The limitation period” means the period of three years beginning with the first day on which the Authority knew that the person concerned had performed a controlled function without approval.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (5) For this purpose the Authority is to be treated as knowing that a person has performed a controlled function without approval if it has information from which that can reasonably be inferred.
- (6) Any expression which is used both in this section and section 59 has the same meaning in this section as in that section.

### **63B Procedure and right to refer to Tribunal**

- (1) If the Authority proposes to impose a penalty on a person under section 63A, it must give the person a warning notice.
- (2) A warning notice must state the amount of the penalty.
- (3) If the Authority decides to impose a penalty on a person under section 63A, it must give the person a decision notice.
- (4) A decision notice must state the amount of the penalty.
- (5) If the Authority decides to impose a penalty on a person under section 63A, the person may refer the matter to the Tribunal.

### **63C Statement of policy**

- (1) [<sup>F8</sup>Each regulator] must prepare and issue a statement of its policy with respect to—
  - (a) the imposition of penalties under section 63A; and
  - (b) the amount of penalties under that section.
- (2) [<sup>F9</sup>Each regulator's] policy in determining whether a penalty should be imposed, and what the amount of a penalty should be, must include having regard to—
  - (a) the conduct of the person on whom the penalty is to be imposed;
  - (b) the extent to which the person could reasonably be expected to have known that a controlled function was performed without approval;
  - (c) the length of the period during which the person performed a controlled function without approval; and
  - (d) whether the person on whom the penalty is to be imposed is an individual.
- (3) [<sup>F10</sup>Each regulator's] policy in determining whether a penalty should be imposed on a person must also include having regard to the appropriateness of taking action against the person instead of, or in addition to, taking action against an authorised person.
- (4) A statement issued under this section must include an indication of the circumstances in which [<sup>F11</sup>the regulator that has issued the statement] would expect to be satisfied that a person could reasonably be expected to have known that the person was performing a controlled function without approval.
- (5) [<sup>F12</sup>A regulator] may at any time alter or replace a statement issued [<sup>F13</sup>by it] under this section.
- (6) If a statement issued under this section is altered or [<sup>F14</sup>replaced by a regulator, the regulator] must issue the altered or replaced statement.
- (7) [<sup>F15</sup>A regulator] must, without delay, give the Treasury a copy of any statement which it publishes under this section.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (8) A statement issued under this section [F16 by a regulator] must be published by the [F17 regulator] in the way appearing to the [F17 regulator] to be best calculated to bring it to the attention of the public.
- (9) The [F18 regulator] may charge a reasonable fee for providing a person with a copy of the statement.
- (10) In exercising, or deciding whether to exercise, its power under section 63A in the case of any particular person, [F19 a regulator] must have regard to any statement of policy published [F20 by it] under this section and in force at a time when the person concerned performed a controlled function without approval.

#### Textual Amendments

- F8** Words in s. 63C(1) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F9** Words in s. 63C(2) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F10** Words in s. 63C(3) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F11** Words in s. 63C(4) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F12** Words in s. 63C(5) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(5)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F13** Words in s. 63C(5) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(5)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F14** Words in s. 63C(6) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(6)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F15** Words in s. 63C(7) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(7)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F16** Words in s. 63C(8) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(8)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F17** Word in s. 63C(8) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(8)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F18** Word in s. 63C(9) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(9)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F19** Words in s. 63C(10) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(10)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F20** Words in s. 63C(10) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 10(10)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

#### 63D Statement of policy: procedure

- (1) Before [F21 a regulator issues] a statement under section 63C, the [F22 regulator] must publish a draft of the proposed statement in the way appearing to the [F22 regulator] to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the [F23 regulator] within a specified time.
- (3) Before issuing the proposed statement, the [F24 regulator] must have regard to any representations made to it in accordance with subsection (2).

