STATUTORY INSTRUMENTS

2016 No. 163

FINANCIAL SERVICES AND MARKETS

The Financial Services (Banking Reform) Act 2013 (Consequential Amendments) Order 2016

Made - - - -	*10th February 2016*
Laid before Parliament	*12th February 2016*
Coming into force - -	*7th March 2016*

The Treasury are designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) ("the 1972 Act") in relation to financial services.

The Treasury, in exercise of the powers conferred by section 2(2) of the 1972 Act and section 145 of the Financial Services (Banking Reform) Act 2013(**c**), make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services (Banking Reform) Act 2013 (Consequential Amendments) Order 2016 and comes into force on 7th March 2016.

Amendment to the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) (No. 2) Order 2001

2. In article 9(3) of the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) (No. 2) Order 2001(**d**) for "subsection (2) of that section" substitute "section 66A or section 66B".

Amendments to the Payment Services Regulations 2009

3. In Part 1 of Schedule 5 to the Payment Services Regulations 2009(**e**) for paragraph 1 substitute—

> "**1.** Sections 66 (disciplinary powers) to 70 (statements of policy: procedure) of the 2000 Act apply but as if for section 66A (misconduct: action by the FCA) there were substituted—
>
> > "**66A.**—(1) For the purposes of action by the FCA, a person is guilty of misconduct if, while a relevant person, the person has been knowingly concerned in

(**a**) The European Communities (Designation) Order 2012 (S.I. 2012/1759).
(**b**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c .7).
(**c**) 2013 c. 33.
(**d**) S.I. 2001/3083. Article 9 was amended by S.I. 2013/472.
(**e**) S.I. 2009/209. Paragraph 1 of Part 1 of Schedule 5 was amended by S.I. 2013/472.

a contravention of the Payment Services Regulations 2009 by an authorised payment institution or a small payment institution.

(2) "Relevant person" means any person responsible for the management of the authorised payment institution or small payment institution or, where relevant, any person responsible for the management of the institution's payment services activities.".".

Amendments to the Electronic Money Regulations 2011

4. In Part 1 of Schedule 3 to the Electronic Money Regulations 2011(**a**) for paragraph 1 substitute—

"**1.** Sections 66 (disciplinary powers) to 70 (statements of policy: procedure) of the 2000 Act apply with the following modifications—

(a) in section 66 omit subsections (3)(aa) to (ac), (3A) to (3D), (5A), (8) and (9); and

(b) for section 66A substitute—

"**66A.**—(1) For the purpose of action by the FCA, a person is guilty of misconduct if, while a relevant person, the person has been knowingly concerned in a contravention of the Electronic Money Regulations 2011 by an electronic money issuer which is an electronic money institution, credit institution, credit union or municipal bank.

(2) "Relevant person" means any person responsible for the management of the electronic money issuer or, where relevant, any person responsible for the management of electronic money issuance by the electronic money issuer."; and

(c) in section 67—

(i) omit subsections (2A), (2B), (5A), (5B), (8) and (9);

(ii) in subsection (1) omit the words from "; and if it proposes" to the end;

(iii) in subsection (4) omit the words from "and if it decides" to the end; and

(iv) in subsection (7) omit the words "and if the regulator decides" to the end.".

Amendments to the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012

5.—(1) Paragraph 1 of Part 1 of the Schedule to the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012(**b**) is amended as follows.

(2) For sub-paragraph (a) substitute—

"(a) in section 66 omit subsections (1A)(b), (3)(aa) to (ac), (3A) to (3D), (5A), (8) and (9);

(aa) for section 66A substitute—

"**66A.**—(1) A person ("P") is guilty of misconduct if, while a relevant person, P has been knowingly concerned in a contravention by a payment service provider of either or both—

(a) Regulation (EC) No 924/2009 of the European Parliament and of the Council on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001(**c**);

(**a**) S.I. 2011/99. Paragraph 1 of Part 1 of Schedule 3 was amended by S.I. 2013/472.
(**b**) S.I. 2012/3122. Paragraph 1 of Part 1 of the Schedule was amended by S.I. 2013/472.
(**c**) OJ No L 266, 9.10.2009, p.11.

(b) Regulation (EU) No 260/2012 of the European Parliament and of the Council establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009(**a**).

