



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVIII

RECOGNISED INVESTMENT EXCHANGES AND CLEARING HOUSES^{F1F1}

CHAPTER I

EXEMPTION

Supervision

293 Notification requirements.

- (1) The Authority may make rules requiring a recognised body to give it—
 - (a) notice of such events relating to the body as may be specified; and
 - (b) such information in respect of those events as may be specified.
- (2) The rules may also require a recognised body to give the Authority, at such times or in respect of such periods as may be specified, such information relating to the body as may be specified.
- (3) An obligation imposed by the rules extends only to a notice or information which the Authority may reasonably require for the exercise of its functions under this Act.
- (4) The rules may require information to be given in a specified form and to be verified in a specified manner.
- (5) If a recognised body—
 - (a) alters or revokes any of its rules or guidance, or
 - (b) makes new rules or issues new guidance,it must give written notice to the Authority without delay.
- (6) If a recognised investment exchange makes a change—

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- (a) in the arrangements it makes for the provision of clearing services in respect of transactions effected on the exchange, or
 - (b) in the criteria which it applies when determining to whom it will provide clearing services,
- it must give written notice to the Authority without delay.
- (7) If a recognised clearing house makes a change—
- (a) in the recognised investment exchanges for whom it provides clearing services, or
 - (b) in the criteria which it applies when determining to whom (other than recognised investment exchanges) it will provide clearing services,
- it must give written notice to the Authority without delay.
- (8) Subsections (5) to (7) do not apply to an overseas investment exchange or an overseas clearing house.
- (9) “Specified” means specified in the Authority’s rules.

Commencement Information

- II** S. 293 wholly in force at 1.12.2001; s. 293 not in force at Royal Assent see s. 431(2); s. 293 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); s. 293 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

^{F1} 293A **Information: compliance of recognised investment exchanges with directly applicable Community regulations**

The Authority may require a recognised investment exchange to give the Authority such information as it reasonably requires in order to satisfy itself that the exchange is complying with any directly applicable Community regulation made under the markets in financial instruments directive.]]

Textual Amendments

- F1** S. 293A inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 6](#)

294 **Modification or waiver of rules.**

- (1) The Authority may, on the application or with the consent of a recognised body, direct that rules made under section 293 or 295—
 - (a) are not to apply to the body; or
 - (b) are to apply to the body with such modifications as may be specified in the direction.
- (2) An application must be made in such manner as the Authority may direct.
- (3) Subsections (4) to (6) apply to a direction given under subsection (1).
- (4) The Authority may not give a direction unless it is satisfied that—

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- (a) compliance by the recognised body with the rules, or with the rules as unmodified, would be unduly burdensome or would not achieve the purpose for which the rules were made; and
 - (b) the direction would not result in undue risk to persons whose interests the rules are intended to protect.
- (5) A direction may be given subject to conditions.
- (6) The Authority may—
- (a) revoke a direction; or
 - (b) vary it on the application, or with the consent, of the recognised body to which it relates.

Modifications etc. (not altering text)

C1 S. 294 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(10)**; S.I. 2001/3538, **art. 2(1)**

Commencement Information

I2 S. 294 wholly in force at 3.9.2001; s. 294 not in force at Royal Assent see s. 431(2); s. 294(2) in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 294 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, **art. 2 Sch. Pt. 2**

295 Notification: overseas investment exchanges and overseas clearing houses.

- (1) At least once a year, every overseas investment exchange and overseas clearing house must provide the Authority with a report.
- (2) The report must contain a statement as to whether any events have occurred which are likely—
 - (a) to affect the Authority’s assessment of whether it is satisfied as to the requirements set out in section 292(3); or
 - (b) to have any effect on competition.
- (3) The report must also contain such information as may be specified in rules made by the Authority.
- (4) The investment exchange or clearing house must provide the Treasury and the [F²OFT] with a copy of the report.

