

Consultation Paper **CP26/19****

Decision Procedure and Penalties Manual updates

June 2026

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Chapter 1

Summary and background

1.1 We are committed to becoming a smarter regulator, supporting growth and innovation, helping consumers navigate their financial lives, and fighting financial crime.

1.2 Our enforcement priorities have developed in line with our strategic commitments. We have significantly increased the pace and focus of our enforcement work to deliver impactful deterrence. Penalties we impose contribute to the deterrent aspect of our work.

1.3 Legislation requires us to publish policy statements on when we will impose these penalties and how we will calculate them. We have set our policy out publicly in our [Handbook](#).

1.4 Our Decision Procedure and Penalties Manual (DEPP) contains a 5-step process for calculating the appropriate financial penalty. The steps consider:

- the disgorgement of any financial benefit resulting from the misconduct
- the disciplinary element of the penalty
- the proportionality to the misconduct
- adjustments to ensure deterrence
- adjustments to take account of mitigating and aggravating factors and the willingness of the subject to settle the matter early

Our policy allows us to reduce the penalty if it would otherwise cause the subject serious financial hardship (SFH).

1.5 We also need to ensure that our decision-making is effective and efficient, so we can act at pace and make the best use of our available expertise.

1.6 We are proposing a small number of amendments to DEPP. These amendments account for inflation, better reflect our existing practice, increase flexibility for our decision making, and reflect our powers to regulate cryptoassets.

1.7 We have grouped all the proposed changes together in the following chapter of this consultation paper (CP) as follows:

- Changes concerning the deterrent aspect of the penalties we impose on individuals. We propose:
 - Updating our minimum initial disciplinary penalty level for serious market abuse committed by individuals. This has not changed since 2010.
 - Clarifying our ability to increase penalties on individuals for deterrence having regard to their wealth, even where their relevant income was material.

- Changes to 2 discrete aspects of our penalty policy as it applies to individuals. We propose:
 - Updating our treatment of individuals' deferred income, when relevant to penalty calculation. The changes follow the approach taken in recent Upper Tribunal decisions.
 - Updating our income and capital thresholds for individuals' SFH assessment. These figures have also remained unchanged since 2010. We also propose some other minor SFH-related changes.
- Changes that relate to our decision-making. We propose:
 - Revising the composition for our settlement decision-making process where cases are referred from Market Oversight for investigation.
 - Minor and consequential changes, following the introduction of the market abuse regime for cryptoassets (MARC). Our remit to regulate cryptoasset activities is based on the Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026 ('the Cryptoasset Regulations').

1.8 We welcome views on these proposals, and we will consider the consultation feedback before we decide on any changes.

Chapter 2

Our proposed changes

Introduction: the deterrence impact of our penalties – market abuse and wealthier individuals

- 2.1** This section explains our proposed amendments to address the deterrence aspect of our financial penalties on individuals. One proposed change increases the minimum initial disciplinary element of our penalties for serious market abuse committed by individuals from £100,000 to £150,000 to take account of inflation. The second change aligns the different sections of our policy on wealthier individuals to avoid any confusion. The text of the proposed amendments is set out in the appendix to this CP.

Our proposals – market abuse

- 2.2** Most of the individuals we regulate are subject to our oversight because they have chosen to provide certain services or to work for firms that do so. For example, we can impose penalties on senior managers, directors, and many other employees of authorised firms for breaches of our rules.
- 2.3** We can also impose penalties on individuals not directly regulated by us where their misconduct falls within our areas of responsibility. We can, for example, impose penalties on:
- those found to have committed insider dealing in public securities
 - those who short sell such securities without providing required notifications
 - auditors of authorised firms who neglect to inform us of certain matters
- 2.4** DEPP 6.5C contains a sub-policy specific to market abuse by individuals. Such cases include insider dealing, unlawful disclosure of inside information and market manipulation. In paragraph 2.52 below we propose that insider dealing also includes using inside information as prohibited by the Cryptoasset Regulations.
- 2.5** Our policy states that the disciplinary element of our penalties depends on how we have assessed the seriousness of the misconduct. The policy includes 5 seriousness levels, with 5 being the highest. For market abuse by individuals assessed as being of level 4 or 5 seriousness, the penalty will be at least £100,000. It also states that we usually expect to determine that deliberate market abuse is level 4 or 5.
- 2.6** The £100,000 minimum may be reduced for proportionality, mitigating factors, settlement and SFH and such reductions are not unusual. However, even with any such reduction, the minimum is intended to ensure that any penalty in the most serious cases has sufficient deterrent impact.

