

**GLOSSARY AMENDMENT (DEFINITION OF SETTLEMENT DECISION MAKERS)
INSTRUMENT 2012**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers in the Financial Services and Markets Act 2000:
- (1) section 157(1) (Guidance); and
 - (2) section 395(5) (The Authority's procedures).

Commencement

- B. This instrument comes into force on 6 February 2012.

Amendments to the Handbook

- C. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- D. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex B to this instrument.

Amendments to the Enforcement Guide

- E. The Enforcement Guide (EG) is amended in accordance with Annex C to this instrument.

Citation

- F. This instrument may be cited as the Glossary Amendment (Definition of Settlement Decision Makers) Instrument 2012.

By order of the Board
19 January 2012

Annex A**Amendments to the Glossary of definitions**

In this Annex, underlining indicates new text and striking through indicates deleted text.

*settlement
decision
makers* (in *DEPP* and *EG*) two members of the *FSA*'s ~~executive~~ senior management, one of whom will be of at least director of division level (which may include an acting director) and the other of whom will be of at least head of department level, with responsibility for deciding whether to give *statutory notices* in the circumstances described in *DEPP* 5. At least one of the decision makers will not be from the Enforcement and Financial Crime Division.

Annex B

Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

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- (3) The decision will be taken jointly by two members of the *FSA's* ~~executive~~ senior management, one of whom will be of at least director of division level (which may include an acting director) and the other of whom will be of at least head of department level (the "*settlement decision makers*").
- (4) At least one of the *settlement decision makers* will not be from the Enforcement and Financial Crime Division. ~~One of the directors taking the decision~~ The other *settlement decision maker* will usually be, but need not be, the director of from the Enforcement and Financial Crime Division. Consistent with section 395(2) of the Act, a *settlement decision maker* will not have been directly involved in establishing the evidence on which the decision is based. ~~(In exceptional cases, the director of Enforcement may have been directly involved in establishing the evidence on which the decision is based and would not therefore be able to participate (see section 395(2) of the Act).)~~

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Annex C

Amendments to the Enforcement Guide (EG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.38 The procedures the FSA will follow when giving *supervisory notices*, *warning notices* and *decision notices* are set out in *DEPP* 1 to 5. Under these procedures, the decisions to issue such notices in contested enforcement cases are generally taken by the *RDC*, an FSA Board committee that is appointed by, and accountable to, the FSA Board for its decisions generally. Further details about the *RDC* can be found in *DEPP* 3 and on the pages of the FSA web site relating to the *RDC*.³ However, decisions on settlements and *statutory notices* arising from them are taken by two members of the FSA's senior management ~~of at least director level~~, under a special settlement decision procedure (see chapter 5).

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5.5 Decisions on settlements and *statutory notices* arising from them are taken by two members of the FSA's senior management ~~of at least director level~~, rather than by the *RDC* (*DEPP* refers to these individuals as the '*settlement decision makers*'). Full details of the special decision making arrangements for settlements are set out in *DEPP* 5.

³ <http://www.fsa.gov.uk/Pages/About/Who/board/committees/RDC/index.shtml>