Financial Services and Markets Act 2000

2000 CHAPTER 8

PART VIII

PENALTIES FOR MARKET ABUSE

Market abuse

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(1) For the purposes of this Act, market abuse is behaviour (whether by one person alone or by two or more persons jointly or in concert)—

(a) which occurs in relation to qualifying investments traded on a market to which this section applies;

(b) which satisfies any one or more of the conditions set out in subsection (2); and

(c) which is likely to be regarded by a regular user of that market who is aware of the behaviour as a failure on the part of the person or persons concerned to observe the standard of behaviour reasonably expected of a person in his or their position in relation to the market.

(2) The conditions are that—

(a) the behaviour is based on information which is not generally available to those using the market but which, if available to a regular user of the market, would or would be likely to be regarded by him as relevant when deciding the terms on which transactions in investments of the kind in question should be effected;

(b) the behaviour is likely to give a regular user of the market a false or misleading impression as to the supply of, or demand for, or as to the price or value of, investments of the kind in question;

(c) a regular user of the market would, or would be likely to, regard the behaviour as behaviour which would, or would be likely to, distort the market in investments of the kind in question.

(3) The Treasury may by order prescribe (whether by name or by description)—

(a) the markets to which this section applies; and

(b) the investments which are qualifying investments in relation to those markets.

(4) The order may prescribe different investments or descriptions of investment in relation to different markets or descriptions of market.

(5) Behaviour is to be disregarded for the purposes of subsection (1) unless it occurs—

(a) in the United Kingdom; or

(b) in relation to qualifying investments traded on a market to which this section applies which is situated in the United Kingdom or which is accessible electronically in the United Kingdom.

(6) For the purposes of this section, the behaviour which is to be regarded as occurring in relation to qualifying investments includes behaviour which—

(a) occurs in relation to anything which is the subject matter, or whose price or value is expressed by reference to the price or value, of those qualifying investments; or

(b) occurs in relation to investments (whether qualifying or not) whose subject matter is those qualifying investments.

(7) Information which can be obtained by research or analysis conducted by, or on behalf of, users of a market is to be regarded for the purposes of this section as being generally available to them.

(8) Behaviour does not amount to market abuse if it conforms with a rule which includes a provision to the effect that behaviour conforming with the rule does not amount to market abuse.

(9) Any reference in this Act to a person engaged in market abuse is a reference to a person engaged in market abuse whether alone or with one or more other persons.

(10) In this section—

"behaviour" includes action or inaction;

"investment" is to be read with section 22 and Schedule 2;

"regular user", in relation to a particular market, means a reasonable person who regularly deals on that market in investments of the kind in question.