



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXVI

#### NOTICES

##### *Publication*

#### **391 Publication.**

[<sup>F1</sup>(1) In the case of a warning notice falling within subsection (1ZB)—

- (a) neither the regulator giving the notice nor a person to whom it is given or copied may publish the notice,
- (b) a person to whom the notice is given or copied may not publish any details concerning the notice unless the regulator giving the notice has published those details, and
- (c) after consulting the persons to whom the notice is given or copied, the regulator giving the notice may publish such information about the matter to which the notice relates as it considers appropriate.

(1ZA) In the case of a warning notice not falling within subsection (1ZB), neither the regulator giving the notice nor a person to whom it is given or copied may publish the notice or any details concerning it.

(1ZB) A warning notice falls within this subsection if it is given under—

- (a) section 63B;
- (b) section 67;
- (c) section 87M;
- (d) section 88B;
- (e) section 89K;
- (f) section 89R;
- (g) section 92;
- (h) section 126;

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- (i) section 131H;
- [<sup>F2</sup>(ia) section 142N;]
- (j) section 192L;
- (k) section 207;
- (l) section 312G;
- (m) section 345B (whether as a result of section 345(2) or 345A(3) or section 249(1) [<sup>F3</sup>or 261K(1)]).]

[<sup>F4</sup>(1A) A person to whom a decision notice is given or copied may not publish the notice or any details concerning it unless the [<sup>F5</sup>regulator giving the notice] has published the notice or those details.]

- (2) A notice of discontinuance must state that, if the person to whom the notice is given consents, the [<sup>F6</sup>regulator giving the notice] may publish such information as it considers appropriate about the matter to which the discontinued proceedings related.
- (3) A copy of a notice of discontinuance must be accompanied by a statement that, if the person to whom the notice is copied consents, the [<sup>F7</sup>regulator giving the notice] may publish such information as it considers appropriate about the matter to which the discontinued proceedings related, so far as relevant to that person.
- (4) [<sup>F8</sup>The regulator giving a decision or final notice] must publish such information about the matter to which [<sup>F9</sup>the notice] relates as it considers appropriate.

[<sup>F10</sup>(4A) Subsection (4) is subject to [<sup>F11</sup>sections 391A [<sup>F12</sup>, 391B [<sup>F13</sup>, 391C [<sup>F14</sup>391D, 391E and 391F]]]]].]

- (5) When a supervisory notice takes effect, the [<sup>F15</sup>regulator giving the notice] must publish such information about the matter to which the notice relates as it considers appropriate.

[<sup>F16</sup>(5A) Subsection (5) does not apply in relation to a notice given in accordance with section 137S(5) or (8)(a) (but see section 137S(11)).]

[<sup>F17</sup>(6) The FCA may not publish information under this section if, in its opinion, publication of the information would be—

- (a) unfair to the person with respect to whom the action was taken (or was proposed to be taken),
- (b) prejudicial to the interests of consumers, or
- (c) detrimental to the stability of the UK financial system.

(6A) The PRA may not publish information under this section if, in its opinion, publication of the information would be—

- (a) unfair to the person with respect to whom the action was taken (or was proposed to be taken),
- (b) prejudicial to the safety and soundness of PRA-authorised persons, or
- (c) in a case where section 2C applies, prejudicial to securing the appropriate degree of protection for policyholders.]

- (7) Information is to be published under this section in such manner as the [<sup>F18</sup>regulator] considers appropriate.

[<sup>F19</sup>(7A) .....

[<sup>F19</sup>(7B) .....

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(8) For the purposes of determining when a supervisory notice takes effect, a matter to which the notice relates is open to review if—

- (a) the period during which any person may refer the matter to the Tribunal is still running;
- (b) the matter has been referred to the Tribunal but has not been dealt with;
- (c) the matter has been referred to the Tribunal and dealt with but the period during which an appeal may be brought against the Tribunal’s decision is still running; or
- (d) such an appeal has been brought but has not been determined.

[<sup>F20</sup>(8A) Where a decision notice or final notice relates to any decision or action under a provision of this Act in relation to the contravention of a [<sup>F21</sup>CSD requirement], this section has effect subject to Article 62 of the CSD regulation (publication of decisions).]

[<sup>F22</sup>(8AA) A “CSD requirement” is a requirement imposed by—

- (a) the CSD regulation,
- (b) any EU regulation, originally made under the CSD regulation, which is retained direct EU legislation, or
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the CSD regulation on or after IP completion day.]

[<sup>F23</sup>(8B) Where a decision notice or final notice relates to any decision or action under a provision of this Act in relation to the contravention of a [<sup>F24</sup>market abuse requirement], this section has effect subject to Article 34 of the market abuse regulation (publication of decisions).]

[<sup>F25</sup>(8BA) A “market abuse requirement” is a requirement imposed by—

- (a) the market abuse regulation,
- (b) any EU regulation, originally made under the market abuse regulation, which is retained direct EU legislation, or
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the market abuse regulation on or after IP completion day.]

