



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXII

AUDITORS AND ACTUARIES

Information

341 Access to books etc.

- (1) An appointed auditor of, or an appointed actuary acting for, an authorised person—
 - (a) has a right of access at all times to the authorised person's books, accounts and vouchers; and
 - (b) is entitled to require from the authorised person's officers such information and explanations as he reasonably considers necessary for the performance of his duties as auditor or actuary.
- (2) "Appointed" means appointed under or as a result of this Act.

Modifications etc. (not altering text)

- C1 Ss. 341-346 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(c), 95, [Sch. 5 para. 4](#) (with reg. 3)

342 Information given by auditor or actuary to ^[F1]a regulator].

- (1) This section applies to a person who is, or has been, an auditor of an authorised person ^[F2]or recognised investment exchange,] appointed under or as a result of a statutory provision.
- (2) This section also applies to a person who is, or has been, an actuary acting for an authorised person and appointed under or as a result of a statutory provision.

Status: Point in time view as at 01/04/2015.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Information is up to date with all changes known to be in force on or before 10 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)

- (3) An auditor or actuary does not contravene any duty to which he is subject merely because he gives to [^{F3}a regulator]—
- (a) information on a matter of which he has, or had, become aware in his capacity as auditor of, or actuary acting for, the authorised person [^{F4}or recognised investment exchange], or
 - (b) his opinion on such a matter,
- if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of [^{F5}that regulator].
- (4) Subsection (3) applies whether or not the auditor or actuary is responding to a request from the [^{F6}regulator].
- (5) The Treasury may make regulations prescribing circumstances in which an auditor or actuary must communicate matters to [^{F7}a regulator] as mentioned in subsection (3).
- (6) It is the duty of an auditor or actuary to whom any such regulations apply to communicate a matter to [^{F7}a regulator] in the circumstances prescribed by the regulations.
- [^{F8}(6A) If the authorised person concerned is a credit institution or an investment firm, and an auditor or actuary communicates a matter to a regulator in accordance with the regulations, the matter must be disclosed simultaneously to the management body of the authorised person, unless there are compelling reasons not to do so.]
- (7) The matters to be communicated to [^{F7}a regulator] in accordance with the regulations may include matters relating to persons other than the authorised person [^{F9}or recognised investment exchange] concerned.
- [^{F10}(8) In subsection (6A) “credit institution” and “investment firm” have the same meaning as in Article 4(1) of the capital requirements regulation.]

Textual Amendments

- F1** Words in s. 342 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(6\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F2** Words in s. 342(1) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F3** Words in s. 342(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(3\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F4** Words in s. 342(3) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(3\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F5** Words in s. 342(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(3\)\(c\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F6** Word in s. 342(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F7** Words in s. 342 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(6\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F8** S. 342(6A) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\), reg. 1\(2\), Sch. 2 para. 20\(2\)](#)
- F9** Words in s. 342(7) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 4\(5\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F10** S. 342(8) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\), reg. 1\(2\), Sch. 2 para. 20\(3\)](#)

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Modifications etc. (not altering text)

- C2** Ss. 341-346 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(c), 95, [Sch. 5 para. 4](#) (with reg. 3)

Commencement Information

- II** S. 342 wholly in force at 1.12.2001; s. 342 not in force at Royal Assent see s. 431(2); s. 342(5) in force at 25.2.2001 by [S.I. 2001/516](#), art. 2(a), [Sch. Pt. 1](#); s. 342 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. 2(1)

