



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART VIII

#### [<sup>F1</sup>PROVISIONS RELATING TO MARKET ABUSE]

##### Textual Amendments

- F1** Pt. 8 heading substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(2)**

##### Modifications etc. (not altering text)

- C1** Pt. 8 applied (with modifications) (18.6.2012) by [The Recognised Auction Platforms Regulations 2011 \(S.I. 2011/2699\)](#), regs. 1(2)(b), 6, **Sch. 1** (as amended (3.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#)), regs. 2(b), **9**)

*F2* ...

##### Textual Amendments

- F2** Ss. 118-122 and cross-headings omitted (3.7.2016) by virtue of [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(3)**

<sup>F2</sup>**118** **Market abuse.**

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<sup>F2</sup>**118A** **Supplementary provision about certain behaviour**

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**F<sup>2</sup>118B Insiders**

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**F<sup>2</sup>118C Inside information**

.....

F<sup>2</sup> ...

**F<sup>2</sup>119 The code.**

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**F<sup>2</sup>120 Provisions included in the [F<sup>3</sup>FCA's] code by reference to the City Code.**

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.....  
**Textual Amendments**  
**F3** Word in s. 120 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), Sch. 9 para. 9(1)(2) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**F<sup>2</sup>121 Codes: procedure.**

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**F<sup>2</sup>122 Effect of the code.**

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*[F<sup>4</sup>Powers to require information and supplemental provisions*

.....  
**Textual Amendments**  
**F4** Ss. 122A-122I and cross-headings inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, 9(4)

**122A. Power to require information from issuers**

- (1) The FCA may require an issuer, a person discharging managerial responsibilities or a person closely associated with a person discharging managerial responsibilities to provide—
  - (a) any information the FCA reasonably requires for the purpose of protecting—
    - (i) the interests of users of financial markets and exchanges in the United Kingdom; or
    - (ii) the orderly operation of financial markets and exchanges in the United Kingdom; or

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- (b) any information or explanation the FCA reasonably requires to verify whether Article 17 (public disclosure of inside information) or Article 19 (managers' transactions) of the market abuse regulation is being, or has been, complied with.
- (2) Information required under this section must be provided—
  - (a) before the end of such reasonable period as may be specified by the FCA; and
  - (b) at such place as may be specified by the FCA.
- (3) The FCA may require any information provided under this section to be provided in such form as it may reasonably require.
- (4) The FCA may require any information provided, whether in a document or otherwise, to be verified in such manner as it may reasonably require.
- (5) In this section—
  - “person closely associated” has the meaning given in Article 3.1(26) of the market abuse regulation (see section 131AC (meaning of “persons closely associated” in the market abuse regulation)); and
  - “person discharging managerial responsibilities” has the meaning given in Article 3.1(25) of the market abuse regulation.
- (6) For the meaning of “issuer” in this Part, see section 131AB.

## **122B. General power to require information**

- (1) The FCA may, by notice in writing, require a person—
  - (a) to provide specified information or information of a specified description; or
  - (b) to produce specified documents or documents of a specified description.
- (2) This section applies only to information and documents that the FCA reasonably requires for the purpose of the exercise by it of functions under the market abuse regulation or [<sup>F5</sup>under supplementary market abuse legislation].
- (3) Information or documents required under this section must be provided or produced—
  - (a) before the end of such reasonable period as may be specified; and
  - (b) at such place as may be specified.
- (4) The FCA may require any information provided under this section to be provided in such form as it may reasonably require.
- (5) The FCA may require—
  - (a) any information provided, whether in a document or otherwise, to be verified in such manner as it may reasonably require; or
  - (b) any document produced to be authenticated in such manner as it may reasonably require.
- [<sup>F6</sup>(6) The FCA may exercise its powers under this section at the request of an overseas regulator where the regulator makes the request in the exercise of its relevant functions.
- (6A) In subsection (6)—
  - “overseas regulator” means—

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- (a) the competent authority of an EEA State for the purposes of the market abuse regulation, as that regulation has effect in the European Union (the “EU version of the market abuse regulation”); or
  - (b) an authority of any other country or territory outside the United Kingdom which exercises functions corresponding to those of a competent authority under the EU version of the market abuse regulation;
    - “relevant functions” means—
      - (a) in relation to the competent authority of an EEA State, its functions under—
        - (i) the EU version of the market abuse regulation; or
        - (ii) a directly applicable EU regulation made under the EU version of the market abuse regulation;
      - (b) in relation to an authority of any other country or territory outside the United Kingdom, its functions corresponding to the functions referred to in paragraph (a);]
- (8) In this section “specified” means specified in the notice.

#### Textual Amendments

- F5** Words in s. 122B(2) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 122B(6)(6A) substituted for s. 122B(6)(7) (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### 122C. Power to require information: supplementary

- (1) If a document is produced in response to a requirement imposed under section 122B, the FCA may—
  - (a) take copies of, or extracts from, the document; or
  - (b) require the person producing the document, or any relevant person, to provide an explanation of the document.
- (2) In subsection (1)(b) “relevant person”, in relation to a person who is required to produce a document, means a person who—
  - (a) has been, is, or is proposed to be, a director or controller of that person;
  - (b) has been or is an auditor of that person;
  - (c) has been or is an actuary, accountant or lawyer appointed or instructed by that person; or
  - (d) has been or is an employee of that person.
- (3) If a person who is required under section 122B to produce a document fails to do so, the FCA may require the person to state, to the best of the person’s knowledge and belief, where the document is.
- (4) A lawyer may be required under section 122B to provide the name and address of the lawyer’s client.
- (5) A person (“P”) may not be required under section 122A or 122B to disclose information or produce a document in respect of which P owes an obligation of

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confidence by virtue of carrying on the business of banking unless condition A, B or C is met.