Textual Amendments

F2 Words in s. 295 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(9)**; S.I. 2003/766, **art. 2, Sch.** (with art. 3)

Commencement Information

I3 S. 295 wholly in force at 1.12.2001; s. 295 not in force at Royal Assent see s. 431(2); s. 295 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 295 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

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296 Authority's power to give directions.

- (1) This section applies if it appears to the Authority that a recognised body—
- (a) has failed, or is likely to fail, to satisfy the recognition requirements; or
 - (b) has failed to comply with any other obligation imposed on it by or under this Act.

[^{F3}(1A) This section also applies in the case of a recognised body which is a recognised investment exchange if it appears to the Authority that the body has failed, or is likely to fail, to comply with any obligation imposed on it by any directly applicable Community regulation made under the markets in financial instruments directive.]

- (2) The Authority may direct the body to take specified steps for the purpose of securing the body's compliance with—
- (a) the recognition requirements; or
 - (b) any obligation of the kind in question.

[^{F4}(2A) In the case of a recognised investment exchange other than an overseas investment exchange, those steps may include—

- (a) the granting to the Authority of access to the premises of the exchange for the purpose of inspecting—
 - (i) those premises; or
 - (ii) any documents on the premises which appear to the Authority to be relevant for the purpose mentioned in subsection (2);
- (b) the suspension of the carrying on of any regulated activity by the exchange for the period specified in the direction.]

- (3) A direction under this section is enforceable, on the application of the Authority, by an injunction or, in Scotland, by an order for specific performance under section 45 of the ^{M1}Court of Session Act 1988.

- (4) The fact that a rule made by a recognised body has been altered in response to a direction given by the Authority does not prevent it from being subsequently altered or revoked by the recognised body.

Textual Amendments

F3 S. 296(1A) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 7\(a\)](#)

F4 S. 296(2A) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 7\(b\)](#)

Modifications etc. (not altering text)

C2 S. 296 amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), [arts. 1\(2\)](#), 3(11); [S.I. 2001/3538](#), [art. 2\(1\)](#)

Marginal Citations

M1 1988 c. 36.

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297 Revoking recognition.

(1) A recognition order may be revoked by an order made by the Authority at the request, or with the consent, of the recognised body concerned.

(2) If it appears to the Authority that a recognised body—

- (a) is failing, or has failed, to satisfy the recognition requirements, or
- (b) is failing, or has failed, to comply with any other obligation imposed on it by or under this Act,

it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.

[^{F5}(2A) If it appears to the Authority that a recognised body which is a recognised investment exchange—

- (a) has not carried on the business of an investment exchange during the period of twelve months beginning with the day on which the recognition order took effect in relation to it,
- (b) has not carried on the business of an investment exchange at any time during the period of six months ending with the relevant day, or
- (c) has failed, or is likely to fail, to comply with any obligation imposed on it by a directly applicable Community regulation made under the markets in financial instruments directive,

it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.

(2B) The “relevant day”, for the purposes of paragraph (b) of subsection (2A), is the day on which the power to make an order under that subsection is exercised.

(2C) Subsection (2A) does not apply to an overseas investment exchange.]

(3) An order under this section (“a revocation order”) must specify the date on which it is to take effect.

(4) In the case of a revocation order made under subsection (2) [^{F6}or (2A)], the specified date must not be earlier than the end of the period of three months beginning with the day on which the order is made.

(5) A revocation order may contain such transitional provisions as the Authority thinks necessary or expedient.

Textual Amendments

F5 S. 297(2A)-(2C) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 8\(a\)](#)

F6 Words in s. 297(4) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 8\(b\)](#)

Modifications etc. (not altering text)

C3 S. 297 amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), [arts. 1\(2\)](#), 3(11); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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298 Directions and revocation: procedure.

