



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXVI

NOTICES

Third party rights and access to evidence

393 Third party rights.

- (1) If any of the reasons contained in a warning notice to which this section applies relates to a matter which—
 - (a) identifies a person (“the third party”) other than the person to whom the notice is given, and
 - (b) in the opinion of the Authority, is prejudicial to the third party, a copy of the notice must be given to the third party.
- (2) Subsection (1) does not require a copy to be given to the third party if the Authority—
 - (a) has given him a separate warning notice in relation to the same matter; or
 - (b) gives him such a notice at the same time as it gives the warning notice which identifies him.
- (3) The notice copied to a third party under subsection (1) must specify a reasonable period (which may not be less than 28 days) within which he may make representations to the Authority.
- (4) If any of the reasons contained in a decision notice to which this section applies relates to a matter which—
 - (a) identifies a person (“the third party”) other than the person to whom the decision notice is given, and
 - (b) in the opinion of the Authority, is prejudicial to the third party, a copy of the notice must be given to the third party.

Status: Point in time view as at 21/03/2009. This version of this provision has been superseded.

Changes to legislation: Financial Services and Markets Act 2000, Section 393 is up to date with all changes known to be in force on or before 05 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)

- (5) If the decision notice was preceded by a warning notice, a copy of the decision notice must (unless it has been given under subsection (4)) be given to each person to whom the warning notice was copied.
- (6) Subsection (4) does not require a copy to be given to the third party if the Authority—
- (a) has given him a separate decision notice in relation to the same matter; or
 - (b) gives him such a notice at the same time as it gives the decision notice which identifies him.
- (7) Neither subsection (1) nor subsection (4) requires a copy of a notice to be given to a third party if the Authority considers it impracticable to do so.
- (8) Subsections (9) to (11) apply if the person to whom a decision notice is given has a right to refer the matter to the Tribunal.
- (9) A person to whom a copy of the notice is given under this section may refer to the Tribunal—
- (a) the decision in question, so far as it is based on a reason of the kind mentioned in subsection (4); or
 - (b) any opinion expressed by the Authority in relation to him.
- (10) The copy must be accompanied by an indication of the third party's right to make a reference under subsection (9) and of the procedure on such a reference.
- (11) A person who alleges that a copy of the notice should have been given to him, but was not, may refer to the Tribunal the alleged failure and—
- (a) the decision in question, so far as it is based on a reason of the kind mentioned in subsection (4); or
 - (b) any opinion expressed by the Authority in relation to him.
- (12) Section 394 applies to a third party as it applies to the person to whom the notice to which this section applies was given, in so far as the material which the Authority must disclose under that section relates to the matter which identifies the third party.
- (13) A copy of a notice given to a third party under this section must be accompanied by a description of the effect of section 394 as it applies to him.
- (14) Any person to whom a warning notice or decision notice was copied under this section must be given a copy of a notice of discontinuance applicable to the proceedings to which the warning notice or decision notice related.

Modifications etc. (not altering text)

- C1** S. 393 applied (1.12.2001) by S.I. 2001/1228, **regs. 1(2)(c), 24(3)** (with **reg. 1(2)(3)**); S.I. 2001/3538, **art. 2(1)**
S. 393 excluded (1.12.2001) by S.I. 2001/3592, **arts. 1(2), 38(2), 46(2), 47(2), 48(2), 52(4), 55(2)** (with **art. 23(2)**)
- C2** S. 393 applied by **Financial Services and Markets Act 2000 (Regulated Activities) Order 2001** (S.I. 2001/544), **art. 95(10)** (as inserted (31.10.2004 for certain purposes and 14.1.2005 otherwise) by **The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003** (S.I. 2003/1476), **arts. 1(3), 13**)
- C3** S. 393 applied (N.I.) (1.11.2004) by **Open-Ended Investment Companies Regulations (Northern Ireland) 2004** (S.R. 2004/335), **regs. 1(1)(b), 24(3)** (with **reg. 1(2)**)

Status: Point in time view as at 21/03/2009. This version of this provision has been superseded.

Changes to legislation: Financial Services and Markets Act 2000, Section 393 is up to date with all changes known to be in force on or before 05 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)

C4 S. 393(1) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2), 36(4)** (with **art. 23(2)**)

Status:

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