
STATUTORY INSTRUMENTS

2015 No. 492

**The Financial Services (Banking Reform) Act 2013
(Transitional and Savings Provisions) Order 2015**

PART 2

Approval for particular arrangements

Requirement to give notice in relation to an approved person

2.—(1) Every class 1 firm and class 2 firm must before 8th February 2016 give a notice to the appropriate regulator in accordance with this article (an “article 2 notice”) in respect of each person (“P”) (subject to rules made by the regulators under paragraph (2)) in respect of whom that regulator has granted a pre-implementation approval in relation to that firm.

(2) Either or both of the regulators may make rules specifying those persons (or classes of persons) in respect of whom a class 1 or class 2 firm is not required to give a notice to the appropriate regulator under paragraph (1).

(3) In relation to an article 2 notice (or a revised article 2 notice)—

- (a) the notice must specify the post-implementation controlled functions⁽¹⁾ that P will perform on and after 7th March 2016 (the “notified functions”);
- (b) each of the notified functions must be an equivalent function in relation to one or more pre-implementation controlled functions which, immediately before 7th March 2016, P has approval to perform; and
- (c) if the notice concerns the performance of a designated senior management function in relation to a relevant authorised person⁽²⁾ it must contain, or be accompanied by, a statement setting out the aspects of the affairs of the relevant authorised person which it is intended the person who is the subject of the notice will be responsible for managing in performing the notified functions.

(4) If—

- (a) an article 2 notice is given before 7th March 2016 (whether or not that notice was given before 8th February 2016), and
- (b) the conditions in article 3 are met (the “conditions for continuing approval”),

the pre-implementation approval concerned has effect on and after 7th March 2016 in accordance with article 4.

(5) If an article 2 notice has been given in respect of a person but in relation to one or more pre-implementation controlled functions for which approval has been given in respect of that person—

- (a) that notice does not specify a notified function, or
- (b) the notified function specified in that notice is not an equivalent function,

(1) “controlled function” is defined in section 59.

(2) “relevant authorised person” is defined in section 71A. Section 71A is inserted by the 2013 Act, section 33.

the pre-implementation approval given in respect of that person ceases to have effect at the beginning of 7th March 2016 in relation to the pre-implementation controlled functions concerned.

- (6) If notice is required under paragraph (1) in respect of a person but before 7th March 2016—
- (a) notice has not been given in respect of that person; or
 - (b) a notice to which paragraph (3)(c) applies has been given in respect of that person but that notice does not meet the requirements in paragraph (3)(c),

the pre-implementation approval given in respect of that person ceases to have effect at the beginning of 7th March 2016 in relation to all of the functions for which it has been given.

Conditions for continuation of an approval

3. In relation to a pre-implementation approval, the conditions for continuing approval are that—
- (a) the pre-implementation approval has not been withdrawn before 7th March 2016; and
 - (b) in relation to each notified function specified in an article 2 notice concerning the person (“P”) to whom the pre-implementation approval has been given—
 - (i) on the notification date P is performing a function which falls within the description of that notified function; and
 - (ii) immediately before 7th March 2016 P is continuing to perform that function.

Treatment of a continuing approval

- 4.—(1) In relation to a person (“P”) a continuing approval is to be treated as if it had been given—
- (a) in relation to the notified functions specified in an article 2 notice concerning P, and
 - (b) by the appropriate regulator.

(2) Where, immediately before 7th March 2016, the pre-implementation approval is subject to a suspension or limitation imposed under section 66(3)(disciplinary powers)(3), that suspension or limitation is from the beginning of 7th March 2016 to be treated as if it were imposed by the appropriate regulator in respect of the notified functions.

(3) Where, immediately before 7th March 2016, the pre-implementation approval is subject to a restriction imposed under section 66(3)(ab)(disciplinary powers)(4), that restriction is from the beginning of 7th March 2016 to be treated as if it were a condition imposed under section 66(3)(ab).

(4) This article applies whether or not one of the regulators has given a warning notice or a decision notice to P under—

- (a) section 63 (withdrawal of approval)(5);
- (b) section 63B (procedure and right to refer to tribunal)(6); or
- (c) section 67 (disciplinary measures: procedure and right to refer to Tribunal)(7).