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (4) If the [<sup>F25</sup>regulator] issues the proposed statement it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with subsection (2); and
  - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the [<sup>F26</sup>regulator], significant, the [<sup>F26</sup>regulator] must (in addition to complying with subsection (4)) publish details of the difference.
- (6) [<sup>F27</sup>A regulator] may charge a reasonable fee for providing a person with a copy of a draft published [<sup>F28</sup>by it] under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.]

#### Textual Amendments

- F21** Words in s. 63D(1) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(2\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F22** Word in s. 63D(1) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F23** Word in s. 63D(2) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F24** Word in s. 63D(3) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F25** Word in s. 63D(4) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F26** Word in s. 63D(5) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F27** Words in s. 63D(6) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F28** Words in s. 63D(6) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 11\(4\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

#### *Conduct [<sup>F29</sup>of approved persons]*

#### Textual Amendments

- F29** Words in cross-heading before s. 64 inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 7](#)

#### 64 Conduct: statements and codes.

[<sup>F30</sup>(1) The FCA may issue statements of principle with respect to the conduct expected of persons in relation to whom either regulator has given its approval under section 59.

- (1A) The PRA may issue statements of principle with respect to—
- (a) the conduct expected of persons in relation to whom it has given its approval under section 59, and
  - (b) the conduct expected of persons in relation to whom the FCA has given its approval under section 59 in respect of the performance by them

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

of significant-influence functions in relation to the carrying on by PRA-  
authorised persons of regulated activities.

- (1B) A statement of principle issued by either regulator may relate to conduct expected of persons in relation to—
- (a) the performance by them of controlled functions, or
  - (b) the performance by them of any other functions in relation to the carrying on by authorised persons of regulated activities.]
- (2) If [<sup>F31</sup>a regulator] issues a statement of principle under subsection (1) [<sup>F32</sup>or (1A)], it must also issue a code of practice for the purpose of helping to determine whether or not a person's conduct complies with the statement of principle.
- (3) A code issued under subsection (2) may specify—
- (a) descriptions of conduct which, in the opinion of the [<sup>F33</sup>regulator issuing the code], comply with a statement of principle;
  - (b) descriptions of conduct which, in the opinion of the [<sup>F33</sup>regulator issuing the code], do not comply with a statement of principle;
  - (c) factors which, in the opinion of the [<sup>F33</sup>regulator issuing the code], are to be taken into account in determining whether or not a person's conduct complies with a statement of principle.
- (4) [<sup>F34</sup>A regulator] may at any time alter or replace a statement or code issued [<sup>F35</sup>by it] under this section.
- (5) If a statement or code is altered or replaced [<sup>F36</sup>by a regulator], the altered or replacement statement or code must be issued by the [<sup>F37</sup>regulator].
- (6) A statement or code issued under this section must be published by [<sup>F38</sup>the regulator that issued it] in the way appearing to [<sup>F39</sup>that regulator] to be best calculated to bring it to the attention of the public.
- (7) A code published under this section and in force at the time when any particular conduct takes place may be relied on so far as it tends to establish whether or not that conduct complies with a statement of principle.
- (8) Failure to comply with a statement of principle under this section does not of itself give rise to any right of action by persons affected or affect the validity of any transaction.
- (9) A person is not to be taken to have failed to comply with a statement of principle if he shows that, at the time of the alleged failure, it or its associated code of practice had not been published.
- (10) [<sup>F40</sup>A regulator] must, without delay, give the Treasury a copy of any statement or code which it publishes under this section.
- (11) The power under this section to issue statements of principle and codes of practice—
- (a) includes power to make different provision in relation to persons, cases or circumstances of different descriptions; and
  - [<sup>F41</sup>(b) is to be treated for the purposes of section 1B(6)(a) as part of the FCA's rule-making functions (where the power is exercisable by the FCA) and is to be treated for the purposes of section 2J(1)(a) as part of the PRA's rule-making functions (where the power is exercisable by the PRA).]
- (12) [<sup>F42</sup>A regulator] may charge a reasonable fee for providing a person with a copy of a statement or code published [<sup>F43</sup>by it] under this section.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

[<sup>F44</sup>(13) Any expression which is used both in this section and section 59 has the same meaning in this section as in that section.]