- 2.7** When we introduced this minimum, we considered that market abuse requires particular and focused deterrence. We remain of that view, for the following reasons:
- it can harm consumers and undermine market confidence, even if the perpetrator does not make significant profit or avoid significant loss
 - adequate redress from the perpetrator is often impractical
 - perpetrators often work outside financial services, where our other regulatory powers may not apply, so our penalties must be sufficiently deterrent on their own
 - clean markets instil investor confidence, which in turn encourages growth and innovation.
- 2.8** The £100,000 minimum was introduced in March 2010, after public consultation, and has not been revised since then. We propose increasing the figure in line with inflation. We have considered 3 potential inflation measures alongside their percentage increase between March 2010 and March 2026:
- Retail price index (RPI) inflation, which has been 86.4%.
 - Consumer price index (CPI) inflation, which has been 59%.
 - CPI plus housing cost (CPIH) inflation, which has been 57.5%.
- 2.9** We have considered these different approaches and noted:
- The CPI is produced to international standards in line with European regulations and is used for international comparison. The government uses this index to set the Bank of England's target for inflation.
 - RPI is now considered, in the words of the Office of National Statistics (ONS), '[a very poor measure of general inflation](#).' It is no longer used as an official measure of inflation.
 - The ONS prefers CPIH and considers it the most comprehensive.
 - CPIH adds changes in owner occupiers' housing costs and council tax to CPI inflation (the ONS methodology [here](#)). These costs are relevant to how inflation has affected and will continue to affect living costs.
- 2.10** Housing-related costs are likely to be paid, directly or indirectly, by the individuals we take action against for market abuse. They will have factored them into their living costs. We therefore propose using CPIH and increasing to a round figure of £150,000, slightly below the 57.5%.
- 2.11** We have calculated the proposed uplift from March 2010. This increased figure will reinforce our view that we take market abuse seriously and ensure that the minimum figure for a penalty against individuals is a suitable deterrent.
- 2.12** We also want to ensure that this figure remains up to date and a suitable deterrent for the future. We propose further amending our policy so that the figure adjusts to keep pace with inflation.
- 2.13** We propose the figure will be automatically adjusted on 1 May every two years by applying the percentage change in CPIH over time. We will round to the nearest £10,000

to give a clear figure. The minimum penalty will be the figure or figures in place when the market abuse occurred.

2.14 We will publish a table to show which figure applies at any point in time.

Question 1: Do you have any comments about our proposal to increase our minimum initial disciplinary penalty for serious market abuse by individuals to £150,000?

Question 2: Do you agree with the proposal to automatically adjust the minimum figure over time to reflect inflation?

Question 3: Do you agree with how we propose to do this?

Our proposal – deterrence for wealthier individuals

2.15 The financial penalties we impose are an important part of the deterrent aspect of our work. We can increase a penalty if it doesn't sufficiently deter the individual who committed the breach, or others, from committing further or similar breaches.

2.16 DEPP 6 already contains 2 statements on increases relating to individuals' wealth:

- One relates to penalties for market abuse and provides that we may increase for deterrence '*where the penalty may not act as a deterrent in light of the size of the individual's income or net assets*' (DEPP 6.5C.4).
- The other relates to other penalties on individuals and states that we may increase '*where a penalty based on an individual's income may not act as a deterrent, for example, if an individual has a small or zero income but owns assets of high value*' (DEPP 6.5B.4).

2.17 Some have interpreted the second statement to mean that we will only increase penalties having regard to wealth, in non-market abuse cases, where the individual's relevant income was small or zero. We propose to replace this statement to be the same as the wording in market abuse cases at DEPP 6.5C.4, above.

2.18 This change will make clear that we may increase a penalty in all cases where it may not act as a deterrent given an individual's income or net assets. This amendment reflects our current approach and is intended to improve clarity and transparency.

Question 4: Do you have any comments about our proposal to make clear for all penalties, as we already do for market abuse, that we may increase a penalty if it would not otherwise deter a person because of their income or wealth?

Introduction: penalties for individuals – relevant income and serious financial hardship

2.19 This section proposes changes to 2 discrete aspects of our penalty policy as it applies to individuals. One of our proposed changes concerns how we calculate income and the second relates to our ability to reduce a penalty where it would otherwise cause SFH to the individual in question.

Our proposal: relevant income

2.20 The disciplinary element of our financial penalties on individuals is generally calculated by reference to:

- the seriousness of their misconduct, using a 5-level scale
- the length of the period of that misconduct
- their income for that period from the role in question

2.21 Our policy also states that such income includes all benefits received from that role, expressly including share schemes, share options and bonuses (DEPP 6.5B.2).

2.22 When calculating an individual's relevant income for the purpose of a penalty calculation, in addition to salary we look at shares and bonuses they have received. It is not unusual for individuals we sanction to have been awarded annual bonuses or other delayed benefits, for example in the form of shares in their firm. That remuneration can be the most significant part of an individual's overall earnings.

2.23 When applying DEPP 6 to bonuses and other delayed benefits, an issue arises because these may: (i) relate to work undertaken during the misconduct period but be received after it; or (ii) be received during the misconduct period and be treated for contractual and tax purposes as earned during it, but practically be rewards for results and effort before it.

2.24 It is also often the case that such remuneration is only paid to individuals after they have completed further years of employment with their firm. This deferred remuneration may also be conditional, under the terms of their employment contract, on the absence of misconduct during that deferral period. Indeed, our rules require such deferral in certain situations.

2.25 The application of DEPP 6 to calculating income for the period of the misconduct, including deferred, unvested and other share awards arose in two 2025 decisions, Staley v FCA and Gonzalez v FCA, by the Upper Tribunal. Appeals against our financial penalties can be brought to the Tribunal.

