COMPETITION LAW INFRINGEMENT (DISCLOSURE) INSTRUMENT 2015

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

(1) section 137A (The FCA’s general rules);
(2) section 137T (General supplementary powers); and
(3) section 139A (Power of the FCA to give guidance).

B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 August 2015.

Amendments to the FCA Handbook

D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Competition Law Infringement (Disclosure) Instrument 2015.

By order of the Board of the Financial Conduct Authority
2 July 2015
Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text.

15.3 General notification requirements

... Civil, criminal or disciplinary proceedings against a firm

15.3.15 R A firm must notify the appropriate regulator immediately if:

... disciplinary measures or sanctions have been imposed on the firm by any statutory or regulatory authority, competition authority, professional organisation or trade body (other than the appropriate regulator) or the firm becomes aware that one of those bodies has started an investigation into its affairs; or

... Competition law infringements

15.3.32 R (1) A firm must notify the FCA if it has or may have committed a significant infringement of any applicable competition law.

(2) A firm must make the notification as soon as it becomes aware, or has information which reasonably suggests, that a significant infringement has, or may have, occurred.

(3) (a) A firm must make the notification in writing unless (3)(b) applies.

(b) A firm may make the notification orally where it has made or will make an oral application for leniency or immunity covering the same subject matter to any competition authority.

15.3.33 G A notification under SUP 15.3.32R should include:

(1) information about any circumstances relevant to the infringement or possible infringement;

(2) identification of the relevant law; and
information about any steps which the firm or other person has taken or intends to take to rectify or remedy the infringement or prevent any future potential occurrence.

15.3.34 G In determining whether a matter is significant, a firm should have regard to the actual or potential effect on competition, any customer detriment, and the duration of any infringement and implications for the firm’s systems and controls.

15.3.35 G (1) Where a firm notifies the FCA under SUP 15.3.32R, the firm should not infer or assume that any lack of (or delay in) a response, objection or enforcement activity by the FCA or any other competition authority means that the agreement or conduct:

(a) does not infringe competition law; or

(b) is, or will be, immune from enforcement.

(2) Notification under SUP 15.3.32R is not sufficient to constitute an application for leniency or immunity from penalty in any subsequent investigation under Chapter 1 of the Competition Act 1998 or article 101 of the Treaty.

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