



# Companies Act 1989

## 1989 CHAPTER 40

### PART VIII

#### AMENDMENTS OF THE FINANCIAL SERVICES ACT 1986

#### 192 Statements of principle

In Chapter V of Part I of the Financial Services Act 1986 (conduct of investment business), after section 47 insert—

##### “47A Statements of principle

- (1) The Secretary of State may issue statements of principle with respect to the conduct and financial standing expected of persons authorised to carry on investment business.
- (2) The conduct expected may include compliance with a code or standard issued by another person, as for the time being in force, and may allow for the exercise of discretion by any person pursuant to any such code or standard.
- (3) Failure to comply with a statement of principle under this section is a ground for the taking of disciplinary action or the exercise of powers of intervention, but it does not of itself give rise to any right of action by investors or other persons affected or affect the validity of any transaction.
- (4) The disciplinary action which may be taken by virtue of subsection (3) is—
  - (a) the withdrawal or suspension of authorisation under section 28 or the termination or suspension of authorisation under section 33,
  - (b) the giving of a disqualification direction under section 59,
  - (c) the making of a public statement under section 60, or
  - (d) the application by the Secretary of State for an injunction, interdict or other order under section 61(1);

and the reference in that subsection to powers of intervention is to the powers conferred by Chapter VI of this Part.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where a statement of principle relates to compliance with a code or standard issued by another person, the statement of principle may provide—
- (a) that failure to comply with the code or standard shall be a ground for the taking of disciplinary action, or the exercise of powers of intervention, only in such cases and to such extent as may be specified; and
  - (b) that no such action shall be taken, or any such power exercised, except at the request of the person by whom the code or standard in question was issued.
- (6) The Secretary of State shall exercise his powers in such manner as appears to him appropriate to secure compliance with statements of principle under this section.

#### **47B Modification or waiver of statements of principle in particular cases**

- (1) The relevant regulatory authority may on the application of any person—
- (a) modify a statement of principle issued under section 47A so as to adapt it to his circumstances or to any particular kind of business carried on by him, or
  - (b) dispense him from compliance with any such statement of principle, generally or in relation to any particular kind of business carried on by him.
- (2) The powers conferred by this section shall not be exercised unless it appears to the relevant regulatory authority—
- (a) that compliance with the statement of principle in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on investors, and
  - (b) that the exercise of those powers will not result in any undue risk to investors.
- (3) The powers conferred by this section may be exercised unconditionally or subject to conditions; and section 47A(3) applies in the case of failure to comply with a condition as in the case of failure to comply with a statement of principle.
- (4) The relevant regulatory authority for the purposes of this section is—
- (a) in the case of a member of a recognised self-regulating organisation or professional body, in relation to investment business in the carrying on of which he is subject to the rules of the organisation or body, that organisation or body;
  - (b) in any other case, or in relation to other investment business, the Secretary of State.
- (5) The references in paragraph 4(1) of Schedule 2 and paragraph 4(2) of Schedule 3 (requirements for recognition of self-regulating organisations and professional bodies) to monitoring and enforcement of compliance with statements of principle include monitoring and enforcement of compliance with conditions imposed by the organisation or body under this section.”.