



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 4A

PERMISSION TO CARRY ON REGULATED ACTIVITIES

Variation and cancellation of Part 4A permission

[^{F1}55J Variation or cancellation on initiative of regulator

- (1) Either regulator may exercise its power under this section in relation to an authorised person with a Part 4A permission (“A”) if it appears to the regulator that—
- (a) A is failing, or is likely to fail, to satisfy the threshold conditions for which the regulator is responsible,
 - (b) A has failed, during a period of at least 12 months, to carry on a regulated activity to which the Part 4A permission relates, ^{F2}...
 - (c) it is desirable to exercise the power in order to advance—
 - (i) in the case of the FCA, one or more of its operational objectives,
 - (ii) in the case of the PRA, any of its objectives [^{F3}, or
 - (d) in the case of the FCA, A has failed to comply with a requirement in Part 5 of the Alternative Investment Fund Managers Regulations 2013 (AIFs which acquire control of non-listed companies and issuers), or it is for some other reason desirable to exercise the power for the purposes of ensuring compliance with such a requirement].
- (2) The FCA's power under this section is the power—
- (a) to vary the Part 4A permission by—
 - (i) adding a regulated activity other than a PRA-regulated activity to those to which the permission relates,
 - (ii) removing a regulated activity from those to which the permission relates, or

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- (iii) varying the description of a regulated activity to which the permission relates in a way which, if it is a PRA-regulated activity, does not, in the opinion of the FCA, widen the description, or
 - (b) to cancel the Part 4A permission.
- (3) The PRA's power under this section is the power—
- (a) in the case of a PRA-authorized person, to vary the Part 4A permission in any of the ways mentioned in section 55I(1) or to cancel it;
 - (b) in the case of an authorised person who is not a PRA-authorized person, to vary the Part 4A permission by adding a PRA-regulated activity to those to which the permission relates and, if the PRA does so, to vary the Part 4A permission in any of the other ways mentioned in section 55I(1).
- (4) The FCA—
- (a) must consult the PRA before exercising its power under this section in relation to—
 - (i) a PRA-authorized person, or
 - (ii) a member of a group which includes a PRA-authorized person, and
 - (b) in the case of a PRA-authorized person, may exercise the power so as to add a new activity to those to which the permission relates or to widen the description of a regulated activity to which the permission relates, only with the consent of the PRA
- [^{F4}, but paragraph (b) does not apply in relation to the regulated activity specified in article 63S of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (administering a benchmark).]
- (5) The PRA—
- (a) must consult the FCA before exercising its power under this section, and
 - (b) may exercise the power so as to add a new activity to those to which the permission relates or to widen the description of a regulated activity to which the permission relates, only with the consent of the FCA.
- (6) Without prejudice to the generality of subsections (1) to (3), a regulator may, in relation to an authorised person who is an investment firm, exercise its power under this section to cancel the Part 4A permission if it appears to it that any of the conditions in section 55K is met.
- [Without prejudice to the generality of subsections (1) to (3), the FCA may, in relation
- ^{F5}(6A) to an authorised person who is a full-scope UKAIFM, exercise its power under this section to cancel the Part 4A permission if it appears to it that any of the following conditions is met—
- (a) the person has failed, during a period of at least six months, to carry on the regulated activity of managing an AIF;
 - (b) the person obtained the Part 4A permission to carry on the regulated activity of managing an AIF by making a false statement or by any other irregular means;
 - (c) in a case where the Part 4A permission includes permission to [^{F6}carry on the management of portfolios of investments in accordance with mandates given by investors on a discretionary, and client-by-client, basis], the person no longer complies with [^{F7}Part 9C rules];
 - (d) the person no longer meets the conditions that a person must meet in order to obtain a Part 4A permission to carry on the regulated activity of managing an AIF;

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- (e) the person has seriously or systematically infringed—
 - ^{F8}(i) an AIFMD requirement;
 - ^{F9}(ii)
 - ^{F9}(iii)
 - ^{F10}(iv) an ELTIF requirement; or]
 - ^{F11}(v) an MMF requirement.]]

