STATUTORY INSTRUMENTS

2015 No. 1864

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Misconduct and Appropriate Regulator) Order 2015

Made - - - - 4th November 2015

Coming into force in accordance with article 1

The Treasury are designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to financial services.

The Treasury, in exercise of the powers conferred on them by section 2(2) of that Act, by section 204A(7) and section 428(3) of the Financial Services and Markets Act 2000(**3**) by section 145(1) of the Financial Services (Banking Reform) Act 2013(**4**) and by section 28(2)(a) of the Small Business, Enterprise and Employment Act 2015(**5**), make the following Order.

A draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972, section 429(1) of the Financial Services and Markets Act 2000(**6**) and section 143(3) of the Financial Services (Banking Reform) Act 2013.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Misconduct and Appropriate Regulator) Order 2015 and comes into force on 7th March 2016 except as provided in paragraphs (2) and (3).

(**1**) S.I. 2012/1759.

(**2**) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c.7). By virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51), regulations may be made under s. 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed in Brussels on 17th March 1993 (Cm 2183).

(**3**) 2000 c.8. Section 204A of the 2000 Act was inserted by the Financial Services Act 2012 (c. 81) ("the 2012 Act"), section 37 and Schedule 9, paragraphs 1, 10; and amended by S.I.2013/1773, regulation 80 and Schedule 1, paragraphs 1,15.

(**4**) 2013 c.33.

(**5**) 2015 c.26.

(**6**) Section 429(1) of the 2000 Act was amended by the 2012 Act, section 24 and Schedule 2, paragraphs 1, 33. There are other amendments to section 429(1) but none are relevant to this Order.

(2) Article 2 comes into force immediately after section 66A(**7**) of the 2000 Act comes into force on 7th March 2016.

(3) Paragraph (d) of new subsection (3A) of section 204A of the 2000 Act (inserted by article 3(4)) comes into force immediately after section 63E of the 2000 Act comes into force on 7th March 2017.

(4) In this Order "the 2000 Act" means the Financial Services and Markets Act 2000.

Amendments to section 66A of the 2000 Act (misconduct: action by the FCA)

2.—(1) Section 66A of the 2000 Act is amended as follows.

(2) At the end of subsection (4)(a) omit "or".

(3) After subsection (4)(a) insert—

"(aa) imposed by the Alternative Investment Fund Managers Regulations 2013(**8**), or;".

Amendments to section 204A of the 2000 Act (meaning of "relevant requirement" and "appropriate regulator")

3.—(1) Section 204A of the 2000 Act is amended as follows.

(2) Omit subsection (3)(c).

(3) At the end of subsection (3) insert—

"(d) a requirement under section 62A(2)(**9**) where the authorised person concerned is a PRA-authorised person and the approval concerned was given by the PRA;

(e) a requirement under section 64B(2) or (5)(**10**) where the conduct rules(**11**) concerned are made by the PRA(**12**);

(f) a requirement under section 64C(1)(**13**) to notify the PRA that disciplinary action(**14**) has been taken.".

(4) After subsection (3) insert—

"(3A) Either the PRA or the FCA is "the appropriate regulator" in the case of a contravention of—

(a) a requirement under section 59(1) or (2)(**15**) where the authorised person(**16**) concerned is a PRA-authorised person(**17**) and the approval concerned falls to be given by the PRA;

(**7**) Section 66A of the 2000 Act is inserted by section 32(2) of the Financial Services (Banking Reform) Act 2013 ("the 2013 Act") as from 7th March 2016.
(**8**) S.I. 2013/1773.
(**9**) Section 62A of the 2000 Act is inserted by the 2013 Act, section 24, as from 7th March 2016.
(**10**) Section 64B of the 2000 Act was inserted by the 2013 Act, section 31, for the purpose of making rules and comes into force for all purposes as from 7th March 2016.
(**11**) "Conduct rules" is defined in section 64B(1) of the 2000 Act.
(**12**) Section 2A of the 2000 Act provides that the Prudential Regulation Authority is referred to in the Act as "the PRA".
(**13**) Section 64C of the 2000 Act was inserted by the 2013 Act, section 31, for the purpose of making rules and comes into force for all purposes as from 7th March 2016.
(**14**) "Disciplinary action" is defined in section 64C(2) of the 2000 Act.
(**15**) Section 59 of the 2000 Act was amended by the 2012 Act, section 14, and is amended by the 2013 Act, section 35 and Schedule 3, paragraph 1, as from 7th March 2016.
(**16**) "Authorised person" is defined in section 31 of the 2000 Act. Section 31 was amended by section 11 of the Financial Services Act 2012 (c.21).
(**17**) "PRA-authorised person" is defined in section 2B(5) of the 2000 Act. There are amendments to section 2B(5) but none are relevant to this Order.