- (6) Condition A is met if the FCA suspects that P or a member of P's group—
- (a) has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation; or
  - (b) has contravened, or been knowingly concerned in the contravention of—
    - (i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or
    - (ii) a provision of a supplementary EU regulation.
- (7) Condition B is met if the FCA suspects that the person to whom the obligation of confidence is owed or a member of that person's group—
- (a) has contravened Article 14 or Article 15 of the market abuse regulation; or
  - (b) has contravened, or been knowingly concerned in the contravention of—
    - (i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or
    - (ii) a provision of a supplementary EU regulation.
- (8) Condition C is met if the person to whom the obligation of confidence is owed consents to the disclosure or production.
- (9) If a person claims a lien on a document, its production under section 122B does not affect the lien.

#### **122D. Entry of premises under warrant**

- (1) A justice of the peace may issue a warrant under this section if satisfied on information on oath given by or on behalf of the FCA that there are reasonable grounds for believing that the conditions in subsection (2) are met.
- (2) The conditions are—
- (a) that a person on whom a requirement has been imposed under section 122B or 122C has failed (wholly or in part) to comply with it; and
  - (b) that on the premises specified in the warrant—
    - (i) there are documents which have been required; or
    - (ii) there is information which has been required.
- (3) A warrant under this section shall authorise a constable—
- (a) to enter the premises specified in the warrant;
  - (b) to search the premises and take possession of any documents or information appearing to be documents or information of a kind in respect of which a warrant under this section was issued (“the relevant kind”) or to take, in relation to any such documents or information, any other steps which may appear to be necessary for preserving them or preventing interference with them;
  - (c) to take copies of, or extracts from, any documents or information appearing to be of the relevant kind;
  - (d) to require any person on the premises to provide an explanation of any document or information appearing to be of the relevant kind or to state where it may be found; and

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- (e) to use such force as may be reasonably necessary.
- (4) A warrant under this section may be executed by any constable.
- (5) The warrant may authorise persons to accompany any constable who is executing it.
- (6) The powers in subsection (3) may be exercised by a person authorised by the warrant to accompany a constable; but that person may exercise those powers only in the company of, and under the supervision of, a constable.
- (7) In England and Wales, sections 15(5) to (8) and 16(3) to (12) of the Police and Criminal Evidence Act 1984 (execution of search warrants and safeguards) apply to warrants issued under this section.
- (8) In Northern Ireland, Articles 17(5) to (8) and 18(3) to (12) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) apply to warrants issued under this section.
- (9) In the application of this section to Scotland—
- (a) for the reference to a justice of the peace substitute a reference to a justice of the peace or a sheriff; and
  - (b) for the references to information on oath substitute references to evidence on oath.
- (10) The FCA may give information under subsection (1) or under section 176(1) at the request of an [<sup>F7</sup>overseas] regulator where the regulator makes the request in the exercise of its [<sup>F8</sup>relevant functions].

[ In subsection (10), “overseas regulator” and “relevant functions” have the meaning <sup>F9</sup>(10A) given in section 122B(6A).]

<sup>F10</sup>(11) . . . . .

#### Textual Amendments

- F7** Word in s. 122D(10) substituted (31.12.2020) by The Market Abuse (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/310), regs. 1(3), 5(3)(a)(i); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in s. 122D(10) substituted (31.12.2020) by The Market Abuse (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/310), regs. 1(3), 5(3)(a)(ii); 2020 c. 1, Sch. 5 para. 1(1)
- F9** S. 122D(10A) inserted (31.12.2020) by The Market Abuse (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/310), regs. 1(3), 5(3)(b); 2020 c. 1, Sch. 5 para. 1(1)
- F10** S. 122D(11) omitted (31.12.2020) by virtue of The Market Abuse (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/310), regs. 1(3), 5(3)(c); 2020 c. 1, Sch. 5 para. 1(1)

#### 122E. Retention of documents taken under section 122D

- (1) Any document of which possession is taken under section 122D (“a seized document”) may be retained so long as it is necessary to retain it (rather than copies of it) in the circumstances.
- (2) A person claiming to be the owner of a seized document may apply to a magistrates’ court or (in Scotland) the sheriff for an order for the delivery of the document to the person appearing to the court or sheriff to be the owner.

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- (3) If, on an application under subsection (2), the court or (in Scotland) the sheriff cannot ascertain who is the owner of the seized document the court or sheriff (as the case may be) may make such order as the court or sheriff thinks fit.
- (4) An order under subsection (2) or (3) does not affect the right of any person to take legal proceedings against any person in possession of a seized document for the recovery of the document.
- (5) Any right to bring proceedings (as described in subsection (4)) may only be exercised within 6 months of the date of the order made under subsection (2) or (3).

## **122F. Offences**

- (1) If a person (“A”) fails to comply with a requirement imposed on A under section 122B or 122C the FCA may certify that fact in writing to the court.
- (2) If the court is satisfied that A failed without reasonable excuse to comply with the requirement, it may deal with A (and where A is a body corporate, any director or other officer) as if A (or as the case may be the director or officer) were in contempt.
- (3) A person (“B”) who, in purported compliance with a requirement imposed on B under section 122B or 122C—
  - (a) provides information which B knows to be false or misleading in a material particular; or
  - (b) recklessly provides information which is false or misleading in a material particular;is guilty of an offence.
- (4) A person guilty of an offence under subsection (3) is liable—
  - (a) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding three months or a fine, or both;
    - (ii) in Scotland, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (5) Any person who intentionally obstructs the exercise of any rights conferred by a warrant under section 122D is guilty of an offence and liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding three months or a fine, or both;
  - (b) in Scotland, to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.
- (6) In this section—
  - (a) “court” means—
    - (i) the High Court;
    - (ii) in Scotland, the Court of Session;

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- (b) “officer”, in relation to a limited liability partnership, means a member of the partnership.

