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STATUTORY INSTRUMENTS

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**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 formal action taken before 1st April 2014**

**47.—**(1) Paragraphs (2) to (6) apply if—

- (a) the FCA is satisfied that a person (“A”) had, before 1st April 2014, failed to comply with a requirement imposed on A under section 33A, 33B or 36A of the 1974 Act<sup>(1)</sup>, and
- (b) the OFT had not, before 1st April 2014, given a notice under section 39B(1) of the 1974 Act to A that the OFT was minded to impose a penalty on A under section 39A of the 1974 Act.

(2) The FCA may impose a penalty, in respect of the failure, on A under section 206 of the Act (financial penalties)<sup>(2)</sup>.

(3) 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.

(4) 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 as most recently published at the time the conduct occurred.

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

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

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<sup>(1)</sup> Section 36A inserted by the Consumer Credit Act 2006, section 45.

<sup>(2)</sup> Amended by the Financial Services Act 2010, section 10, and the Financial Services Act 2012, Schedule 9, paragraphs 1 and 12.