



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XII

CONTROL OVER AUTHORISED PERSONS

Acquiring or increasing control: procedure

182 Notification

- (1) A notice of control must—
 - (a) be given to the Authority in writing; and
 - (b) include such information and be accompanied by such documents as the Authority may reasonably require.
- (2) The Authority may require the person giving a notice of control to provide such additional information or documents as it reasonably considers necessary in order to enable it to determine what action it is to take in response to the notice.
- (3) Different requirements may be imposed in different circumstances.

183 Duty of Authority in relation to notice of control

- (1) The Authority must, before the end of the period of three months beginning with the date on which it receives a notice of control (“the period for consideration”), determine whether—
 - (a) to approve of the person concerned having the control to which the notice relates; or
 - (b) to serve a warning notice under subsection (3) or section 185(3).
- (2) Before doing so, the Authority must comply with such requirements as to consultation with competent authorities outside the United Kingdom as may be prescribed.
- (3) If the Authority proposes to give the person concerned a notice of objection under section 186(1), it must give him a warning notice.

184 Approval of acquisition of control

- (1) If the Authority decides to approve of the person concerned having the control to which the notice relates it must notify that person of its approval in writing without delay.
- (2) If the Authority fails to comply with subsection (1) of section 183 it is to be treated as having given its approval and notified the person concerned at the end of the period fixed by that subsection.
- (3) The Authority's approval remains effective only if the person to whom it relates acquires the control in question—
 - (a) before the end of such period as may be specified in the notice; or
 - (b) if no period is specified, before the end of the period of one year beginning with the date—
 - (i) of the notice of approval;
 - (ii) on which the Authority is treated as having given approval under subsection (2); or
 - (iii) of a decision on a reference to the Tribunal which results in the person concerned receiving approval.

185 Conditions attached to approval

- (1) The Authority's approval under section 184 may be given unconditionally or subject to such conditions as the Authority considers appropriate.
- (2) In imposing any conditions, the Authority must have regard to its duty under section 41.
- (3) If the Authority proposes to impose conditions on a person it must give him a warning notice.
- (4) If the Authority decides to impose conditions on a person it must give him a decision notice.
- (5) A person who is subject to a condition imposed under this section may apply to the Authority—
 - (a) for the condition to be varied; or
 - (b) for the condition to be cancelled.
- (6) The Authority may, on its own initiative, cancel a condition imposed under this section.
- (7) If the Authority has given its approval to a person subject to a condition, he may refer to the Tribunal—
 - (a) the imposition of the condition; or
 - (b) the Authority's decision to refuse an application made by him under subsection (5).

186 Objection to acquisition of control

- (1) On considering a notice of control, the Authority may give a decision notice under this section to the person acquiring control ("the acquirer") unless it is satisfied that the approval requirements are met.
- (2) The approval requirements are that—

Status: This is the original version (as it was originally enacted).

- (a) the acquirer is a fit and proper person to have the control over the authorised person that he has or would have if he acquired the control in question; and
 - (b) the interests of consumers would not be threatened by the acquirer’s control or by his acquiring that control.
- (3) In deciding whether the approval requirements are met, the Authority must have regard, in relation to the control that the acquirer—
- (a) has over the authorised person concerned (“A”), or
 - (b) will have over A if the proposal to which the notice of control relates is carried into effect,
- to its duty under section 41 in relation to each regulated activity carried on by A.
- (4) If the Authority gives a notice under this section but considers that the approval requirements would be met if the person to whom a notice is given were to take, or refrain from taking, a particular step, the notice must identify that step.
- (5) A person to whom a notice under this section is given may refer the matter to the Tribunal.
- (6) “Consumers” means persons who are consumers for the purposes of section 138.

187 Objection to existing control

- (1) If the Authority is not satisfied that the approval requirements are met, it may give a decision notice under this section to a person if he has failed to comply with a duty to notify imposed by section 178.
- (2) If the failure relates to subsection (1) or (2) of that section, the Authority may (instead of giving a notice under subsection (1)) approve the acquisition of the control in question by the person concerned as if he had given it a notice of control.
- (3) The Authority may also give a decision notice under this section to a person who is a controller of a UK authorised person if the Authority becomes aware of matters as a result of which it is satisfied that—
- (a) the approval requirements are not met with respect to the controller; or
 - (b) a condition imposed under section 185 required that person to do (or refrain from doing) a particular thing and the condition has been breached as a result of his failing to do (or doing) that thing.
- (4) A person to whom a notice under this section is given may refer the matter to the Tribunal.
- (5) “Approval requirements” has the same meaning as in section 186.

188 Notices of objection under section 187: procedure

- (1) If the Authority proposes to give a notice of objection to a person under section 187, it must give him a warning notice.
- (2) Before doing so, the Authority must comply with such requirements as to consultation with competent authorities outside the United Kingdom as may be prescribed.
- (3) If the Authority decides to give a warning notice under this section, it must do so before the end of the period of three months beginning—

Status: This is the original version (as it was originally enacted).

- (a) in the case of a notice to be given under section 187(1), with the date on which it became aware of the failure to comply with the duty in question;
 - (b) in the case of a notice to be given under section 187(3), with the date on which it became aware of the matters in question.
- (4) The Authority may require the person concerned to provide such additional information or documents as it considers reasonable.
- (5) Different requirements may be imposed in different circumstances.
- (6) In this Part “notice of objection” means a notice under section 186 or 187.