[<sup>F26</sup>(8C) Where a decision notice, final notice or supervisory notice relates to any decision or action under a provision of this Act in relation to the contravention of a requirement imposed by or under Article 4 or 15 of the SFT regulation, this section has effect subject to Article 26 of the SFT regulation (publication of decisions).]

[<sup>F27</sup>(8D) Where a decision notice, final notice or supervisory notice relates to any decision or action under a provision of this Act in relation to the contravention of a requirement imposed by—

- (a) Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (the “PRIIPs regulation”),<sup>F28</sup> ...
- (b) any [<sup>F29</sup>EU regulation, originally] made under the PRIIPs regulation, [<sup>F30</sup>which is retained direct EU legislation,]<sup>F31</sup> or
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the PRIIPs regulation on or after IP completion day.]

this section has effect subject to Article 29 of the PRIIPs regulation (publication of decisions).]

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[<sup>F32</sup>(8E) Where a decision notice or final notice relates to any decision or action under a provision of this Act in relation to the contravention of a requirement [<sup>F33</sup>imposed by—

- (a) the EU Benchmarks Regulation 2016,
- (b) any EU regulation, originally made under the EU Benchmarks Regulation 2016, which is retained direct EU legislation, or
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the EU Benchmarks Regulation on or after IP completion day,

this section] has effect subject to Article 45 of the EU Benchmarks Regulation 2016 (publication of decisions).]

<sup>F34</sup>(8F) .....

[<sup>F35</sup>(8G) Where a decision notice or final notice relates to any decision or action under a provision of this Act in relation to the contravention of a requirement [<sup>F36</sup>imposed by—

- (a) the prospectus regulation,
- (b) any EU regulation, originally made under the prospectus regulation, which is retained EU law, or
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the prospectus regulation on or after IP completion day,

this section] has effect subject to Article 42 of the prospectus regulation (publication of decisions).]

(9) “Notice of discontinuance” means a notice given under section 389.

(10) “Supervisory notice” has the same meaning as in section 395.

[<sup>F37</sup>(11) Section 425A (meaning of “consumers”) applies for the purposes of this section.]

#### Textual Amendments

- F1** S. 391(1)(1ZA)(1ZB) substituted for s. 391(1) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 30\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F2** S. 391(1ZB)(ia) inserted (1.1.2019) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 4\(3\), 148\(5\)](#); S.I. 2018/1306, art. 2(d)
- F3** Words in s. 391(1ZB)(m) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(18\)](#) (with reg. 24)
- F4** S. 391(1A) inserted (12.10.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 13\(3\), 26\(3\)](#); S.I. 2010/2480, [art. 2](#) (with [art. 4](#))
- F5** Words in s. 391(1A) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 30\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F6** Words in s. 391(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 30\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F7** Words in s. 391(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 30\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F8** Words in s. 391(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 30\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F9** Words in s. 391(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 30\(4\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F10** S. 391(4A) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), [Sch. 2 para. 22](#)

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- F11** Words in s. 391(4A) substituted (26.11.2015) by The Transparency Regulations 2015 (S.I. 2015/1755), regs. 1(3), **4(5)**
- F12** Words in s. 391(4A) substituted (18.3.2016) by The Undertakings for Collective Investment in Transferable Securities Regulations 2016 (S.I. 2016/225), regs. 1, **2(7)**
- F13** Words in s. 391(4A) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 2 para. 45(a)** (with reg. 7)
- F14** Words in s. 391(4A) substituted (21.7.2019) by The Financial Services and Markets Act 2000 (Prospectus) Regulations 2019 (S.I. 2019/1043), regs. 1(1), **33(1)(a)** (with reg. 40)
- F15** Words in s. 391(5) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 9 para. 30(5)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F16** S. 391(5A) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 24(2)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F17** S. 391(6)(6A) substituted for s. 391(6) (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 9 para. 30(6)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F18** Word in s. 391(7) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 9 para. 30(7)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F19** S. 391(7A)(7B) omitted (31.12.2020) by virtue of The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F20** S. 391(8A) inserted (21.11.2014) by The Central Securities Depositories Regulations 2014 (S.I. 2014/2879), regs. 1(1), **6(2)**
- F21** Words in s. 391(8A) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F22** S. 391(8AA) inserted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(4)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 33(g)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)** Edit
- F23** S. 391(8B) inserted (3.7.2016) by The Financial Services and Markets Act 2000 (Market Abuse) Regulations 2016 (S.I. 2016/680), regs. 1, **10(17)(b)**
- F24** Words in s. 391(8B) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** S. 391(8BA) inserted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(6)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 33(g)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F26** S. 391(8C) inserted (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), reg. 1(2), **Sch. 1 para. 1(4)**
- F27** S. 391(8D) inserted (1.1.2018) by The Packaged Retail and Insurance-based Investment Products Regulations 2017 (S.I. 2017/1127), reg. 1, **Sch. 2 para. 1**
- F28** Word in s. 391(8D)(a) omitted (31.12.2020) by virtue of The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(7)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in s. 391(8D)(b) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(7)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F30** Words in s. 391(8D)(b) inserted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(7)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

