



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XX

PROVISION OF FINANCIAL SERVICES BY MEMBERS OF THE PROFESSIONS

328 Directions in relation to the general prohibition.

- (1) The [^{F1}FCA] may direct that section 327(1) is not to apply to the extent specified in the direction.
- (2) A direction under subsection (1)—
 - (a) must be in writing;
 - (b) may be given in relation to different classes of person or different descriptions of regulated activity.
- (3) A direction under subsection (1) must be published in the way appearing to the [^{F1}FCA] to be best calculated to bring it to the attention of the public.
- (4) The [^{F1}FCA] may charge a reasonable fee for providing a person with a copy of the direction.
- (5) The [^{F1}FCA] must, without delay, give the Treasury a copy of any direction which it gives under this section.
- [^{F2}(6) The [^{F1}FCA] may exercise the power conferred by subsection (1) only if it is satisfied either—
 - (a) that it is desirable to do so in order to protect the interests of clients; or
 - (b) that it is necessary to do so in order to comply with [^{F3}an EU] obligation imposed by the insurance mediation directive [^{F4}or [Directive 2008/48/EC](#) of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council [Directive 87/102/EEC](#)].]
- (7) In considering whether it is [^{F5}satisfied of the matter specified in subsection (6) (a)], the [^{F1}FCA] must have regard amongst other things to the effectiveness of any arrangements made by any designated professional body—

Status: Point in time view as at 26/07/2013. This version of this provision has been superseded.

Changes to legislation: Financial Services and Markets Act 2000, Section 328 is up to date with all changes known to be in force on or before 04 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)

- (a) for securing compliance with rules made under section 332(1);
 - (b) for dealing with complaints against its members in relation to the carrying on by them of exempt regulated activities;
 - (c) in order to offer redress to clients who suffer, or claim to have suffered, loss as a result of misconduct by its members in their carrying on of exempt regulated activities;
 - (d) for co-operating with the [F¹FCA] under section 325(4).
- (8) In this Part “clients” means—
- (a) persons who use, have used or are or may be contemplating using, any of the services provided by a member of a profession in the course of carrying on exempt regulated activities;
 - (b) persons who have rights or interests which are derived from, or otherwise attributable to, the use of any such services by other persons; or
 - (c) persons who have rights or interests which may be adversely affected by the use of any such services by persons acting on their behalf or in a fiduciary capacity in relation to them.
- (9) If a member of a profession is carrying on an exempt regulated activity in his capacity as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or are or may be contemplating using services provided by that person in his carrying on of that activity.

Textual Amendments

- F1** Word in s. 328 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 16 para. 2](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F2** S. 328(6) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\), reg. 9\(a\)](#)
- F3** Words in s. 328(6)(b) substituted (22.4.2011 with application in accordance with art. 3 of the amending S.I.) by virtue of [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\), art. 6\(1\)\(3\)\(4\)](#)
- F4** Words in s. 328(6)(b) inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), arts. 1\(2\)\(6\), 10\(12\)](#)
- F5** Words in s. 328(7) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\), reg. 9\(b\)](#)

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