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STATUTORY INSTRUMENTS

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**2001 No. 2476**

The Financial Services and Markets Tribunal Rules 2001

PART II

PRELIMINARY MATTERS

**Particular types of direction**

- 10.**—(1) Directions given by the Tribunal may—
- (a) fix the time and place of the hearing of the reference and alter any time and place so fixed;
  - (b) provide for an oral hearing, upon such notice as the Tribunal may determine, in connection with any matter arising under the reference;
  - (c) adjourn any oral hearing;
  - (d) extend any time limit for making a reference under the Act or these Rules, or vary (whether by extending or shortening) any other time limit for anything to be done under these Rules;
  - (e) suspend the effect of an Authority notice (or prevent it taking effect) until the reference has been finally disposed of, or until any appeal against the Tribunal's determination of the reference has been finally disposed of, or both;
  - (f) permit or require any party to provide further information or supplementary statements or to amend a response document or a supplementary statement;
  - (g) require any party to file any document—
    - (i) that is in the custody or under the control of that party;
    - (ii) that the Tribunal considers is or may be relevant to the determination of the reference; and
    - (iii) that has neither been exempted from disclosure by direction given pursuant to rule 8(4) nor been made available pursuant to rule 8(7),and may also require that any such document directed for filing as above shall be copied to the other party or else be made available to that other party for inspection and copying;
  - (h) require any party to provide a statement of relevant issues and facts, identifying those which are, and are not, agreed by the other party;
  - (j) require any party to file documents for any hearing under these Rules or to agree with the other party the documents to be filed;
  - (k) require any party to file—
    - (i) a list of the witnesses whom the party wishes to call to give evidence at the hearing of the reference; and
    - (ii) statements of the evidence which those witnesses intend to give, if called;
  - (l) make provision as to any expert witnesses to be called including the number of such witnesses and the evidence to be given by them;

- (m) provide for the appointment of any expert under paragraph 7(4) of Schedule 13 and for that expert to send the parties copies of any report that he produces;
- (n) provide for the manner in which any evidence may be given;
- (o) provide for the use of languages in addition to English, including provision—
  - (i) as to the venue of any hearing under these Rules so as to ensure the availability of simultaneous translation facilities; and
  - (ii) for the translation of any document;
- (p) require that the register shall include no particulars about the reference; and
- (q) where two or more reference notices have been filed—
  - (i) in respect of the same matter;
  - (ii) in respect of separate interests in the same subject in dispute; or
  - (iii) which involve the same issues,

provide that the references or any particular issue or matter raised in the references be consolidated or heard together.

(2) In the case of an application for a direction under paragraph (1)(d) extending any time limit, the Tribunal may direct that the time limit be extended (whether or not it has already expired) if it is satisfied that to do so would be in the interests of justice but, in the case of an application for a direction extending any time limit for making a reference, the Tribunal shall not determine the application without—

- (a) considering whether the Authority notice was such as to notify the applicant properly and effectively of the referred action; and
- (b) considering whether the existence of the right to make the reference and the time limit had been notified to the applicant, whether in the Authority notice or otherwise.

(3) A time limit extended under paragraph (2) may from time to time be further extended by directions of the Tribunal (whether or not that or any subsequent such time limit has already expired) made upon an application under paragraph (1)(d), but no such direction shall be given unless the Tribunal is satisfied that the further extension would be in the interests of justice.

(4) Where a party files a response document or list later than any time limit imposed by or extended under these Rules but without applying for a direction under paragraph (1)(d) extending the time limit, that party shall be treated as applying for such a direction but no such direction shall be given unless the Tribunal is satisfied that such an extension would be in the interests of justice.

(5) If a response document or list is not filed in accordance with the time limit imposed by (or extended under) these Rules, the Tribunal may of its own initiative direct that the document or list be filed by a specified date.

(6) Where an application for a direction is made under paragraph (1)(e), the Tribunal may give such a direction only if it is satisfied that to do so would not prejudice—

- (a) the interests of any persons (whether consumers, investors or otherwise) intended to be protected by the Authority notice; or
- (b) the smooth operation or integrity of any market intended to be protected by that notice.

(7) If the Tribunal gives a direction under paragraph (1)(f) to permit or require a party to provide a supplementary statement or to amend a response document or supplementary statement, the direction may require that party to file any such statement or amendment and send a copy to the other party.

(8) The Tribunal shall not give a direction under paragraph (1)(g) or (1)(j) in relation to the disclosure of any document to the extent that the Tribunal is satisfied that—

- (a) it is a protected item or would be included in an exemption provided by rule 8(1) or (2); or

(b) it should not be disclosed on one of the grounds specified in rule 8(4), and, for the purpose of determining whether such a direction should be given in respect of any such document, the Tribunal may—

- (i) require that the document be produced to the Tribunal;
- (ii) hear the application in the absence of any party; and
- (iii) invite any party to make representations.

(9) In the case of an application for a direction under paragraph (1)(p) that the register should include no particulars about the reference, the Tribunal may give such a direction if it is satisfied that this is necessary, having regard to—

- (a) the interests of morals, public order, national security or the protection of the private lives of the parties; or
- (b) any unfairness to the applicant or prejudice to the interests of consumers that might result from the register including particulars about the reference.