

**2017 No.**

**FINANCIAL SERVICES**

**The Oversight of Professional Body Anti-Money Laundering  
Supervision Regulations 2017**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Treasury are designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the prevention of money laundering and terrorist financing.

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, make the following Regulations:

**PART 1**

**Introduction**

**Citation and commencement**

1. These Regulations may be cited as the Oversight of Professional Body Anti-Money Laundering Supervision Regulations 2017 and come into force on [...].

**Interpretation**

2. In these Regulations—

“the FCA” means the Financial Conduct Authority;

“FSMA” means the Financial Services and Markets Act 2000(c);

“the MLR” means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(d);

“self-regulatory organisation” means one of the professional bodies listed in Schedule 1 to the MLR;

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(a) S.I. 2007/2133.

(b) 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 to section 1(2) by section 1 of the European Economic Area Act 1993 (c.51), an order may be made under section 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).

(c) 2000 c. 8.

(d) S.I. 2017/692.

“supervision requirement” means any requirement imposed on a self-regulatory organisation by the MLR.

### **Duties of the FCA**

3. The FCA must have regard to the importance of ensuring that self-regulatory organisations comply with any supervision requirement—

- (a) when discharging its functions under these Regulations; and
- (b) in drafting any guidance in relation to self-regulatory organisations that the FCA may issue under section 139A of FSMA.

## **PART 2**

### **Applications**

#### **Application to be included in Schedule 1 to the MLR**

4.—(1) This regulation applies where a person (“the applicant”) wishes to be added to the list of self-regulatory organisations in Schedule 1 to the MLR.

(2) The person must make an application to the FCA in such manner and provide such information as the FCA may specify.

(3) At any time after receiving an application and before making a recommendation to the Treasury, the FCA may require the applicant to provide it with such further information as the FCA reasonably considers necessary to enable it to make a recommendation to the Treasury concerning the application.

(4) Any information to be provided to the FCA under this regulation must be in such form and verified in such manner as the FCA may specify.

#### **Determination of applications**

5.—(1) The FCA must consider any application made under regulation 4 and must, before the end of the period of 6 months beginning with the date on which the FCA received the completed application, make a recommendation to the Treasury as to whether the applicant should be added to the list of self-regulatory organisations in Schedule 1 to the MLR.

(2) The FCA may consider an incomplete application if it considers it appropriate to do so; and it must in any event make a recommendation to the Treasury regarding such an application within 12 months beginning with the date on which it received the application.

(3) The Treasury must take the FCA’s recommendation into account when deciding whether the applicant should be added to the list of self-regulatory organisations in Schedule 1 to the MLR.

## **PART 3**

### **Information and Directions**

#### **Interpretation**

6. In this Part—

“body corporate” has the meaning given by regulation 3 of the MLR;

“connected person” means—

- (a) if the self-regulatory organisation is a body corporate, any person who is or has been—
  - (i) an officer or manager of the body corporate;

- (ii) an employee of the body corporate;
- (iii) an agent of the body corporate;
- (b) if the self-regulatory organisation is a partnership, any person who is or has been a member, manager, employee or agent of the partnership;
- (c) if the self-regulatory organisation is an unincorporated association of persons (other than a partnership), any person who is or has been a member, officer, manager, employee or agent of the association;

“excluded material” means personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which is held subject—

- (a) to an express or implied undertaking to hold it in confidence; or
- (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment contained in, or made under, an Act passed after these Regulations;

“law enforcement authority” means any of the following authorities—

- (a) the National Crime Agency;
- (b) the police forces maintained under section 2 of the Police Act<sup>(a)</sup> (maintenance of police forces);
- (c) the Police of the Metropolis;
- (d) the Police for the City of London;
- (e) the Police Service of Scotland;
- (f) the Police Service of Northern Ireland;
- (g) the Serious Fraud Office;

“manager” has the meaning given by regulation 3 of the MLR;

“officer” has the meaning given by regulation 3 of the MLR;

“officer of the FCA” means a member of the FCA’s staff or an agent of the FCA.

### **Power to require information**

**7.—(1)** The FCA may, by notice in writing, require a person who is (or was at any time) a self-regulatory organisation or a connected person to—

- (a) provide specified information, or information of a specified description;
- (b) produce specified documents, or documents of a specified description; or
- (c) attend before an officer of the FCA at a time and place specified in the notice and answer questions.

