



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 9B

RING-FENCING

[^{F1}Failure of parent undertaking to comply with direction

Textual Amendments

- F1** Pt. 9B inserted (1.3.2014 for the insertion of ss. 142A-142F, 142I, 142W-142Z1 for specified purposes) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 4\(1\), 148\(5\)](#); S.I. 2014/377, art. 2(1)(b), Sch. Pt. 2

142S Power to impose penalty or issue censure

- (1) This section applies if a regulator is satisfied that a person who is or has been a qualifying parent undertaking (“P”) has contravened a requirement of a direction given to P by that regulator as a result of section 142L(2)(d) or (3)(d).
- (2) The regulator may impose a penalty of such amount as it considers appropriate on—
 - (a) P, or
 - (b) any person who was knowingly concerned in the contravention.
- (3) The regulator may, instead of imposing a penalty on a person, publish a statement censuring the person.
- (4) The regulator may not take action against a person under this section after the end of the limitation period unless, before the end of that period, it has given a warning notice to the person under section 142T.
- (5) “The limitation period” means the period of 3 years beginning with the first day on which the regulator knew of the contravention.

Status: Point in time view as at 01/03/2014.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Failure of parent undertaking to comply with direction is up to date with all changes known to be in force on or before 11 April 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)

- (6) For this purpose a regulator is to be treated as knowing of a contravention if it has information from which the contravention can reasonably be inferred.
- (7) The requirements that a regulator may be required to impose as a result of a direction under section 142L(2)(c) or (3)(c) include requirements that the regulator would not but for the direction have power to impose.

142T Procedure and right to refer to Tribunal

- (1) If a regulator proposes to take action against a person under section 142S, it must give the person a warning notice.
- (2) A warning notice about a proposal to impose a penalty must state the amount of the penalty.
- (3) A warning notice about a proposal to publish a statement must set out the terms of the statement.
- (4) If the regulator decides to take action against a person under section 142S, it must give the person a decision notice.
- (5) A decision notice about the imposition of a penalty must state the amount of the penalty.
- (6) A decision notice about the publication of a statement must set out the terms of the statement.
- (7) If the regulator decides to take action against a person under section 142S, the person may refer the matter to the Tribunal.

142U Duty on publication of statement

After a statement under section 142S(3) is published, the regulator must send a copy of the statement to—

- (a) the person in respect of whom it is made, and
- (b) any person to whom a copy of the decision notice was given under section 393(4).

142V Imposition of penalties under section 142S: statement of policy

- (1) Each regulator must prepare and issue a statement of policy with respect to—
 - (a) the imposition of penalties under section 142S, and
 - (b) the amount of penalties under that section.
- (2) A regulator's policy in determining what the amount of a penalty should be must include having regard to—
 - (a) the seriousness of the contravention,
 - (b) the extent to which the contravention was deliberate or reckless, and
 - (c) whether the person on whom the penalty is to be imposed is an individual.
- (3) A regulator may at any time alter or replace a statement issued under this section.
- (4) If a statement issued under this section is altered or replaced, the regulator must issue the altered or replacement statement.

Status: Point in time view as at 01/03/2014.

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- (5) In exercising, or deciding whether to exercise, a power under section 142S(2) in the case of any particular contravention, a regulator must have regard to any statement of policy published under this section and in force at a time when the contravention occurred.
- (6) A statement under this section must be published by the regulator concerned in the way appearing to the regulator to be best calculated to bring it to the attention of the public.
- (7) A regulator may charge a reasonable fee for providing a person with a copy of the statement published under this section.
- (8) A regulator must, without delay, give the Treasury a copy of any statement which it publishes under this section.
- (9) Section 192I applies in relation to a statement under this section as it applies in relation to a statement under section 192H.]

Status:

Point in time view as at 01/03/2014.

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