
STATUTORY INSTRUMENTS

2001 No. 2957

The Financial Services and Markets Act 2000 (Official Listing of Securities) (Transitional Provisions) Order 2001

Procedure for exercising powers where referral procedures begun before commencement

12.—(1) In this article—

“referral committee” means a committee of the Authority duly constituted in accordance with relevant provisions to decide questions referred to it (but does not include a body whose function is to hear appeals from decisions of such a committee); and

“relevant provisions” means any provisions contained in old listing rules, or in any procedures published by the Authority for the purposes of those rules, in relation to the determination of such questions by a referral committee.

(2) This article applies where—

(a) before commencement, a question had been referred to a referral committee as to whether it was appropriate to censure a person (“A”) in accordance with old listing rules, or whether such censure should be published, in respect of a contravention of the kind described in article 10(1)(c) or 11 (1)(c) above, but

(b) that question had not been decided by the committee before commencement.

(3) Notwithstanding the revocation or amendment of the relevant provisions, the referral committee is to continue to consider the matter in accordance with the relevant provisions as they applied immediately before commencement, but subject to the following provisions of this article.

(4) In the case of a contravention of the kind described in article 10(1)(c) above, the referral committee must decide whether to give a decision notice to A under section 89(3) indicating that the competent authority has decided to publish a statement in respect of the contravention by virtue of article 10(2) above.

(5) In the case of a contravention of the kind described in article 11(1)(c) above, the referral committee must decide whether to give a decision notice to A under section 92(4) indicating that the competent authority has decided to publish a statement in respect of the contravention under article 11(2) above.

(6) If the referral committee decides to give a decision notice to A under paragraph (4) above, it may do so without giving a warning notice to A under section 89(2).

(7) If the referral committee decides to give a decision notice to A under paragraph (5) above, it may do so without giving a warning notice to A under section 92(1).

(8) For the purposes of section 133(6), a decision notice given under paragraph (4) or (5) above is to be treated as if it had been preceded by a warning notice stating that the competent authority proposed to take the action referred to in the decision notice.

(9) Subsections (1) and (9) of section 395 (which require the Authority to determine the procedure that it proposes to follow in relation to the giving of notices including decision notices, and to follow the stated procedure) do not apply in relation to the giving of decision notices under paragraphs (4) or (5) above.