**(2)** The information or documents must be provided or produced—

- (a) before the end of such reasonable period as may be specified, and
- (b) at such place as may be specified.

**(3)** An officer of the FCA who has written authorisation from the FCA to do so may require a self-regulatory organisation or a connected person without delay to—

- (a) provide the officer with specified information or information of a specified description, or
- (b) produce to the officer specified documents or documents of a specified description.

**(4)** The powers in this regulation may only be exercised in relation to information or documents which are reasonably required by the FCA in connection with the exercise by the FCA of any of its functions under these Regulations.

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(a) 1996 c.16. Section 2 was amended by paragraph 3 and 4 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c.13).

(5) Where the FCA requires information to be provided or documents to be produced under paragraph (1), the notice must set out the reasons why the FCA requires the information to be provided or the documents produced, unless the FCA is not permitted to disclose this information.

(6) The FCA may require—

- (a) any documents containing information otherwise than in legible form to be produced to it in legible form or in a form from which the information in it can readily be produced in legible form, and
- (b) any information provided under this regulation to be provided in such form as it may reasonably require.

(7) The production of a document does not affect any lien which a person has on the document.

### **Retention of documents taken under regulation 7**

**8.**—(1) Any material, possession of which was provided under regulation 7 (“seized material”), may be retained for so long as it is necessary to retain it (rather than copies of it) in connection with the exercise of the functions of the FCA under these Regulations.

(2) If an officer of the FCA has reasonable grounds for suspecting that—

- (a) the seized material may need to be produced for the purposes of any legal proceedings, and
- (b) it might otherwise be unavailable for those purposes,

it may be retained until the proceedings are concluded.

(3) A person claiming to be the owner of any seized material may apply to the Crown Court or (in Scotland) the sheriff or the summary sheriff for an order for the delivery of the material to the person appearing to the court, the sheriff or the summary sheriff to be the owner.

(4) If on an application under paragraph (3) the court or (in Scotland) the sheriff or the summary sheriff cannot ascertain who is the owner of the seized material the court, the sheriff or the summary sheriff may make such order as the court or the sheriff thinks fit.

(5) An order under paragraph (3) or (4) does not affect the right of any person to take legal proceedings against any person in possession of seized material for the recovery of the material.

### **Provision of information: safeguards**

**9.**—(1) A person may not be required under regulation 7 to produce excluded material, or to provide information, produce documents or answer questions which that person would be entitled to refuse to provide, produce or answer on grounds of legal professional privilege in proceedings in the High Court, except that a lawyer may be required to provide the full name and address of the lawyer’s client.

(2) The provision of information in accordance with regulation 7 is not to be taken to breach any restriction on the disclosure of information however imposed.

(3) Where a disclosure is made in good faith in accordance with regulation 7 no civil liability arises in respect of the disclosure on the part of the person making the disclosure.

(4) In the application of this regulation to Scotland, the references in paragraph (1)—

- (a) to proceedings in the High Court are to be read as references to proceedings in the Court of Session, and
- (b) to an entitlement on grounds of legal professional privilege are to be read as references to an entitlement on the grounds of confidentiality of communication—
  - (i) between professional legal advisers and their clients, or
  - (ii) made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings.

### **Admissibility of statements**

**10.**—(1) A statement made by a person in response to a requirement imposed under regulation 7(1)(c) may not be used in evidence against the person in criminal proceedings.

(2) Paragraph (1) does not apply—

- (a) in the case of proceedings under Parts 2 to 4 of the Proceeds of Crime Act 2002(confiscation proceedings)(**a**);
- (b) on a prosecution for an offence under section 5 of the Perjury Act 1911 (false statements)(**b**);
- (c) on a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statements)(**c**);
- (d) on a prosecution for an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements and declarations)(**d**);
- (e) on a prosecution for an offence under regulation 88 of the MLR; or
- (f) for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in paragraph (1).

(3) A statement may not be used by virtue of paragraph (2)(f) against a person unless—

- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by them or on their behalf in the proceedings arising out of the prosecution.

### **Restrictions on disclosure by the FCA**

**11.**—(1) Subject to regulation 12(2), confidential information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the consent of—

- (a) the person from whom the primary recipient obtained the information; and
- (b) if different, the person to whom it relates.

(2) In this Part, “confidential information” means information which—

- (a) relates to the business or other affairs of any person;
- (b) was received by the primary recipient for the purposes of, or in the discharge of, any functions of the primary recipient under these Regulations; and
- (c) is not prevented from being confidential information by paragraph (3).