#### Textual Amendments

- F30** S. 64(1)-(1B) substituted for s. 64(1) (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), **ss. 14(4), 122(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F31** Words in s. 64(2) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(2)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F32** Words in s. 64(2) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(2)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F33** Words in s. 64(3)(a)-(c) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F34** Words in s. 64(4) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(4)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F35** Words in s. 64(4) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(4)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F36** Words in s. 64(5) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(5)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F37** Word in s. 64(5) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(5)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F38** Words in s. 64(6) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(6)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F39** Words in s. 64(6) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(6)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F40** Words in s. 64(10) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(7)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F41** S. 64(11)(b) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(8)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F42** Words in s. 64(12) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(9)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F43** Words in s. 64(12) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(9)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F44** S. 64(13) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 12(10)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

## 65 Statements and codes: procedure.

[<sup>F45</sup>(1) Before a regulator issues a statement or code under section 64, it must—

- (a) consult the other regulator; and
- (b) after doing so, publish a draft of the statement or code in the way appearing to it to be best calculated to bring the statement or code to the attention of the public.

(1A) The duty of the FCA to consult the PRA under subsection (1)(a) applies only in so far as the statement or code applies to persons in relation to whom approval is given under section 59 in respect of the performance by them of significant-influence functions (within the meaning of that section) in relation to the carrying on by PRA-authorised persons of regulated activities.]

(2) The draft must be accompanied by —

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (a) a cost benefit analysis; and
  - (b) notice that representations about the proposal may be made to <sup>F46</sup>the regulator publishing the draft] within a specified time.
- (3) Before <sup>F47</sup>a regulator issues] the proposed statement or code, <sup>F48</sup>it] must have regard to any representations made to it in accordance with subsection (2)(b).
- (4) If <sup>F49</sup>a regulator] issues the proposed statement or code it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with subsection (2)(b); and
  - (b) its response to them.
- (5) If the statement or code differs from the draft published under subsection (1) in a way which is, in the opinion of <sup>F50</sup>the regulator issuing the statement or code], significant—
- (a) <sup>F51</sup>the regulator] must (in addition to complying with subsection (4)) publish details of the difference; and
  - (b) those details must be accompanied by a cost benefit analysis.
- (6) Neither subsection (2)(a) nor subsection (5)(b) applies if <sup>F52</sup>the regulator concerned] considers—
- (a) that, making the appropriate comparison, there will be no increase in costs; or
  - (b) that, making that comparison, there will be an increase in costs but the increase will be of minimal significance.
- <sup>F53</sup>(7) Subsections (1)(b) and (2) to (6) do not apply in relation to—
- (a) a statement or code issued by the FCA if it considers that the delay involved in complying with them would be prejudicial to the interests of consumers, as defined in section 425A; or
  - (b) a statement or code issued by the PRA if it considers that the delay involved in complying with them would—
    - (i) be prejudicial to the safety and soundness of PRA-<sup>F54</sup>authorised persons, or
    - (ii) in a case where section 2C applies, be prejudicial to securing the appropriate degree of protection for policyholders.]
- (8) A statement or code must state that it is issued under section 64.
- (9) <sup>F54</sup>A regulator] may charge a reasonable fee for providing a copy of a draft published <sup>F55</sup>by it] under subsection (1).
- (10) This section also applies to a proposal to alter or replace a statement or code.
- <sup>F56</sup>(11) Cost benefit analysis” means—
- (a) an analysis of the costs together with an analysis of the benefits that will arise—
    - (i) if the proposed statement or code is issued, or
    - (ii) if subsection (5)(b) applies, from the statement or code that has been issued, and
  - (b) subject to subsection (11A), an estimate of those costs and of those benefits.
- (11A) If, in the opinion of the regulator concerned—
- (a) the costs or benefits referred to in subsection (11) cannot reasonably be estimated, or



*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

(b) it is not reasonably practicable to produce an estimate, the cost benefit analysis need not estimate them, but must include a statement of the opinion of the regulator concerned and an explanation of it.]

