



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XV

#### THE FINANCIAL SERVICES COMPENSATION SCHEME

##### *Information and documents*

#### **[<sup>F1</sup>218A [<sup>F2</sup>Regulators'] power to require information**

- [<sup>F3</sup>(1) Each regulator may make rules enabling that regulator to require authorised persons [<sup>F4</sup>or recognised investment exchanges carrying on a regulated activity relating to a trading facility] to—
- (a) provide information to the scheme manager on the request of that regulator or the scheme manager; or
  - (b) provide information to that regulator, which may then be made available to the scheme manager by that regulator.]
- (2) A requirement may be imposed only if the [<sup>F5</sup>regulator] thinks the information is of a kind that may be of use to the scheme manager in connection with functions in respect of the scheme.
- (3) A requirement under this section may apply—
- (a) to authorised persons generally or only to specified persons or classes of person;
  - [<sup>F6</sup>(aa) to recognised investment exchanges mentioned in subsection (1) generally or only to specified exchanges or classes of exchange;]
  - (b) to the provision of information at specified periods, in connection with specified events or in other ways.
- (4) In addition to requirements under this section, a notice under section 165 may relate to information or documents which the [<sup>F7</sup>regulator] thinks are reasonably required by the scheme manager in connection with the performance of functions in respect of the scheme; and section 165(4) is subject to this subsection.

*Status: Point in time view as at 03/01/2018.*

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- (5) Rules under subsection (1) shall be prepared, made and treated in the same way as (and may be combined with) the [<sup>F8</sup>regulator's] general rules.]

#### Textual Amendments

- F1** S. 218A inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 176\(1\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F2** Word in s. 218A heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 12\(5\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F3** S. 218A(1) substituted (26.3.2015) by [The Deposit Guarantee Scheme Regulations 2015 \(S.I. 2015/486\)](#), regs. 1(2), [13\(4\)](#)
- F4** Words in s. 218A(1) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 26\(2\)](#) (with reg. 7)
- F5** Word in s. 218A(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 12\(3\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F6** S. 218A(3)(aa) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 26\(3\)](#) (with reg. 7)
- F7** Word in s. 218A(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 12\(3\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F8** Word in s. 218A(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 12\(4\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

#### [<sup>F9</sup>218B Treasury's power to require information from scheme manager

- (1) The Treasury may by notice in writing require the scheme manager to provide specified information or information of a specified description that the Treasury reasonably require in connection with the duties of the Treasury under the Government Resources and Accounts Act 2000.
- (2) Information required under this section must be provided before the end of such reasonable period as may be specified.
- (3) “Specified” means specified in the notice.]

#### Textual Amendments

- F9** S. 218B inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 15, 148\(5\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1

#### 219 Scheme manager's power to require information.

- (1) The scheme manager may, by notice in writing [<sup>F10</sup>require a person]—
- (a) to provide specified information or information of a specified description; or

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- (b) to produce specified documents or documents of a specified description.

[<sup>F11</sup>(1A) A requirement may be imposed only—

- (a) on a person (P) against whom a claim has been made under the scheme,
- (b) on a person (P) who is unable or likely to be unable to satisfy claims under the scheme against P,
- (c) on a person (“the Third Party”) whom the scheme manager thinks was knowingly involved in matters giving rise to a claim against another person (P) under the scheme, or
- (d) on a person (“the Third Party”) whom the scheme manager thinks was knowingly involved in matters giving rise to the actual or likely inability of another person (P) to satisfy claims under the scheme.

(1B) For the purposes of subsection (1A)(b) and (d) whether P is unable or likely to be unable to satisfy claims shall be determined in accordance with provision to be made by the scheme (which may, in particular—

- (a) apply or replicate, with or without modifications, a provision of an enactment;
- (b) confer discretion on a specified person).]

(2) The information or documents must be provided or produced—

- (a) before the end of such reasonable period as may be specified; and
- (b) in the case of information, in such manner or form as may be specified.

(3) This section applies only to information and documents the provision or production of which the scheme manager considers [<sup>F12</sup> to be necessary (or likely to be necessary) for the fair determination of claims which have been or may be made against P].

[<sup>F13</sup>(3A) Where a stabilisation power under Part 1 of the Banking Act 2009 has been exercised in respect of a bank, [<sup>F14</sup>building society or credit union,] the scheme manager may by notice in writing require [<sup>F15</sup>the bank, building society or credit union, or the Bank of England,] to provide information that the scheme manager requires for the purpose of [<sup>F16</sup>determining the matters mentioned in section 214D(2)(a) and (b) above].]

(4) If a document is produced in response to a requirement imposed under this section, the scheme manager may—

- (a) take copies or extracts from the document; or
- (b) require the person producing the document to provide an explanation of the document.

(5) If a person who is required under this section to produce a document fails to do so, the scheme manager may require the person to state, to the best of his knowledge and belief, where the document is.

(6) If [<sup>F17</sup>P] is insolvent, no requirement may be imposed under this section on a person to whom section 220 or 224 applies.

(7) If a person claims a lien on a document, its production under this Part does not affect the lien.

(8) <sup>F18</sup> .....

(9) “Specified” means specified in the notice given under subsection (1).

(10) <sup>F19</sup> .....

