

SCHEDULE 2

Amendments to primary and secondary legislation

PART 1

Amendments to FSMA

23. After section 391 insert—

“391A Publication: special provisions relating to certain penalties

(1) This section applies where a decision notice or final notice relates to the imposition of a penalty to which Article 68(1) of the capital requirements directive applies.

(2) Where a regulator publishes information under section 391(4) about a matter to which a decision notice relates and the person to whom the notice is given refers the matter to the Tribunal, the regulator must, without undue delay, publish on its official website information about the status of the appeal and its outcome.

(3) Subject to subsection (4), where a regulator gives a final notice, the regulator must publish information on the type and nature of the breach and the identity of the person on whom the penalty is imposed.

(4) Information about a matter to which a final notice relates must be published anonymously where—

- (a) the penalty is imposed on an individual and, following an obligatory prior assessment, publication of personal data is found to be disproportionate;
- (b) publication would jeopardise the stability of financial markets or an ongoing criminal investigation; or
- (c) publication would cause, insofar as it can be determined, disproportionate damage to the persons involved.

(5) Where subsection (4) applies, the regulator may make such arrangements as to the publication of information (including as to the timing of publication) as are necessary to preserve the anonymity of the person on whom the penalty is imposed.

(6) Where a regulator publishes information in accordance with subsections (2) to (5), the regulator must—

- (a) publish the information on its official website;
- (b) ensure the information remains on its official website for at least five years, unless the information is personal data and the Data Protection Act 1998 requires the information to be retained for a different period; and
- (c) disclose to EBA any penalty imposed, any appeal against such a penalty and the outcome of the appeal, unless such a disclosure is not permitted by section 348.”.

Changes to legislation:

The Capital Requirements Regulations 2013, Paragraph 23 is up to date with all changes known to be in force on or before 26 June 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)