(3) Information is not confidential information if—

- (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by this regulation; or
- (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.

(4) Each of the following is a primary recipient for the purposes of this Part—

- (a) the FCA;
- (b) any person who is or has been employed by the FCA.

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(a) 2002 c. 29.

(b) 1911 c.6. Section 5 was amended by virtue of section 1(2) of the Criminal Justice Act 1948 (c.58).

(c) S.I. 1979/1714 (NI 19).

(d) 1995 c.39.

## **Disclosure by the FCA**

**12.**—(1) The FCA may disclose information it holds to a relevant authority, provided the disclosure is—

- (a) made for purposes connected with the effective exercise of the functions of the FCA or the relevant authority under these Regulations and the MLR; or
- (b) otherwise required by law.

(2) Regulation 11 does not prevent the FCA from disclosing confidential information it holds to a relevant authority, provided the disclosure is made for purposes connected with the effective exercise of the functions of the FCA or the relevant authority under these Regulations and the MLR.

(3) Information disclosed to a relevant authority under paragraph (1) may not be further disclosed by that authority, except—

- (a) in accordance with paragraph (1); or
- (b) with a view to the institution of, or otherwise for the purposes of, any criminal or other enforcement proceedings.

(4) For the purposes of this regulation, “relevant authority” means—

- (a) the Commissioners of Her Majesty’s Revenue and Customs;
- (b) the Gambling Commission;
- (c) any law enforcement authority;
- (d) an overseas authority;
- (e) a self-regulatory organisation;
- (f) a skilled person appointed under regulation 13(2);
- (g) the Treasury.

(5) For the purposes of paragraph (4)(d), an “overseas authority” means an authority within the meaning of regulation 50(4) of the MLR which undertakes to comply with such conditions in relation to the information as the FCA considers appropriate.

## **Report by a skilled person**

**13.**—(1) This section applies where the FCA has required or could require a self-regulatory organisation to provide information or produce documents with respect to any matter (“the matter concerned”) under regulation 7.

(2) The FCA may either—

- (a) by notice in writing given to the self-regulatory organisation, require the self-regulatory organisation to appoint a person (a “skilled person”) to provide the FCA with a report on the matter concerned, or
- (b) itself appoint a skilled person to provide the FCA with a report on the matter concerned.

(3) When acting under subsection (2)(a), the FCA may require—

- (a) the report to be in such form as may be specified in the notice; and
- (b) that the contract between the skilled person and the self-regulatory organisation contain certain terms that the FCA considers appropriate.

(4) The FCA must give notice of an appointment under subsection (2)(b) to the self-regulatory organisation.

(5) The skilled person—

- (a) must be a person appearing to the FCA to have the skills necessary to make a report on the matter concerned, and
- (b) where the appointment is to be made by the self-regulatory organisation, must be a person nominated or approved by the FCA.

- (6) Subject to paragraph (7), it is the duty of—
- (a) the self-regulatory organisation, and
  - (b) any person who is providing (or who has at any time provided) services to the self-regulatory organisation in relation to the matter concerned,
- to give the person appointed to prepare a report all such assistance as the appointed person may reasonably require.
- (7) Regulation 9 applies to the provision of any information under paragraph (6).

## Directions

- 14.**—(1) The FCA may give a direction in writing to a self-regulatory organisation.
- (2) A direction may be given for the purpose of—
- (a) remedying a failure to comply with a supervision requirement;
  - (b) preventing a failure to comply, or continued non-compliance, with a supervision requirement.
- (3) A direction may require or prohibit the taking of specified action.
- (4) In deciding whether to give a direction to a self-regulatory organisation, the FCA must consider whether at the time the self-regulatory organisation followed—
- (a) any relevant guidelines issued by a European Supervisory Authority in accordance with Articles 17, 18(4) or 48(10) of the fourth money laundering directive or Article 25 of the funds transfer regulation;
  - (b) any relevant guidance which was at the time issued by the FCA.

## PART 4

### Enforcement

## Interpretation

**15.** In this Part—

“European Supervisory Authority” means—

- (a) the European Securities and Markets Authority;
- (b) the European Banking Authority;
- (c) the European Insurance and Occupational Pensions Authority;

“fourth money laundering directive” means Directive 2015/849/EU of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing<sup>(a)</sup>;

“funds transfer regulation” means Regulation 2015/847/EU of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds<sup>(b)</sup>;

“public censure” means a statement published in accordance with regulation 16;

“recommendation for removal” means a recommendation made in accordance with regulation 17”.

