

FINANCIAL SERVICES AND MARKETS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part V: Performance of Regulated Activities

Section 66: Disciplinary powers

147. This section gives the Authority a power to take disciplinary action against an approved person when the two conditions set out in *subsection (1)* have been met. The Authority must be satisfied that it is appropriate to take action against him. In this context, the Authority would have to have regard, among other things, to its regulatory objectives set out in Part I. The Authority would need to take into account whether disciplinary action against the approved person, rather than action against the authorised person for whom he works, would be appropriate, taking into account the responsibility of the senior management of the firm for the conduct of the firm and its employees. A second important factor would be to ensure that any action, or any particular course of action, it takes should be proportionate to the nature and seriousness of the misconduct.
148. In addition, the Authority must be satisfied that the person has engaged in misconduct, as defined in *subsection (2)*. One possibility is that the approved person has acted in breach of a statement of principle, issued under section 64, as evidenced by a breach of a code of practice. The other possible situation is that an approved person has been knowingly involved in a breach by the authorised firm of rules made by the Authority or of any requirement imposed by or under the Act.
149. *Subsection (3)* gives the Authority powers to impose a penalty on an approved person or to make a public statement about their misconduct.
150. *Subsection (4)* restricts the period during which the Authority may take action under this section to a period of two years after the Authority became aware of the misconduct. This period reflects the time available to the Secretary of State to bring disqualification proceedings against a company director under the Company Directors Disqualification Act 1986.