2.26 In accordance with those 2 decisions, we are proposing to amend DEPP 6 to make clear that:

- We will treat the following as relevant income:
 - benefits received after the misconduct period but earned during it

- income that is uncertain when calculating the penalty but that may be estimated or adjusted for likelihood of receipt
- the following will not be relevant income:
 - benefits that we know, by the time we calculate our penalty, will never be received
 - benefits received during the misconduct period but earned in a prior period
- we may increase for deterrence a penalty calculated by reference to relevant income if that income was reduced by the firm, as a result of the misconduct in question

2.27 These proposed changes reflect the approach taken by the Upper Tribunal towards the calculation of relevant income, clarifying how we will now approach this aspect of our penalty policy and making it more predictable.

Question 5: Do you agree with our proposed clarificatory changes on how we will calculate an individual's relevant income for the period of the misconduct?

Our proposals: serious financial hardship thresholds

- 2.28** When deciding on the level of a penalty, we may reduce the proposed penalty where payment would cause the individual SFH. Our policy describes when and how we will consider a reduction (DEPP 6.5D).
- 2.29** When someone asks us to reduce our proposed penalty under this policy, we must be satisfied that someone will be caused SFH. We calculate whether their income and capital will fall below certain thresholds if they were to pay our proposed penalty over a reasonable period. If we decide a reduction is appropriate, we will reduce the penalty to an amount that will mean the person's income after tax in each year and the capital they have do not fall below the thresholds.
- 2.30** As a starting point, our policy currently states that we are only likely to be satisfied that a penalty will cause an individual SFH where, were they to pay the penalty over 3 years, their net annual income would fall below £14,000 and their capital below £16,000.
- 2.31** These figures were introduced by the Financial Services Authority in 2010 after consultation and adopted by us in 2013. We now propose to increase them to reflect inflation. As with increasing the minimum figure for penalties for the most serious market abuse by individuals (see paragraphs 2.8 – 2.10 above), we considered a range of inflation measures.
- 2.32** As set out above, our preferred measure is CPIH. This includes costs associated with owning, maintaining and living in a home one owns (known as owner occupiers' housing costs) and council tax. These are relevant to how inflation has affected and will continue to affect the living costs of individuals who pay our financial penalties.
- 2.33** As with the minimum figure for market abuse penalties for individuals, we are proposing a 50% increase to our current SFH thresholds, just below CPIH inflation of 57.5% for the period.

- 2.34** Taking this approach, our proposed thresholds would increase to £21,000 for income and £24,000 for capital. We consider that these proposed thresholds will more accurately reflect a starting point for where an individual would experience SFH.
- 2.35** Our proposed changes to the thresholds will help ensure our policy remains up to date and reflects changes in living costs since the last consultation on this topic.
- 2.36** We want to ensure that our thresholds continue to appropriately reflect changes in living costs over time. For this reason, we propose further amending our policy so that the figures automatically adjust to keep pace with inflation.
- 2.37** We propose the figures will be automatically adjusted on 1 May every two years by applying the percentage change in CPIH over time. We would round to the nearest £1,000 to give clear figures. We would use the thresholds in place at the time we give an individual a decision notice relating to a penalty.
- 2.38** We will publish a table to show which figure applies at any point in time.

Question 6: Do you have any comments about our proposal to increase our SFH thresholds to £21,000 for income and £24,000 for capital?

Question 7: Do you agree with the proposal to automatically adjust the thresholds over time to reflect inflation?

Question 8: Do you agree with how we propose to do this?

Impact on other occupants

- 2.39** DEPP 6 currently states that we 'will normally consider as capital the equity that an individual has in the home in which he lives but will consider any representations by the individual about this; for example, as to the exceptionally severe impact a sale of the property might have upon other occupants of the property'.
- 2.40** In practice, we already invite, consider and respond to representations as to the impact on other occupants, regardless of the degree of severity. To reflect the existing practice, we propose to delete 'exceptionally severe' from the wording quoted above.
- 2.41** We consider this will let individuals know that they may make any representations to us about the impact of a property sale on other occupants, and that any representations are not limited to when the impact may be exceptionally severe.

Question 9: Do you agree with our proposal to delete the words "exceptionally severe" from the description of representations individuals might make about the impact of a property sale?

Disgorgement and SFH

- 2.42** One of the principles of our penalty policy is that a person should not benefit from their misconduct. This is why the first step in our process to calculate a penalty is an amount that represents that benefit. This disgorgement ensures that a person loses any financial benefit they gained (including any losses they avoided) from their wrongdoing.
- 2.43** This is why we do not reduce the disgorgement part of a penalty where we give a discount for early settlement or where we reduce the penalty for SFH.
- 2.44** Although we state in our settlement discount policy in DEPP 6 that a settlement discount does not apply to the disgorgement part of a penalty, DEPP does not expressly set this out for SFH. We consider that it should, to make clear that any disgorgement amount in a penalty will not be reduced, even where payment of this will cause the person SFH. We propose to amend DEPP 6 accordingly to reflect our practice.