*Other administrative powers*

**122G. Publication of information and corrective statements by issuers**

- (1) If condition A or B is met, the FCA may require an issuer [<sup>F11</sup>or emission allowance market participant] to publish—
- (a) specified information; or
  - (b) a specified statement.
- (2) Condition A is met if the FCA considers that the publication of the information or statement is necessary for the purpose of protecting—
- (a) the interests of users of financial markets and exchanges in the United Kingdom; or
  - (b) the orderly operation of financial markets and exchanges in the United Kingdom.
- (3) Condition B is met if—
- (a) the information or statement corrects false or misleading information made public, or a false or misleading impression given to the public, by that person; and
  - (b) the FCA considers that the publication of the information is necessary for the purpose of the exercise by it of functions under the market abuse regulation or [<sup>F12</sup>under supplementary market abuse legislation].
- (4) Information or statements required to be published under this section must be published—
- (a) before the end of such reasonable period as may be specified; and
  - (b) by any method as may be specified.
- (5) If a person fails to comply with a requirement to publish information or a statement under this section, the FCA may publish the information or statement.
- (6) But before doing so, the FCA must give that person an opportunity to make representations to it regarding its decision to publish the information or statement under subsection (5).
- [<sup>F13</sup>(7) In this section—
- “emission allowance market participant” has the same meaning as in Article [<sup>F14</sup>3.1.20] (definitions) of the market abuse regulation; and
- “specified” means specified by the FCA.]
- (8) For the meaning of “issuer”, see section 131AB.

**Textual Amendments**

- F11** Words in s. 122G(1) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 9\(2\)](#) (with reg. 7)



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- F12** Words in s. 122G(3)(b) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** S. 122G(7) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 9(3)** (with reg. 7)
- F14** Word in s. 122G(7) substituted (19.2.2019) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(2), **3**

## 122H. Publication of corrective statements generally

- (1) If condition A or B is met, the FCA may, by notice in writing, require a person to publish—
  - (a) specified information; or
  - (b) a specified statementcorrecting false or misleading information made public, or a false or misleading impression given to the public, by that person.
- (2) Condition A is met if the FCA considers that the publication of the information or statement is necessary for the purpose of protecting—
  - (a) the interests of users of financial markets and exchanges in the United Kingdom; or
  - (b) the orderly operation of financial markets and exchanges in the United Kingdom.
- (3) Condition B is met if the FCA considers that the publication of the information or statement is necessary for the purpose of the exercise by it of functions under the market abuse regulation or [<sup>F15</sup>under supplementary market abuse legislation].
- (4) Information or statements required to be published under this section must be published—
  - (a) before the end of such reasonable period as may be specified; and
  - (b) by any method as may be specified.
- (5) If a person fails to comply with a requirement to publish information or a statement under this section the FCA may publish the information or statement.
- (6) But before doing so, the FCA must give that person an opportunity to make representations to it regarding its decision to publish the information or statement under subsection (5).
- (7) In this section “specified” means specified in the notice.

### Textual Amendments

- F15** Words in s. 122H(3) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(5)**; 2020 c. 1, Sch. 5 para. 1(1)

## <sup>F16</sup>122HA Publication of corrective statements relating to benchmarks

- (1) If condition A or B is met, the FCA may, by notice in writing, require a person to publish—

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- (a) specified information, or
  - (b) a specified statement,
- correcting false or misleading information made public, or a false or misleading impression given to the public, by that person.
- (2) Condition A is met if the FCA considers that the publication of the information or statement is necessary for the purpose of protecting the interests of users of regulated benchmarks.
  - (3) Condition B is met if the FCA considers that the publication of the information or statement is necessary for the purpose of the exercise by it of its functions under Article 41(1)(j) of the EU Benchmarks Regulation 2016.
  - (4) Information or statements required to be published under this section must be published—
    - (a) before the end of such reasonable period as may be specified; and
    - (b) by any such method as may be specified.
  - (5) If a person fails to comply with a requirement to publish information or a statement under this section the FCA may publish the information or statement.
  - (6) But before doing so, the FCA must give that person an opportunity to make representations to it regarding its decision to publish the information or statement under subsection (5).
  - (7) In this section—
    - “specified” means specified in the notice, and
    - “regulated benchmark” means a regulated benchmark as defined in section 425A(7).]

#### Textual Amendments

- F16** S. 122HA inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **41**

### 122I. Power to suspend trading in financial instruments

- (1) The FCA may suspend trading of a financial instrument where it considers it necessary for the purpose of the exercise by it of functions under the market abuse regulation or <sup>F17</sup>[under supplementary market abuse legislation].
  - (2) If the FCA does so the issuer of the financial instrument may refer the matter to the Tribunal.
- [ But subsection (2) does not apply if the financial instrument is an emission allowance.]  
<sup>F18</sup>(2A)
- (3) The FCA may—
    - (a) cancel a suspension under subsection (1); and
    - (b) impose such conditions for the cancellation to take effect as it considers appropriate.

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- (4) The provisions relating to suspension of listing of securities in section 78 (discontinuance or suspension: procedure) apply to a suspension of trading in a financial instrument [<sup>F19</sup>other than an emission allowance] under subsection (1) and for the purposes of this section—
- (a) the references in section 78 to listing are to be read as references to trading; and
  - (b) the references in section 78 to securities are to be read as references to financial instruments.

[ A suspension of trading in a financial instrument that is an emission allowance takes <sup>F20</sup>(4A) effect—

- (a) immediately, if the FCA states that is the case; or
- (b) on such later date as the FCA specify.]

- (5) For the meaning of “issuer” in this Part, see section 131AB.]