Regulators’ power to impose requirements for an article 2 notice

- 5.—(1) An article 2 notice (or a revised article 2 notice) must—

(3) Section 66 was amended by the Financial Services Act 2010 (c. 28), section 12, section 24 and Schedule 2, Part 1, paragraphs 1, 8; the Financial Services Act 2012 (c. 21), Schedule 5, paragraphs 1, 14; S.I. 2013/1773, Schedule 1, Part 1, Paragraphs 7, 8; and the 2013 Act, section 28, 32 and Schedule 3, paragraph 5.

(4) Section 66(3)(ab) is substituted together with subsection (ac) for section 66(3)(ab) by the 2013 Act, Schedule 3, paragraph 5.

(5) Section 63 is amended by the Financial Services Act 2012 (c. 81), section 14(3) and Schedule 5, paragraphs 1, 7; and the 2013 Act, section 25 and Schedule 3, paragraph 3.

(6) Section 63B was amended by the Financial Services Act 2012 (c.81), Schedule 5, paragraphs 1, 9.

(7) Section 67 was amended by the Financial Services Act 2010 (c. 28), section 24 and Schedule 2, Part 1, paragraphs 1, 9; the Financial Services Act 2012 (c. 81), Schedule 5, paragraphs 1, 15; and the 2013 Act, Schedule 3, paragraph 6.

- (a) be given in such form as the appropriate regulator may direct; and
 - (b) contain, or be accompanied by, such information as the appropriate regulator may reasonably require.
- (2) The appropriate regulator may require the authorised person concerned to present information which that person is required to give under this article in such form, or to verify it in such a way, as the appropriate regulator may direct, and may in particular—
- (a) give different directions, and impose different requirements, in relation to different notices or categories of notice;
 - (b) require, or permit, an article 2 notice and an article 11 notice to be contained in a single document.
- (3) The PRA must consult the FCA before—
- (a) giving a direction under paragraph (2)(a) in relation to a class of persons giving an article 2 notice;
 - (b) imposing a requirement under paragraph (2)(b) in relation to a class of such persons.

Revision of an article 2 notice

- 6.—(1) If before 7th March 2016—
- (a) there is a change relating to information given in or accompanying an article 2 notice (or a revised notice given in accordance with this article), or
 - (b) the person giving the notice discovers that any part of that information is inaccurate,
- the authorised person concerned must before that date submit a revised notice to each regulator (“a revised article 2 notice”).
- (2) If the authorised person concerned submits one or more revised article 2 notices which update the notified functions specified in the article 2 notice, articles 2, 3 and 4 apply as if references in those articles to “notified functions” were to functions specified in the last revised notice received by the regulators.

Application of section 63ZA to a continuing approval

7. Section 63ZA (variation of senior manager’s approval at request of relevant authorised person)(8) applies to a continuing approval to perform a designated senior management function in relation to the carrying on of a regulated activity by a relevant authorised person as it applies to an approval that is granted subject to conditions, but as if references to the appropriate regulator (9) were to the regulator who is treated under article 4(1)(b) as having given the continuing approval.

Application of section 62A to a statement provided under article 2(3)(c)

8. Where by virtue of article 2(4) a pre-implementation approval given in relation to a person continues to have effect on and after 7th March 2016 as an approval for the person to perform a designated senior management function in relation to the carrying on of a regulated activity by a relevant authorised person, section 62A (changes in responsibilities of senior managers)(10) has effect in relation to the authorised person concerned, but as if—
- (a) subsection (1) were omitted,
 - (b) the reference in subsection (2) to the granting of the application were a reference to 7th March 2016, and

(8) Section 63ZA is inserted together with sections 63ZB and 63ZC by the 2013 Act, section 26.

(9) For the purposes of section 63ZA, “appropriate regulator” is defined in section 63ZA(2).

(10) Section 62A is inserted by the 2013 Act (c. 33), section 24.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (c) the reference in that subsection to a statement of responsibilities included a reference to a statement under article 2(3)(c).

Steps taken under section 63

9. Anything done under section 63 (withdrawal of approval) in respect of a pre-implementation approval before 7th March 2016 continues to have effect on and after that day in respect of the approval as if done by the regulator who is treated under article 4(1)(b) as having given the approval.