

General Provisions

GEN TP 1 Transitional provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
5	GEN 6.1	R	<p>GEN 6.1 does not:</p> <p>(1) apply to an unamended <i>contract of insurance</i>, first entered into on or before 24 July 2003; or</p> <p>(2) prohibit a <i>firm</i> from claiming on, or making a payment under, a <i>contract of insurance</i>:</p> <p>(a) in connection with a financial penalty imposed by the FSA pursuant to a <i>warning notice</i> issued before 25 July 2003; or</p> <p>(b) first entered into between 25 July 2003 and 31 December 2003 in respect of a financial penalty imposed by the FSA by a <i>final notice</i> issued on or before 31 December 2003.</p> <p>(For these purposes only, a <i>contract of insurance</i> will be regarded as unamended if:</p> <p>(i) it was amended on or before 24 July 2003; or</p> <p>(ii) it was amended after 24 July 2003, but the amendments did not affect the duration or scope of any indemnity against a financial penalty imposed by the FSA under the Act.)</p>	From 1 January 2004	1 January 2004
9	GEN 5 An-	G	[expired]		

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
	next 1 G				
10	GEN 4.3.1 R	R	[expired]		
11	GEN 4.5	R	[expired]		
12	GEN 4 Annex 1 R	R	[expired]		
13	GEN 4.3.1 R, GEN 4 Annex 1 R and GEN 4 Annex 1A	R	[expired]		
14	GEN 4.5.3 R and GEN 4.5.4 R	R	[expired]		
15	<i>Rules and directions implementing MiFID II</i>	R	[expired]		
16	<i>Rules and directions implementing</i>	G	[expired]		

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
	<i>Mi-FID II</i>				

GEN TP 1.3 (4) Transitional Provisions applying to GEN only

The reference to "GEN 6.1" in the table above must be read as "GEN 6.1 and General Provisions 7 in the Handbook"

General Provisions

GEN TP 2

Transitional Provisions applying across the FCA Handbook and the PRA Rulebook

- (1) The purpose of these transitional provisions is to assist a smooth transition at cutover. They comprise various technical provisions that will apply across the whole *FCA Handbook* and *PRA Rulebook* and achieve results that most people would probably expect to apply in any event.
- (2) These transitional provisions consist of general transitional provisions, which apply at a high level of generality, and more specific transitional provisions in relation to record keeping and notification rules.
- (3) The more specific transitional provisions relating to record keeping and notification rules override the general transitional provisions. Both the general and the more specific transitional provisions do not apply if the context requires otherwise and are subject to any more specific transitional provision elsewhere in the *FCA Handbook* and *PRA Rulebook* relating to the matter.
- (4) Definitions for these transitional provisions, additional to those in the *Glossary*, are provided at paragraph 15 of the table.

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	Every provision in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	Acts under pre-cutover provisions Anything done, or having effect as done, under or for the purposes of any pre-cutover provision has effect as if done under or for the purposes of any substantially similar provision in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> .	From cutover	Cutover
2	Paragraph 1	G	For example, a <i>firm</i> may rely on action to establish the best price, taken shortly before cutover for the purposes of the <i>FSA's</i> best execution rule, for the purposes of compliance with the <i>FCA's</i> best execution rule, even if the transaction is <i>executed</i> after cutover.	From cutover	Cutover
3	Every provision in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> , unless the context otherwise requires and subject to any more specific trans-	R	Series of events If the application of any provision in the <i>FCA Handbook</i> or <i>PRA Rulebook</i> is dependent on the occurrence of a series of events, some of which occur before, and some of which	From cutover	Cutover