#### Textual Amendments

- F17** Words in s. 122I(1) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), reg. 1(3), **5(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** S. 122I(2A) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 10(2)** (with reg. 7)
- F19** Words in s. 122I(4) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 10(3)** (with reg. 7)
- F20** S. 122I(4A) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 10(4)** (with reg. 7)

#### [<sup>F21</sup>122IA] **Power to suspend auctioning of auctioned products on a recognised auction platform**

- (1) The FCA may suspend the auctioning of a relevant auctioned product at an auction conducted by a recognised auction platform where it considers it necessary for the purpose of the exercise by it of functions under the market abuse regulation or a supplementary EU regulation.
- (2) If the FCA does so the recognised auction platform may refer the matter to the Tribunal.
- (3) A suspension by the FCA takes place—
  - (a) immediately, if the FCA specify this is the case, or
  - (b) on such later date as the FCA specify.
- (4) The FCA may—
  - (a) cancel a suspension under subsection (1), and

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- (b) impose such conditions for the cancellation to take effect as it considers appropriate.
- (5) The provisions relating to the suspension and removal of financial instruments from trading set out in—
- (a) section 313B(2) to (4) (suspension or removal of financial instruments from trading: procedure), and
  - (b) sections 313BA (procedure following consideration of representations) to 313BC (decisions on applications for revocation by institutions),
- apply, with the modifications set out in subsection (6), to a suspension of the auctioning of a relevant auctioned product at an auction conducted by a recognised auction platform.
- (6) The modifications referred to in subsection (5) are—
- (a) references to a requirement imposed on an institution under section 313A are to be read as references to the suspension of the auctioning of the relevant auctioned product;
  - (b) references to an institution are to be read as references to the recognised auction platform;
  - (c) in section 313B, the omission of—
    - (i) subsection (2)(a)(ii);
    - (ii) in subsection (3A)(d), the words “or the issuer of the financial instrument in question” and “or the issuer”;
    - (iii) in subsection (3A)(f), the words “or the issuer of the financial instrument in question”;
  - (d) the omission of section 313BA(5)(b) and (8);
  - (e) the omission of section 313BB(6)(b); and
  - (f) the omission of section 313BC(3)(b) and (6)(b).
- (7) In this section “relevant auctioned product” means an auctioned product (as defined by Article 4 (auctioned products) of the emission allowance auctioning regulation) which is an emission allowance or based on an emission allowance.]

#### Textual Amendments

**F21** S. 122IA inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 11](#) (with reg. 7)

*[<sup>F22</sup>Administrative sanctions]*

#### Textual Amendments

**F22** Ss. 123-123C and cross-heading substituted for s. 123 and cross-heading (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(5)**

*Status: Point in time view as at 01/01/2021.*

*Changes to legislation: Financial Services and Markets Act 2000, Part VIII is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **[<sup>F22</sup>123 Power to impose penalties or issue censure**

- (1) The FCA may exercise its power under subsection (2) if it is satisfied that—
  - (a) a person has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;
  - (b) a person has contravened, or been knowingly concerned in the contravention of—
    - (i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or
    - (ii) a provision of [<sup>F23</sup>any supplementary market abuse legislation]; or
  - (c) a person other than an authorised person has contravened any requirement—
    - (i) imposed on that person under section 122A, 122B, 122C, 122G, 122H, [<sup>F24</sup>122HA,] 122I, [<sup>F25</sup>122IA,] 123A or 123B; or
    - (ii) relating to the market abuse regulation or [<sup>F26</sup>any supplementary market abuse legislation] imposed on that person under Part 11.
- (2) The FCA’s power under this subsection is a power to impose a penalty of such amount as it considers appropriate on the person.
- (3) The FCA may, instead of imposing a penalty on a person, publish a statement censuring the person.]

### **Textual Amendments**

- F23** Words in s. 123(1)(b)(ii) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F24** Word in s. 123(1)(c)(i) inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **42(1)**
- F25** Word in s. 123(1)(c)(i) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 12** (with reg. 7)
- F26** Words in s. 123(1)(c)(ii) substituted (31.12.2020) by virtue of [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(8)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

## **[<sup>F22</sup>123A Power to prohibit individuals from managing or dealing**

- (1) The FCA may exercise its power under subsection (2) if it is satisfied that an individual—
  - (a) has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;
  - (b) has contravened, or been knowingly concerned in the contravention of—
    - (i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or
    - (ii) a provision of [<sup>F27</sup>any supplementary market abuse legislation]; or
  - (c) has contravened a requirement imposed on that individual under this section or section 122A, 122B, 122C, 122G, 122H, [<sup>F28</sup>122HA,] 122I [<sup>F29</sup>, 122IA] or 123B.

*Status: Point in time view as at 01/01/2021.*

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- (2) The FCA’s power under this subsection is a power to impose [<sup>F30</sup>one or more] of the following—
- (a) a temporary prohibition on the individual holding an office or position involving responsibility for taking decisions about the management of an investment firm;
  - (b) a temporary prohibition on the individual acquiring or disposing of financial instruments, whether on his or her own account or the account of a third party and whether directly or indirectly.
  - [<sup>F31</sup>(c) a temporary prohibition on the individual making a bid, on his or her own account or the account of a third party, directly or indirectly, at an auction conducted by a recognised auction platform.]
- (3) If the FCA is satisfied that an individual has contravened Article 14 or 15 of the market abuse regulation the FCA may impose a permanent prohibition on the individual holding an office or position involving responsibility for taking decisions about the management of an investment firm.
- (4) A prohibition imposed under subsection (2) may be expressed to expire at the end of such period as the FCA may specify, but the imposition of a prohibition that expires at the end of a specified period does not affect the FCA’s power to impose a new prohibition under subsection (2).
- (5) A prohibition imposed under subsection (2)(a) or (3) may be expressed to prohibit an individual holding an office or position involving responsibility for taking decisions about the management of—
- (a) a named investment firm;
  - (b) an investment firm of a specified description; or
  - (c) any investment firm.
- (6) An investment firm must take reasonable care to ensure that no individual who is subject to a prohibition under subsection (2)(a) or (3) on the holding of an office or position involving responsibility for taking decisions about the management of the firm holds such an office or position.
- (7) The FCA may vary or revoke a prohibition imposed under this section.
- [<sup>F32</sup>For the meaning of “recognised auction platform” in this Part, see section 131AB.]