(12) “The appropriate comparison” means—

- (a) in relation to subsection (2)(a), a comparison between the overall position if the statement or code is issued and the overall position if it is not issued;
- (b) in relation to subsection (5)(b), a comparison between the overall position after the issuing of the statement or code and the overall position before it was issued.

#### Textual Amendments

- F45** S. 65(1)(1A) substituted for s. 65(1) (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F46** Words in s. 65(2)(b) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F47** Words in s. 65(3) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(4)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F48** Word in s. 65(3) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(4)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F49** Words in s. 65(4) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F50** Words in s. 65(5) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(6)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F51** Words in s. 65(5) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(6)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F52** Words in s. 65(6) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(7)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F53** S. 65(7) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(8)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F54** Words in s. 65(9) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(9)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F55** Words in s. 65(9) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(9)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F56** S. 65(11)(11A) substituted for s. 65(11) (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 5 para. 13(10)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

#### Modifications etc. (not altering text)

- C35** S. 65 excluded (29.10.2004) by The Financial Services and Markets Act 2000 (Transitional Provisions) (Mortgages) Order 2004 (S.I. 2004/2615), arts. 1(2)(a), **4(2)**
- C36** S. 65 excluded (30.6.2008 for certain purposes, otherwise 1.1.2009) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2007 (S.I. 2007/3510), arts. 1(2), **6(2)**

## 66 Disciplinary powers.

- (1) [<sup>F57</sup>A regulator] may take action against a person under this section [<sup>F58</sup>(whether or not it has given its approval in relation to the person)] if—
  - (a) it appears to the [<sup>F59</sup>regulator] that he is guilty of misconduct; and

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (b) the [<sup>F60</sup>regulator] is satisfied that it is appropriate in all the circumstances to take action against him.
- [<sup>F61</sup>(2) For the purposes of action by the FCA, a person is guilty of misconduct if, while an approved person—
- (a) the person has failed to comply with a statement of principle issued by the FCA under section 64, or
  - (b) the person has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person—
    - (i) by or under this Act, or
    - (ii) by any qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order.
- (2A) For the purposes of action by the PRA, a person is guilty of misconduct if, while an approved person in respect of the performance of a significant-influence function in relation to the carrying on by a PRA-authorised person of a regulated activity—
- (a) the person has failed to comply with a statement of principle issued by the PRA under section 64, or
  - (b) the person has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person—
    - (i) by or under this Act, or
    - (ii) by any qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order.]
- (3) If the [<sup>F62</sup>regulator] is entitled to take action under this section against a person, [<sup>F63</sup>it may do one or more of the following—]
- (a) impose a penalty on him of such amount as it considers appropriate;
  - [<sup>F64</sup>(aa) suspend, for such period as it considers appropriate, any approval of the performance by him of any function to which the approval relates;
  - (ab) impose, for such period as it considers appropriate, such limitations or other restrictions in relation to the performance by him of any function to which any approval relates as it considers appropriate;] or
  - (b) publish a statement of his misconduct.
- [<sup>F65</sup>(3A) The period for which a suspension or restriction is to have effect may not exceed two years.
- (3B) A suspension or restriction may have effect in relation to part of a function.
- (3C) A restriction may, in particular, be imposed so as to require any person to take, or refrain from taking, specified action.
- (3D) [<sup>F66</sup>The regulator taking action under this section] may—
- (a) withdraw a suspension or restriction; or
  - (b) vary a suspension or restriction so as to reduce the period for which it has effect or otherwise to limit its effect.]
- (4) [<sup>F67</sup>A regulator] may not take action under this section after the end of the period of [<sup>F68</sup>three years] beginning with the first day on which [<sup>F69</sup>the regulator] knew of the misconduct, unless proceedings in respect of it against the person concerned were begun before the end of that period.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (5) For the purposes of subsection (4)—
- (a) [<sup>F70</sup>a regulator] is to be treated as knowing of misconduct if it has information from which the misconduct can reasonably be inferred; and
  - (b) proceedings against a person in respect of misconduct are to be treated as begun when a warning notice is given to him under section 67(1).