(2) "Relevant person" means any person responsible for the management of the payment service provider or, where relevant, any person responsible for the management of the payment service provider's payment services activities.";

(ab) omit section 66B;".

(3) For sub-paragraph (b)(ii) substitute—

"(ii) omit subsections (2A), (2B), (5A) and (5B);".

(4) In sub-paragraph (b)(iii) for "Authority" substitute "regulator".

Amendments to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013

6.—(1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013(**b**) are amended as follows.

(2) In regulation 18—

(a) in the heading for "restrictions" substitute "conditions or limitations";

(b) in paragraph (1)—

(i) in sub-paragraph (a) omit "or";

(ii) in sub-paragraph (b) for "limitation or other restrictions" substitute "conditions"; and

(iii) after sub-paragraph (b) insert—

"; or

(c) limit the period for which any approval of the performance by A of any function to which the approval relates is to have effect.";

(c) in paragraph (2) for "restriction" substitute "condition";

(d) in paragraph (3) for "or restriction" substitute ", condition or limitation";

(e) in paragraph (4) for "restriction" substitute "condition"; and

(f) in paragraph (8) for "restriction" substitute "condition".

(3) In regulation 25—

(a) in paragraph (1)(d) for "restrict" substitute "impose a condition or limitation on"; and

(b) for paragraph (2)(d) substitute—

"(d) in the case of a suspension of, or a condition or limitation on, an approval under regulation 18, the period for which the suspension, condition or limitation is to have effect.".

(4) In regulation 26—

(a) in paragraph (1)(d) for "restrict" substitute "impose a condition or limitation on"; and

(b) for paragraph (2)(d) substitute—

"(d) in the case of a suspension of, or a condition or limitation on, an approval under regulation 18, the period for which the suspension, condition or limitation is to have effect.".

(5) In regulation 27(1) for "restrict" substitute "impose a condition or limitation on".

(6) In regulation 28 for "impose a suspension or restriction" substitute "suspend or impose a condition or limitation".

(**a**) OJ No L 94, 30.3.2112, p.22.
(**b**) S.I. 2013/1635.

(7) In regulation 29(1)—

(a) for "or restrictions", in the two places that it occurs, substitute ", conditions or limitations"; and

(b) for "or restriction", in the two places that it occurs, substitute ", condition or limitation".

(8) In regulation 31(2)(d), in paragraph (d) of the subsection which is substituted for section 133(7A) of the Financial Services and Markets Act 2000(**a**) for "impose a suspension of or restriction" substitute "suspend or impose a condition or limitation".

Amendments to the Financial Services Act 2012 (Consumer Credit) Order 2013

7.—(1) The Financial Services Act 2012 (Consumer Credit) Order 2013(**b**) is amended as follows.

(2) For article 3(3) substitute—

"(3) In Part 5—

(a) sections 66 (disciplinary powers), 67 (disciplinary measures: procedure and right to refer to Tribunal) and 68 (publication) apply; and

(b) section 66A (misconduct: action by the FCA) applies as if the reference in subsection (4)(a) to a requirement imposed by or under FSMA 2000 included a reference to a relevant requirement.".

(3) In article 4—

(a) in paragraph (1)—

(i) in sub-paragraph (a), after "suspensions" insert ", conditions, limitations"; and

(ii) in sub-paragraph (c), after "suspensions" insert ", conditions, limitations"; and

(b) in paragraph (2) after "suspension" insert ", condition, limitation".

George Hollingbery
David Evennett

10th February 2016 — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to secondary legislation in consequence of the amendments made to section 66 (disciplinary powers) of the Financial Services and Markets Act 2000 (c. 8) ("FSMA") and the insertion of new sections 66A (misconduct: action by the FCA) and 66B (misconduct: action by the PRA) in that Act by the Financial Services (Banking Reform) Act 2013 (c. 33).

The Financial Services (Banking Reform) Act 2013 (Commencement No. 9) Order 2015 (S.I. 2015/490) brings into force the relevant amendments to section 66 of, and the insertion of new sections 66A and 66B in, FSMA on 7th March 2016.

This Order will have no effect on the costs of business and voluntary sector independent of the provisions this Order brings into force. For that reason, no impact assessment has been produced for this instrument.

(**a**) 2000 c. 8.
(**b**) S.I. 2013/1882.

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