



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART VIII

[^{F1}PROVISIONS RELATING TO MARKET ABUSE]

Miscellaneous

128 Suspension of investigations.

- (1) If the [^{F1}FCA] considers it desirable or expedient because of the exercise or possible exercise of a [^{F2}relevant power], it may direct a recognised investment exchange [^{F3}, recognised clearing house or recognised CSD]—
- (a) to terminate, suspend or limit the scope of any inquiry which the exchange [^{F4}, clearing house or central securities depository] is conducting under its rules; or
 - (b) not to conduct an inquiry which the exchange [^{F5}, 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 [^{F6}, clearing house or central securities depository] concerned by notice in writing; and
 - (b) is enforceable, on the application of the [^{F1}FCA], by injunction or, in Scotland, by an order under section 45 of the ^{M1}Court of Session Act 1988.
- [^{F7}(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.]

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Textual Amendments

- F1** 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.](#)
- F2** 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\(10\)\(a\)](#)
- F3** 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\(1\)](#))
- F4** 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\(1\)](#))
- F5** 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\(1\)](#))
- F6** 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\(1\)](#))
- F7** 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.](#)

[^{F8}129 Power of court to impose administrative sanctions in cases of market abuse

- (1) The FCA may, on an application to the court under [^{F9}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 penalty;
 - if the person concerned is an individual, a temporary prohibition or a permanent prohibition; or
 - a suspension or restriction.
- (2) The court may, if it considers it appropriate, make an order which does one or more of the following—
- requires the person concerned to pay to the FCA a penalty of such amount as the court considers appropriate;
 - if the person concerned is an individual, imposes a temporary prohibition or a permanent prohibition on that individual; or
 - imposes a suspension or restriction on the person concerned.
- (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—
- references to a prohibition under section 123A having effect as references to a prohibition under this section; and
 - references to the FCA having effect as references to the court which makes the order under this section.

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(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—

^{F10}
...

“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; ^{F11}...
- (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 ^{F12}; 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.]

^{F13}(8) For the meaning of “recognised auction platform” in this Part, see section 131AB.]

^{F14}(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 ^{F15}by supplementary market abuse legislation]; or
- (b) it is made under section 381 or 383.]]

Textual Amendments

- F8** 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)
- F9** 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)**
- F10** 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)**
- F11** 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)

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- F12** 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)
- F13** 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)
- F14** 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)**
- F15** 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.

- [^{F16}(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 [^{F1}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 [^{F1}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 [^{F1}FCA] to determine the action to be taken in cases [^{F17}mentioned in subsection (1)].

Textual Amendments

- F1** 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.
- F16** 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)**
- F17** 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)**

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^{F18}130A Interpretation and supplementary provision

Textual Amendments

F18 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.

[^{F19}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 [^{F20}(b) gives him reasonable grounds for knowing or suspecting that another person has engaged in market abuse]
 - [^{F21}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 ^{F22}... 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.]

Textual Amendments

F19 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**

F20 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)**

F21 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)**

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F22 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)**

[^{F23}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 ^{F24}... 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 [^{F25}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

- F23** 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)**
- F24** 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)
- F25** 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—
^{F26}(1)]

^{F27}...
[^{F28}“emission allowance” [^{F29}means emission allowance as described in paragraph 11 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001];]

[^{F30}“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

[^{F28}“recognised auction platform” has the meaning given in regulation 1(3) of the Recognised Auction Platform Regulations 2011 ([S.I. 2011/2699](#));]

^{F31}...
...

[^{F32}(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

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- (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

- F23** 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)**
- F26** 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)
- F27** 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)
- F28** 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)
- F29** Words in s. 131AB(1) substituted (22.4.2021) by [The Recognised Auction Platforms \(Amendment and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/494\)](#), regs. 1(2), **2(3)**
- F30** 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)
- F31** 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)
- F32** 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

- F23** 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)**

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

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- (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

F23 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

F23 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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