Question 10: Do you agree with our proposed change to clarify that the disgorgement part of a penalty is not reduced for SFH?

Our proposal – settlement decision-makers

- 2.45** The procedure we follow when deciding to take enforcement action in settled cases, entering into a focused resolution agreement or for partly contested action is set out in DEPP. Our approach to these cases is that:
- decisions must be taken by 2 members of staff, referred to as settlement decision-makers (SDMs)
 - at least one of the SDMs must be a director or acting director or above and the other at least a head of department (HoD)
 - at least one of them will not be from the Enforcement and Market Oversight Division (EMO)
- 2.46** Neither of the SDMs should have been directly involved in establishing the evidence on which the decision is based. This meets the requirement in section 395 FSMA that at least one person is not directly involved in establishing that evidence and helps provide a degree of independence.
- 2.47** Our standard practice is for one of the SDMs to be an Enforcement Director, given their expertise in the enforcement process. The other tends to come from the area that referred the relevant investigation, given their technical expertise in the subject matter.
- 2.48** However, we are currently unable to take this approach when making settlement decisions in cases that have been referred to Enforcement from Market Oversight. This is due to the way we are structured and means that in cases involving, for example, market abuse or listings misconduct, we may not have the benefit of an SDM with technical expertise in the subject matter.

2.49 We therefore propose to modify DEPP 5 so that the restriction that one SDM must come from outside EMO does not apply where the investigation was referred from Market Oversight. That way a Director or HoD from Market Oversight could be involved in the decision-making. This will enable us to make better and faster decisions in those cases while still complying with the independence requirements in section 395 FSMA.

Question 11: Do you have any comments on our proposal to amend our settlement decision-making procedure, so that a Director or HoD from Market Oversight may be involved?

Our proposals: market abuse regime for crypto assets – consequential amendments

- 2.50** The Cryptoasset Regulations provide the foundation for a new regulatory regime for public offers of qualifying cryptoassets and their admission to trading on cryptoasset trading platforms. This includes MARC . We recently consulted on these new powers and proposed rules.
- 2.51** When we are given new powers, we consult on minor, miscellaneous, or technical amendments to DEPP to reflect and align our decision-making processes.
- 2.52** At present, market abuse is largely defined in DEPP by reference to the Market Abuse Regulations. Our proposed amendments will make it clear that our penalty framework in DEPP 6 will equally apply to crypto market abuse. Using inside information will also include using inside information as prohibited by the Cryptoasset Regulations.
- 2.53** We also propose to make minor changes which identify the relevant decision-makers for our powers under the savings and transitional provisions of the Cryptoasset Regulations.
- 2.54** Those transitional provisions set up a framework that gives us 3 new powers. These facilitate the orderly wind-down of firms with pre-existing contracts which do not obtain the relevant Part 4A FSMA permission to undertake cryptoasset regulated activity.
- 2.55** A person within the scope of the transitional provisions gets a temporary exemption allowing them to continue a relevant cryptoasset activity for which they do not have permission. However, the permission is limited and is only available to the extent needed to perform a pre-existing contract.
- 2.56** The permission is also subject to our powers to vary and cancel the exemption. These powers allow us to:
- direct that the temporary exemption relating to pre-existing contracts applies to a person (in effect, this directs a person into wind-down)
 - cancel all or part of the exemption or impose conditions on an exemption

- issue a public censure where we consider that a person that is subject to an exemption has undermined one of our objectives, or where an overseas person or a person subject to an exemption has failed to notify us that they are carrying on a relevant cryptoasset activity

We can use these powers where we consider it necessary for preventing, detecting, investigating or prosecuting a criminal offence, protecting consumers, or advancing our objectives. We can also cancel or impose conditions relating to the exemption where the person concerned has ceased carrying on a regulated activity covered by the exemption.

2.57 The Cryptoasset Regulations do not designate a decision-maker for the exercise of these powers. Accordingly, we propose to amend DEPP to assign the exercise of these 3 powers to FCA staff, under executive procedures. This aligns with our policy on decision-making allocation in respect of similar types of decisions.

2.58 We also propose to make consequential changes to the following terms in the Handbook Glossary to reflect these changes; "inside information", "market abuse" and "public censure".

2.59 These changes will clarify that our penalty policy towards market abuse will include crypto market abuse. The changes will also confirm who our decision-makers are for exercising the powers given to us under the new regulatory regime for cryptoassets.

Question 12: Do you have any comments on the proposed change to bring crypto market abuse within the scope of our penalty policy on market abuse?

Question 13: Do you have any comments on our proposed consequential and transitional changes?

