
STATUTORY INSTRUMENTS

2019 No. 1043

The Financial Services and Markets Act
2000 (Prospectus) Regulations 2019

PART 2

Amendments of the Financial Services and Markets Act 2000

Power of FCA to suspend scrutiny of prospectus

17. After section 87J (requirements imposed as condition of approval) insert—

“87JA Power to suspend scrutiny of prospectus

(1) Where the FCA has received an application for approval of a prospectus, it may suspend its scrutiny of the prospectus on the ground that—

- (a) before receiving the application, it had imposed a prohibition or restriction under Article 42 of the markets in financial instruments regulation in relation to any financial activity or practice of the applicant;
- (b) in considering the application, it has decided to impose a prohibition or restriction under that Article in relation to the transferable securities to which the prospectus relates or any financial activity or practice of the applicant;
- (c) before receiving the application, it had found that a financial activity or practice of the applicant had contravened product intervention rules; or
- (d) in considering the application, it has decided that the approval of the prospectus would be likely to result in a contravention of product intervention rules.

(2) The FCA must resume its consideration of the application for approval of the prospectus—

- (a) where it suspended scrutiny of the prospectus on the ground specified in subsection (1)(a) or (b)—
 - (i) upon revoking the prohibition or restriction under Article 42(6) of the markets in financial instruments regulation; or
 - (ii) when it is satisfied that the prohibition or restriction does not have, or no longer has, any bearing on the approval of the prospectus;
- (b) where it suspended scrutiny of the prospectus on the ground specified in subsection (1)(c), when it is satisfied that the contravention of product intervention rules does not have, or no longer has, any bearing on the approval of the prospectus;
- (c) where it suspended scrutiny of the prospectus on the ground specified in subsection (1)(d), when it is satisfied that its approval of the prospectus would not result in a contravention of product intervention rules;

- (d) upon giving notice under section 87O(5) revoking its decision to suspend scrutiny of the prospectus;
 - (e) where its decision to suspend scrutiny of the prospectus is quashed on a reference to the Tribunal or in other legal proceedings, on the date of the judgment of the Tribunal or of the court concerned.
- (3) “Product intervention rules” has the same meaning as in section 137D.

87JB Power to refuse approval of a prospectus

(1) Where the FCA is satisfied that a person has repeatedly and seriously infringed provision within subsection (2) (whether or not each infringement is of the same provision), the FCA may decide that, for a period not exceeding 5 years, the FCA will not accept from the person any application for approval of a prospectus.

- (2) The provisions referred to in subsection (1) are—
- (a) any provision of this Part so far as relating to prospectuses;
 - (b) any provision of prospectus rules;
 - (c) any provision of the prospectus regulation;
 - (d) any provision made in accordance with the prospectus regulation.

(3) If the FCA proposes that for a period it will not accept any application from a person for approval of a prospectus, the FCA must give the person a warning notice specifying the length of the proposed period.

(4) If the FCA decides for a period that it will not accept any application from a person for approval of a prospectus—

- (a) the FCA must give the person a decision notice;
- (b) the period starts with the date of the notice;
- (c) the person may refer that matter to the Tribunal; and
- (d) the notice must—
 - (i) be dated;
 - (ii) specify the length of the period;
 - (iii) state that the period begins with the date of the notice; and
 - (iv) state that the person may refer the matter to the Tribunal.

(5) If the FCA decides not to accept any application from a person for the approval of a prospectus for a specified period, the person may refer the matter to the Tribunal.”.

Commencement Information

11 Reg. 17 in force at 21.7.2019, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Prospectus) Regulations 2019, Section 17.