

**CRITICAL THIRD PARTIES (STATEMENT OF POLICY RELATING TO
DISCIPLINARY MEASURES) INSTRUMENT 2024**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 137T (General supplementary powers);
 - (2) section 139A (Power of the FCA to give guidance); and
 - (3) section 312T (Statement of policy relating to disciplinary measures).
- B. The FCA makes this instrument in the exercise of the power in section 139A (Power of the FCA to give guidance) of the Act.

Commencement

- C. This instrument comes into force on 1 January 2025.

Amendments to the Handbook

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

Notes

- F. In the Annexes to this instrument, the notes (indicated by “*Editor’s note:*”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Critical Third Parties (Statement of Policy Relating to Disciplinary Measures) Instrument 2024.

By order of the Board
31 October 2024

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

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

public censure ...

- (5) a statement published under section 271R (Public censure) or section 282B (Public censure) of the *Act*;
- (6) a statement published under section 312Q (Power of censure) of the *Act*.

Annex B

Amendments to the Decision Procedure and Penalties manual (DEPP)

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

[*Editor’s note:* This Annex takes into account the changes made by Securitisation (Smarter Regulatory Framework and Consequential Amendments) Instrument 2024 (FCA 2024/18), which comes into force on 1 November 2024.]

2 Statutory notices and the allocation of decision making

...

2 Annex 1 Warning notices and decision notices under the Act and certain other enactments

...

Section of the Act	Description	Handbook reference	Decision maker
...			
312G(1) 312H(1)
<u>312Q</u>	<u>when the FCA is proposing or deciding to publish a notice of public censure under section 312Q of the Act</u>	<u>DEPP 6A.1.1G(5)</u>	<u>Executive procedures</u>
<u>312R(2)</u>	<u>when the FCA is proposing or deciding to publish a notice of disciplinary measures under section 312R(2)(a) to (e) of the Act</u>	<u>DEPP 6A.1.1G(5)</u> <u>DEPP 6A.1.2G(6)</u> <u>DEPP 6A.2.6G</u>	<u>Executive procedures</u>
...			

...

6A The power to impose a suspension, restriction, condition, limitation or disciplinary prohibition

6A.1 Introduction

6A.1.1 G *DEPP* 6A sets out the *FCA*'s statement of policy with respect to:

...

- (2) the imposition of suspensions, conditions or limitations under section 66 of the Act, the period for which suspensions or conditions are to have effect, and the period for which approvals under section 59 have effect as a result of a limitation, as required by section 69(1); ~~and~~
- (3) the imposition of disciplinary prohibitions, suspensions or restrictions under sections 123A and 123B of the Act, as required by section 124(1); and
- (4) the imposition of temporary prohibitions on management functions under regulation 37 of the *Securitisation Regulations 2024*; and
- (5) the exercise of its power of public censure under sections 312Q of the Act and the imposition of disciplinary measures under section 312R of the Act, as required by section 312T of the Act.

6A.1.2 G ...

- (4) "limitation" refers, apart from in *DEPP* 6A.1.2G(2), to a limitation of the period for which any approval of the performance by an *approved person* of any function to which the approval relates is to have effect (under section 66 of the Act); ~~and~~

- (5) "disciplinary prohibition" refers to:

...

- (d) a temporary prohibition of an individual that has contravened, or has been knowingly concerned in the contravention of, a relevant requirement (as defined by regulation 35 of the *Securitisation Regulations 2024*); and
- (6) for the purpose of section 312T of the Act, "disciplinary measures" under section 312R of the Act refers to:
 - (a) prohibiting the *critical third party* from entering into arrangements, or continuing, to provide services to *authorised persons*, relevant service providers or financial market infrastructure (FMI) entities;
 - (b) prohibiting *authorised persons*, relevant service providers or FMI entities that receive services from the *critical third party* from continuing to receive those services from that party;

- (c) prohibiting *authorised persons*, relevant service providers or FMI entities from entering into arrangements for receipt of services from the *critical third party*;
- (d) providing for the provision of any services by the *critical third party* to be subject to such conditions or limitations as are specified in the notice; and
- (e) providing for any receipt of services by *authorised persons*, relevant service providers or FMI entities from the *critical third party* to be subject to such conditions or limitations as are specified in the notice.

...

6A.2 Deciding whether to take action

...

6A.2.5 G ...

- 6A.2.6 G (1) For the purposes of section 312T of the *Act*, the *FCA* will apply its usual supervisory and enforcement approaches and respond to compliance issues as they arise. The *FCA* may take enforcement action against *critical third parties* in respect of the services that they provide to firms and financial market infrastructure firms (FMIs), when appropriate and proportionate.
- (2) The *FCA* may take enforcement action if a *critical third party* has:
- (a) ignored a direction;
 - (b) contravened a requirement imposed upon it; or
 - (c) breached any *rules* which may be in force imposing duties on *critical third parties* in connection with the provision of services to *authorised persons*.
- (3) When taking enforcement action, the *FCA* will apply its existing approach to enforcement as set out in *DEPP*, *EG* and on its website.

...

Sch 4 Powers Exercised

Sch 4.1 G

The following powers and related provisions in or under the *Act* have been exercised by the *FCA* to make the statements of policy in *DEPP*:

	...
	Section 312J (Statement of policy)
	<u>Section 312T (Statement of policy relating to disciplinary measures)</u>
	...

...