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(a) OJ L 141, 05.06.15, p.73.  
(b) OJ L 141, 05.06.2015, p.1.

## **Public censure**

**16.**—(1) If the FCA considers that a self-regulatory organisation has failed to comply with a supervision requirement, a requirement under regulation 7, a requirement under regulation 13, or a direction given under regulation 14, the FCA may publish a statement censuring the self-regulatory organisation.

(2) The FCA must not censure a self-regulatory organisation under this regulation for failure to comply with a requirement listed in paragraph (1) if the FCA is satisfied that the self-regulatory organisation took all reasonable steps and exercised all due diligence to ensure that such a requirement would be complied with.

(3) In deciding whether a self-regulatory organisation has failed to comply a supervision requirement, the FCA must consider whether at the time the self-regulatory organisation followed—

- (a) any relevant guidelines issued by a European Supervisory Authority in accordance with Articles 17, 18(4) or 48(10) of the fourth money laundering directive or Article 25 of the funds transfer regulation;
- (b) any relevant guidance which was at the time issued by the FCA.

## **Recommendations for removal from Schedule 1 to the MLR**

**17.**—(1) If the FCA is satisfied that a self-regulatory organisation has failed to comply with a supervision requirement, a requirement under regulation 7, a requirement under regulation 13, or a direction given under regulation 14, the FCA may recommend to the Treasury that a self-regulatory organisation is removed from Schedule 1 to the MLR.

(2) The FCA must not recommend to the Treasury that a self-regulatory organisation be removed from Schedule 1 to the MLR for failure to comply with a requirement listed in paragraph (1) if the FCA is satisfied that the self-regulatory organisation took all reasonable steps and exercised all due diligence to ensure that such a requirement would be complied with.

(3) In deciding whether a self-regulatory organisation has failed to comply with a supervision requirement, the FCA must consider whether at the time the self-regulatory organisation followed—

- (a) any relevant guidelines issued by a European Supervisory Authority in accordance with Articles 17, 18(4) or 48(10) of the fourth money laundering directive or Article 25 of the funds transfer regulation;
- (b) any relevant guidance which was at the time issued by the FCA.

## **Procedure for disciplinary measures**

**18.**—(1) If the FCA proposes to issue public censure or make a recommendation for removal, it must give the self-regulatory organisation concerned a warning notice.

(2) Section 387 of FSMA<sup>(a)</sup> applies in relation to a notice given under paragraph (1) as it applies in relation to a warning notice given by the FCA under that Act, subject to paragraph (3).

(3) In complying with section 387(1)(a), a warning notice must—

- (a) if it is about a proposal to issue public censure, set out the terms of the statement;
- (b) if it is about a proposal to make a recommendation for removal, set out the reasons for the proposal;

(4) If the FCA decides to issue public censure or make a recommendation for removal, it must without unreasonable delay give that person a decision notice.

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(a) Section 387 was amended by paragraph 26 of Schedule 9 to the Financial Services Act 2012, paragraph 12 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33).



(5) If the decision is to issue public censure, the decision notice must set out the terms of the statement.

(6) If the decision is to make a recommendation for removal, the decision notice must set out the reasons for the decision.

(7) Section 388 (decision notices) of FSMA(a) applies in relation to a decision notice given under paragraph (4) as it applies in relation to a decision notice given by the FCA under FSMA.

### **The FCA: procedure (general)**

**19.**—(1) Section 389 (notices of discontinuance) of FSMA(b) applies in relation to a warning notice given under regulation 18(1) and a decision notice given under regulation 18(4) as it applies in relation to warning notices or decision notices given under FSMA.

(2) Section 390 (final notices) of FSMA applies to a decision notice given under regulation 18(4) in relation to public censure as it applies in relation to decision notices given under FSMA, subject to paragraph (3).

(3) Section 390 of FSMA has effect as if subsections (4) to (10) were omitted.

### **Publication: the FCA**

**20.**—(1) Where a warning notice is given by the FCA under regulation 18(1), neither the FCA nor any person to whom it is given or copied may publish the notice or any details concerning it.

(2) Where a decision notice is given by the FCA under regulation 18(4) relating to a recommendation for removal, neither the FCA nor any person to whom it is given or copied may publish the notice or any details concerning it.