343 Information given by auditor or actuary to ^{F11}a regulator]: persons with close links.

- (1) This section applies to a person who—
- is, or has been, an auditor of an authorised person ^{F12}or recognised investment exchange,] appointed under or as a result of a statutory provision; and
 - is, or has been, an auditor of a person (“CL”) who has close links with the authorised person ^{F13}or recognised investment exchange].
- (2) This section also applies to a person who—
- is, or has been, an actuary acting for an authorised person and appointed under or as a result of a statutory provision; and
 - is, or has been, an actuary acting for a person (“CL”) who has close links with the authorised person.
- (3) An auditor or actuary does not contravene any duty to which he is subject merely because he gives to ^{F14}a regulator]—
- information on a matter concerning the authorised person ^{F15}or recognised investment exchange] of which he has, or had, become aware in his capacity as auditor of, or actuary acting for, CL, or
 - his opinion on such a matter,
- if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of ^{F16}that regulator].
- (4) Subsection (3) applies whether or not the auditor or actuary is responding to a request from the ^{F17}regulator].
- (5) The Treasury may make regulations prescribing circumstances in which an auditor or actuary must communicate matters to ^{F18}a regulator] as mentioned in subsection (3).
- (6) It is the duty of an auditor or actuary to whom any such regulations apply to communicate a matter to ^{F18}a regulator] in the circumstances prescribed by the regulations.
- ^{F19}(6A) If the authorised person concerned is a credit institution or an investment firm, and an auditor or actuary communicates a matter to a regulator in accordance with the regulations, the matter must be disclosed simultaneously to the management body of the authorised person, unless there are compelling reasons not to do so.]
- (7) The matters to be communicated to ^{F18}a regulator] in accordance with the regulations may include matters relating to persons other than the authorised person ^{F20}or recognised investment exchange] concerned.

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- (8) CL has close links with the authorised person [^{F21}or recognised investment exchange] concerned (“A”) if CL is—
- (a) a parent undertaking of A;
 - (b) a subsidiary undertaking of A;
 - (c) a parent undertaking of a subsidiary undertaking of A; or
 - (d) a subsidiary undertaking of a parent undertaking of A.
- (9) “Subsidiary undertaking” includes all the instances mentioned in Article 1(1) and (2) of the Seventh Company Law Directive in which an entity may be a subsidiary of an undertaking.
- [^{F22}(10) In subsection (6A) “credit institution” and “investment firm” have the same meaning as in Article 4(1) of the capital requirements regulation.]

Textual Amendments

- F11** Words in s. 343 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(7\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F12** Words in s. 343(1)(a) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(2\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F13** Words in s. 343(1)(b) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F14** Words in s. 343(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(3\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F15** Words in s. 343(3) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(3\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F16** Words in s. 343(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(3\)\(c\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F17** Word in s. 343(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F18** Words in s. 343 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(7\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F19** [S. 343\(6A\)](#) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\), reg. 1\(2\), Sch. 2 para. 21\(2\)](#)
- F20** Words in s. 343(7) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(5\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F21** Words in s. 343(8) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 5\(6\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F22** [S. 343\(10\)](#) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\), reg. 1\(2\), Sch. 2 para. 21\(3\)](#)

Modifications etc. (not altering text)

- C3** Ss. 341-346 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\), regs. 1\(2\)\(c\), 95, Sch. 5 para. 4](#) (with reg. 3)

Commencement Information

- I2** S. 343 wholly in force at 1.12.2001; s. 343 not in force at Royal Assent see s. 431(2); s. 343(5) in force at 25.2.2001 by [S.I. 2001/516, art. 2\(a\), Sch. Pt. 1](#); s. 343 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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344 Duty of auditor or actuary resigning etc. to give notice.

- (1) This section applies to an auditor or actuary to whom section 342 applies.
 - (2) He must without delay notify the [^{F23}appropriate regulator] if he—
 - (a) is removed from office by an authorised person [^{F24}or recognised investment exchange];
 - (b) resigns before the expiry of his term of office with such a person; or
 - (c) is not re-appointed by such a person.
 - (3) If he ceases to be an auditor of, or actuary acting for, such a person, he must without delay notify the [^{F23}appropriate regulator]—
 - (a) of any matter connected with his so ceasing which he thinks ought to be drawn to the [^{F25}regulator's] attention; or
 - (b) that there is no such matter.
- [^{F26}(4) In this section “the appropriate regulator” means—
- (a) in the case of an auditor of, or an actuary acting for, a PRA-authorised person, the PRA;
 - (b) in any other case, the FCA.]

Textual Amendments

- F23** Words in s. 344 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 6\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F24** Words in s. 344(2)(a) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 6\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F25** Word in s. 344(3)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 6\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F26** S. 344(4) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 13 para. 6\(5\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

Modifications etc. (not altering text)

- C4** Ss. 341-346 applied (with modifications) (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\), regs. 1\(2\)\(c\), 95, Sch. 5 para. 4](#) (with [reg. 3](#)) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\), Sch. 2 para. 155\(6\)\(d\)](#) (with [Sch. 2 para. 156](#)))

Status:

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