



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVIII

RECOGNISED INVESTMENT EXCHANGES AND CLEARING HOUSES

CHAPTER II

COMPETITION SCRUTINY

Role of the Treasury

307 Recognition orders: role of the Treasury.

- (1) Subsection (2) applies if, on an application for a recognition order—
 - (a) the Director makes a report under section 303 but does not ask the Competition Commission to consider it under section 306;
 - (b) the Competition Commission concludes—
 - (i) that the applicant's regulatory provisions do not have a significantly adverse effect on competition; or
 - (ii) that if those provisions do have that effect, the effect is justified.
- (2) The Treasury may refuse to approve the making of the recognition order only if they consider that the exceptional circumstances of the case make it inappropriate for them to give their approval.
- (3) Subsection (4) applies if, on an application for a recognition order, the Competition Commission concludes—
 - (a) that the applicant's regulatory provisions have a significantly adverse effect on competition; and
 - (b) that that effect is not justified.

Status: Point in time view as at 21/08/2002.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Role of the Treasury is up to date with all changes known to be in force on or before 02 August 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) The Treasury must refuse to approve the making of the recognition order unless they consider that the exceptional circumstances of the case make it inappropriate for them to refuse their approval.

308 Directions by the Treasury.

- (1) This section applies if the Competition Commission makes a report under section 306(4) (other than a report on an application for a recognition order) which states the Commission's conclusion that there is a significantly adverse effect on competition.
- (2) If the Commission's conclusion, as stated in the report, is that the adverse effect on competition is not justified, the Treasury must give a remedial direction to the Authority.
- (3) But subsection (2) does not apply if the Treasury consider—
- (a) that, as a result of action taken by the Authority or the recognised body concerned in response to the Commission's report, it is unnecessary for them to give a direction; or
 - (b) that the exceptional circumstances of the case make it inappropriate or unnecessary for them to do so.
- (4) In considering the action to be specified in a remedial direction, the Treasury must have regard to any conclusion of the Commission included in the report because of section 306(7)(b).
- (5) Subsection (6) applies if—
- (a) the Commission's conclusion, as stated in its report, is that the adverse effect on competition is justified; but
 - (b) the Treasury consider that the exceptional circumstances of the case require them to act.
- (6) The Treasury may give a direction to the Authority requiring it to take such action—
- (a) as they consider to be necessary in the light of the exceptional circumstances of the case; and
 - (b) as may be specified in the direction.
- (7) If the action specified in a remedial direction is the giving by the Authority of a direction—
- (a) the direction to be given must be compatible with the recognition requirements applicable to the recognised body in relation to which it is given; and
 - (b) subsections (3) and (4) of section 296 apply to it as if it were a direction given under that section.
- (8) "Remedial direction" means a direction requiring the Authority—
- (a) to revoke the recognition order for the body concerned; or
 - (b) to give such directions to the body concerned as may be specified in it.

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309 Statements by the Treasury.

- (1) If, in reliance on subsection (3)(a) or (b) of section 308, the Treasury decline to act under subsection (2) of that section, they must make a statement to that effect, giving their reasons.
- (2) If the Treasury give a direction under section 308 they must make a statement giving—
 - (a) details of the direction; and
 - (b) if the direction is given under subsection (6) of that section, their reasons for giving it.
- (3) The Treasury must—
 - (a) publish any statement made under this section in the way appearing to them best calculated to bring it to the attention of the public; and
 - (b) lay a copy of it before Parliament.

310 Procedure on exercise of certain powers by the Treasury.

- (1) Subsection (2) applies if the Treasury are considering—
 - (a) whether to refuse their approval under section 307;
 - (b) whether section 308(2) applies; or
 - (c) whether to give a direction under section 308(6).
- (2) The Treasury must—
 - (a) take such steps as they consider appropriate to allow the exchange or clearing house concerned, and any other person appearing to the Treasury to be affected, an opportunity to make representations—
 - (i) about any report made by the Director under section 303 or 304 or by the Competition Commission under section 306;
 - (ii) as to whether, and if so how, the Treasury should exercise their powers under section 307 or 308; and
 - (b) have regard to any such representations.

Commencement Information

- II** **S. 310** wholly in force at 1.12.2001; **s. 310** not in force at Royal Assent see **s. 431(2)**; **s. 310** in force for specified purposes at 3.9.2001 by **S.I. 2001/2632, art. 2(2), Sch. Pt. 2**; **s. 310** in force in so far as not already in force at 1.12.2001 by **S.I. 2001/3538, art. 2(1)**

Status:

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