
STATUTORY INSTRUMENTS

2007 No. 2157

The Money Laundering Regulations 2007 (revoked)

PART 5

ENFORCEMENT

Civil penalties, review and appeals

Power to impose civil penalties

42.—(1) A designated authority may impose a penalty of such amount as it considers appropriate on a ^{F1}... person [^{F2}(except an auction platform)] who fails to comply with any requirement in regulation 7(1), (2) or (3), 8(1) or (3), 9(2), 10(1), 11(1), 14(1), 15(1) or (2), 16(1), (2), (3) or (4), 19(1), (4), (5) or (6), 20(1), (4) or (5), 21, 26, 27(4) or 33 ^{F3}....

[^{F4}(1A) A designated authority may impose a penalty of such amount as it considers appropriate on an auction platform which fails to comply with—

- (a) the customer due diligence requirements of Article 19 or 20(6) of the emission allowance auctioning regulation;
- (b) the monitoring and record keeping requirements of Article 54 of the emission allowance auctioning regulation; or
- (c) regulation 20(1), (4) or (5) or 21 of these Regulations;]

^{F5}...

[^{F6}(1B) A designated authority may impose a penalty of such amount as it considers appropriate on a person who fails to comply with any requirement of a notice given under regulation 37(1).]

[^{F6}(1C) In paragraphs (1), (1A) and (1B), “appropriate” means effective, proportionate and dissuasive.]

(2) The designated authority must not impose a penalty on a person under paragraph (1)[^{F7}, (1A) or (1B)] where there are reasonable grounds for it to be satisfied that the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) In deciding whether a person has failed to comply with a requirement of these Regulations, the designated authority must consider whether he followed any relevant guidance which was at the time—

- (a) issued by a supervisory authority or any other appropriate body;
- (b) approved by the Treasury; and
- (c) published in a manner approved by the Treasury as suitable in their opinion to bring the guidance to the attention of persons likely to be affected by it.

(4) In paragraph (3), an “appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by the [^{F8}person].

Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the The Money Laundering Regulations 2007 (revoked), Cross Heading: Civil penalties, review and appeals. (See end of Document for details)

[^{F9}(4A) Where the Authority proposes to impose a penalty under this regulation on a PRA-
authorised person or on a person who has a qualifying relationship with a PRA-
authorised person, it must consult the PRA.]

(5) Where the Commissioners decide to impose a penalty under this regulation, they must give the person notice of—

- (a) their decision to impose the penalty and its amount;
- (b) the reasons for imposing the penalty;
- (c) the right to a review under regulation [^{F10}43A]; and
- (d) the right to appeal under regulation [^{F11}43].

(6) Where the Authority, the OFT or DETI proposes to impose a penalty under this regulation, it must give the person notice of—

- (a) its proposal to impose the penalty and the proposed amount;
- (b) the reasons for imposing the penalty; and
- (c) the right to make representations to it within a specified period (which may not be less than 28 days).

(7) The Authority, the OFT or DETI, as the case may be, must then decide, within a reasonable period, whether to impose a penalty under this regulation and it must give the person notice of—

- (a) its decision not to impose a penalty; or
- (b) the following matters—
 - (i) its decision to impose a penalty and the amount;
 - (ii) the reasons for its decision; and
 - (iii) the right to appeal under regulation 44(1)(b).

(8) A penalty imposed under this regulation is payable to the designated authority which imposes it.

Textual Amendments

- F1** Word in reg. 42(1) omitted (1.10.2012) by virtue of [The Money Laundering \(Amendment\) Regulations 2012 \(S.I. 2012/2298\)](#), regs. 1, **14(a)(i)**
- F2** Words in reg. 42(1) inserted (12.12.2011) by [The Recognised Auction Platforms Regulations 2011 \(S.I. 2011/2699\)](#), regs. 1(2)(a), **11(7)(a)**
- F3** Words in reg. 42(1) omitted (1.10.2012) by virtue of [The Money Laundering \(Amendment\) Regulations 2012 \(S.I. 2012/2298\)](#), regs. 1, **14(a)(ii)**
- F4** Reg. 42(1A) inserted (12.12.2011) by [The Recognised Auction Platforms Regulations 2011 \(S.I. 2011/2699\)](#), regs. 1(2)(a), **11(7)(b)**
- F5** Words in reg. 42(1A) omitted (1.10.2012) by virtue of [The Money Laundering \(Amendment\) Regulations 2012 \(S.I. 2012/2298\)](#), regs. 1, **14(b)**
- F6** Reg. 42(1B)(1C) inserted (1.10.2012) by [The Money Laundering \(Amendment\) Regulations 2012 \(S.I. 2012/2298\)](#), regs. 1, **14(c)**
- F7** Words in reg. 42(2) substituted (1.10.2012) by [The Money Laundering \(Amendment\) Regulations 2012 \(S.I. 2012/2298\)](#), regs. 1, **14(d)**
- F8** Word in reg. 42(4) substituted (15.12.2007) by [The Money Laundering \(Amendment\) Regulations 2007 \(S.I. 2007/3299\)](#), regs. 1, **2(e)**
- F9** Reg. 42(4A) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 129(e)**
- F10** Word in reg. 42(5)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 171(2)**

