

SCHEDULES

SCHEDULE 9

DISCIPLINE AND ENFORCEMENT

PART 4

DISCIPLINARY MEASURES

10 In Part 14 (disciplinary measures), before section 205 insert—

“204A Meaning of “relevant requirement” and “appropriate regulator”

- (1) The following definitions apply for the purposes of this Part.
- (2) “Relevant requirement” means a requirement imposed—
 - (a) by or under this Act, or
 - (b) by a qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order.
- (3) The PRA is “the appropriate regulator” in the case of a contravention of—
 - (a) a requirement that is imposed under any provision of this Act by the PRA;
 - (b) a requirement under section 56(6) where the authorised person concerned is a PRA-authorised person and the prohibition order concerned is made by the PRA;
 - (c) a requirement under section 59(1) or (2) where the authorised person concerned is a PRA-authorised person and the approval concerned falls to be given by the PRA.
- (4) In the case of a contravention of a requirement that is imposed by a qualifying EU provision, “the appropriate regulator” for the purpose of any provision of this Part is whichever of the PRA or the FCA (or both) is specified by the Treasury by order in relation to the qualifying EU provision for the purposes of that provision of this Part.
- (5) In the case of a contravention of a requirement where the contravention constitutes an offence, the “appropriate regulator” is whichever of the PRA or the FCA has power to prosecute the offence (see section 401).
- (6) The FCA is “the appropriate regulator” in the case of a contravention of any other requirement imposed by or under this Act.
- (7) The Treasury may by order amend the provisions defining “the appropriate regulator”.

11 In section 205 (public censure)—

- (a) for “Authority”, in the first place, substitute “appropriate regulator”, and

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- (b) for the words from “a requirement” to “may” substitute “a relevant requirement imposed on the person, it may”.
- 12 (1) Section 206 (financial penalties) is amended as follows.
- (2) In subsection (1)—
- (a) for “Authority” substitute “appropriate regulator”, and
- (b) for the words from “a requirement” to “auctioning regulation” substitute “a relevant requirement imposed on the person,”.
- (3) In subsection (3), for “Authority” substitute “regulator that imposed the penalty”.
- 13 (1) Section 206A (suspending permission to carry on regulated activities etc.) is amended as follows.
- (2) In subsection (1), for “Authority” substitute “appropriate regulator”.
- (3) After that subsection insert—
- “(1A) The power conferred by subsection (1) is also exercisable by the FCA if it considers that an authorised person has contravened a requirement imposed on the person by—
- (a) the Payment Services Regulations 2009, or
- (b) the Electronic Money Regulations 2011.”
- (4) In subsection (2)—
- (a) in the definition of “permission”, for “the Authority” substitute “the FCA or the PRA”, and
- (b) omit the definition of “relevant requirement”.
- (5) In subsection (6), for “Authority” substitute “appropriate regulator”.
- 14 In section 207(1) (proposal to take disciplinary measures), for “the Authority” substitute “a regulator”.
- 15 In section 208(1) and (4) (decision notice), for “the Authority”, in each place, substitute “a regulator”.
- 16 In section 209 (publication), for “the Authority” substitute “the regulator concerned”.
- 17 (1) Section 210 (statements of policy) is amended as follows.
- (2) In subsection (1), for “The Authority” substitute “Each regulator”.
- (3) After subsection (1) insert—
- “(1A) Each regulator's policy with respect to the imposition of penalties, suspensions or restrictions under this Part must include policy with respect to their imposition in relation to conduct which constitutes or may constitute an offence by virtue of section 23(1A) (authorised persons carrying on credit-related regulated activities otherwise than in accordance with permission).”
- (4) In subsection (2), for “The Authority's” substitute “A regulator's”.
- (5) In subsection (3)—
- (a) for “The Authority” substitute “A regulator”, and
- (b) after “issued” insert “by it”.

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- (6) In subsection (4), for “replaced, the Authority” substitute “replaced by a regulator, the regulator”.
 - (7) In subsection (5), for “The Authority” substitute “A regulator”.
 - (8) In subsection (6)—
 - (a) after “section” insert “by a regulator”, and
 - (b) for “Authority”, in both places, substitute “regulator”.
 - (9) In subsection (7)—
 - (a) for “the Authority” substitute “a regulator”, and
 - (b) after “published” insert “by it”.
 - (10) In subsection (8), for “Authority” substitute “regulator”.
- 18 (1) Section 211 (statements of policy: procedure) is amended as follows.
- (2) In subsection (1)—
 - (a) for “issuing” substitute “a regulator issues”, and
 - (b) for “Authority”, in both places, substitute “regulator”.
 - (3) In subsections (2) to (4) and (5) (in both places), for “Authority” substitute “regulator”.
 - (4) In subsection (6), for “The Authority” substitute “A regulator”.