#### Textual Amendments

- F27** Words in s. 123A(b)(ii) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(9)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Word in s. 123A(1)(c) inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **42(2)**
- F29** Word in s. 123A(1)(c) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 13(2)** (with reg. 7)
- F30** Words in s. 123A(2) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 13(3)(a)** (with reg. 7)

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- F31** S. 123A(2)(c) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 13(3)(b)** (with reg. 7)
- F32** S. 123A(8) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 13(4)** (with reg. 7)

### **123B. Suspending permission to carry on regulated activities etc**

- (1) The FCA may exercise its power under subsection (2) if it is satisfied that an authorised person—
- (a) has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;
  - (b) has contravened, or been knowingly concerned in the contravention of—
    - (i) a provision of the market abuse regulation other than Article 14 and 15 of that regulation;
    - (ii) a provision of [<sup>F33</sup>any supplementary market abuse legislation]; or
  - (c) has contravened a requirement imposed on that person under this section or section 122A, 122B, 122C, 122G, 122H, [<sup>F34</sup>122HA,] 122I [<sup>F35</sup>, 122IA] or 123A.
- (2) The FCA’s power under this subsection is a power to do either or both of the following —
- (a) to suspend, for such period as it considers appropriate, any permission which the person has to carry on a regulated activity;
  - (b) to impose, for such period as it considers appropriate, such limitations or other restrictions in relation to the carrying on of a regulated activity by the person as it considers appropriate.
- (3) In subsection (2) “permission” means any permission that the authorised person has, whether given (or treated as given) by the FCA or the PRA or conferred by any provision of this Act.
- (4) The period for which a suspension or restriction is to have effect may not exceed 12 months.
- (5) A suspension may relate only to the carrying on of an activity in specified circumstances.
- (6) A restriction may, in particular, be imposed so as to require the person concerned to take, or refrain from taking, specified action.
- (7) The FCA may—
- (a) withdraw a suspension or restriction; or
  - (b) vary a suspension or restriction so as to reduce the period for which it has effect or otherwise to limit its effect.
- (8) The power under this section may (but need not) be exercised so as to have effect in relation to all the regulated activities that the person concerned carries on.

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### Textual Amendments

- F33** Words in s. 123B(1)(b)(ii) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(10)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F34** Word in s. 123B(1)(c) inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **42(2)**
- F35** Word in s. 123B(1)(c) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 14** (with reg. 7)

### 123C. Exercise of administrative sanctions

Any one or more of the powers under sections 123, 123A and 123B may be exercised in relation to the same contravention.]

*Statement of policy*

### 124 Statement of policy.

- [<sup>F36</sup>(1) The FCA must prepare and issue a statement of its policy with respect to the type and level of administrative sanctions it may impose on a relevant person.
- (2) The FCA’s policy in determining the type and level of administrative sanctions to be imposed must take into account all relevant circumstances including, where appropriate, the matters referred to in Article 31(1) of the market abuse regulation [<sup>F37</sup>or Article 43(1) of the EU Benchmarks Regulation 2016].]
- <sup>F38</sup>(3) .....
- (4) The [<sup>F39</sup>FCA] may at any time alter or replace a statement issued under this section.
- (5) If a statement issued under this section is altered or replaced, the [<sup>F39</sup>FCA] must issue the altered or replacement statement.
- [<sup>F40</sup>(6) When imposing, or deciding whether to impose, an administrative sanction on a relevant person the FCA must have regard to any statement published under this section in force at the time of the contravention.]
- (7) A statement issued under this section must be published by the [<sup>F39</sup>FCA] in the way appearing to the [<sup>F39</sup>FCA] to be best calculated to bring it to the attention of the public.
- (8) The [<sup>F39</sup>FCA] may charge a reasonable fee for providing a person with a copy of a statement published under this section.
- (9) The [<sup>F39</sup>FCA] must, without delay, give the Treasury a copy of any statement which it publishes under this section.
- [<sup>F41</sup>(10) In this section—
- “administrative sanction” means—
- (a) a penalty or statement of censure imposed or published under section 123;
- (b) a prohibition imposed under section 123A; or



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- (c) a suspension or restriction imposed under section 123B; and  
“relevant person” means a person—
  - (a) who has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;
  - (b) who has contravened, or been knowingly concerned in the contravention of—
    - (i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or
    - (ii) a provision of [<sup>F42</sup>any supplementary market abuse legislation]; or
  - (c) who has contravened—
    - (i) any requirement imposed on the person under section 122A, 122B, 122C, 122G, 122H, [<sup>F43</sup>122HA,] 122I, [<sup>F44</sup>122IA,] 123A or 123B; or
    - (ii) in the case of a person other than an authorised person, any requirement relating to the market abuse regulation or [<sup>F42</sup>any supplementary market abuse legislation] imposed on the person under Part 11.]

#### Textual Amendments

- F36** S. 124(1)(2) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(6)(a)**
- F37** Words in s. 124(2) inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **42(3)(a)**
- F38** S. 124(3) omitted (3.7.2016) by virtue of [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(6)(b)**
- F39** Word in ss. 121-130A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), Sch. 9 para. 9(1)(2) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F40** S. 124(6) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(6)(c)**
- F41** S. 124(10) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(6)(d)**
- F42** Words in s. 124(10) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F43** Word in s. 124(10) inserted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **42(3)(b)**
- F44** Word in s. 124(10) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 15** (with reg. 7)

#### 125 Statement of policy: procedure.

- (1) Before issuing a statement of policy under section 124, the [<sup>F39</sup>FCA] must publish a draft of the proposed statement in the way appearing to the [<sup>F39</sup>FCA] to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the [<sup>F39</sup>FCA] within a specified time.