Annex 1

Questions in this paper

- Question 1:** Do you have any comments about our proposal to increase our minimum initial disciplinary penalty for serious market abuse by individuals to £150,000?
- Question 2:** Do you agree with the proposal to automatically adjust the minimum figure over time to reflect inflation?
- Question 3:** Do you agree with how we propose to do this?
- Question 4:** Do you have any comments about our proposal to make clear for all penalties, as we already do for market abuse, that we may increase a penalty if it would not otherwise deter a person because of their income or wealth?
- Question 5:** Do you agree with our proposed clarificatory changes on how we will calculate an individual's relevant income for the period of the misconduct?
- Question 6:** Do you have any comments about our proposal to increase our SFH thresholds to £21,000 for income and £24,000 for capital?
- Question 7:** Do you agree with the proposal to automatically adjust the thresholds over time to reflect inflation?
- Question 8:** Do you agree with how we propose to do this?
- Question 9:** Do you agree with our proposal to delete the words 'exceptionally severe' from the description of representations individuals might make about the impact of a property sale?
- Question 10:** Do you agree with our proposed change to clarify that the disgorgement part of a penalty is not reduced for SFH?
- Question 11:** Do you have any comments on our proposal to amend our settlement decision-making procedure, so that a Director or HoD from Market Oversight may be involved?
- Question 12:** Do you have any comments on the proposed change to bring crypto market abuse within the scope of our penalty policy on market abuse?
- Question 13:** Do you have any comments on our proposed consequential and transitional changes?

Annex 2

Cost benefit analysis and compatibility statement

Rule Review Framework

1. The FCA's Rule Review Framework states that while we will generally monitor key metrics of new rules, this is not a requirement where it would be disproportionate or where the new rule relates to a minor policy or rule change with minimal impact. We are not proposing to make any new rules, so the Rule Review Framework does not apply.

Cost benefit analysis

2. FSMA requires us to publish a cost benefit analysis when proposing draft rules. As the proposed amendments are to DEPP, which is general guidance, these proposals fall out of scope. The amendments impose no direct requirements on firms. They update our general guidance so that our penalty policy better reflects existing practice and provides transparency about how certain of our decisions are made.

Impact on mutual societies

3. Section 138K FSMA requires us to state whether, in our opinion, our proposed rules will have an impact on mutual societies which is significantly different from the impact on other authorised persons. Our proposals do not introduce any new rules. In any event, we do not expect the proposed changes to have a different impact on mutual societies compared with other authorised persons.

Compatibility statement

4. When consulting on new rules, we are required by section 138I(2) FSMA to explain why we believe that the proposed rule is consistent with our strategic objective, advances one or more of our operational objectives and (so far as reasonably possible) the secondary international competitiveness and growth objective. We must also promote effective competition when advancing our other operational objectives (section 1B FSMA) and have regard to the regulatory principles in section 3B FSMA and the importance of taking action intended to minimise financial crime (section 1B(5) (b) FSMA). We are also required to have regard to the principles in the Legislative and Regulatory Reform Act 2006, the Regulators Compliance Code and the Treasury's recommendation on economic policy (section 1J1 FSMA).

5. We are not proposing any new rules and our proposals amend general guidance. We shared the proposals with the Financial Services Consumer Panel, the Practitioner Panel, the Smaller Business Practitioner Panel, the Markets Practitioners Panel and the Listing Authority Advisory Panel, and none of them raised any concerns. We have also shared our proposals with the Prudential Regulation Authority, which raised no issues. We are satisfied that the amendments are compatible with our objectives and other legal obligations. The amendments, which ensure that our penalty and decision-making policies are up to date, consistent and transparent, advance our operational objectives of securing an appropriate degree of consumer protection and promoting effective competition in the interests of consumers.
6. We are also satisfied that the proposed amendments are compatible with the FCA's secondary international competitiveness and growth objective, as we are confident any burdens or restrictions are proportionate to the expected benefits. Further, by improving the predictability of our approach and maintaining effective deterrence, we promote clean, well-functioning and trusted markets, which build confidence amongst consumers and firms and increase their participation. Whilst this could improve financial service sector productivity, UK international competitiveness and investment in the wider economy, given the minor nature of these adjustments, the overall impact on growth is likely to be minimal.

Equality and diversity

7. We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals would have on any of the groups with protected characteristics under the Equality Act 2010. In Northern Ireland, the Equality Act is not enacted, and other anti-discrimination legislation applies.
8. We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when publishing the final policy. In the meantime, we welcome comments on any equality and diversity considerations.

Annex 3

Abbreviations used in this paper

Abbreviation	Description
CP	Consultation Paper
CPI	Consumer Price Index
CPIH	Consumer Price Index including owner occupiers' housing costs
Cryptoasset Regulations	The Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026
DEPP	Decision Procedure and Penalties Manual
DEPP 6	Chapter 6 of the Decision Procedure and Penalties Manual
FCA	Financial Conduct Authority
HOD	Head of Department
EMO	Enforcement and Market Oversight
FSMA	The Financial Services and Markets Act 2000
MARC	Market Abuse Regime for Cryptoassets
ONS	Office for National Statistics
RPI	Retail Price Index
SDM	Settlement Decision Maker
SFH	Serious Financial Hardship