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
4	itional provision relating to the matter [deleted]		occur after, cutover, the provision applies with respect to the events that occur after cutover.		
5	Every provision in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	Deemed references to pre-cutover provisions Any reference (express or implied) in a provision in the <i>FCA Handbook</i> or <i>PRA Rulebook</i> to a provision of or made under the Act is to be read (so far as the context permits and according to the context) as being or including, in relation to times, circumstances and purposes before cutover, a reference to any substantially similar pre-cutover provision.	From cutover	Cutover
6	Paragraph 5	G	For example, SUP 11.6.4 R requires a <i>firm</i> authorised by the FCA to notify the FCA when a change in <i>control</i> , previously notified under SUP 11.4.2 R, has taken place. Such a <i>firm</i> must notify a change in <i>control</i> that takes place after cutover, even if previously notified under SUP 11.4.2 R as made by the FSA (and SUP 11.6.4 R is to be read as referring to that pre-cutover provision).	From cutover	Cutover
7	Every provision in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	Time starting before cutover If, at cutover, time has begun to run for any purpose under any pre-cutover provision applicable to a <i>firm</i> or other person, then: (1) time will be regarded as having started to run, for the purposes of any substantially similar provision in the <i>FCA Handbook</i> or <i>PRA Rulebook</i> , when it started to run for that other purpose; and (2) the <i>firm</i> or other person will be relieved of its obligation to comply with the relevant pre-cutover provision if and to the extent that it complies with the substantially similar provision	From cutover	Cutover

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
8	Paragraph 7	G	<p>as extended by this transitional provision.</p> <p>For example, certain <i>firms</i> were required to submit product sales data reports within 20 <i>business days</i> of the end of the quarter by SUP 16.11.3 R as made by the FSA. If the quarter end fell five days before cutover, the <i>firms</i> must still submit the report within 20 <i>business days</i>, but in accordance with SUP 16.7.8 R as made by the FCA.</p>	From cutover	Cutover
9	Every <i>rule</i> in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> requiring a record to be made or retained (see schedule 1), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	<p>Record keeping</p> <p>A <i>firm</i> or other person will not contravene a <i>rule</i> in the <i>FCA Handbook</i> or <i>PRA Rulebook</i> requiring a record to be made or retained to the extent that the <i>firm</i> or other person:</p> <p>(1) made a record of the matter before cutover in accordance with the <i>rule</i> or with a substantially similar pre-cutover provision applicable to the <i>firm</i> or other person; and</p> <p>(2) retains that record as if the <i>rule</i> was in force when the record was made.</p>	From cutover	Cutover
10	Every <i>rule</i> in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> requiring a record to be made or retained (see schedule 1), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	G	This transitional provision makes specific provision, in relation to record keeping, for the matters covered by paragraph 1. It is included for clarity and overrides those general transitional provisions.	From cutover	Cutover
11	Every <i>rule</i> in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> requiring a record to be made or retained (see schedule 1), unless the context otherwise requires and subject to any more specific transitional provision	R	A <i>firm</i> or other person must retain a record in accordance with a <i>rule</i> in the <i>FCA Handbook</i> or <i>PRA Rulebook</i> requiring a record of that sort to be retained, if the <i>firm</i> or other person was required to make and retain that record before cutover under a substantially similar pre-cutover provision applicable to the <i>firm</i> or other person.	From cutover	Cutover

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
12	relating to the matter Paragraph 9	G	This transitional provision makes specific provision, in relation to records, for the matters covered by paragraphs 5 and 7. It is included for clarity and overrides those general transitional provisions.	From cutover	Cutover
13	Every notification rule in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> (see schedule 2), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	Notification <i>A firm</i> (or its auditor, <i>appointed actuary</i> or <i>appropriate actuary</i>) or other person will not contravene a notification rule in the <i>FCA Handbook</i> or <i>PRA Rulebook</i> to the extent that notice of the relevant matter was given to the <i>FSA</i> before cutover in accordance with: (1) the notification rule; or (2) a substantially similar pre-cutover provision applicable to the <i>firm</i> or other person.	From cutover	Cutover
14	Paragraph 13	G	This transitional provision makes specific provision, in relation to notifications, for the matters covered by paragraphs 1 and 3. It is included for clarity and overrides those general transitional provisions.	From cutover	Cutover
15	As paragraphs 1 to 14	R	Definitions In these transitional provisions: (1) "pre-cutover provision" means a provision repealed or revoked by, or under, the Financial Services Act 2012 or a rule or guidance of the <i>FSA</i> , including (where the context permits) any relevant provision which it replaced before cutover; (2) "substantially similar" means substantially similar in purpose and effect; and (3) a reference to a "provision" in the <i>FCA Handbook</i> or <i>PRA Rulebook</i> means every type of provision, including <i>rules</i> , <i>guidance</i> , provisions in codes, and so on.	From cutover	Cutover
16	Paragraph 17	G	Application for provisions which are not rules The purpose of paragraph 17 is to ensure that the transitional provisions in paragraphs 1 to 8 apply	From cutover	Cutover

