



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XI

#### INFORMATION GATHERING AND INVESTIGATIONS

##### *Conduct of investigations*

#### **175 Information and documents: supplemental provisions.**

- (1) If [<sup>F1</sup>either regulator] or an investigator has power under this Part to require a person to produce a document but it appears that the document is in the possession of a third person, that power may be exercised in relation to the third person.
- (2) If a document is produced in response to a requirement imposed under this Part, the person to whom it is produced may—
  - (a) take copies or extracts from the document; or
  - (b) require the person producing the document, or any relevant person, to provide an explanation of the document.
- [<sup>F2</sup>(2A) A document so produced may be retained for so long as the person to whom it is produced considers that it is necessary to retain it (rather than copies of it) for the purposes for which the document was requested.
- (2B) If the person to whom a document is so produced has reasonable grounds for believing—
  - (a) that the document may have to be produced for the purposes of any legal proceedings, and
  - (b) that it might otherwise be unavailable for those purposes,it may be retained until the proceedings are concluded.]
- (3) If a person who is required under this Part to produce a document fails to do so, the [<sup>F3</sup>regulator] or an investigator may require him to state, to the best of his knowledge and belief, where the document is.

*Status: Point in time view as at 13/07/2016. This version of this provision has been superseded.*

*Changes to legislation: Financial Services and Markets Act 2000, Section 175 is up to date with all changes known to be in force on or before 17 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) A lawyer may be required under this Part to furnish the name and address of his client.
- (5) No person may be required under this Part to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on the business of banking unless—
- (a) he is the person under investigation or a member of that person’s group;
  - (b) the person to whom the obligation of confidence is owed is the person under investigation or a member of that person’s group;
  - (c) the person to whom the obligation of confidence is owed consents to the disclosure or production; or
  - (d) the imposing on him of a requirement with respect to such information or document has been specifically authorised by the investigating authority.
- (6) If a person claims a lien on a document, its production under this Part does not affect the lien.
- (7) “Relevant person”, in relation to a person who is required to produce a document, means a person who—
- (a) has been or 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.
- (8) “Investigator” means a person appointed under section 167 or 168(3) or (5).

#### **Textual Amendments**

- F1** Words in s. 175(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 12 para. 13(2)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F2** S. 175(2A)(2B) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 12 para. 13(3)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F3** Word in s. 175(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 12 para. 13(4)** (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

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

- C1** S. 175 applied (with modifications) (11.4.2002 for certain purposes and 27.4.2002 otherwise) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) Order 2001 \(S.I. 2001/544\)](#), art. 9G(9) (as inserted by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2002 \(S.I. 2002/682\)](#), arts. 1(2), **4**)
- C2** S. 175 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\)](#), **reg. 17**
- C3** S. 175 applied (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **regs. 1, 71(2)(e)**
- C4** S. 175 applied (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), arts. 1(5), **23(2)(k)** (with **Pt. 4**)
- C5** S. 175 applied (with modifications) (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), **regs. 1(2), 7**

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- C6** S. 175(2)-(4)(6) amended (1.12.2001 for E.W.S. and 1.11.2004 for N.I) by S.I. 2001/1228, regs. 1(2)(c), 30(6) (with reg. 1(2)(3)); S.I. 2001/3538, art. 2(1); S.R. 2004/335, regs. 1(1)(b), **30(6)** (with reg. 1(2))
- C7** S. 175(2)-(6) applied (with modifications) (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), regs. 1(2), **14**
- C8** S. 175(8) applied (with modifications) (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), regs. 1(2), **14**

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