- (1) Before giving a direction under section 296, or making a revocation order under section 297(2) [^{F7}or (2A)], the Authority must—
 - (a) give written notice of its intention to do so to the recognised body concerned;
 - (b) take such steps as it considers reasonably practicable to bring the notice to the attention of members (if any) of that body; and
 - (c) publish the notice in such manner as it thinks appropriate for bringing it to the attention of other persons who are, in its opinion, likely to be affected.
- (2) A notice under subsection (1) must—
 - (a) state why the Authority intends to give the direction or make the order; and
 - (b) draw attention to the right to make representations conferred by subsection (3).
- (3) Before the end of the period for making representations—
 - (a) the recognised body,
 - (b) any member of that body, and
 - (c) any other person who is likely to be affected by the proposed direction or revocation order,
 may make representations to the Authority.
- (4) The period for making representations is—
 - (a) two months beginning—
 - (i) with the date on which the notice is served on the recognised body; or
 - (ii) if later, with the date on which the notice is published; or
 - (b) such longer period as the Authority may allow in the particular case.
- (5) In deciding whether to—
 - (a) give a direction, or
 - (b) make a revocation order,
 the Authority must have regard to any representations made in accordance with subsection (3).
- (6) When the Authority has decided whether to give a direction under section 296 or to make the proposed revocation order, it must—
 - (a) give the recognised body written notice of its decision; and
 - (b) if it has decided to give a direction or make an order, take such steps as it considers reasonably practicable for bringing its decision to the attention of members of the body or of other persons who are, in the Authority's opinion, likely to be affected.
- (7) If the Authority considers it essential to do so, it may give a direction under section 296—
 - (a) without following the procedure set out in this section; or
 - (b) if the Authority has begun to follow that procedure, regardless of whether the period for making representations has expired.
- (8) If the Authority has, in relation to a particular matter, followed the procedure set out in subsections (1) to (5), it need not follow it again if, in relation to that matter, it decides to take action other than that specified in its notice under subsection (1).

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Textual Amendments

- F7** Words in s. 298(1) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 9](#)

Modifications etc. (not altering text)

- C4** S. 298 amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), [arts. 1\(2\)](#), 3(11); [S.I. 2001/3538](#), [art. 2\(1\)](#)

Commencement Information

- I4** S. 298 wholly in force at 1.12.2001; s. 298 not in force at Royal Assent see s. 431(2); s. 298 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2 Sch. Pt. 2](#); s. 298 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

299 Complaints about recognised bodies.

- (1) The Authority must make arrangements for the investigation of any relevant complaint about a recognised body.
- (2) “Relevant complaint” means a complaint which the Authority considers is relevant to the question of whether the body concerned should remain a recognised body.

300 Extension of functions of Tribunal.

- (1) If the Treasury are satisfied that the condition mentioned in subsection (2) is satisfied, they may by order confer functions on the Tribunal with respect to disciplinary proceedings—
 - (a) of one or more investment exchanges in relation to which a recognition order under section 290 is in force or of such investment exchanges generally, or
 - (b) of one or more clearing houses in relation to which a recognition order under that section is in force or of such clearing houses generally.
- (2) The condition is that it is desirable to exercise the power conferred under subsection (1) with a view to ensuring that—
 - (a) decisions taken in disciplinary proceedings with respect to which functions are to be conferred on the Tribunal are consistent with—
 - (i) decisions of the Tribunal in cases arising under Part VIII; and
 - (ii) decisions taken in other disciplinary proceedings with respect to which the Tribunal has functions as a result of an order under this section; or
 - (b) the disciplinary proceedings are in accordance with the Convention rights.
- (3) An order under this section may modify or exclude any provision made by or under this Act with respect to proceedings before the Tribunal.
- (4) “Disciplinary proceedings” means proceedings under the rules of an investment exchange or clearing house in relation to market abuse by persons subject to the rules.
- (5) “The Convention rights” has the meaning given in section 1 of the ^{M2}Human Rights Act 1998.

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Marginal Citations

M2 1998 c. 42.

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