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
17	<i>Statements of Principle</i> , the Code of Practice for Approved Persons and MAR 1 (Market Abuse) and directions and requirements and guidance and other provisions in the <i>FCA Handbook</i> and <i>PRA Rulebook</i> (that is, provisions with the status letter "D" or "G" in the margin or heading) unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	P	throughout the <i>FCA Handbook</i> and <i>PRA Rulebook</i> . The provisions in paragraphs 1 to 10 apply to every <i>person</i> to whom the provisions referred to in column (2) apply as if the <i>rules</i> in those paragraphs were part of those provisions.	From cutover	Cutover
18	Every provision in the <i>FCA Handbook</i>	G	References in the <i>FCA Handbook</i> to Directive 2004/39, where not otherwise amended, shall be interpreted as references to <i>MiFID II</i> or <i>MiFIR</i> or the corresponding provisions in or under <i>MiFID II</i> or <i>MiFIR</i> , except where the context indicates otherwise.	From 3 January 2018	3 January 2018

General Provisions

GEN TP 3

Transitional Provision in relation to the Alternative Investment Fund Managers Directive Instrument 2013

General Provisions

GEN TP 4

**Transitional Provision on early compliance with the Insurance
Distribution Directive applying across the Handbook [deleted]**

General Provisions

Schedule 1 Record keeping requirements

Sch 1.1 G [deleted]

Sch 1.2 G

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

Sch 1.3 G

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 1.4 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
GEN TP 4, row 4G	An election to comply early with the Insurance Distribution Directive (<i>IDD</i>)	The election and the new and replaced provisions to which that election relates	In accordance with the <i>firm's</i> general record keeping obligations	In accordance with the <i>firm's</i> general record keeping obligations

General Provisions

Schedule 2 Notification requirements

Sch 2.1 G

The aim of the guidance in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting.

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
GEN 1.3.2 R	An emergency which makes it impracticable for a <i>firm</i> to comply with a particular <i>rule</i> .	Notification of the emergency and of the steps the <i>firm</i> is taking and proposes to take to deal with its consequences	An emergency which makes it impracticable for a <i>firm</i> to comply with a particular <i>rule</i> .	Notification as soon as practicable

General Provisions

Schedule 3 Fees and other required payments

Sch 3.1 G

There are no requirements for fees or other payments in *GEN. FEES 2* (General Provisions) contains general provisions relating to the payment of fees.

General Provisions

Schedule 4 Powers exercised

Sch 4.1 G

In this Schedule, references to *GEN* include the *Glossary*.

Sch 4.2 G

Powers to make rules

The following powers and related provisions in or under the *Act* have been exercised by the *FCA* to make the rules in *GEN*:

- Section 59 (Approval for particular arrangements)
- Section 60A (Vetting of candidates by authorised persons)
- Section 63F (Issuing of certificates)
- Section 64A (Rules of conduct)
- Section 73A (Part 6 Rules)
- Section 74 (The official list)
- Section 75 (Applications for listing)
- Section 77 (Discontinuance and suspension of listing)
- Section 79 (Listing particulars and other documents)
- Section 80 (General duty of disclosure in listing particulars)
- Section 81 (Supplementary listing particulars)
- Section 84 (Matters which may be dealt with by prospectus rules)
- Section 85 (Prohibition of dealing etc in transferable securities without approved prospectus)
- Section 87 (Election to have prospectus)
- Section 87A (Criteria for approval of prospectus by competent authority)
- Section 87B (Exemptions from disclosure)
- Section 87G (Supplementary prospectus)
- Section 88 (Sponsors)
- Section 89A (Transparency rules)
- Section 89B (Provision of voteholder information)
- Section 89C (Provision of information by issuers of transferable securities)
- Section 89D (Notification of voting rights held by issuer)
- Section 89E (Notification of proposed amendment of issuer's constitution)
- Section 89F (Transparency rules: interpretation etc)
- Section 89G (Transparency rules: other supplementary provisions)
- Section 89O (Corporate governance rules)

