



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVII

#### COLLECTIVE INVESTMENT SCHEMES

#### CHAPTER V

#### RECOGNISED OVERSEAS SCHEMES

*Schemes recognised under sections 270 and 272*

#### **278 Rules as to scheme particulars**

The Authority may make rules imposing duties or liabilities on the operator of a scheme recognised under section 270 or 272 for purposes corresponding to those for which rules may be made under section 248 in relation to authorised unit trust schemes.

#### **279 Revocation of recognition**

The Authority may direct that a scheme is to cease to be recognised by virtue of section 270 or revoke an order under section 272 if it appears to the Authority—

- (a) that the operator, trustee or depositary of the scheme has contravened a requirement imposed on him by or under this Act;
- (b) that the operator, trustee or depositary of the scheme has, in purported compliance with any such requirement, knowingly or recklessly given the Authority information which is false or misleading in a material particular;
- (c) in the case of an order under section 272, that one or more of the requirements for the making of the order are no longer satisfied; or
- (d) that none of paragraphs (a) to (c) applies, but it is undesirable in the interests of the participants or potential participants that the scheme should continue to be recognised.

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## **280 Procedure**

- (1) If the Authority proposes to give a direction under section 279 or to make an order under that section revoking a recognition order, it must give a warning notice to the operator and (if any) the trustee or depositary of the scheme.
- (2) If the Authority decides to give a direction or make an order under that section—
  - (a) it must without delay give a decision notice to the operator and (if any) the trustee or depositary of the scheme; and
  - (b) the operator or the trustee or depositary may refer the matter to the Tribunal.

## **281 Directions**

- (1) In this section a “relevant recognised scheme” means a scheme recognised under section 270 or 272.
- (2) If it appears to the Authority that—
  - (a) the operator, trustee or depositary of a relevant recognised scheme has contravened, or is likely to contravene, a requirement imposed on him by or under this Act,
  - (b) the operator, trustee or depositary of such a scheme has, in purported compliance with any such requirement, knowingly or recklessly given the Authority information which is false or misleading in a material particular,
  - (c) one or more of the requirements for the recognition of a scheme under section 272 are no longer satisfied, or
  - (d) none of paragraphs (a) to (c) applies, but the exercise of the power conferred by this section is desirable in order to protect the interests of participants or potential participants in a relevant recognised scheme who are in the United Kingdom,

it may direct that the scheme is not to be a recognised scheme for a specified period or until the occurrence of a specified event or until specified conditions are complied with.

## **282 Procedure on giving directions under section 281 and varying them otherwise than as requested**

- (1) A direction takes effect—
  - (a) immediately, if the notice given under subsection (3) states that that is the case;
  - (b) on such date as may be specified in the notice; or
  - (c) if no date is specified in the notice, when the matter to which it relates is no longer open to review.
- (2) A direction may be expressed to take effect immediately (or on a specified date) only if the Authority, having regard to the ground on which it is exercising its power under section 281, considers that it is necessary for the direction to take effect immediately (or on that date).
- (3) If the Authority proposes to give a direction under section 281, or gives such a direction with immediate effect, it must give separate written notice to the operator and (if any) the trustee or depositary of the scheme concerned.
- (4) The notice must—
  - (a) give details of the direction;

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- (b) inform the person to whom it is given of when the direction takes effect;
  - (c) state the Authority's reasons for giving the direction and for its determination as to when the direction takes effect;
  - (d) inform the person to whom it is given that he may make representations to the Authority within such period as may be specified in it (whether or not he has referred the matter to the Tribunal); and
  - (e) inform him of his right to refer the matter to the Tribunal.
- (5) The Authority may extend the period allowed under the notice for making representations.
- (6) If, having considered any representations made by a person to whom the notice was given, the Authority decides—
- (a) to give the direction in the way proposed, or
  - (b) if it has been given, not to revoke the direction,
- it must give separate written notice to the operator and (if any) the trustee or depositary of the scheme concerned.
- (7) If, having considered any representations made by a person to whom the notice was given, the Authority decides—
- (a) not to give the direction in the way proposed,
  - (b) to give the direction in a way other than that proposed, or
  - (c) to revoke a direction which has effect,
- it must give separate written notice to the operator and (if any) the trustee or depositary of the scheme concerned.
- (8) A notice given under subsection (6) must inform the person to whom it is given of his right to refer the matter to the Tribunal.
- (9) A notice under subsection (7)(b) must comply with subsection (4).
- (10) If a notice informs a person of his right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
- (11) This section applies to the variation of a direction on the Authority's own initiative as it applies to the giving of a direction.
- (12) For the purposes of subsection (1)(c), whether a matter is open to review is to be determined in accordance with section 391(8).