

Directions to the Financial Conduct Authority (“FCA”) by the Treasury pursuant to paragraph 20(6) of Schedule 1ZA Financial Services and Markets Act 2000 (“FSMA”) on its coming into force and pursuant to various regulations on their coming into force¹

Enforcement Costs

For the purposes of paragraph 20(3) of Schedule 1ZA FSMA, the following (“the relevant enforcement costs”) shall be regarded as expenditure incurred in connection with the matters mentioned in that sub-paragraph:

- The direct costs of the Enforcement and Financial Crime Division of the FCA (i.e. costs excluding any share of corporate overheads) but excluding:
 - a. the costs of the Director’s Office;
 - b. the costs of the Strategy & Relationship Management team in the Strategy & Operations Department;
 - c. the costs of the Financial Crime and Intelligence Department; and
 - d. 25% of the costs of the Legal Group.

Manner of Payment of Penalties

The FCA must in respect of each of its financial years pay to the Treasury its penalty receipts (meaning the total amounts received by it during the year by way of penalties imposed under FSMA and under the various regulations set out in The Payment to Treasury of Penalties Regulations 2013) less the relevant enforcement costs.

The total amount of penalty receipts and the relevant enforcement costs will only be known once the FCA’s statutory accounts have been adopted with respect to the relevant financial year. Nevertheless, the FCA shall make payments on account to the Treasury as set out below.

Prior to the commencement of the relevant financial year, as part of setting its overall budget, the FCA will set a budget for the relevant enforcement costs referred to above (“the budgeted enforcement costs”).

During the course of the relevant financial year, penalty receipts will be paid over to the Treasury on account of the amount due that financial year as follows:

- No payments shall be made until the total amount in penalties received by the FCA during the course of the relevant financial year exceeds the amount of

¹ regulation 35(4B) of the Money Laundering Regulations 2007
regulation 5(5) of the Transfer of Funds (Information on the Payer) Regulations 2007
regulation 36A(2) of the Regulated Covered Bonds Regulations 2008
regulation 92(3) of the Payment Services Regulations 2009
regulation 59(3) of the Electronic Money Regulations 2011
regulation 5C(2) of the Recognised Auction Platforms Regulations 2011
regulation 14(4) of the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012

budgeted enforcement costs for that year and any balancing amount from the preceding year (see below).

- Once the total amount of penalties received by the FCA during the course of the relevant financial year has exceeded the budgeted enforcement costs for that year, payment of that excess amount shall be paid to the Treasury on a quarterly basis, these payments will be made within 14 days of the normal quarter end (i.e. 30 June, 30 September, 31 December & 31 March) except where an individual financial penalty exceeds £50 million, in which case payment shall be made to the Treasury of that penalty within 14 days of receipt.

The FCA will not be liable to pay interest on penalties that it receives to the Treasury provided that it makes the payments required above on time. If any payments are made late, the FCA shall pay to the Treasury any interest that the FCA has earned from the due date to the date of actual payment.

Once the FCA's statutory accounts for the relevant financial year have been adopted by the FCA, the amount due to the Treasury with respect to that year will then be known. Any over or under payment made by the FCA by means of the payments on account with respect to the relevant financial year will then be dealt with by means of an adjustment to the first payment to the Treasury in the following financial year.

Information requirements

The FCA shall as soon as reasonably practicable inform the Treasury of the following:

- Its budgeted enforcement costs for the financial year;
- The imposition of financial penalties;
- A reconciliation on a quarterly basis of penalties received, penalties paid over to the Treasury and enforcement costs deducted.
- Twice a year the FCA will provide HM Treasury with information in an agreed format for the Parliamentary Estimates. Information will be required by the end of January for the Main Estimate and by the end of December for the Supplementary Estimate.
- Penalties received to date as necessary to enable HM Treasury to respond to Parliamentary Questions, Freedom of Information and other requests
- The total amount of penalty receipts and the relevant enforcement costs for the financial year following the adoption of the statutory accounts by the FCA for that year.

26 March 2013