Section 89P (Primary information providers)
Section 96 (Obligations of issuers of listed securities)

Section 101(2) (Part 6 Rules: general provisions)

Section 136(2) (Funding of the legal assistance scheme)
Section 137A (The FCA's general rules)
Section 137B (FCA general rules: clients' money, right to rescind etc)
Section 137C (FCA general rules: cost of credit and duration of credit agreements)
Section 137D (FCA general rules: product intervention)
Section 137F (Rules requiring participation in benchmark)
Section 137FB (FCA general rules: disclosure of information about the availability of pensions guidance)
Section 137H (General rules about remuneration)
Section 137O (Threshold condition code)
Section 137P (Control of information rules)
Section 137Q (Price stabilising rules)
Section 137R (Financial promotion rules)
Section 137T (General supplementary powers)
Section 138C (Evidential provisions)
Section 138D (Actions for damages)
Section 138M (Temporary product intervention rules)
Section 192J (Rules requiring provision of information by parent undertakings)
Section 192JB (Rules requiring parent undertakings to facilitate resolution)
Section 213 (The compensation scheme) (including as referred to in section 216(5) (Continuity of long-term insurance policies) and section 217(7) (Insurers in financial difficulties)
Section 214 (General)
Section 214A (Contingency funding)
Section 214D(13) (Contributions under section 214B: supplementary)
Section 215 (Rights of the scheme in insolvency)
Section 216 (Continuity of long-term insurance policies)
Section 217 (Insurers in financial difficulties)
Section 218(2)(b) (Annual report)
Section 218A (Regulators' power to require information)
Section 223 (Management expenses)
Section 223C (Payments in error)
Section 224F (Rules about relevant schemes)
Section 226 (Compulsory jurisdiction) (including as applied by regulations 117 and 133 of the *Payment Services Regulations* and article 26(1) (Extension of the compulsory jurisdiction of the Financial Ombudsman Scheme to registered consumer buy-to-let mortgage firms) of the *MCD Order*)
Section 229 (Awards)

Section 234 (Industry funding)

Section 238 (Restrictions on promotion)

Section 239 (Single property schemes)

Section 242 (Applications for authorisation of unit trust schemes)

Section 247 (Trust scheme rules)

Section 248 (Scheme particulars rules)

Section 261C (Applications for authorisation of contractual schemes)

Section 261I (Contractual scheme rules)

Section 261J (Contractual scheme particulars rules)

Section 278 (Rules etc as to scheme particulars)

Section 283(1) (Facilities and information in UK)

Section 286(4F) (Qualification of recognition)

Section 293 (Notification requirements)

Section 295 (Notification: overseas investment exchanges and overseas clearing houses)

Section 300B (Duty to notify proposal to make regulatory provision)

Section 332(1) (Rules in relation to persons to whom the general prohibition does not apply)

Section 333Q (Funding of FCA's pensions guidance costs)

Section 333R (Funding of Treasury's pensions guidance costs)

Section 340 (Appointment)

Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority) (including as applied by article 25 (Application of provisions of the Act to the FCA in respect of its supervision of consumer buy-to-let mortgage firms) of the *MCD Order*), and by regulation 15A of the *ADR Regulations*

Paragraph 23 (fees) of Schedule 1ZA as applied by regulation 118(1) of the *Payment Services Regulations*

Paragraph 12 (Funding of the relevant costs by authorised persons or payment service providers) of Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body)

Paragraphs 19 (Establishment), 20 (Services) and 20C (Notice of intention to market an AIF) of Schedule 3 (EEA Passport Rights)

Paragraphs 7(3) (Annual reports), 13 (FCA's procedural rules), 16B (Procedure for complaints etc) and 16D (Enforcement of money awards) of Schedule 17 (The Ombudsman Scheme) (including as applied by article 26(1) (Extension of the compulsory jurisdiction of the Financial Ombudsman Scheme to registered consumer buy-to-let mortgage firms) of the *MCD Order*)