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- F31** S. 391(8D)(c) and word inserted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(7)(c)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 33(g)(iii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F32** S. 391(8E) inserted (27.2.2018) by The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018 (S.I. 2018/135), regs. 1(2), **46**
- F33** Words in s. 391(8E) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(8)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 33(g)(iv)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F34** S. 391(8F) omitted (31.12.2020) by virtue of The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **74(9)**; 2020 c. 1, Sch. 5 para. 1(1)
- F35** S. 391(8G) inserted (21.7.2019) by The Financial Services and Markets Act 2000 (Prospectus) Regulations 2019 (S.I. 2019/1043), regs. 1(1), **33(1)(b)** (with reg. 40)
- F36** Words in s. 391(8G) substituted (31.12.2020) by The Prospectus (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1234), regs. 1(4), **8** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 48(b)**) (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/1234, **reg. 29(2)**)); 2020 c. 1, **Sch. 5 para. 1(1)**
- F37** S. 391(11) substituted (8.4.2010) by Financial Services Act 2010 (c. 28), ss. 24(1), 26(1)(l), **Sch. 2 para. 28**

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

- C1** Pt. 26 applied (with modifications) (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services Act 2012 (Consumer Credit) Order 2013 (S.I. 2013/1882), arts. 1(1), **3(11)**
- C2** Pt. 26 modified (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 1 para. 22** (with reg. 7)
- C3** Pt. 26 applied (with modifications) (3.7.2017 for specified purposes, 3.1.2018 in so far as not already in force, 3.1.2018 in so far as not already in force) by The Data Reporting Services Regulations 2017 (S.I. 2017/699), regs. 1(2)(a)(b), **37**
- C4** Pt. 26 applied (with modifications) (1.1.2019) by The Securitisation Regulations 2018 (S.I. 2018/1288), reg. 1, **Sch. 1 para. 7** (with Sch. 1 paras. 13, 14)
- C5** S. 391 applied (1.12.2001) by S.I. 2001/1228, **regs. 1(2)(c)**, 9 (with reg. 1(2)(3)); S.I. 2001/3538, **art. 2(1)**
- C6** S. 391 applied (N.I.) (1.11.2004) by Open-Ended Investment Companies Regulations (Northern Ireland) 2004 (S.R. 2004/335), regs. 1(1)(b), **9** (with reg. 1(2))
- C7** S. 391: power to amend conferred (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 37(2)(a)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- C8** S. 391 applied (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **56** (with regs. 52-58)
- C9** S. 391 applied (21.11.2014) by The Central Securities Depositories Regulations 2014 (S.I. 2014/2879), regs. 1(1), **5(11)**
- C10** S. 391 applied (with modifications) by S.I. 2014/2879, reg. 5C(11) (as inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **5(9)** (with regs. 7(4), 9(1)))
- C11** S. 391(1)(c) restricted (1.4.2013) by The Financial Services Act 2012 (Transitional Provisions) (Enforcement) Order 2013 (S.I. 2013/441), arts. 1(1), **33**
- C12** S. 391(4)(6)(7) applied (1.12.2001) by S.I. 2001/2957, **arts. 1**, 13(8)(a), S.I. 2001/3538, art. 2(1)
- C13** S. 391(4) applied (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 61(7), 85(5)(b), 110(7), 115(5), 122(4), 129 (with art. 23(2))

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- C14** S. 391(6)(b) modified (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), **65(3)(c)**
- C15** S. 391(8) applied (N.I.) (1.11.2004) by [Open-Ended Investment Companies Regulations \(Northern Ireland\) 2004 \(S.R. 2004/335\)](#), regs. 1(1)(b), **27(14)** (with reg. 1(2))
- C16** S. 391(8) applied (with modifications) by S.I. 2011/99, Sch. 2A para. 1(9)(10)(12) (as inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **18(3)**)
- C17** S. 391(8) applied (with modifications) by S.I. 2009/209, Sch. 4A para. 1(9)(10) (as inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **12(4)**)
- C18** S. 391(8) applied (1.1.2019) by [The Securitisation Regulations 2018 \(S.I. 2018/1288\)](#), regs. 1, **15(8)**
- C19** S. 391(8) applied (1.1.2019) by [The Securitisation Regulations 2018 \(S.I. 2018/1288\)](#), regs. 1, **22(8)**
- C20** S. 391(8)(a)-(d) applied (1.5.2009 for certain purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(b)(v)(c), {11(13)} (with reg. 3)
- C21** S. 391(11) modified (18.6.2001) by S.I. 2001/1821, **arts. 1(1), 3(5)**

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