

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

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Civil, criminal or disciplinary proceedings against a firm

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

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- (3) 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

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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

(3) 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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15 Annex 1 R Application of SUP 15 to incoming EEA firms and incoming Treaty firms

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Applicable Sections		Application
SUP 15.3.2G	Insolvency, bankruptcy and winding up	Apply in so far as responsibility for the matter in question is not reserved by an <i>EU</i> instrument to the <i>firm's</i> <i>Home State regulator</i>
SUP 15.3.32R to SUP 15.3.35G	<u>Competition law infringements</u>	<u>Apply in so far as responsibility for the matter in question is not reserved by an <i>EU</i> instrument to the <i>firm's</i> <i>Home State regulator</i></u>
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