



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART V

PERFORMANCE OF REGULATED ACTIVITIES

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 [^{F1}the appropriate regulator] 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 [^{F2}the appropriate regulator] approves the performance by that person of the controlled function to which the arrangement relates.

[^{F3}(3) “Controlled function”—

- (a) in relation to the carrying on of a regulated activity by a PRA-authorised person, means a function of a description specified in rules made by the FCA or the PRA, and
 - (b) in relation to the carrying on of a regulated activity by any other authorised person, means a function of a description specified in rules made by the FCA.
- (4) “The appropriate regulator”—
- (a) in relation to a controlled function which is of a description specified in rules made by the FCA, means the FCA, and
 - (b) in relation to a controlled function which is of a description specified in rules made by the PRA, means the PRA with the consent of the FCA.

Status: Point in time view as at 25/07/2014. This version of this provision has been superseded.

Changes to legislation: Financial Services and Markets Act 2000, Section 59 is up to date with all changes known to be in force on or before 03 July 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)

^{F4}(5)

[^{F5}(6) The PRA may specify a description of function under subsection (3)(a) only if, in relation to the carrying on of a regulated activity by a PRA-authorized person, it is satisfied that the function is a senior management function as defined in section 59ZA.]

[^{F6}(6A) If—

- (a) a function of a description specified in rules made by the FCA under subsection (3)(a) or (b) is a controlled function in relation to the carrying on of a regulated activity by a relevant authorised person, and
- (b) the FCA is satisfied that, in relation to the carrying on of a regulated activity by a relevant authorised person, the function is a senior management function as defined in section 59ZA,

the FCA must designate the function in the rules as a senior management function.

(6B) If a function of a description specified in rules made by the PRA under subsection (3) (a) is a controlled function in relation to the carrying on of a regulated activity by a relevant authorised person, the PRA must designate the function in the rules as a senior management function.

(6C) For the meaning of “relevant authorised person”, see section 71A.]

^{F7}(7)

^{F7}(7A)

^{F7}(7B)]

[^{F8}(7C) A regulator may not exercise the power in subsection (3) so as to provide for a function to be a controlled function in relation to the carrying on of the regulated activity of managing an AIF by an AIFM which—

- (a) is also an AIF;
- (b) does not manage any AIF other than itself;
- (c) is a body corporate; and
- (d) is not a collective investment scheme.]

(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 [^{F9}or the emission allowance auctioning regulation] to an authority in a country or territory outside the United Kingdom.

^{F10}(9)

(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).

^{F11}(11)

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Textual Amendments

- F1** Words in s. 59(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 14(1)(a)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F2** Words in s. 59(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 14(1)(a)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F3** S. 59(3)-(7B) substituted for s. 59(3)-(7) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 14(1)(b)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F4** S. 59(5) omitted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(2)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F5** S. 59(6) substituted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(3)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F6** S. 59(6A)-(6C) inserted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(4)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F7** S. 59(7)-(7B) omitted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(5)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))
- F8** S. 59(7C) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 7**
- F9** 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)**
- F10** S. 59(9) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 5 para. 3** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F11** S. 59(11) omitted (25.7.2014 for specified purposes, 7.3.2016 in so far as not already in force) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 18(5)**, 148(5); [S.I. 2014/1819](#), art. 2(2)(a); [S.I. 2015/490](#), art. 2(1)(b) (with savings and transitional provisions in [S.I. 2015/492](#) (as amended by [S.I. 2015/1660](#)))

Modifications etc. (not altering text)

- C1** 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))
- C2** 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)**
- C3** 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](#)}
- C4** S. 59 modified (1.1.2010) by [The Northern Rock plc Transfer Order 2009 \(S.I. 2009/3226\)](#), arts. 1(2)(b), **10**
- C5** 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

- I1** 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)**

Status:

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