
Changes to legislation: Financial Services Act 2012, PART 5 is up to date with all changes known to be in force on or before 15 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) View outstanding changes

SCHEDULES

SCHEDULE 9 **U.K.**

DISCIPLINE AND ENFORCEMENT

PART 5 **U.K.**

INJUNCTIONS AND RESTITUTION

- 19 (1) Section 380 (injunctions) is amended as follows.
- (2) In subsections (1) to (3), for “Authority” substitute “ appropriate regulator ”.
- (3) In subsection (6)(a)—
- (a) in the opening words, for “Authority” substitute “ appropriate regulator ”,
 - (b) for sub-paragraph (i) (but not the “or” following it) substitute—
 - “(i) which is imposed by or under this Act or by a qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order”, and
 - (c) in sub-paragraph (ii), for the words from “which the Authority” to the end substitute “ mentioned in section 402(1) ”.
- (4) In subsection (7), omit paragraph (a) (and the “and” at the end of it).
- (5) After subsection (7) insert—
- “(8) The PRA is the “appropriate regulator” in the case of a contravention of—
 - (a) a requirement that is imposed by the PRA under any provision of this Act,
 - (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, or
 - (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.
- (9) In the case of a contravention of a requirement that is imposed by a qualifying EU provision, “the appropriate regulator” 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 this section.
- (10) In the case of a contravention of a requirement where the contravention constitutes an offence under this Act, the “appropriate regulator” is whichever of the PRA or the FCA has power to prosecute the offence (see section 401).

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(11) The FCA is the “appropriate regulator” in the case of a contravention of any other requirement.

(12) The Treasury may by order amend the definition of “appropriate regulator”.

Commencement Information

- I1** Sch. 9 para. 19 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2
I2 Sch. 9 para. 19 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

20 (1) Section 381 (injunctions in case of market abuse) is amended as follows.

(2) In subsections (1) to (3), for “Authority” substitute “ FCA ”.

(3) In subsection (4), after “The court” insert “ may ”.

Commencement Information

- I3** Sch. 9 para. 20 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

21 (1) Section 382 (restitution orders) is amended as follows.

(2) In subsection (1), for “Authority” substitute “ appropriate regulator ”.

(3) In subsections (2) and (3), for “Authority” substitute “ regulator concerned ”.

(4) In subsection (7), for “Authority” substitute “ appropriate regulator ”.

(5) In subsection (9)(a)—

(a) in the opening words, for “Authority” substitute “ appropriate regulator ”,

(b) for sub-paragraph (i) (but not the “or” following it) substitute—

“(i) which is imposed by or under this Act or by a qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order”, and

(c) in sub-paragraph (ii), for the words from “which the Authority” to the end substitute “ mentioned in section 402(1) ”.

(6) In subsection (10), omit paragraph (a) (and the “and” at the end of it).

(7) After subsection (10) insert—

“(11) The PRA is the “appropriate regulator” in the case of a contravention of—

(a) a requirement that is imposed by the PRA under any provision of this Act,

(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, or

(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.

(12) In the case of a contravention of a requirement that is imposed by a qualifying EU provision, “the appropriate regulator” is whichever of the PRA or the

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FCA (or both) is specified by the Treasury by order in relation to the qualifying EU provision for the purposes of this section.

- (13) In the case of a contravention of a requirement where the contravention constitutes an offence under this Act, the “appropriate regulator” is the regulator which has power to prosecute the offence (see section 401).
- (14) The FCA is the “appropriate regulator” in the case of a contravention of any other requirement.
- (15) The Treasury may by order amend the definition of “appropriate regulator”.

Commencement Information

- I4** Sch. 9 para. 21 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2
- I5** Sch. 9 para. 21 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 22 In section 383(1), (4), (5) and (9) (restitution orders in case of market abuse), for “Authority” substitute “FCA”.

Commencement Information

- I6** Sch. 9 para. 22 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 23 (1) Section 384 (power of Authority to require restitution) is amended as follows.
- (2) In subsection (1)—
- (a) for “The Authority” substitute “The appropriate regulator”, and
- (b) after “authorised person” insert “or recognised investment exchange”.
- (3) In subsections (2) and (4), for “Authority” substitute “FCA”.
- (4) In subsection (5)—
- (a) for “Authority”, in the first place, substitute “regulator exercising the power (“the regulator concerned”)”, and
- (b) for “Authority”, in each of the other places, substitute “regulator concerned”.
- (5) In subsection (6), for “Authority” substitute “regulator concerned”.
- (6) In subsection (7)—
- (a) in paragraph (a), for the words from “any directly applicable” to “auctioning regulation” substitute “a qualifying EU provision specified, or of a description specified, for the purposes of this subsection by the Treasury by order”, and
- (b) in paragraph (b), for the words from “in relation to which” to the end substitute “mentioned in section 402(1)”.
- (7) Omit subsection (8).
- (8) After subsection (8) insert—
- “(9) The PRA is the “appropriate regulator” in the case of a contravention of—
- (a) a requirement that is imposed by the PRA under any provision of this Act,

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- (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, or
 - (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.
- (10) In the case of a contravention of a requirement that is imposed by a qualifying EU provision, “the appropriate regulator” 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 this section.
- (11) In the case of a contravention of a requirement where the contravention constitutes an offence under this Act, the “appropriate regulator” is the regulator which has power to prosecute the offence (see section 401).
- (12) The FCA is the “appropriate regulator” in the case of a contravention of any other requirement.
- (13) The Treasury may by order amend the definition of “appropriate regulator”.
- (9) In the heading, for “Authority” substitute “ FCA or PRA ”.
- (10) In the italic heading before section 384, for “Authority” substitute “ FCA or PRA ”.

Commencement Information

- I7** Sch. 9 para. 23 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2
- I8** Sch. 9 para. 23 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 24 (1) Section 385 (warning notices) is amended as follows.
- (2) In subsection (1), for “the Authority” substitute “ a regulator ”.
- (3) In subsection (2), for “the Authority” substitute “ the regulator ”.

Commencement Information

- I9** Sch. 9 para. 24 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 25 In section 386(1) and (3) (decision notices), for “Authority” substitute “ regulator ”.

Commencement Information

- I10** Sch. 9 para. 25 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

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

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)