
STATUTORY INSTRUMENTS

2013 No. 161

**The Financial Services Act 2012 (Transitional Provisions)
(Rules and Miscellaneous Provisions) Order 2013**

PART 2

Designation of rules etc

Designation of rules etc

2.—(1) A designating body may designate a relevant instrument, or part of a relevant instrument, which was made, issued, given or imposed by the Authority if the designating body considers it necessary or expedient to do so in consequence of any provision made by or under the 2012 Act.

(2) If a designating body designates a relevant instrument or part, in accordance with this Part, the instrument or part is to be treated—

- (a) as having been made, issued, given or imposed by the designating body;
- (b) as having been made, issued, given or imposed (or also made, issued, given or imposed) under a corresponding provision of—
 - (i) the 2012 Act;
 - (ii) an enactment as amended by or under the 2012 Act.

(3) A designating body may make such modifications to a relevant instrument or part designated, or being designated, by that body as the body considers necessary or expedient in consequence of any provision made by or under the 2012 Act.

Designating instruments

3.—(1) To designate or modify a relevant instrument or part of a relevant instrument, the designating body must make an instrument in writing which specifies, or more than one instrument in writing which between them specify—

- (a) the relevant instrument or part;
- (b) any modifications being made to the relevant instrument or part;
- (c) the provision under which the relevant instrument or part was made;
- (d) where article 2(2)(b) applies, the corresponding provision; and
- (e) the date on which the designation is to come into effect.

(2) In this Part, an instrument which, by itself or taken together with one or more other instruments, satisfies the requirements of paragraph (1) is a “designating instrument”.

(3) Where a designating instrument specifies more than one relevant instrument or part, the requirements of paragraphs (1)(c) and (d) may be met by specifying the provisions and corresponding provisions relating to those relevant instruments or parts collectively.

(4) The designating body must publish each designating instrument in the way appearing to the designating body to be best calculated to bring it to the attention of the public.

(5) A person is not to be taken to have contravened a relevant instrument designated by a designating body if the person shows that, at the time of the alleged contravention, the designating instrument concerned had not been published.

(6) A designating instrument is to be treated as a rule-making instrument for the purposes of section 138H (verification of rules) of FSMA 2000⁽¹⁾.

(7) A designating instrument may contain provision other than that required by paragraph (1).

(8) The making of a designating instrument is a legislative function for the purposes of—

(a) paragraph 8(2) of Schedule 1ZA to FSMA 2000⁽²⁾ (arrangements for discharging functions);

(b) paragraph 16(2) of Schedule 1ZB to FSMA 2000⁽³⁾ (arrangements for discharging functions);

(c) section 85 of the 2012 Act (relevant functions in relation to complaints scheme).

(9) Paragraph 8(2) of Schedule 1ZA to FSMA 2000, to the extent that it is not already in force, is to be treated for the purposes of this order as if it were in force.

Relevant instruments not designated before 1st April 2013

4.—(1) Paragraph (2) applies to any relevant instrument, or any part of a relevant instrument, which—

(a) was made, issued, given or imposed by the Authority before the commencement date; and

(b) is not designated before the commencement date in accordance with this Part.

(2) The relevant instrument or part ceases to have effect on the commencement date.

(3) Nothing in this article prevents a designating body from designating, on or after the commencement date, a relevant instrument or part to which paragraph (2) applies.

⁽¹⁾ Section 138H is inserted by section 24 of the 2012 Act.

⁽²⁾ Schedule 1ZA is inserted by Schedule 3 to the 2012 Act.

⁽³⁾ Schedule 1ZB is inserted by Schedule 3 to the 2012 Act.