(3) Where the FCA gives a decision notice under regulation 18(4) relating to public censure the FCA must publish such information about the matter to which the notice relates as it considers appropriate, subject to paragraphs (4) to (7).

(4) Where the FCA publishes information under paragraph (3) about a matter to which a decision notice relates and the self-regulatory organisation concerned refers the matter to the Upper Tribunal (see regulation 23), the FCA must, without undue delay, publish on its official website information about the status of the appeal and its outcome.

(5) Where the FCA gives a final notice (see regulation 19), it must, without unreasonable delay, publish on its official website information on the type and nature of the breach, and the identity of the person on whom the measure is imposed.

(6) Subject to paragraph (8) information about a matter to which a final notice relates must be published anonymously where—

- (a) failing to publish anonymously would jeopardise the stability of financial markets or an ongoing investigation; or
- (b) failing to publish anonymously would cause, insofar as it can be determined, disproportionate damage to the persons involved.

(7) Where paragraph (6) applies, the FCA must defer the publication of the information about a matter to which a final notice relates until such time as paragraph (6) ceases to apply.

(8) Information about a matter to which a final notice relates must not be published where anonymous publication under paragraph (6) is considered by the FCA to be insufficient to ensure—

- (a) that the stability of the financial markets would not be put in jeopardy; or
- (b) that the publication would be proportionate with regard to sanctions or measures which are considered by the FCA to be of a minor nature.

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(a) Section 388 has been amended (and subsection (1A) inserted) by paragraph 27 of Schedule 9 to the Financial Services Act 2012 (c.21) and paragraph 13 of Schedule 3 to the Financial Services (Banking Reform) Act 2013.

(b) Section 389 has been amended by paragraph 28 of Schedule 9 to the Financial Services Act 2012.

(9) Where the FCA publishes information in accordance with paragraphs (3) to (6), the FCA must ensure that the information remains on its official website for at least five years, unless the information is personal data and the Data Protection Act 1998(a) requires the information to be retained for a different period.

(10) For the purposes of this regulation “personal data” has the meaning given in section 1 of the Data Protection Act 1998(b).

### **Determination of recommendations for removal from Schedule 1 to the MLR**

**21.** The Treasury must take the FCA’s recommendation for removal into account when deciding whether a self-regulatory organisation should be removed from Schedule 1 to the MLR.

### **Contempt of court**

**22.—**(1) If a person fails to comply with a requirement imposed on them by the FCA under regulation 7 or regulation 13(2)(a), the FCA may certify that fact in writing to the court.

(2) If the court is satisfied that the person failed without reasonable excuse to comply with the requirement, it may deal with the person as if he were in contempt.

(3) In this regulation—

“court” means—

- (a) the High Court;
- (b) in Scotland, the Court of Session.

## **PART 5**

### **Appeals**

#### **Appeals against decisions of the FCA**

**23.—**(1) A person may appeal from a decision by the FCA under regulation 16 to the Upper Tribunal.

(2) The provisions of Part 9 of FSMA (hearings and appeals), apply, subject to the modifications set out in paragraph (3), in respect of appeals to the Upper Tribunal made under this regulation as they apply in respect of references made to that Tribunal under that Act.

(3) Part 9 of FSMA has effect as if—

- (a) in section 133 (proceedings before Tribunal: general provision), in subsection (7A)(c), after paragraph (o) there were inserted—

“(p) a decision to take action under regulation 16 of the Oversight of Professional Body Anti-Money Laundering Supervision Regulations 2017.”; and

- (b) for section 133A(d) there were substituted—

#### **“Proceedings before Tribunal: decision notices**

**133A.—**(1) The action specified in a decision notice given in relation to regulation 16 under regulation 18(4) of the Oversight of Professional Body Anti-Money Laundering Supervision Regulations 2017 must not be taken—

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(a) 1998 c.29.

(b) Section 1 was amended by section 68 of, and Part 3 of Schedule 8 to, the Freedom of Information Act 2000 (c.36) and by S.I. 2004/3089.

(c) 2000 (c.8). Subsection 7A was inserted by section 23 of the Financial Services Act 2012 (c.21) and amended by section 4(2) of the Financial Services (Banking Reform) Act 2013 (c.33) and by S.I. 2013/1388; 20143/3329.

(d) Section 133A was inserted by S.I. 2010/22 and amended by section 23 of the Financial Services Act 2012.