[<sup>F71</sup>(5A) “Approval” means an approval given under section 59.]

[<sup>F72</sup>(6) “Approved person” means a person in relation to whom an approval is given under that section.]

- (7) “Relevant authorised person”, in relation to an approved person, means the person on whose application approval <sup>F73</sup> . . . was given.

[<sup>F74</sup>(8) In relation to any time while a suspension is in force under subsection (3)(aa) in relation to part of a function, any reference in section 59 or 63A to the performance of a function includes the performance of part of a function.

- (9) If at any time a restriction imposed under subsection (3)(ab) is contravened, the approval in relation to the person concerned is to be treated for the purposes of sections 59 and 63A as if it had been withdrawn at that time.]

#### Textual Amendments

- F57** Words in s. 66(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(2\)\(a\)\(i\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F58** Words in s. 66(1) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(2\)\(a\)\(ii\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F59** Word in s. 66(1)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F60** Word in s. 66(1)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F61** S. 66(2)(2A) substituted for s. 66(2) (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F62** Word in s. 66(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(4\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F63** Words in s. 66(3) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(2\)\(a\)](#), 26(2)(b)
- F64** S. 66(3)(aa)(ab) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(2\)\(b\)](#), 26(2)(b)
- F65** S. 66(3A)-(3D) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(3\)](#), 26(2)(b)
- F66** Words in s. 66(3D) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(5\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F67** Words in s. 66(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 5 para. 14\(6\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F68** Words in s. 66(4) substituted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 12\(4\)](#), 26(2)(b)

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- F69** Words in s. 66(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 14\(6\)\(b\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F70** Words in s. 66(5)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 14\(7\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F71** S. 66(5A) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 8\(2\)](#)
- F72** S. 66(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 14\(8\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F73** Words in s. 66(7) omitted (8.6.2010) by virtue of by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 8\(3\)](#)
- F74** S. 66(8)(9) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 8\(4\)](#)

#### **Modifications etc. (not altering text)**

- C37** S. 66 modified (1.12.2001) by [S.I. 2001/2657, arts. 1\(1\), 9](#) (which was revoked (8.10.2001) by [S.I. 2001/3083, arts. 1\(2\), 23](#)); [S.I. 2001/3538, art. 2\(1\)](#)  
S. 66 modified (1.12.2001) by [S.I. 2001/3083, arts. 1\(2\), 9](#); [S.I. 2001/3538, art. 2\(1\)](#)
- C38** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\), regs. 1\(2\)\(c\), 95, Sch. 5 para. 1](#) (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 155\(6\)\(a\)](#) (with Sch. 2 para. 156))
- C39** Ss. 66-70 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\), reg. 19, Sch. para. 1](#)
- C40** Ss. 66-70 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\), regs. 1\(2\)\(b\), 62, Sch. 3 para. 1](#) (with art. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 196\(5\)\(a\)](#))
- C41** S. 66(3)(a) restricted (1.12.2001) by [S.I. 2001/3592, arts. 1\(2\), 60\(2\)](#) (with art. 23(2))

## **67 Disciplinary measures: procedure and right to refer to Tribunal.**

(1) If the Authority proposes to take action against a person under section 66, it must give him a warning notice<sup>F75</sup>; and if it proposes to take action under subsection (3)(aa) or (ab) of that section, it must also give each of the other interested parties a warning notice.]

(2) A warning notice about a proposal to impose a penalty must state the amount of the penalty.

[<sup>F76</sup>(2A) A warning notice about a proposal—

- (a) to suspend an approval, or
  - (b) to impose a restriction in relation to the performance of a function,
- must state the period for which the suspension or restriction is to have effect.]

(3) A warning notice about a proposal to publish a statement must set out the terms of the statement.