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### Textual Amendments

- F10** Words in s. 219(1) substituted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\), ss. 176\(3\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F11** S. 219(1A)-(1B) inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\), ss. 176\(4\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F12** Words in s. 219(3) substituted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\), ss. 176\(5\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F13** S. 219(3A) inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\), ss. 176\(6\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F14** Words in s. 219(3A) inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\), ss. 21\(8\)\(a\)](#), 26(1)
- F15** Words in s. 219(3A) substituted (8.4.2010) by [Financial Services Act 2010 \(c. 28\), ss. 21\(8\)\(b\)](#), 26(1)
- F16** Words in s. 219(3A) substituted (8.4.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(1\), Sch. 2 para. 22](#)
- F17** Word in s. 219(6) substituted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\), ss. 176\(7\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F18** S. 219(8) omitted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by virtue of [Banking Act 2009 \(c. 1\), ss. 176\(8\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F19** S. 219(10) omitted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by virtue of [Banking Act 2009 \(c. 1\), ss. 176\(9\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.

### Modifications etc. (not altering text)

- C1** S. 219 extended (1.12.2001) by [S.I. 2001/2967, arts. 1\(2\), 7\(a\), 12\(4\)\(a\)](#); S.I. 2001/3538, [art. 2\(1\)](#)
- C2** S. 219(2)(4)(5)(7) applied (7.10.2008 at 9.30 a.m.) by The Heritable Bank plc [Transfer of Certain Rights and Liabilities Order 2008 \(S.I. 2008/2644\), art. 16](#) (with [art. 15\(8\)](#))
- C3** S. 219(2)(4)(5)(7) applied (8.10.2008 at 10.10 a.m.) by The Transfer of Rights and Liabilities to ING [Order 2008 \(S.I. 2008/2666\), art. 13\(3\)](#)
- C4** S. 219(2)(4)(5)(7) applied (8.10.2008 at 12.15 p.m.) by The Kaupthing Singer & Friedlander Limited [Transfer of Certain Rights and Liabilities Order 2008 \(S.I. 2008/2674\), art. 17\(3\)](#) (with [art. 16\(8\)](#))

## 220 Scheme manager's power to inspect information held by liquidator etc.

- (1) For the purpose of assisting the scheme manager to discharge its functions in relation to a claim made in respect of an insolvent relevant person <sup>[F20]</sup> or insolvent relevant exchange], a person to whom this section applies must permit a person authorised by the scheme manager to inspect relevant documents.
- (2) A person inspecting a document under this section may take copies of, or extracts from, the document.
- (3) This section applies to—
  - (a) the administrative receiver, administrator, liquidator <sup>[F21]</sup>, bank liquidator <sup>[F22]</sup>, building society liquidator] or trustee in bankruptcy of an insolvent relevant person <sup>[F23]</sup> or insolvent relevant exchange];
  - (b) the <sup>[F24]</sup> trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of] the estate of an insolvent relevant person <sup>[F25]</sup> or insolvent relevant exchange].
- (4) This section does not apply to a liquidator, administrator or trustee in bankruptcy who is—
  - (a) the Official Receiver;
  - (b) the Official Receiver for Northern Ireland; or

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(c) the Accountant in Bankruptcy.

(5) “Relevant person” <sup>F26</sup>and “relevant exchange”<sup>F27</sup>have] the same meaning as in section 224.

#### Textual Amendments

- F20** Words in s. 220(1) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 27\(2\)](#) (with reg. 7)
- F21** Words in s. 220(3)(a) inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 123\(3\)](#), 263(1)(2) (with s. 247); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)
- F22** Words in s. 220(3)(a) inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), [art. 15](#)
- F23** Words in s. 220(3)(a) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 27\(3\)\(a\)](#) (with reg. 7)
- F24** Words in s. 220(3)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), [art. 1](#), [Sch. 1 para. 20\(3\)](#)
- F25** Words in s. 220(3)(b) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 27\(3\)\(b\)](#) (with reg. 7)
- F26** Words in s. 220(5) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 27\(4\)\(a\)](#) (with reg. 7)
- F27** Word in s. 220(5) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 27\(4\)\(b\)](#) (with reg. 7)

#### Modifications etc. (not altering text)

- C5** S. 220 extended (1.12.2001) by [S.I. 2001/2967](#), [arts. 1\(2\)](#), 8, 12(4)(c); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C6** S. 220(3) applied (with modifications) (8.2.2011 with application in accordance with reg. 27(a) of the applying S.I.) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), reg. 27, [Sch. 6 Pt. 2 para. 3\(3\)](#)

## 221 Powers of court where information required.

- (1) If a person (“the defaulter”)—
- fails to comply with a requirement imposed under section 219, or
  - fails to permit documents to be inspected under section 220,
- the scheme manager may certify that fact in writing to the court and the court may enquire into the case.
- (2) If the court is satisfied that the defaulter failed without reasonable excuse to comply with the requirement (or to permit the documents to be inspected), it may deal with the defaulter (and, in the case of a body corporate, any director or <sup>F28</sup>other] officer) as

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if he were in contempt [<sup>F29</sup>; and “officer”, in relation to a limited liability partnership, means a member of the limited liability partnership.].

- (3) “Court” means—
- (a) the High Court;
  - (b) in Scotland, the Court of Session.

#### **Textual Amendments**

- F28** Word in s. 221(2) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 13](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F29** Words in s. 221(2) inserted (6.4.2001 for E.W.S. and 13.9.2004 for N.I.) by [S.I. 2001/1090](#), [regs. 1, 9](#), [Sch. 5 para. 21](#); [S.R. 2004/307](#), [reg. 9](#), [Sch. 4 para. 17](#)

#### **Modifications etc. (not altering text)**

- C7** S. 221 extended (1.12.2001) by [S.I. 2001/2967](#), [arts. 1\(2\)](#), [7\(b\)](#), [8](#), [12\(4\)\(b\)\(c\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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