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- (3) Before issuing the proposed statement, the [F39FCA] must have regard to any representations made to it in accordance with subsection (2).
- (4) If the [F39FCA] issues the proposed statement it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (2); and
  - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the [F39FCA], significant, the [F39FCA] must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The [F39FCA] may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.

#### Textual Amendments

**F39** Word in ss. 121-130A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### Procedure

### 126 Warning notices.

- [F45(1) If the FCA proposes—
- (a) to impose a penalty on a person under section 123(2);
  - (b) to publish a statement censuring a person under section 123(3);
  - (c) to impose a temporary prohibition on an individual under section 123A(2)(a);
  - (d) to impose a temporary prohibition on an individual under section 123A(2)(b);
  - (e) to impose a permanent prohibition on an individual under section 123A(3); or
  - (f) to impose a suspension or restriction in relation to a person under section 123B;
- it must give the person a warning notice.]
- (2) A warning notice about a proposal to impose a penalty [F46under section 123] must state the amount of the proposed penalty.
  - (3) A warning notice about a proposal to publish a statement [F47under section 123] must set out the terms of the proposed statement.
  - [F48(4) A warning notice about a proposal to impose a prohibition under section 123A must set out the terms of the proposed prohibition.
  - (5) A warning notice about a proposal to impose a suspension or restriction under section 123B must state the period for which the suspension or restriction is to have effect.]

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#### Textual Amendments

- F45** S. 126(1) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, [9\(7\)\(a\)](#)
- F46** Words in s. 126(2) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, [9\(7\)\(b\)](#)
- F47** Words in s. 126(3) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, [9\(7\)\(c\)](#)
- F48** S. 126(4)(5) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, [9\(7\)\(d\)](#)

### 127 Decision notices and right to refer to Tribunal.

[<sup>F49</sup>(1) If the FCA decides—

- (a) to impose a penalty on a person under section 123(2);
- (b) to publish a statement censuring a person under section 123(3);
- (c) to impose a temporary prohibition on an individual under section 123A(2)(a);
- (d) to impose a temporary prohibition on an individual under section 123A(2)(b);
- (e) to impose a permanent prohibition on an individual under section 123A(3);
- (f) to impose a suspension or restriction in relation to a person under section 123B;

it must give the person a decision notice.]

- (2) A decision notice about the imposition of a penalty [<sup>F50</sup>under section 123] must state the amount of the penalty.
- (3) A decision notice about the publication of a statement [<sup>F51</sup>under section 123] must set out the terms of the statement.

[<sup>F52</sup>(3A) A decision notice about the imposition of a prohibition under section 123A must set out the terms of the prohibition.

(3B) A decision notice about the imposition of a suspension or restriction under section 123B must state the period for which the suspension or restriction is to have effect.]

[<sup>F53</sup>(4) If the FCA decides—

- (a) to impose a penalty on a person under section 123(2);
- (b) to publish a statement censuring a person under section 123(3);
- (c) to impose a prohibition on an individual under section 123A; or
- (d) to impose a suspension or restriction in relation to a person under section 123B;

that person may refer the matter to the Tribunal.]

#### Textual Amendments

- F49** S. 127(1) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, [9\(8\)\(a\)](#)
- F50** Words in s. 127(2) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, [9\(8\)\(b\)](#)

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- F51** Words in s. 127(3) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(8)(c)**
- F52** S. 127(3A)(3B) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(8)(d)**
- F53** S. 127(4) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(8)(e)**

## <sup>F54</sup>**127A Consultation with the PRA in relation to administrative sanctions**

- (1) The FCA must consult the PRA before giving a warning notice under section 126(1)(a), (b), (d) or (f) or a decision notice under section 127(1)(a), (b), (d) or (f) in relation to a person who—
  - (a) is a PRA-authorised person; or
  - (b) is a member of a PRA-authorised person’s immediate group.
- (2) The FCA must consult the PRA before giving a warning notice under section 126(1)(c) or (e) or a decision notice under section 127(1)(c) or (e) if as a result of the prohibition in question an individual would be prohibited from holding an office or position involving responsibility for taking decisions about the management of a PRA-authorised investment firm.
- (3) The FCA must consult the PRA before varying or revoking a prohibition under section 123A(2)(a) or (3) if as a result of the proposed variation or revocation an individual would no longer be prohibited from holding an office or position involving responsibility for taking decisions about the management of a PRA-authorised investment firm.
- (4) In this section “PRA-authorised investment firm” means an investment firm which is a PRA-authorised person and carries on a regulated activity.]

### **Textual Amendments**

- F54** S. 127A inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(9)**

### *Miscellaneous*

## **128 Suspension of investigations.**

- (1) If the [<sup>F39</sup>FCA] considers it desirable or expedient because of the exercise or possible exercise of a [<sup>F55</sup>relevant power], it may direct a recognised investment exchange [<sup>F56</sup>, recognised clearing house or recognised CSD]—
  - (a) to terminate, suspend or limit the scope of any inquiry which the exchange [<sup>F57</sup>, clearing house or central securities depository] is conducting under its rules; or
  - (b) not to conduct an inquiry which the exchange [<sup>F58</sup>, clearing house or central securities depository] proposes to conduct under its rules.
- (2) A direction under this section—
  - (a) must be given to the exchange [<sup>F59</sup>, clearing house or central securities depository] concerned by notice in writing; and

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- (b) is enforceable, on the application of the <sup>F39</sup>FCA], by injunction or, in Scotland, by an order under section 45 of the <sup>M1</sup>Court of Session Act 1988.