F11 Word in reg. 42(5)(d) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 171(3)**

[^{F12}Appeals against decisions of the Commissioners]

43.—(1) This regulation applies to decisions of the Commissioners made under—

[^{F13}(za) regulation 28, to the effect that a person is not a fit and proper person;]

- (a) regulation 29, to refuse to register an applicant;
- (b) regulation 30, to cancel the registration of a registered person; and
- (c) regulation 42, to impose a penalty.

(2) Any person who is the subject of a decision to which this regulation applies may **[^{F14}appeal to the tribunal in accordance with regulation 43F]**.

[^{F15}(3) The provisions of Part 5 of the Value Added Tax Act 1994 (appeals), subject to the modifications set out in paragraph 1 of Schedule 5 to these Regulations, apply in respect of appeals to a tribunal made under this regulation as they apply in respect of appeals made to the tribunal under section 83 (appeals) of that Act.]

[^{F15}(4) A tribunal hearing an appeal under paragraph (2) has the power to—

- (a) quash or vary any decision of the supervisory authority, including the power to reduce any penalty to such amount (including nil) as it thinks proper, and
- (b) substitute its own decision for any decision quashed on appeal.]

[^{F15}(5) The modifications in Schedule 5 have effect for the purposes of appeals made under this regulation.]

[^{F15}(6) For the purposes of appeals under this regulation, the meaning of “tribunal” is as defined in section 82 of the Value Added Tax Act 1994.]

Textual Amendments

- F12** Reg. 43 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 172(2)** (with Sch. 3 paras. 2-4)
- F13** Reg. 43(1)(za) inserted (1.10.2012) by [The Money Laundering \(Amendment\) Regulations 2012 \(S.I. 2012/2298\)](#), regs. 1, **15**
- F14** Words in reg. 43(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 172(3)** (with Sch. 3 paras. 2-4)
- F15** Reg. 43(3)-(6) substituted for (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 172(4)** (with Sch. 3 paras. 2-4)

[^{F16}Offer of review]

43A.—(1) The Commissioners must offer a person (P) a review of a decision that has been notified to P if an appeal lies under regulation 43 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This regulation does not apply to the notification of the conclusions of a review.]

Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the The Money Laundering Regulations 2007 (revoked), Cross Heading: Civil penalties, review and appeals. (See end of Document for details)

Textual Amendments

F16 Regs. 43A-43F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 173** (with Sch. 3 paras. 2-4)

[^{F16}Review by the Commissioners

43B.—(1) The Commissioners must review a decision if—

- (a) they have offered a review of the decision under regulation 43A, and
- (b) P notifies the Commissioners accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under regulation 43F.

(3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 43F in respect of the decision.]

Textual Amendments

F16 Regs. 43A-43F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 173** (with Sch. 3 paras. 2-4)

[^{F16}Extensions of time

43C.—(1) If under regulation 43A, the Commissioners have offered P a review of a decision, the Commissioners may within the relevant period notify P that the relevant period is extended.

(2) If notice is given the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(3) In this regulation “relevant period” means—

- (a) the period of 30 days referred to in regulation 43B(1)(b), or
- (b) if notice has been given under paragraph (1) that period as extended (or as most recently extended) in accordance with paragraph (2).]

Textual Amendments

F16 Regs. 43A-43F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 173** (with Sch. 3 paras. 2-4)

[^{F16}Review out of time

43D.—(1) This regulation applies if—

- (a) the Commissioners have offered a review of a decision under regulation 43A, and
- (b) P does not accept the offer within the time allowed under regulation 43B(1)(b) or 43C(2).

(2) The Commissioners must review the decision under regulation 43B if—

- (a) after the time allowed, P notifies the Commissioners in writing requesting a review out of time,
 - (b) the Commissioners are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
 - (c) the Commissioners are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.
- (3) The Commissioners shall not review a decision if P has appealed to the tribunal under regulation 43F in respect of the decision.]

Textual Amendments

F16 Regs. 43A-43F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 173** (with Sch. 3 paras. 2-4)

[^{F16}Nature of review etc

43E.—(1) This regulation applies if the Commissioners are required to undertake a review under regulation 43B or 43D.

