

Status: Point in time view as at 26/07/2013.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, PART V is up to date with all changes known to be in force on or before 20 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)

STATUTORY INSTRUMENTS

2001 No. 544

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

[^{F1}PART V

UNAUTHORISED PERSONS CARRYING ON INSURANCE MEDIATION ACTIVITIES

Textual Amendments

- F1** Pt. 5 inserted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **13**

Interpretation

92. In this Part—

“designated professional body” means a body which is for the time being designated by the Treasury under section 326 of the Act (designation of professional bodies);

“insurance mediation activity” means any regulated activity of the kind specified by article 21, 25(1) or (2), 39A or 53, or, so far as relevant to any of those articles, article 64, which is carried on in relation to a contract of insurance;

“the record” means the record maintained by [^{F2}the FCA] under section 347 of the Act (public record of authorised persons etc.);

“recorded insurance intermediary” has the meaning given by article 93(4);

“a relevant member”, in relation to a designated professional body, means a member (within the meaning of section 325(2) of the Act) of the profession in relation to which that designated professional body is established, or a person who is controlled or managed by one or more such members.

Textual Amendments

- F2** Words in art. 92 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(a)**

Duty to maintain a record of unauthorised persons carrying on insurance mediation activities

- 93.—**(1) Subject to articles 95 and 96, [^{F3}the FCA] must include in the record every person who—

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- (a) as a result of information obtained by virtue of its rules or by virtue of a direction given, or requirement imposed, under [F⁴section 55U(4)] of the Act (procedure for applications under Part IV), appears to [F³the FCA] to fall within paragraph (2); or
 - (b) as a result of information obtained by virtue of article 94, appears to [F³the FCA] to fall within paragraph (3).
- (2) A person falls within this paragraph if he is, or has entered into a contract by virtue of which he will be, an appointed representative who carries on any insurance mediation activity.
- (3) A person falls within this paragraph if—
- (a) he is a relevant member of a designated professional body who carries on, or is proposing to carry on, any insurance mediation activity; and
 - (b) the general prohibition does not (or will not) apply to the carrying on of those activities by virtue of section 327 of the Act (exemption from the general prohibition).
- (4) In this Part, “recorded insurance intermediary” means a person who is included in the record by virtue of paragraph (1).
- (5) The record must include—
- (a) in the case of any recorded insurance intermediary, its address; and
 - (b) in the case of a recorded insurance intermediary which is not an individual, the name of the individuals who are responsible for the management of the business carried on by the intermediary, so far as it relates to insurance mediation activities.

Textual Amendments

- F3** Words in art. 93(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(a)**
- F4** Words in art. 93(1)(a) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(h)**

Members of designated professional bodies

- 94.**—(1) A designated professional body must, by notice in writing, inform [F⁵the FCA] of—
- (a) the name,
 - (b) the address, and
 - (c) in the case of a relevant member which is not an individual, the name of the individuals who are responsible for the management of the business carried on by the member, so far as it relates to insurance mediation activities,
- of any relevant member who falls within paragraph (2).
- (2) A relevant member of a designated professional body falls within this paragraph if, in accordance with the rules of that body, he carries on, or proposes to carry on any insurance mediation activity but does not have, and does not propose to apply for, Part IV permission on the basis that the general prohibition does not (or will not) apply to the carrying on of that activity by virtue of section 327 of the Act.
- (3) A designated professional body must also, by notice in writing, inform [F⁶the FCA] of any change in relation to the matters specified in sub-paragraphs (a) to (c) of paragraph (1).
- (4) A designated professional body must inform [F⁶the FCA] when a relevant member to whom paragraph (2) applies ceases, for whatever reason, to carry on insurance mediation activities.

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(5) [F6The FCA] may give directions to a designated professional body as to the manner in which the information referred to in paragraphs (1), (3) and (4) must be provided.

Textual Amendments

- F5** Words in art. 94(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(a)**
- F6** Words in art. 94(3)(4)(5) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(a)**

Exclusion from record where not fit and proper to carry on insurance mediation activities

95.—(1) If it appears to [F7the FCA] that a person who falls within article 93(2) (appointed representatives) (“AR”) is not a fit and proper person to carry on insurance mediation activities, it may decide not to include him in the record or, if that person is already included in the record, to remove him from the record.

(2) Where [F7the FCA] proposes to make a determination under paragraph (1), it must give AR a warning notice.

(3) If [F7the FCA] makes a determination under paragraph (1), it must give AR a decision notice.

(4) If [F7the FCA] gives AR a decision notice under paragraph (3), AR may refer the matter to the Tribunal.

(5) [F7The FCA] may, on the application of AR, revoke a determination under paragraph (1).

(6) If [F7the FCA] decides to grant the application, it must give AR written notice of its decision.

(7) If [F7the FCA] proposes to refuse the application, it must give AR a warning notice.

(8) If [F7the FCA] decides to refuse the application, it must give AR a decision notice.

(9) If [F7the FCA] gives AR a decision notice under paragraph (8), AR may refer the matter to the Tribunal.

(10) Sections 393 and 394 of the Act (third party rights and access to [F8FCA or PRA] material) apply to a warning notice given in accordance with paragraph (2) or (7) and to a decision notice given in accordance with paragraph (3) or (8).

Textual Amendments

- F7** Words in art. 95(1)-(9) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(a)**
- F8** Words in art. 95(10) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(i)**

Exclusion from the record where [F9FCA] has exercised its powers under Part XX of the Act

96.—(1) If a person who appears to [F10the FCA] to fall within article 93(3) (member of a designated professional body) falls within paragraph (2) or (3), [F10the FCA] must not include him in the record or, if that person is already included in the record, must remove him from the record.

(2) A person falls within this paragraph if, by virtue of a direction given by [F10the FCA] under section 328(1) of the Act (directions in relation to the general prohibition), section 327(1) of the Act does not apply in relation to the carrying on by him of any insurance mediation activity.

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(3) A person falls within this paragraph if [^{F10}the FCA] has made an order under section 329(2) of the Act (orders in relation to the general prohibition) disapplying section 327(1) of the Act in relation to the carrying on by him of any insurance mediation activity.]

Textual Amendments

- F9** Word in art. 96 heading substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(j)**
- F10** Words in art. 96 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(a)**

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