(4) If the Authority decides to take action against a person under section 66, it must give him a decision notice<sup>F77</sup>; and if it decides to take action under subsection (3)(aa) or

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

(ab) of that section, it must also give each of the other interested parties a decision notice.]

(5) A decision notice about the imposition of a penalty must state the amount of the penalty.

[<sup>F78</sup>(5A) A decision notice about—

- (a) the suspension of an approval, or
- (b) the imposition of a restriction in relation to the performance of a function, must state the period for which the suspension or restriction is to have effect.]

(6) A decision notice about the publication of a statement must set out the terms of the statement.

(7) If the Authority decides to take action against a person under section 66, he may refer the matter to the Tribunal[<sup>F79</sup>; and if the Authority decides to take action under section 66(3)(aa) or (ab), each of the other interested parties may also refer the matter to the Tribunal.]

[<sup>F80</sup>(8) Approval” means an approval given under section 59.

- (9) “Other interested parties”, in relation to an approved person (“A”), are—
- (a) the person on whose application the approval was given (“B”); and
  - (b) the person by whom A's services are retained, if not B.

The reference in this subsection to an approved person has the same meaning as in section 64.]

#### Textual Amendments

- F75** Words in s. 67(1) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(2\)](#)
- F76** S. 67(2A) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(3\)](#)
- F77** Words in s. 67(4) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(4\)](#)
- F78** S. 67(5A) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(5\)](#)
- F79** Words in s. 67(7) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(6\)](#)
- F80** S. 67(8)(9) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 9\(7\)](#)

#### Modifications etc. (not altering text)

- C42** S. 67 excluded (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 61(3), 85(5) (with art. 23(2))
- C43** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(c), 95, [Sch. 5 para. 1](#) (with reg. 3)
- C44** Ss. 66-70 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), reg. 19, [Sch. para. 1](#)
- C45** Ss. 66-70 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(b), 62, [Sch. 3 para. 1](#) (with art. 3)
- C46** S. 67(4) modified (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 73(2), 74(2) (with art. 23(2))

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

## 68 Publication.

After a statement under section 66 is published, the Authority must send a copy of it to the person concerned and to any person to whom a copy of the decision notice was given.

### Modifications etc. (not altering text)

- C47** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(c), 95, **Sch. 5 para. 1** (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), Sch. 2 para. 155(6)(a) (with **Sch. 2 para. 156**))
- C48** Ss. 66-70 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), reg. 19, **Sch. para. 1**
- C49** Ss. 66-70 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(b), 62, **Sch. 3 para. 1** (with art. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(a)**)

## 69 Statement of policy.

- (1) [<sup>F81</sup>Each regulator must] prepare and issue a statement of its policy with respect to—
  - [<sup>F82</sup>(a) the imposition of penalties, suspensions or restrictions under section 66;
  - (b) the amount of penalties under that section; and
  - (c) the period for which suspensions or restrictions under that section are to have effect.]
- (2) [<sup>F83</sup>A regulator's] policy in determining what the amount of a penalty should be [<sup>F84</sup>, or what the period for which a suspension or restriction is to have effect should be.] must include having regard to—
  - (a) the seriousness of the misconduct in question in relation to the nature of the principle or requirement concerned;
  - (b) the extent to which that misconduct was deliberate or reckless; and
  - (c) whether [<sup>F85</sup>the person against whom action is to be taken] is an individual.
- (3) [<sup>F86</sup>A regulator] may at any time alter or replace a statement issued [<sup>F87</sup>by it] under this section.
- (4) If a statement issued under this section is altered or [<sup>F88</sup>replaced by a regulator, the regulator] must issue the altered or replacement statement.
- (5) [<sup>F89</sup>A regulator] must, without delay, give the Treasury a copy of any statement which it publishes under this section.
- (6) A statement issued under this section [<sup>F90</sup>by a regulator] must be published by [<sup>F91</sup>the regulator] in the way appearing to [<sup>F91</sup>the regulator] to be best calculated to bring it to the attention of the public.
- (7) The [<sup>F92</sup>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 section 66 in the case of any particular misconduct, [<sup>F93</sup>a regulator] must have regard to any statement of policy

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

published [<sup>F94</sup>by it] under this section and in force at the time when the misconduct in question occurred.