Appendix 1

Draft Handbook Text

**DECISION PROCEDURE AND PENALTIES MANUAL (AMENDMENT)
INSTRUMENT 2026**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 63C (Statement of policy);
 - (b) section 69 (Statement of policy);
 - (c) section 88C (Action under s.88A: statement of policy);
 - (d) section 89S (Action under s.89Q: statement of policy);
 - (e) section 93 (Statement of policy);
 - (f) section 124 (Statement of policy);
 - (g) section 131J (Imposition of penalties under section 131G: statement of policy);
 - (h) section 137A (The FCA’s general rules);
 - (i) section 137T (General supplementary powers);
 - (j) section 139A (Power of the FCA to give guidance);
 - (k) section 142V (Imposition of penalties under section 142S: statement of policy);
 - (l) section 143Y (Statement of policy for penalties under section 143W);
 - (m) section 192N (Imposition of penalties under section 192K: statement of policy);
 - (n) section 192Z2 (Directions and penalties: statement of policy);
 - (o) section 210 (Statements of policy);
 - (p) section 312J (Statement of policy);
 - (q) section 345D (Imposition of penalties on auditors or actuaries: statement of policy); and
 - (r) section 395 (The FCA’s and PRA’s procedures);
 - (2) regulation 9 (Statements of policy) of the Securitisation Regulations 2018 (SI 2018/1288);
 - (3) regulation 46 (Statement of policy) of the Securitisation Regulations 2024 (SI 2024/102);
 - (4) regulation 42 (Statement of policy) of the Public Offers and Admissions to Trading Regulations 2024 (SI 2024/105);
 - (5) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the Decision Procedure and Penalties Manual of the Handbook; and

- (6) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [*date*].

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 Annexes to this instrument, the notes (indicated by “**Note:**” or “*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 Decision Procedure and Penalties Manual (Amendment) Instrument 2026.

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

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

[*Editor's note:* This Annex takes into account the proposals and legislative changes suggested in the consultation paper 'Regulating Cryptoasset Activities' (CP25/40) as if they were made final.]

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

ONS Office for National Statistics or its relevant successor.

Amend the following definitions as shown.

- | | |
|---------------------------|--|
| <i>inside information</i> | <ul style="list-style-type: none"> (1) (except in <i>DEPP</i>) as described in article 7 of the <i>Market Abuse Regulation</i>. (2) <u>(in <i>DEPP</i>) as described in article 7 of the <i>Market Abuse Regulation</i> or regulation 18 of the <i>Cryptoassets Regulations</i>.</u> |
| <i>market abuse</i> | <ul style="list-style-type: none"> (1) (except in <i>DEPP</i>) behaviour prohibited by: <ul style="list-style-type: none"> (a) articles 14 and 15 of the <i>Market Abuse Regulation</i>; or (b) ... (2) <u>(in <i>DEPP</i>) behaviour:</u> <ul style="list-style-type: none"> (a) <u>prohibited by articles 14 and 15 of the <i>Market Abuse Regulation</i>; or</u> (b) <u>defined as <i>cryptoasset market abuse</i>.</u> |
| <i>public censure</i> | <ul style="list-style-type: none"> ... (6) a statement published under section 312Q (Power of censure) of the <i>Act</i>; or (7) <u>a statement published under regulation 63 of the <i>Cryptoassets Regulations</i>.</u> |

*settlement decision
makers*

(in *DEPP* and *ENFG*) two members of the *FCA*'s 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 Market Oversight 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.

[*Editor's note:* This Annex takes into account the proposals and legislative changes suggested in the consultation paper 'Regulating Cryptoasset Activities' (CP25/40) as if they were made final.]

2 Statutory notices and the allocation of decision making

...

2.5 Provision for certain categories of decision

...

Notices under other enactments

...

2.5.18 G Some of the distinguishing features of notices given under enactments other than the *Act* are as follows:

...

(9) ...

(10) Cryptoassets Regulations:

- (a) Where the FCA exercises its power under regulation 55(3) to direct that regulation 56 (temporary exemption relating to pre-existing contracts) will apply to a person whose application for a relevant cryptoasset permission has been refused by the FCA but is open to review, the FCA must give a decision notice to the person in accordance with regulation 55(6). In these circumstances, the decision to exercise the power in regulation 55(3) will be taken by FCA staff under executive procedures.
- (b) Where the FCA decides to exercise its power under regulation 55(3) to give a direction, a person to whom the direction is given may refer the decision to exercise the power to the Tribunal under regulation 55(7).
- (c) The FCA must notify a person that is subject to an exemption under regulation 56 when it exercises its power under

regulation 59(1) to cancel the exemption, or part of the exemption, or impose such conditions relating to the exemption, or part of the exemption, as the FCA considers appropriate. In non-urgent cases, the FCA must notify the person by giving a warning notice when it proposes to exercise the power under regulation 59(1) and a decision notice when it decides to exercise the power. In urgent cases, the FCA must give the person a decision notice when it decides to exercise the power under regulation 59(1). In both urgent and non-urgent cases, the decision to exercise the power in regulation 59(1) will be taken by FCA staff under executive procedures.

