



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XII

CONTROL OVER AUTHORISED PERSONS

f¹ Enforcement procedures

Textual Amendments

- F1** Ss. 178-191G and cross-headings substituted (21.3.2009) for ss. 178-191 and cross-headings by [The Financial Services and Markets Act 2000 \(Controllers\) Regulations 2009 \(S.I. 2009/534\)](#), reg. 3, [Sch. 1](#) (with reg. 8)

191A Objection by the Authority

- (1) The Authority may object to a person's control over a UK authorised person in any of the circumstances specified in subsection (2).
- (2) The circumstances are that the Authority reasonably believes that—
 - (a) the person acquired or increased control without giving notice under section 178(1) in circumstances where notice was required;
 - (b) the person is in breach of a condition imposed under section 187; or
 - (c) there are grounds for objecting to control on the basis of the matters in section 186.
- (3) The Authority—
 - (a) must take into account whether influence exercised by the person is likely to operate to the detriment of the sound and prudent management of the UK authorised person; and
 - (b) may take into account whether the person has co-operated with any information requests made or requirements imposed by the Authority.

Status: Point in time view as at 06/02/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Enforcement procedures is up to date with all changes known to be in force on or before 13 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)

- (4) If the Authority proposes to object to a person's control over a UK authorised person, it must give that person a warning notice.
- (5) The Authority must consult any appropriate home state regulator before giving a warning notice under this section and, in doing so, must comply with such requirements as to consultation as may be prescribed.
- (6) If the Authority decides to object to a person's control over a UK authorised person, it must give that person a decision notice.
- (7) A person to whom the Authority gives a decision notice under this section may refer the matter to the Tribunal.

191B Restriction notices

- (1) The Authority may give notice in writing (a “restriction notice”) to a person in the following circumstances.
- (2) The circumstances are that—
 - (a) the person has control over a UK authorised person by virtue of holding shares or voting power; and
 - (b) in relation to the shares or voting power, the Authority has given the person a warning notice or a decision notice under section 189 or 191A or a final notice which confirms a decision notice given under section 189 or 191A.
- (3) In a restriction notice, the Authority may direct that shares or voting power to which the notice relates are, until further notice, subject to one or more of the following restrictions—
 - (a) except by court order, an agreement to transfer or a transfer of any such shares or voting power or, in the case of unissued shares, any agreement to transfer or transfer of the right to be issued with them, is void;
 - (b) no voting power is to be exercisable;
 - (c) no further shares are to be issued in pursuance of any right of the holder of any such shares or voting power or in pursuance of any offer made to their holder;
 - (d) except in a liquidation, no payment is to be made of any sums due from the body corporate on any such shares, whether in respect of capital or otherwise.
- (4) A restriction notice takes effect—
 - (a) immediately; or
 - (b) on such date as may be specified in the notice.
- (5) A restriction notice does not extinguish rights which would be enjoyable but for the notice.
- (6) A copy of the restriction notice must be served on—
 - (a) the UK authorised person in question; and
 - (b) in the case of shares or voting power held in a parent undertaking of a UK authorised person, the parent undertaking.
- (7) A person to whom the Authority gives a restriction notice may refer the matter to the Tribunal.

Status: Point in time view as at 06/02/2011.

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191C Orders for sale of shares

- (1) The court may, on the application of the Authority, order the sale of shares or the disposition of voting power in the following circumstances.
- (2) The circumstances are that—
 - (a) a person has control over a UK authorised person by virtue of holding the shares or voting power; and
 - (b) the acquisition or continued holding of the shares or voting power by that person is in contravention of a final notice which confirms a decision notice given under section 189 or section 191A.
- (3) Where the court orders the sale of shares or disposition of voting power it may—
 - (a) if a restriction notice has been given in relation to the shares or voting power, order that the restrictions cease to apply; and
 - (b) make any further order.
- (4) Where the court makes an order under this section, it must take into account the level of holding that the person would have been entitled to acquire, or to continue to hold, without contravening the final notice.
- (5) If shares are sold or voting power disposed of in pursuance of an order under this section, any proceeds, less the costs of the sale or disposition, must be paid into court for the benefit of the persons beneficially interested in them; and any such person may apply to the court for payment of a whole or part of the proceeds.
- (6) The jurisdiction conferred by this section may be exercised by the High Court and the Court of Session.]

Status:

Point in time view as at 06/02/2011.

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