#### Textual Amendments

- F81** Words in s. 69(1) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F82** S. 69(1)(a)-(c) substituted (8.6.2010) for s. 69(1)(a)(b) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 10\(2\)](#)
- F83** Words in s. 69(2) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F84** Words in s. 69(2) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 10\(3\)\(a\)](#)
- F85** Words in s. 69(2)(c) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(2\)\(d\)\(e\), Sch. 2 para. 10\(3\)\(b\)](#)
- F86** Words in s. 69(3) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F87** Words in s. 69(3) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(4\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F88** Words in s. 69(4) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(5\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F89** Words in s. 69(5) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(6\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F90** Words in s. 69(6) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(7\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F91** Words in s. 69(6) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(7\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F92** Word in s. 69(7) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(8\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F93** Words in s. 69(8) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(9\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F94** Words in s. 69(8) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 17\(9\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

#### Modifications etc. (not altering text)

- C50** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\), regs. 1\(2\)\(c\), 95, Sch. 5 para. 1](#) (with [reg. 3](#))
- C51** Ss. 66-70 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\), reg. 19, Sch. para. 1](#)
- C52** S. 69 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\), reg. 22\(1\)](#)
- C53** Ss. 66-70 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\), regs. 1\(2\)\(b\), 62, Sch. 3 para. 1](#) (with [art. 3](#))

## 70 Statements of policy: procedure.

- (1) Before [<sup>F95</sup>a regulator issues] a statement under section 69, the [<sup>F96</sup>regulator] must publish a draft of the proposed statement in the way appearing to the [<sup>F96</sup>regulator] to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the [<sup>F97</sup>regulator] within a specified time.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

- (3) Before issuing the proposed statement, the [F98regulator] must have regard to any representations made to it in accordance with subsection (2).
- (4) If the [F99regulator] issues the proposed statement it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with subsection (2); and
  - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the [F100regulator], significant, the [F100regulator] must (in addition to complying with subsection (4)) publish details of the difference.
- (6) [F101A regulator] may charge a reasonable fee for providing a person with a copy of a draft published [F102by it] under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.

#### Textual Amendments

- F95** Words in s. 70(1) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(2\)\(a\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F96** Word in s. 70(1) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(2\)\(b\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F97** Word in s. 70(2) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(3\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F98** Word in s. 70(3) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(3\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F99** Word in s. 70(4) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(3\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F100** Word in s. 70(5) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(3\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F101** Words in s. 70(6) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(4\)\(a\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F102** Words in s. 70(6) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 5 para. 18\(4\)\(b\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

#### Modifications etc. (not altering text)

- C54** Ss. 66-70 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\), regs. 1\(2\)\(c\), 95, Sch. 5 para. 1](#) (with reg. 3)
- C55** Ss. 66-70 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\), reg. 19, Sch. para. 1](#)
- C56** S. 70 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\), reg. 22\(1\)](#)
- C57** Ss. 66-70 applied (with modifications) (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\), regs. 1\(2\)\(b\), 62, Sch. 3 para. 1](#) (with art. 3)



*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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)*

### *Breach of statutory duty*

#### **71 Actions for damages.**

- (1) A contravention of section 56(6) or 59(1) or (2) is actionable at the suit of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (2) In prescribed cases, a contravention of that kind which would be actionable at the suit of a private person is actionable at the suit of a person who is not a private person, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) “Private person” has such meaning as may be prescribed.

#### **Commencement Information**

- 19** S. 71 wholly in force at 1.12.2001; s. 71 not in force at Royal Assent see s. 431(2); s. 71(2)(3) in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)](#), [Sch. Pt. 2](#); s. 71 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

**Status:**

Point in time view as at 27/02/2013.

**Changes to legislation:**

Financial Services and Markets Act 2000, Part V is up to date with all changes known to be in force on or before 21 June 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.