Article 60E(3) of the *Regulated Activities Order*

Regulation 6 (FCA rules) of the *OEIC Regulations*

Article 15 (Record-keeping and reporting requirements relating to relevant complaints) of the *Ombudsman Transitional Order*

Articles 4 (Pending applications), 6 (Post-commencement applications), 9 (Article 9 defaults occurring before commencement), 9A (Contributions in relation to mesothelioma claims), 10 (Applications in respect of compulsory liability insurance), 12 (Applications under the new scheme) and 23 (Record-keeping and reporting requirements relating to pre-commencement) of the *compensation transitionals order*

Regulation 3 (Consumer contract requirements: modification of rule-making powers) of the Electronic Commerce Directive (Financial Services and Markets) Regulations 2002 (SI 2002/1775)

Regulation 2 (Power of the Authority to make rules under section 138 of the Financial Services and Markets Act 2000) of the Financial Services and Markets Act 2000 (Fourth Motor Insurance Directive) Regulations 2002 (SI 2002/2706)

Article 9 (Record-keeping and reporting requirements relating to relevant transitional complaints) of the *Mortgage and General Insurance Complaints Transitional Order*

Sch 4.3 G

The following additional powers have been exercised by the *FCA* to make the *rules* in *GEN*:

Regulation 2(3) (Application for permission) of the Capital Requirements Regulations 2006 (SI 2006/3221)

Regulations 109 (Reporting requirements), 112 (Proposal to take disciplinary measures) and 118 (Costs of supervision) of and paragraph 1 of Schedule 6 (Disciplinary powers) to the *Payment Services Regulations*

Regulations 49 (Reporting requirements) and 59 (Costs of supervision) of the *Electronic Money Regulations*

Regulations 8 (Applications for registration), 9 (Applications for admission to the register of issuers), 18 (Notification requirements), 20 (Material changes to the regulated covered bond), 24 (Requirements relating to the asset pool), 25 (Change of owner), 36 (financial penalties policy statement), 46 (Modifications of primary and secondary legislation) of, and paragraph 5 (fees) to the Schedule (Modifications to primary and secondary legislation) to, the *RCB Regulations*

Paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) to the Financial Services (Banking Reform) Act 2013

Articles 2 (Requirement to give notice in relation to an approved person), 6 (Revision of an article 2 notice), 19 (Power to impose penalties) and 20 (Rules and requirements by a regulator under this Order) of the Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) Order 2015 (SI 2015/429)

Article 21 (Monitoring and Enforcement) of the *MCD Order*

Sch 4.4 G

Powers to make codes

The following powers and related provisions in the *Act* have been exercised by the *FCA* to issue the parts of the codes in *GEN*:

Section 64(2) (Conduct: statements and codes)

Sch 4.5 G

Powers to issue statements

The following powers and related provisions in the *Act* have been exercised by the *FCA* to issue the parts of the statements in *GEN*:

Section 63ZD (Statement of policy relating to conditional approval and variation)

Section 63C (Statement of policy)

Section 64 (Conduct: statements and codes)

Section 69 (Statement of policy) (including as applied by paragraph 1 of Schedule 6 to the *Payment Services Regulations*, paragraph 1 of Schedule 3 to the *Electronic Money Regulations*, regulation 29(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (SI 2013/1635) and regulation 28(1) of the *Immigration Regulations*)

Section 88C (Action under section 88A: statement of policy)

Section 89S (Action under section 89Q: statement of policy)

Section 93 (Statement of policy)

Section 124 (Statement of policy)

Section 131J(1) (Statement of policy)

Section 138N (Temporary product intervention rules: statement of policy)

Section 169(9) (Investigations etc in support of overseas regulator) (including as applied by paragraph 3 of Schedule 6 to the *Payment Services Regulations* and paragraph 3 of Schedule 3 to the *Electronic Money Regulations* and by regulation 71(2) of the *AIFMD UK regulation*)

Section 192H (Statement of policy: directions under section 192C)

Section 192N (Imposition of penalties under section 192K: statement of policy)