<sup>F60</sup>(3) In this section “relevant power” means the FCA’s power—

- (a) to impose a penalty or publish a statement of censure under section 123;
- (b) to impose a prohibition under section 123A;
- (c) to impose a suspension or restriction under section 123B;
- (d) to appoint a person to conduct an investigation under section 168 in a case falling within subsection (2)(d) of that section; or
- (e) to appoint a person to conduct an investigation under section 169 (investigation etc in support of an overseas regulator) in a case falling within subsection (2A) of that section.]

#### Textual Amendments

- F39** Word in ss. 121-130A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F55** Words in s. 128(1) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\), regs. 1, 9\(10\)\(a\)](#)
- F56** Words in s. 128(1) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(4\)\(a\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F57** Words in s. 128(1)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(4\)\(b\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F58** Words in s. 128(1)(b) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(4\)\(b\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F59** Words in s. 128(2)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(4\)\(b\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F60** S. 128(3) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\), regs. 1, 9\(10\)\(b\)](#)

#### Marginal Citations

- M1** [1988 c. 36.](#)

### <sup>F61</sup>129 Power of court to impose administrative sanctions in cases of market abuse

- (1) The FCA may, on an application to the court under <sup>F62</sup>Part 25 which relates to the market abuse regulation], request the court to consider whether it is appropriate to impose one or more of the following on the person to whom the application relates—
- (a) a penalty;
  - (b) if the person concerned is an individual, a temporary prohibition or a permanent prohibition; or
  - (c) a suspension or restriction.
- (2) The court may, if it considers it appropriate, make an order which does one or more of the following—
- (a) requires the person concerned to pay to the FCA a penalty of such amount as the court considers appropriate;
  - (b) if the person concerned is an individual, imposes a temporary prohibition or a permanent prohibition on that individual; or
  - (c) imposes a suspension or restriction on the person concerned.

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- (3) But the court may impose a permanent prohibition only where it is satisfied the person concerned has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation.
- (4) Section 123A(4) to (6) apply to a prohibition imposed by an order made under subsection (2) as they do to a prohibition under section 123A, but with—
- (a) references to a prohibition under section 123A having effect as references to a prohibition under this section; and
  - (b) references to the FCA having effect as references to the court which makes the order under this section.
- (5) Section 123B(4) to (6) and (8) apply to a suspension or restriction imposed by an order under subsection (2) as they do to a suspension or restriction imposed under section 123B.
- (6) The court may—
- (a) vary or revoke a prohibition imposed under this section;
  - (b) withdraw a suspension or restriction imposed under this section; or
  - (c) vary a suspension or a restriction imposed under this section so as to reduce the period for which it has effect or otherwise to limit its effect.

- (7) In this section—

<sup>F63</sup>  
...

“permanent prohibition” means a permanent prohibition on an individual holding an office or position involving responsibility for taking decisions about the management of an investment firm;

“suspension or restriction” means—

- (a) a suspension of any permission which a person has to carry on a regulated activity for such period as the court considers appropriate; or
- (b) such limitations or other restrictions as the court considers appropriate in relation to the carrying on of a regulated activity by a person for such period as the court considers appropriate;

“temporary prohibition” means a temporary prohibition on an individual—

- (a) holding an office or position involving responsibility for taking decisions about the management of an investment firm; <sup>F64</sup>...
- (b) acquiring or disposing of financial instruments, whether on his or her own account or the account of a third party and whether directly or indirectly <sup>F65</sup>; or
- (c) making a bid, on his or her own account or the account of a third party, directly or indirectly, at an auction conducted by a recognised auction platform.]

<sup>F66</sup>(8) For the meaning of “recognised auction platform” in this Part, see section 131AB.]

<sup>F67</sup>(9) An application under Part 25 relates to the market abuse regulation if—

- (a) it is made under section 380 or 382 and the relevant requirement for the purposes of that section is a requirement imposed by the market abuse regulation or <sup>F68</sup>by supplementary market abuse legislation]; or
- (b) it is made under section 381 or 383.]]

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### Textual Amendments

- F61** S. 129 substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, 9(11)
- F62** Words in s. 129(1) substituted (3.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(b), **3(2)(a)**
- F63** Words in s. 129(7) omitted (3.1.2018) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(b), **3(2)(b)**
- F64** Word in s. 129(7) omitted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 16(2)(a)** (with reg. 7)
- F65** Words in s. 129(7) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 16(2)(b)** (with reg. 7)
- F66** S. 129(8) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 16(3)** (with reg. 7)
- F67** S. 129(9) inserted (3.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(b), **3(2)(c)**
- F68** Words in s. 129(9)(a) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(12)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

## 130 Guidance.

- [<sup>F69</sup>(1) The Treasury may from time to time issue written guidance for the purpose of helping relevant authorities to determine the action to be taken in cases where—
- (a) it appears a person has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation; and
  - (b) in so doing the person appears to have committed an offence under Part 7 of the Financial Services Act 2012 or Part 5 of the Criminal Justice Act 1993 (insider dealing).]

(2) The Treasury must obtain the consent of the Attorney General and the Secretary of State before issuing any guidance under this section.

(3) In this section “relevant authorities”—

    - (a) in relation to England and Wales, means the Secretary of State, the [<sup>F39</sup>FCA], the Director of the Serious Fraud Office and the Director of Public Prosecutions;
    - (b) in relation to Northern Ireland, means the Secretary of State, the [<sup>F39</sup>FCA], the Director of the Serious Fraud Office and the Director of Public Prosecutions for Northern Ireland.

(4) Subsections (1) to (3) do not apply to Scotland.

(5) In relation to Scotland, the Lord Advocate may from time to time, after consultation with the Treasury, issue written guidance for the purpose of helping the [<sup>F39</sup>FCA] to determine the action to be taken in cases [<sup>F70</sup>mentioned in subsection (1)].

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#### Textual Amendments

- F39** Word in ss. 121-130A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 9\(1\)\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F69** S. 130(1) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\), regs. 1, 9\(12\)\(a\)](#)
- F70** Words in s. 130(5) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\), regs. 1, 9\(12\)\(b\)](#)

### <sup>F71</sup>130A Interpretation and supplementary provision

.....

