
STATUTORY INSTRUMENTS

2013 No. 442

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

PART 11

Investigation of complaints

Complaints made before the commencement date

- 61.**—(1) Paragraph (2) applies if, before the commencement date—
- (a) a complaint was made to the Authority;
 - (b) the complaint was eligible for investigation in accordance with the complaints scheme made under paragraph 7 of Schedule 1(1) (arrangements for the investigation of complaints) (“the old scheme”); and
 - (c) the investigation of the complaint was not completed.
- (2) Unless both the Authority and the investigator appointed under that paragraph 7 decided, before the commencement date, not to investigate the complaint—
- (a) the complaint is to be treated as if it had been made to the FCA under the complaints scheme made under section 84 of the 2012 Act (arrangements for the investigation of complaints) (“the new scheme”);
 - (b) anything done by the Authority for the purposes of, or in connection with, the investigation of the complaint in accordance with the old scheme is to be treated as if it had been done by the FCA for the purposes of, or in connection with, the investigation of the complaint in accordance with the new scheme;
 - (c) subject to section 87(9) of the 2012 Act (investigation of complaints), anything done by the investigator or a person appointed by the investigator for the purposes of, or in connection with, the investigation of the complaint in accordance with the old scheme is to be treated as if it had been done by the investigator or the person appointed by the investigator (as the case may be) for the purposes of, or in connection with, the investigation of the complaint in accordance with the new scheme.
- (3) For the purposes of paragraph (2)(a)—
- (a) section 84(1)(a) of the 2012 Act applies as if the reference to the relevant functions of the FCA were a reference to the functions of the Authority (other than its legislative functions) within the meaning of paragraph 7(1)(a) of Schedule 1 as it applied immediately before the commencement date; and
 - (b) section 85 of the 2012 Act is to be treated as if it were omitted.
- (4) Paragraphs (5) and (6) apply if, before the commencement date—

- (a) the investigator reported that a complaint was well-founded or criticised the Authority in a report; and
 - (b) the Authority did not inform the investigator and the complainant in accordance with paragraph 8(6) of Schedule 1 (investigation of complaints) of the steps it proposed to take in response to the report.
- (5) The report is to be treated as if it had been made to the FCA under the new scheme.
- (6) The FCA must inform the investigator and the complainant in accordance with section 87(6) of the 2012 Act of the steps it proposes to take in response to the report.
- (7) Paragraph (8) applies if, before the commencement date—
- (a) the investigator required the Authority under paragraph 8(7) of Schedule 1 to publish the whole or a specified part of the Authority’s response to the investigator’s report; and
 - (b) the Authority had not complied with the requirement.
- (8) The FCA must publish the response or the specified part.