Section 210 (Statements of policy) (including as applied by regulation 112(6) of the *Payment Services Regulations*, regulation 53 (6) of the *Electronic Money Regulations*, regulation 71(3) of the *AIFMD UK regulation*, regulation 29(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (SI 2013/1635), regulation 28(2) (Statements of policy) of the *Immigration Regulations* and article 23(4) (Application of provisions of the Act to registered consumer buy-to-let mortgage firms) of the *MCD Order*)

Section 312J (Statement of policy under section 312F)

Section 395 (The FCA's and PRA's procedures) (including as applied by paragraph 9 of Schedule 6 to the *Payment Services Regulations*, paragraph 8 of Schedule 3 to the *Electronic Money Regulations*, regulation 30(7) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (SI 2013/1635), article 3(11) of the Financial Services Act 2012 (Consumer Credit) Order 2013, regulation 29 (Application of Part 26 of the 2000 Act) of the *Immigration Regulations* and article 24(2) (Application of procedural provisions of the Act) of the *MCD Order*)

Section 404(3) (Consumer redress schemes)

Section 404A (Rules under s404: supplementary)

Sch 4.6 G

The following additional powers and related provisions have been exercised by the FCA to issue the parts of the statements in *GEN*:

Regulation 42 (Guidance) of the *RCB Regulations*

Regulation 44 (Warning notices and decision notices) of the *RCB Regulations*

Regulation 120 (Guidance) of the *Payment Services Regulations*

Regulation 14 (Guidance) of the *Cross-Border Payments in Euro Regulations*

Regulation 60 (Guidance) of the *Electronic Money Regulations*

Section 80 (Statement of policy under sections 73 to 79) of the Financial Services Act 2012

Regulations 70 (Application of procedural provisions of the Act) and 71 (Application of provisions of the Act to unauthorised AIFMs) of the *AIFMD UK regulation*

Article 4 (Statements of policy) of the Financial Services Act 2012 (Consumer Credit) Order 2013
Regulations 28 (Statements of policy) and 29 (Application of Part 26 of the 2000 Act) of the *Immigration Regulations*

Sch 4.7 G**Powers to direct, require or specify**

The following powers and related provisions in the Act have been exercised by the FCA in GEN to direct, require or specify:

Section 55U (Applications under this Part)
Section 60 (Applications for approval)
Section 61 (Determination of applications)
Section 62A (Changes to responsibilities of senior managers)
Section 63ZA (Variation of senior manager's approval at request of authorised person)
Section 63ZB (Variation of senior manager's approval on initiative of regulator)
Section 63E (Certification of employees by authorised persons)
Section 64C (Requirement for authorised persons to notify regulator of disciplinary action)
Section 137S (Financial promotion rules: directions given by FCA)
Section 138A (Modification or waiver of rules)
Section 179 (Requirements for section 178 notices)
Section 218A (Authority's power to require information)
Section 242 (Applications for authorisation of unit trust schemes)
Section 250 (Modification or waiver of rules)
Section 274 (Applications for recognition of individual schemes)
Section 279 (Revocation of recognition)
Section 287 (Application by an investment exchange)
Section 293A (Information: compliance with EU requirements)
Section 294 (Modification or waiver of rules)
Section 316 (Direction by Authority)
Section 317 (The core provisions)
Section 318 (Exercise of powers through Council)
Paragraph 5(4) (Notice to UK Regulator) of Schedule 4 (Treaty Rights)
Regulations 7(3) and (4) (Modification or waiver of FCA rules) and 12 (Application for authorisation) of the *OEIC Regulations*

Sch 4.8 G

The following additional powers and related provisions have been exercised by the FCA in GEN to direct, require or specify:

Regulation 49 (Reporting requirements) of the *Electronic Money Regulations*
Regulations 21 (Disclosure obligations of small registered UK AIFMs), 54 (FCA approval for marketing), 58 (Marketing of AIFs managed by small third country AIFMs) and 60 (Manner and content of notifications) of the *AIFMD UK regulation*