- (d) A person in respect of whom the power under regulation 59(1) is exercised may refer the decision to exercise the power to the Tribunal.
- (e) Where the FCA proposes to exercise its power under regulation 63 to publish a public censure, the FCA must give the person mentioned in the statement a warning notice in accordance with regulation 63.
- (f) On receipt of a warning notice given under regulation 63, the person may make representations to the FCA about its proposal to publish a public censure.
- (g) Where the FCA decides to publish a public censure, having considered any representations made in response to the warning notice, the FCA must give the person a decision notice in accordance with regulation 63.
- (h) The person that is subject to a public censure may refer the decision to exercise the power to the Tribunal.
- (i) In accordance with regulation 55(9), Chapter 3 (Cryptoasset transitional provision) of Part 7 (Savings and transitional provision) of the Cryptoassets Regulations will cease to have effect at the end of a 2-year period beginning on the full commencement date.

...

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

2 Annex 1 G Note: Third party rights and access to FCA material apply to the powers listed in this Annex where indicated by an asterisk * (see DEPP 2.4)

...

The Public Offers and Admissions to Trading Regulations 2024	Description	Handbook reference	Decision maker
...			

<u>Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026</u>	<u>Description</u>	<u>Handbook reference</u>	<u>Decision maker</u>
<u>Regulation 55(3)</u>	<u>when the FCA is exercising its power to give a direction</u>		<u>Executive procedures</u>
<u>Regulation 59(1)(a)</u>	<u>when the FCA is proposing or deciding to cancel the exemption under regulation 56 or part of the exemption</u>		<u>Executive procedures</u>
<u>Regulation 59(1)(b)</u>	<u>when the FCA is proposing or deciding to impose conditions relating to the exemption under regulation 56 or part of the exemption</u>		<u>Executive procedures</u>
<u>Regulation 63(1)(a)</u>	<u>when the FCA is proposing or deciding to publish a statement censuring a person to whom regulation 56 applies for acting contrary to the advancement of the FCA's objectives under Part 1A of the Act</u>		<u>Executive procedures</u>
<u>Regulation 63(1)(b)</u>	<u>when the FCA is proposing or deciding to publish a statement censuring a person that has failed to comply with regulation 54 or regulation 57</u>		<u>Executive procedures</u>

...

5 Settlement decision procedure

5.1 Settlement decision makers

Introduction

5.1.1 G ...

- (4) ~~At least one of the *settlement decision makers* will not be from the Enforcement and Market Oversight Division. The other *settlement decision maker* will usually be, but need not be, from the Enforcement and Market Oversight Division. A *settlement decision maker* will not have been directly involved in establishing the evidence on which the decision is based. At least one of the *settlement decision makers* will not be from the Enforcement and Market Oversight Division, unless the relevant investigation or action was the result of a referral from the Market Oversight Directorate within that Division. If that is the case, both *settlement decision makers* can be from the Enforcement and Market Oversight Division provided that one is from Market Oversight. A *settlement decision maker* will not have been directly involved in establishing the evidence on which the decision is based.~~

...

...

6 Penalties

...

6.5B The five steps for penalties imposed on individuals in non-market abuse cases

...

Step 2 - the seriousness of the breach

- 6.5B.2 G (1) The *FCA* will determine a figure which will be based on a percentage of an individual’s “relevant income”. “Relevant income” will be the gross amount of all benefits ~~received~~ earned by the individual from the employment in connection with which the *breach* occurred (the “relevant employment”), ~~and for~~ in the period of the *breach*. In determining an individual’s relevant income, “benefits” includes, but is not limited to, salary, bonus, pension contributions, *share* options and *share* schemes; and “employment”

includes, but is not limited to, employment as an adviser, *director*, partner or contractor.

(2) ...

(2A) Regarding the application of (1) and (2):

- (a) To the extent that benefits received during the period of the *breach* or, if (2) applies, its 12-month period were earned by the individual in an earlier period, they will not be relevant income.
- (b) To the extent that benefits received after the period of the *breach* or, if (2) applies, its 12-month (or shorter) period were earned by the individual in that period, they will be relevant income (or, as provided for by (2), used to calculate a 12-month equivalent).
- (c) As to both (a) and (b), where a benefit was earned partly in the period of the *breach* or, if applicable, the 12-month (or shorter) period as provided in (2) and partly in an earlier and/or later period, it will be relevant income (or used to calculate a 12-month equivalent) pro rata the length of the former period or part of it in which the benefit was partly earned, relative to that of the latter period(s).
- (d) Where it is known, at the time the penalty on the individual is to be determined, that any part of their otherwise relevant income will not be received by them, that part will not be treated as part of their relevant income (although see *DEPP* 6.5B.4G(1)(f)).
- (e) Where, at the time the penalty on the individual is to be determined, any part of their otherwise relevant income has not yet been received by them and there is a material uncertainty as to the amount of it that and/or whether it will be received, it will be treated as part of their relevant income subject to that amount being estimated and/or adjustment in light of the likelihood of receipt (although see *DEPP* 6.5B.4G(1)(f)).

...

...