- (a) during the period within which the matter to which the notice relates may be referred to the Tribunal under the Oversight of Professional Body Anti-Money Laundering Supervision Regulations 2017; and
  - (b) if the matter is so referred, until the reference, and any appeal against the Tribunal's determination, has been finally disposed of.
- (2) The Tribunal may, on determining a reference under these Regulations in respect of a decision of the FCA, make recommendations as to its regulating provisions or its procedures.”.

## PART 6

### Miscellaneous Provisions

#### **Recovery of charges and penalties through the court**

**24.** Any charge imposed on a self-regulatory organisation by the FCA under these Regulations is a debt due from that self-regulatory organisation to the FCA, and is recoverable accordingly.

#### **Costs of supervision**

**25.—**(1) The FCA may impose charges on—

- (a) applicants under regulation 4;
- (b) a self-regulatory organisation for supervision by the FCA;
- (c) a self-regulatory organisation for expenses incurred by the FCA in relation to an appointment under regulation 13(2)(b).

(2) Charges levied under paragraph (1) must not exceed such amount as the FCA consider will enable them to meet any expenses reasonably incurred by them in carrying out their functions under these Regulations or for any incidental purpose.

#### **Financial Conduct Authority**

**26.** The functions of the FCA under these Regulations shall be treated for the purposes of Parts 1, 2 and 4 of Schedule 1ZA to FSMA(a) (the Financial Conduct Authority) as functions conferred on the FCA under that Act.

#### **Notices**

**27.** The provisions of the Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001(b) apply in respect of any notices served under these Regulations.

#### **Review**

**28.—**(1) The Treasury must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 5 years after the coming into force of these Regulations.

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(a) 2000 c.8. Schedule 1ZA was substituted, with Schedule 1ZB, for Schedule 1 to the Financial Services and Markets Act 2000 (c.8) by section 6(2) of the Financial Services Act 2012 (c.21); and amended by paragraphs 14 and 16 of Schedule 3, and paragraph 7 of Schedule 8, to the Financial Services (Banking Reform) Act 2013 (c.33); paragraph 13 of Schedule 3 to the Pensions Scheme Act 2015 (c.8); section 18 of the Bank of England and Financial Services Act 2016 (c.14); and by S.I. 2013/1388.

(b) S.I. 2001/1420.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015<sup>(a)</sup> requires that a review carried out under this regulation must, so far as is reasonable, have regard to how paragraphs (1) and (2) of Article 48 of the fourth money laundering directive is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

	<i>Name</i>
	<i>Name</i>
Date	Two of the Lords Commissioners of Her Majesty's Treasury

### **EXPLANATORY NOTE**

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

These Regulations supplement the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) ("MLR") by giving the FCA the necessary powers to supervise professional body anti-money laundering supervisors, and to ensure that they are fulfilling their supervision obligations under the MLR.

Part 1 (introduction) sets out the definitions and meanings that apply throughout these Regulations, and the duty on the FCA to ensure that self-regulatory organisations comply with any supervision requirement placed on them by the MLR (regulation 3).

Part 2 (applications) sets out the process for applying to be considered for inclusion as a self-regulatory organisation (regulations 4 and 5).

Part 3 (information and directions) gives the FCA information gathering powers (regulation 7) and makes provision for the way in which the power in regulation 7 may be exercised (regulations 8 to 10). Regulation 11 prohibits the disclosure of confidential information by the FCA subject to regulation 12. Regulation 12 provides that FCA may disclose information it holds in certain circumstances. Regulation 13 gives the FCA the power to require a self-regulatory organisation to commission and provide the FCA with a skilled person's report. Regulation 14 gives the FCA the power to issue directions to a self-regulatory organisation.

Part 4 (enforcement) gives the FCA powers to impose civil penalties on self-regulatory organisations who have contravened certain requirements (regulations 16 to 21), and to apply to court to initiate contempt proceedings (regulation 22).

Part 5 (appeals) provides for an appeal from a decision by the FCA under regulation 16 (regulation 23).

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(a) 2015 c. 26.

Part 6 (miscellaneous provisions), among other things, ensures that charges or penalties imposed by the FCA may be recovered as a debt in civil proceedings (regulation 24) and ensures that the FCA can recover the costs of their supervision (regulation 25).

A full regulatory impact statement of the effect that the Regulations will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum to the Regulations on [legislation.gov.uk](http://legislation.gov.uk).