(2) The nature and extent of the review are to be such as appear appropriate to the Commissioners in the circumstances.

(3) For the purpose of paragraph (2), the Commissioners must, in particular, have regard to steps taken before the beginning of the review—

- (a) by the Commissioners in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P at a stage which gives the Commissioners a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) The Commissioners must give P notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as the Commissioners and P may agree.

(7) In paragraph (6) “relevant date” means—

- (a) the date the Commissioners received P’s notification accepting the offer of a review (in a case falling within regulation 43A), or
- (b) the date on which the Commissioners decided to undertake the review (in a case falling within regulation 43D).

(8) Where the Commissioners are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If paragraph (8) applies, the Commissioners must notify P of the conclusion which the review is treated as having reached.]

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Textual Amendments

F16 Regs. 43A-43F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 173** (with Sch. 3 paras. 2-4)

[^{F16}Bringing of appeals against decisions of the Commissioners

- 43F.**—(1) An appeal under regulation 43 is to be made to the tribunal before—
- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
 - (b) if later, the end of the relevant period (within the meaning of regulation 43C).
- (2) But that is subject to paragraphs (3) to (5).
- (3) In a case where the Commissioners are required to undertake a review under regulation 43B—
- (a) an appeal may not be made until the conclusion date, and
 - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where the Commissioners are requested to undertake a review in accordance with regulation 43D—
- (a) an appeal may not be made—
 - (i) unless the Commissioners have decided whether or not to undertake a review, and
 - (ii) if the Commissioners decide to undertake a review, until the conclusion date; and
 - (b) any appeal is to be made within the period of 30 days beginning with—
 - (i) the conclusion date (if the Commissioners decide to undertake a review), or
 - (ii) the date on which the Commissioners decide not to undertake a review.
- (5) In a case where regulation 43E(8) applies, an appeal may be made at any time from the end of the period specified in regulation 43E(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in paragraph (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.
- (7) In this regulation “conclusion date” means the date of the document notifying the conclusions of the review.]

Textual Amendments

F16 Regs. 43A-43F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 173** (with Sch. 3 paras. 2-4)

Appeals

- 44.**—(1) A person may appeal from a decision by—
- ^{F17}(a)
 - (b) the Authority, the OFT or DETI under regulation 34 or 42.
- (2) An appeal from a decision by—
- ^{F18}(a)
 - (b) the Authority is to the [^{F19}Upper Tribunal];

- (c) the OFT is to the [^{F20}First-tier Tribunal]; and
- (d) DETI is to the High Court.

^{F21}(3)

(4) The provisions of Part 9 of the 2000 Act (hearings and appeals), subject to the modifications set out in paragraph 2 of Schedule 5, apply in respect of appeals to the [^{F22}Upper Tribunal] made under this regulation as they apply in respect of references made to that Tribunal under that Act.

^{F23}(5)

^{F24}(6)

(7) Notwithstanding paragraph (2)(c), until the coming into force of section 55 of the Consumer Credit Act 2006 ^{M1} (the Consumer Credit Appeals Tribunal), an appeal from a decision by the OFT is to the Financial Services and Markets Tribunal and, for these purposes, the coming into force of that section shall not affect—

- (a) the hearing and determination by the Financial Service and Markets Tribunal of an appeal commenced before the coming into force of that section (“the original appeal”); or
- (b) any appeal against the decision of the Financial Services and Markets Tribunal with respect to the original appeal.

(8) The modifications in Schedule 5 have effect for the purposes of appeals made under this regulation.

Textual Amendments

- F17** Reg. 44(1)(a) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 174(2)** (with Sch. 3 paras. 2-4)
- F18** Reg. 44(2)(a) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 174(2)** (with Sch. 3 paras. 2-4)
- F19** Words in reg. 44(2)(b) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), **Sch. 3 para. 141**
- F20** Words in reg. 44(2)(c) substituted (1.9.2009) by [The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 \(S.I. 2009/1835\)](#), art. 1, **Sch. 2 para. 1(a)** (with Sch. 4)
- F21** Reg. 44(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 174(3)** (with Sch. 3 paras. 2-4)
- F22** Words in reg. 44(4) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), **Sch. 3 para. 141**
- F23** Reg. 44(5) omitted (1.9.2009) by virtue of [The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 \(S.I. 2009/1835\)](#), art. 1, **Sch. 2 para. 1(b)** (with Sch. 4)
- F24** Reg. 44(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 174(4)** (with Sch. 3 paras. 2-4)

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- M1** 2006 c. 14.

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