Step 4 - adjustment for deterrence

- 6.5B.4 G (1) If the *FCA* considers the figure arrived at after Step 3 is insufficient to deter the individual who committed the *breach*, or others, from committing further or similar *breaches* then the *FCA* may increase the penalty. Circumstances where the *FCA* may do this include:
- ...
- (d) where the *FCA* considers that the likelihood of the detection of such a *breach* is low; ~~and~~
- (e) ~~where a penalty based on an individual's income may not act as a deterrent, for example, if an individual has a small or zero income but owns assets of high value.~~ where the penalty may not act as a deterrent in light of the size of the individual's income or net assets; and
- (f) where the *breach* has led to the individual receiving less relevant income than they would otherwise have received, because it was a *breach* or otherwise treated as misconduct under the terms of their employment or other relevant contract.
- ...

6.5C The five steps for penalties imposed on individuals in market abuse cases

...

Step 2 - the seriousness of the market abuse

6.5C.2 G ...

- (2) In cases where the *market abuse* was referable to the individual's employment, the figure for the purpose of Step 2 will be the greater of:

...

- (b) a multiple of the profit made or loss avoided by the individual for ~~his~~ their own benefit, or for the benefit of other individuals where the individual has been instrumental in achieving that benefit, as a direct result of the *market abuse* (the "profit multiple"). The profit multiple which will apply is explained in paragraphs (6) and (8) to (16) below; ~~and~~

- (c) for *market abuse* cases which the *FCA* assesses to be seriousness level 4 or 5, ~~£100,000~~ £150,000. How the *FCA* will assess the seriousness level of the *market abuse* is explained in paragraphs (9) to (16) below. The *FCA* usually expects to assess *market abuse* committed deliberately as seriousness level 4 or 5-; and
- (d) that £150,000 minimum will automatically adjust every 2 years as follows:
- (i) it will first adjust on 1 May 2028 for *market abuse* committed on or after that date;
 - (ii) that adjustment will be calculated by multiplying £150,000 by any percentage increase or decrease in the monthly index of UK consumer prices including owner occupiers' housing costs between March 2026 and March 2028;
 - (iii) the index will be that published by the *ONS* for those months under series identifier L522 or its successor;
 - (iv) the resulting change in the minimum will be rounded to the nearest £10,000;
 - (v) the same method will then automatically adjust the minimum on 1 May 2030 and every 2 years thereafter; and
 - (vi) for each adjustment, £150,000 will be the base value and the percentage change in the index will be that between March 2026 and March of the relevant year.

[Note: The *FCA* will also publish the adjusted figures on its website, see [*Editor's note: insert link*]].

...

- (11) Factors relating to the impact of the *market abuse* include:

...

- (c) whether the *market abuse* had a significant impact on the price of *shares* or other *investments*, or *relevant qualifying cryptoassets and related instruments*.

...

(13) Factors tending to show the *market abuse* was deliberate include:

...

(h) for *market abuse* falling within the prohibition in article 14(a) of the *Market Abuse Regulation* or article 22 of the *Cryptoassets Regulations*, the individual knew or recognised that the information on which the *dealing* was based was *inside information*.

...

...

6.5D Serious financial hardship

6.5D.1 G ...

(3) ...

(4) A reduction will not apply to the disgorgement of any benefit calculated at Step 1.

...

Individuals

6.5D.2 G (1) In assessing whether a penalty would cause an individual serious financial hardship, the *FCA* will consider the individual's ability to pay the penalty over a reasonable period (normally no greater than three years). The *FCA*'s starting point is that an individual will suffer serious financial hardship only if during that period ~~his~~ their net annual income will fall below ~~£14,000~~ £21,000 and ~~his~~ their capital will fall below ~~£16,000~~ £24,000 as a result of payment of the penalty. Unless the *FCA* believes that both the individual's income and capital will fall below these respective thresholds as a result of payment of the penalty, the *FCA* is unlikely to be satisfied that the penalty will result in serious financial hardship.

(1A) These thresholds will automatically adjust every 2 years as follows:

(a) they will first adjust on 1 May 2028 for serious financial hardship where the *decision notice* is given on or after that date;

(b) those adjustments will be calculated for each threshold by multiplying the amount of the threshold by any percentage increase or decrease in the monthly index of UK consumer

prices including owner occupiers' housing costs between March 2026 and March 2028;

- (c) the index will be that published by the ONS for those months under series identifier L522 or its successor;
- (d) the resulting change in each threshold will be rounded to the nearest £1,000;
- (e) the same method will then automatically adjust the thresholds on 1 May 2030 and every 2 years thereafter; and
- (f) for each adjustment, the base values will be £21,000 for the income threshold and £24,000 for the capital threshold and the percentage change in the index will be that between March 2026 and March of the relevant year.

[Note: The FCA will also publish the adjusted figures on its website, see [Editor's note: insert link]].

...

- (4) For the purposes of considering whether an individual will suffer serious financial hardship, the FCA will consider as capital anything that could provide the individual with a source of income, including savings, property (including personal possessions), *investments* and land. The FCA will normally consider as capital the equity that an individual has in the home in which ~~he lives~~ they live, but will consider any representations by the individual about this; for example, as to the ~~exceptionally severe~~ impact a sale of the property might have upon other occupants of the property or the impracticability of re-mortgaging or selling the property within a reasonable period.

...

...

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