
STATUTORY INSTRUMENTS

2018 No. 1253

The Financial Services and Markets Act 2000
(Claims Management Activity) Order 2018

PART 3

Transitional provisions

CHAPTER 2

Authorisation and regulation of 2006 Act authorised persons

Penalties for conduct for which the Regulator has given notice of proposed penalty

52.—(1) In this article—

- (a) a reference to a numbered section is a reference to the section so numbered in the 2000 Act; and
- (b) a reference to a numbered regulation is a reference to the regulation so numbered in the 2006 Regulations.

(2) This article applies where the Regulator—

- (a) gave written notice to a person (“A”) under regulation 51(1) that the Regulator proposed to impose a penalty on A for a failure or obstruction of a kind specified in article 51(1) (“the relevant default”);
- (b) none of the evidence on which the Regulator relies, as set out in the summary of evidence set out in the notice in accordance with regulation 51(1)(e), relates to conduct that occurred on or before 28th December 2014; and
- (c) on 1st April 2019, the Regulator has not given written notice to A under regulation 52(1) (procedure for requiring an authorised person to pay a penalty) of a decision to require A to pay a penalty.

(3) The Regulator’s notice is to be treated as a warning notice given by the FCA under section 207(1)(b) (proposal to take disciplinary measures)(2), and for this purpose—

- (a) the notice is taken to comply with section 387(1); and
- (b) the notice is to be read—
 - (i) as if a reference to the Regulator is a reference to the FCA;
 - (ii) as if the period specified in it for making a written submission (including any further period allowed under regulation 51(2)) is the period for making representations specified in accordance with section 387(2); and
 - (iii) with any other necessary modifications.

(1) Regulation 52 was amended by [S.I. 2014/3239](#).

(2) Section 207(1) was amended by the Financial Services Act [2012 \(c. 21\)](#), section 37(1), paragraphs 1 and 14 of Schedule 9.

(4) For the purposes of the following sections of the 2000 Act, the relevant default is to be treated as a contravention of a relevant requirement (within the meaning given by section 204A(2))—

- (a) section 206 (financial penalties);
- (b) section 206A (suspending permission to carry on regulated activities etc);
- (c) section 207 (proposal to take disciplinary measures);
- (d) section 208 (decision notice).

(5) For the purposes of paragraph (4), sections 206, 207 (except subsection (1)(c)), and 208 are to be read as if a reference to an authorised person included a person who was, at any time before 1st April 2019, a 2006 Act authorised person.

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

- (a) the considerations specified in article 51(4); and
- (b) any written submissions made by A in relation to the matters in the Regulator’s notice within the period allowed under regulation 51(1)(g)(3) or any further period allowed by the Regulator.

(7) A financial penalty imposed by the FCA for the relevant default—

- (a) where the relevant turnover of A’s business is less than £500,000, may not exceed £100,000;
- (b) where the relevant turnover of A’s business is £500,000 or more, may not exceed an amount equal to 20 per cent of that turnover.

(3) Regulation 51 was amended by [S.I. 2013/3239](#).