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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations bring the amendments made by section 21 of and Schedule 4 to the Bank of England and Financial Services Act 2016 (“the 2016 Act”) fully into force. Those provisions amend provisions of Part 5 of the Financial Services and Markets Act 2000 (FSMA) which regulated the conduct of persons working in banks and certain investment institutions (referred to as “relevant authorised persons”), extending those provisions to all authorised persons. The Bank of England and Financial Services Act 2016 (Commencement No. 5 and Transitional Provisions) Regulations 2018 (S.I. 2018/990 (C. 76)) bring the amendments into force in relation to insurers. These Regulations bring them into force in relation to all other authorised persons.

Regulation 2(2) brings the amendments into force on the day after the day on which these Regulations are made, for the purpose of the making of rules, the giving of directions, the imposition of requirements and the issuing of statements of policy by the Financial Conduct Authority (“the FCA”). Regulation 2(3) brings the amendments fully into force on 9th August 2019 for other purposes in relation to authorised persons other than “solo-regulated firms” (which is defined in regulation 1(2) and refers to authorised persons regulated solely by the FCA). Regulation 2(4) and (5) brings most of the amendments into force for remaining purposes on 9th December 2019 in relation to solo-regulated firms other than “benchmark firms” (defined in regulation 1(2)) and on 7th December 2020 in relation to benchmark firms. This is subject to regulation 2(6) and (7), which brings the amendments to section 63E of FSMA (requiring the certification of employees to perform particular functions) into force on 9th December 2020 in relation to solo-regulated firms other than benchmark firms and on 7th December 2021 in relation to benchmark firms.

Regulation 3 makes transitional provision, to which the commencement of the amendments by regulation 2(6) is subject, in relation to authorised persons carrying on claims management activity. Regulations 4 to 7 make further transitional provision.

Regulation 4 provides that prohibition orders under section 56 of FSMA, and associated notices, are not affected by the amendments to section 59 of FSMA brought into force by regulation 2(4) or (5) or by rules made by the FCA or the Prudential Regulation Authority (“the PRA”) in connection with those amendments. Section 59 provides for the approval of persons to perform “controlled functions” specified in FCA or PRA rules.

Regulation 5 applies where a person has been approved to perform “controlled functions” for the purposes of section 59 of FSMA and rules made by the FCA deem this to be an approval to perform a “designated senior management function” (within the meaning of section 59ZB of FSMA) on or after “the relevant date” (defined in regulation 5(10)). It requires a solo-regulated firm to prepare a statement about the approved person’s management responsibilities.

Regulation 6 applies section 62A of FSMA, with modifications, to statements provided under regulation 5 and similar statements provided under FCA rules. This requires a revised statement to be provided to the FCA where there has been a change in the approved person’s responsibilities.

Regulation 7 provides that consultation and other procedural requirements under Part 9A of FSMA in connection with making or issuing rules or other instruments under Part 5 of FSMA by virtue of an amendment to Part 5 brought into force by these Regulations can be satisfied by anything done before the amendment comes into force.

A full impact assessment has not been produced for this instrument because no, or no significant, impact on the private, voluntary or public sector is foreseen.

**Changes to legislation:**

There are currently no known outstanding effects for the The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) Regulations 2019.