Regulation 9 (Reporting requirements) of the *Immigration Regulations*
 Articles 5 (Regulators' power to impose requirements for an article 2 notice), 7 (Application of section 63ZA to a continuing approval), 8 (Application of section 62A to a statement provided under article 2(3)(c)), 13 (Regulators' power to impose requirements for an article 11 notice), 15 (Application of section 62A to a statement provided under article 11(d)), 17 (Power for the regulators to specify equivalent functions) and 20 (Rules and requirements imposed by a regulator under this Order) of the Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) Order 2015 (SI 2015/429)

Articles 18 (Obligations of registered consumer buy-to-let mortgage firms) and 19 (Power to direct registered consumer buy-to-let mortgage firms to take appropriate action) of the *MCD Order*

Regulations 30(4) and (5) (Supervision of firms exercising passport rights), 71(8) (Limits on the use of payment instruments and access to payment accounts), 98(3) (Management of operational and security risks), 99(2) (Incident reporting), 105(4) (Access to bank accounts) and 109 (Reporting requirements) of the *Payment Services Regulations*

Sch 4.9 G

Powers to set standards

The following powers in or under the *Act* have been exercised by the *FCA* to set standards in *GEN*:

Section 333H (Standards for giving of pensions guidance by designated guidance providers)

Sch 4.10 G

Power to make the complaints scheme

The following power has been exercised by the *FCA* to make the complaints scheme in *GEN*:

Part 6 of the Financial Services Act 2012

Sch 4.11 G

Powers to give guidance

The following powers in or under the *Act* have been exercised by the *FCA* to give the guidance in *GEN*:

Section 139A (Power of the *FCA* to give guidance)

Section 234G (Guidance)

Sch 4.12 G

The following additional powers have been exercised by the *FCA* to give the other guidance in *GEN*:

Article 14 (Guidance on continued provisions) of the Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Credit Unions) Order 2002 (SI 2002/1501)

Articles 9D (Applications for certificates), 9F (Revocation of certificate on request), 9G (Obtaining information from certified persons etc) and 9H (Rules prohibiting the issue of electronic money at a discount) of the *Regulated Activities Order*

Regulation 120 (Guidance) of the *Payment Services Regulations*

Section 123 (Application of insolvency law) of the Banking Act 2009
Regulation 14 (Guidance) of the *Cross-Border Payments in Euro Regulations*
Regulation 60 (Guidance) of the *Electronic Money Regulations*
Regulation 42 (Guidance) of the *RCB Regulations*
Regulation 15 (Guidance) of the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (SI 2012/3122)
Regulation 5 (Guidance) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
Article 22 (Guidance) of the *MCD Order*

Sch 4.13 G**Powers exercised by the FOS Ltd**

GEN 2.1.8 R is made by *FOS Ltd* in exercise of its powers referred to in Schedule 4 to *DISP*.

General Provisions

Schedule 5 Rights of action for damages

Sch 5.1 G

The table below sets out the *rules* in *GEN* contravention of which by an *authorised person* may be actionable under section 138D of the Act (Actions for damages) by a person who suffers loss as a result of the contravention.

Sch 5.2 G

If a 'Yes' appears in the column headed 'For *private person*?', the *rule* may be actionable by a 'private person' under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A 'Yes' in the column headed 'Removed' indicates that the FCA has removed the right of action under section 138D(3) of the Act. If so, a reference to the *rule* in which it is removed is also given.

Sch 5.3 G

The column headed 'For other person?' indicates whether the *rule* may be actionable by a person other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Sch 5.4 G

Chapter/ Appendix	Section/ Annex	Paragraph	Right of action under section 138D		
			For private person?	Removed	For other person?
All <i>rules</i> in <i>GEN</i> with the status letter "E"			No	No	No
GEN 2.1.8 R			No	No	No
All other <i>rules</i> in <i>GEN</i>			Yes	No	No

General Provisions

Schedule 6 Rules that can be waived

Sch 6.1 G

[deleted]

Sch 6.1A G

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*. However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

Sch 6.2 G

- 1 GEN 2.1.8R is made by *FOS Ltd* and not by the *FCA* and cannot be waived by the *FCA*.
- 2 Every other *rule* in *GEN* can be waived by the *FCA* if, and to the extent that, the rules elsewhere in its *Handbook* which it modifies or to which it otherwise relates can be waived by the *FCA*.