[For the purposes of subsection (6A)(e)—

- ^{F12}(6AA) (a) an AIFMD requirement is a provision of—
 - (i) the Alternative Investment Fund Managers Regulations 2013,
 - (ii) any EU regulation, originally made under the alternative investment fund managers directive, which is retained direct EU legislation,
 - (iii) any provision made by or under this Act that immediately before IP completion day implemented provisions of the alternative investment fund managers directive (as that implementing provision is amended from time to time), or
 - (iv) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under the alternative investment fund managers directive by regulations made under section 8 of the European Union (Withdrawal) Act 2018;
- (b) an ELTIF requirement is a provision of—
 - (i) Regulation (EU) No. 2015/760 of the European Parliament and of the Council of 29th April 2015 on European Long-term Investment Funds (“the ELTIF Regulation”),
 - (ii) any EU regulation, originally made under the ELTIF Regulation, which is retained direct EU legislation, or
 - (iii) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the ELTIF Regulation on or after IP completion day;
- (c) an MMF requirement is a provision of—
 - (i) the MMF Regulation,
 - (ii) any EU regulation, originally made under the MMF Regulation, which is retained direct EU legislation, or
 - (iii) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the MMF Regulation on or after IP completion day.]

^{F13}(6B) [Without prejudice to the generality of subsections (1) to (3), the FCA may, in relation to an authorised person who is a mortgage intermediary and who has a Part 4A permission to carry on a relevant mortgage activity, exercise its power under this section to cancel the Part 4A permission or to vary the Part 4A permission by removing a relevant mortgage activity from the activities to which the permission relates, if it appears to the FCA that any of the following conditions is met—

- (a) during a period of at least six months, the person has not carried on a relevant mortgage activity;
- (b) the person obtained the Part 4A permission to carry on a relevant mortgage activity by making a false statement or by any other irregular means;

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- (c) the person no longer meets the conditions which the person was ^{F14}... required to meet in order to be granted a Part 4A permission to carry on a relevant mortgage activity; or
- (d) the person has seriously or systematically infringed any provision made by or under this Act which [^{F15}sets] the operating conditions for mortgage intermediaries ^{F16}....

(6C) In subsection (6B) “relevant mortgage activity” means—

- (a) an activity of a kind specified in article 25A (arranging regulated mortgage contracts), article 53A (advising on regulated mortgage contracts) or article 53DA (advising on regulated credit agreements the purpose of which is to acquire land) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, or
- (b) an activity of a kind specified in article 36A of that Order (credit broking) which is referred to in Article 33(1)(a) of the mortgages directive.]

^{F17}(7)

[Without prejudice to the generality of subsections (1) and (2), if it appears to the ^{F18}(7ZA) FCA that there has been a serious failure, by a person with permission to carry on the regulated activity specified in article 51ZA of the Financial Services and Markets Act (Regulated Activities) Order 2001 (managing a [^{F19}UK]UCITS), to comply with the requirements imposed—

- (a) by or under this Act in pursuance of the UCITS Directive, ^{F20}...
- (b) by the Undertakings for Collective Investment in Transferable Securities Regulations 2011, [^{F21}or]

[^{F22}(c) an MMF requirement,]

the FCA may exercise its powers under this section to vary the Part 4A permission of the person concerned by removing that activity from those to which the permission relates, or to cancel the person’s Part 4A permission.]

(7ZB) Without prejudice to the generality of subsections (1) and (2), the FCA may, in relation to an authorised person who is an investment firm, exercise its power under this section if it appears to it that the authorised person has failed to comply with a requirement [^{F23}imposed by—

- (a) the market abuse regulation,
- (b) any EU regulation, originally made under the market abuse regulation, which is retained direct EU legislation, or
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the market abuse regulation on or after IP completion day.]

[Without prejudice to the generality of subsections (1) and (2), if it appears to the FCA, ^{F24}(7ZC) in relation to a person who has a permission to carry on the regulated activity specified in article 63S of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (administering a benchmark), that the conditions in Article 35(1) of the EU Benchmarks Regulation 2016 are met, the FCA may exercise its powers under this section—

- (a) to vary the Part 4A permission by removing that activity from those to which the permission relates, or
- (b) to cancel the Part 4A permission.]

[Without prejudice to the generality of subsections (1) and (3), if it appears to the PRA ^{F25}(7A) that there has been a serious failure by a PRA-authorised person who is an insurance

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undertaking or reinsurance undertaking to comply with requirements imposed by or under this Act in pursuance of the Solvency 2 Directive, the PRA may exercise its powers under this section to cancel the undertaking's Part 4A permission.