#### Textual Amendments

- F71** S. 130A omitted (3.7.2016) by virtue of [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\), regs. 1, 9\(13\)](#)

### 131 Effect on transactions.

The imposition of a penalty under this Part does not make any transaction void or unenforceable.

### [<sup>F72</sup>131A Protected Disclosures

- (1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (2) The first condition is that the information or other matter—
  - (a) causes the person making the disclosure ( the discloser) to know or suspect, or [<sup>F73</sup>(b) gives him reasonable grounds for knowing or suspecting that another person has engaged in market abuse]
  - [<sup>F74</sup>that another person has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation].
- (3) The second condition is that the information or other matter disclosed came to the discloser in the course of his trade, profession, business or employment.
- (4) The third condition is that the disclosure is made <sup>F75</sup>... to a nominated officer as soon as is practicable after the information or other matter comes to the discloser.
- (5) A disclosure to a nominated officer is a disclosure which is made to a person nominated by the discloser's employer to receive disclosures under this section, and is made in the course of the discloser's employment and in accordance with the procedure established by the employer for the purpose.
- (6) For the purposes of this section, references to a person's employer include any body, association or organisation (including a voluntary organisation) in connection with whose activities the person exercises a function (whether or not for gain or reward) and references to employment must be construed accordingly.]



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#### Textual Amendments

- F72** S. 131A inserted (1.7.2005) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2005 \(S.I. 2005/381\)](#), regs. 1(2), 5, **Sch. 2 para. 4**
- F73** S. 131A(2)(b) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(14)(a)(i)**
- F74** Words in s. 131A(2) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(14)(a)(ii)**
- F75** Words in s. 131A(4) omitted (3.7.2016) by virtue of [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(14)(b)**

### [<sup>F76</sup>131A] Reporting of infringements

- (1) This section applies to employers who—
  - (a) provide regulated financial services;
  - (b) carry on regulated activities in reliance on the exemption in section 327; or
  - (c) are recognised bodies <sup>F77</sup>... or third country central counterparties.
- (2) Employers must have in place appropriate internal procedures for their employees to report contraventions of the market abuse regulation or any supplementary [<sup>F78</sup>market abuse legislation].
- (3) In this section—
  - “employee” and “employer” have the meaning given in section 230 of the Employment Rights Act 1996;
  - “recognised body” has the meaning given in section 313;
  - “regulated financial services” has the meaning given in section 1H.

#### Textual Amendments

- F76** Ss. 131AA-131AE inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(15)**
- F77** Words in s. 131AA(1)(c) omitted (31.12.2020) by virtue of [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(13)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F78** Words in s. 131AA(2) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(13)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

### 131AB. Interpretation

- [ In this Part—
- <sup>F79</sup>(1) <sup>F80</sup>...
- [<sup>F81</sup>“emission allowance” has the meaning given in Article 3.1.19 (definitions) of the market abuse regulation;]
- [<sup>F82</sup>“financial instrument” means any instrument specified in Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order, read with Part 2 of that Schedule;]
- “issuer” has the meaning given in Article 3.1(21) of the market abuse regulation; and

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[<sup>F81</sup>“recognised auction platform” has the meaning given in regulation 1(3) of the Recognised Auction Platform Regulations 2011 (S.I. 2011/2699);]

<sup>F83</sup>  
...

[<sup>F84</sup>(2) The following are supplementary market abuse legislation for the purposes of this Part—

- (a) an EU regulation, originally made under the market abuse regulation, which is retained direct EU legislation; and
- (b) subordinate legislation (within the meaning of the Interpretation Act 1978) made under the market abuse regulation on or after IP completion day.]

#### Textual Amendments

- F76** Ss. 131AA-131AE inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(15)**
- F79** S. 131AB renumbered as s. 131AB(1) (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(14)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F80** Words in s. 131AB(1) omitted (31.12.2020) by virtue of [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(14)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F81** Words in s. 131AB inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 17(b)** (with reg. 7)
- F82** Words in s. 131AB(1) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(14)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F83** Words in s. 131AB(1) omitted (31.12.2020) by virtue of [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(14)(b)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)
- F84** S. 131AB(2) inserted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **5(14)(c)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 17(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### 131AC. Meaning of “persons closely associated” in the market abuse regulation

- (1) In Article 3.1(26)(a) (definitions) of the market abuse regulation “partner considered to be equivalent to a spouse” includes a civil partner.
- (2) In Article 3.1(26)(b) of the market abuse regulation “dependent child” means a child who—
  - (a) is under the age of 18 years;
  - (b) is unmarried; and
  - (c) does not have a civil partner.
- (3) In this section “child” includes a stepchild.

#### Textual Amendments

- F76** Ss. 131AA-131AE inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(15)**

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### **131AD. Individual liability in respect of legal persons under Articles 8 and 12 of the market abuse regulation**

- (1) An individual participates in a decision by a body corporate for the purposes of Article 8.5 (insider dealing) or Article 12.4 (market manipulation) of the market abuse regulation where—
  - (a) the individual was an officer of the body corporate when the decision was made; and
  - (b) the FCA are satisfied that the individual was knowingly concerned in the decision.
- (2) In this section “officer”, in relation to a body corporate, means—
  - (a) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; or
  - (b) an individual who is a controller of the body.

#### **Textual Amendments**

**F76** Ss. 131AA-131AE inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(15)**

### **131AE. Liability for contraventions of Article 14 or 15 of the market abuse regulation**

For the purposes of any enactment a person contravenes Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) whether the contravention is by that person alone or by that person and one or more other persons jointly or in concert.]

#### **Textual Amendments**

**F76** Ss. 131AA-131AE inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **9(15)**

**Status:**

Point in time view as at 01/01/2021.

**Changes to legislation:**

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