
STATUTORY INSTRUMENTS

2013 No. 1881

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013

PART 8

Transitional provisions

CHAPTER 2

Licensing etc.

Civil penalties – where no determination made before 1st April 2014

44.—(1) Paragraphs (2) to (7) apply if, before 1st April 2014—

- (a) the OFT had given a notice under section 39B(1) of the 1974 Act (notice that OFT is minded to impose a civil penalty)^{M1} to a person (“A”) that it is minded to impose a penalty on A under section 39A of the 1974 Act (power to impose civil penalties)^{M2}, and
- (b) the OFT had not before 1st April 2014—
 - (i) given A a penalty notice under section 39A of the 1974 Act, or
 - (ii) given notice to A under section 34 of the 1974 Act of its determination not to give such a penalty notice.

(2) The notice is to be treated as a warning notice given by the FCA to A under section 207(1)(b) of the Act^{M3} (except for the purposes of sections 210 (statements of policy) and 387 (warning notices) which do not apply).

(3) The notice has effect subject to any necessary modifications.

(4) For the purposes of this article, each reference in Part 14 of the Act and any provision made under Part 14 of the Act to an “authorised person” is to be treated as including a reference to A.

(5) If the period for making representations under section 34 of the 1974 Act in connection with that notice had not expired before 1st April 2014, subsections (1) and (2) of that section continue to apply as if—

- (a) in subsection (1), references to the OFT (apart from the first reference) were references to the FCA or, before 1st April 2014, the OFT;
- (b) in subsection (2), the reference to the OFT was to the FCA.

(6) In determining what if any financial penalty to impose on A, the FCA must have regard to—

- (a) any penalty or fine that has been imposed on A by another body in relation to the conduct giving rise to the possible imposition of the penalty;
- (b) other steps the OFT or FCA has taken, or the FCA might take, in relation to that conduct;
- (c) the statement of policy prepared by the OFT under section 39C of the 1974 Act^{M4} as most recently published at the time the conduct occurred.

Status: Point in time view as at 26/07/2013. This version of this provision has been superseded.
Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, Section 44 is up to date with all changes known to be in force on or before 31 May 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)

(7) The financial penalty imposed on A by the FCA in relation to each failure to comply with a requirement may not exceed £50,000.

(8) Section 210 of the Act (statement of policy) does not apply to a penalty imposed by the FCA by virtue of this article.

Marginal Citations

- M1** Inserted by the Consumer Credit Act 2006, section 53.
- M2** Inserted by the Consumer Credit Act 2006, section 52.
- M3** Amended by the Financial Services Act 2010, Schedule 2, paragraphs 1 and 18, and the Financial Services Act 2012, Schedule 9, paragraphs 1 and 14.
- M4** Inserted by the Consumer Credit Act 2006, section 54.

Status:

Point in time view as at 26/07/2013. This version of this provision has been superseded.

Changes to legislation:

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