(7B) If it appears to the PRA that the conditions in section 55KA are met in relation to a PRA-authorised person who is an insurance undertaking, reinsurance undertaking or third-country insurance undertaking, the PRA must—

(a) in relation to the undertaking's Part 4A permission so far as the permission relates to the regulated activity of effecting contracts of insurance as principal ("activity A"), exercise the PRA's powers under this section by varying the permission—

(i) where the permission relates to activity A in relation to both contracts of long-term insurance and contracts of general insurance and the conditions in section 55KA are met only in relation to the business of the undertaking so far as relating to contracts of one of those kinds, so as to remove activity A so far as relating to contracts of that kind from the regulated activities to which the permission relates, and

(ii) in any other case, so as to remove activity A from the regulated activities to which the permission relates;

(b) in relation to the undertaking's Part 4A permission so far as the permission relates to the regulated activity of carrying out contracts of insurance as principal ("activity B"), exercise the PRA's powers under this section, if it appears to the PRA to be necessary to do so to protect the interests of the undertaking's policyholders, by varying the Part 4A permission—

(i) where the permission relates to activity B in relation to both contracts of long-term insurance and contracts of general insurance and the conditions in section 55KA are met only in relation to the business of the undertaking so far as relating to contracts of one of the those kinds, so as to remove activity B so far as relating to contracts of that kind from the regulated activities to which the permission relates, and

(ii) in any other case, so as to remove activity B from the regulated activities to which the permission relates.

(7C) If the effect of a variation required by subsection (7B) is to remove all the regulated activities to which the Part 4A permission relates, the PRA must instead cancel the permission.]

(8) If, as a result of a variation of a Part 4A permission under this section, there are no longer any regulated activities for which the authorised person concerned has permission, the regulator responsible for the variation must, once it is satisfied that it is no longer necessary to keep the permission in force, cancel it.

(9) Before cancelling under subsection (8) a Part 4A permission which relates to a person who (before the variation) was a PRA-authorised person, the regulator must consult the other regulator.

(10) The power of either regulator to vary a Part 4A permission under this section extends to including in the permission as varied any provision that could be included if a fresh permission were being given in response to an application to that regulator under section 55A.

(11) Consent given by one regulator for the purpose of subsection (4)(b) or (5)(b) may be conditional on the manner in which the other regulator exercises its powers under section 55E(4) and (5) or 55F(3) and (4) (as a result of subsection (10)).

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(12) The power of the FCA or the PRA under this section is referred to in this Part as its own-initiative variation power.

[In this section “enactment” has the meaning given by section 3T.]]

F26(13)

Textual Amendments

- F1** Pt. 4A substituted for ss. 40-55 (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. 11(2)**, 122(3) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b)(c), [Sch. Pts. 2, 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F2** Word in s. 55J(1) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 5(a)(i)**
- F3** S. 55J(1)(d) and word inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 5(a)(ii)**
- F4** Words in s. 55J(4) inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **40(7)(a)**
- F5** S. 55J(6A) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 5(b)**
- F6** Words in s. 55J(6A)(c) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(2)(a)(i)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F7** Words in s. 55J(6A)(c) substituted (1.1.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/1376\)](#), regs. 1(3), **4(3)**
- F8** S. 55J(6A)(e)(i) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(2)(b)(i)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F9** S. 55J(6A)(e)(ii)(iii) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(2)(b)(ii)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F10** S. 55J(6A)(e)(iv) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(2)(b)(iii)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F11** S. 55J(6A)(e)(v) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(2)(b)(iv)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F12** S. 55J(6AA) inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(3)** (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 33\(e\)\(ii\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#) Edit
- F13** S. 55J(6B)(6C) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(3)** (with Pt. 4)
- F14** Words in s. 55J(6B)(c) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(4)(a)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F15** Word in s. 55J(6B)(d) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(4)(b)(i)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F16** Words in s. 55J(6B)(d) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(4)(b)(ii)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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- F17** S. 55J(7) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** S. 55J(7ZA) inserted (18.3.2016) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2016 \(S.I. 2016/225\)](#), regs. 1, **2(2)**
- F19** Word in s. 55J(7ZA) inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F20** Word in s. 55J(7ZA)(a) omitted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by virtue of [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(2)(b)(i)**
- F21** Word in s. 55J(7ZA)(b) inserted (28.6.2018 for specified purposes, 21.7.2018 in so far as not already in force) by [The Money Market Funds Regulations 2018 \(S.I. 2018/698\)](#), regs. 1(2), **2(2)(b)(ii)**
- F22** S. 55J(7ZA)(c) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in s. 55J(7ZB) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(7)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 33(c)(iii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F24** S. 55J(7ZC) inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **40(7)(b)**
- F25** S. 55J(7A)-(7C) inserted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 2(2)**
- F26** S. 55J(13) inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **16(8)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C1** S. 55J(1) modified by S.I. 1995/1442, reg. 49(2) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 12(c)(i)**)
- C2** S. 55J(1)(b) modified (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Permission and Approval\) Order 2013 \(S.I. 2013/440\)](#), arts. 1(1), **8(1)**

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