



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXIII

PUBLIC RECORD, DISCLOSURE OF INFORMATION AND CO-OPERATION

The public record

347 The record of authorised persons etc.

- (1) The Authority must maintain a record of every—
- (a) person who appears to the Authority to be an authorised person;
 - (b) authorised unit trust scheme;
 - (c) authorised open-ended investment company;
 - (d) recognised scheme;
 - (e) recognised investment exchange;
 - (f) recognised clearing house;
 - (g) individual to whom a prohibition order relates;
 - (h) approved person; ^{F1} . . .
- [^{F2}(ha) person to whom subsection (2A) applies; and]
- (i) person falling within such other class (if any) as the Authority may determine.
- (2) The record must include such information as the Authority considers appropriate and at least the following information—
- (a) in the case of a person appearing to the Authority to be an authorised person—
 - (i) information as to the services which he holds himself out as able to provide; and
 - (ii) any address of which the Authority is aware at which a notice or other document may be served on him;
 - (b) in the case of an authorised unit trust scheme, the name and address of the manager and trustee of the scheme;

Status: Point in time view as at 19/12/2007. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Financial Services and Markets Act 2000, Part XXIII is up to date with all changes known to be in force on or before 22 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)

- (c) in the case of an authorised open-ended investment company, the name and address of—
 - (i) the company;
 - (ii) if it has only one director, the director; and
 - (iii) its depositary (if any);
- (d) in the case of a recognised scheme, the name and address of—
 - (i) the operator of the scheme; and
 - (ii) any representative of the operator in the United Kingdom;
- (e) in the case of a recognised investment exchange or recognised clearing house, the name and address of the exchange or clearing house;
- (f) in the case of an individual to whom a prohibition order relates—
 - (i) his name; and
 - (ii) details of the effect of the order;
- (g) in the case of a person who is an approved person—
 - (i) his name;
 - (ii) the name of the relevant authorised person;
 - (iii) if the approved person is performing a controlled function under an arrangement with a contractor of the relevant authorised person, the name of the contractor.

[^{F3}(2A) This subsection applies to—

- (a) an appointed representative to whom subsection (1A) of section 39 applies for whom the applicable register (as defined by subsection (1B) of that section) is the record maintained by virtue of subsection (1)(ha) above;
- (b) a person mentioned in subsection (1)(a) of section 39A if—
 - (i) the contract with an authorised person to which he is party complies with the applicable requirements (as defined by subsection (7) of that section), and
 - (ii) the authorised person has accepted responsibility in writing for the person's activities in carrying on investment services business (as defined by subsection (8) of that section); and
- (c) any person not falling within paragraph (a) or (b) in respect of whom the Authority considers that a record must be maintained for the purpose of securing compliance with Article 23.3 of the markets in financial instruments directive (registration of tied agents).]

(3) If it appears to the Authority that a person in respect of whom there is an entry in the record as a result of one of the paragraphs of subsection (1) has ceased to be a person to whom that paragraph applies, the Authority may remove the entry from the record.

(4) But if the Authority decides not to remove the entry, it must—

- (a) make a note to that effect in the record; and
- (b) state why it considers that the person has ceased to be a person to whom that paragraph applies.

(5) The Authority must—

- (a) make the record available for inspection by members of the public in a legible form at such times and in such place or places as the Authority may determine; and

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- (b) provide a certified copy of the record, or any part of it, to any person who asks for it—
 - (i) on payment of the fee (if any) fixed by the Authority; and
 - (ii) in a form (either written or electronic) in which it is legible to the person asking for it.
- (6) The Authority may—
 - (a) publish the record, or any part of it;
 - (b) exploit commercially the information contained in the record, or any part of that information.
- (7) “Authorised unit trust scheme”, “authorised open-ended investment company” and “recognised scheme” have the same meaning as in Part XVII, and associated expressions are to be read accordingly.
- (8) “Approved person” means a person in relation to whom the Authority has given its approval under section 59 and “controlled function” and “arrangement” have the same meaning as in that section.
- (9) “Relevant authorised person” has the meaning given in section 66.

Textual Amendments

- F1** Word in s. 347(1) omitted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), **Sch. 5 para. 12(a)**
- F2** S. 347(1)(ha) 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(5), **Sch. 5 para. 12(b)**
- F3** S. 347(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(5), **Sch. 5 para. 12(c)**

Modifications etc. (not altering text)

- C1** S. 347(1)(a) disappplied (temp. from 31.10.2004 until 30.4.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Mortgages\) Order 2004 \(S.I. 2004/2615\)](#), arts. 1(2)(b), 5, **Sch. para. 9**
- C2** S. 347(1)(a) disappplied (temp. from 14.1.2005 until 14.7.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(General Insurance Intermediaries\) Order 2004 \(S.I. 2004/3351\)](#), arts. 1(2)(b), 5, {Sch. para. 8}
- C3** S. 347(1)(a) disappplied (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\)](#), arts. 1(3), 7, **Sch. para. 9**
- C4** S. 347(1)(h) disappplied (temp. from 31.10.2004 until 30.4.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Mortgages\) Order 2004 \(S.I. 2004/2615\)](#), arts. 1(2)(b), 5, **Sch. para. 10**
- C5** S. 347(1)(h) disappplied (temp. from 14.1.2005 until 14.7.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(General Insurance Intermediaries\) Order 2004 \(S.I. 2004/3351\)](#), arts. 1(2)(b), 5, {Sch. para. 9}
- C6** S. 347(1)(h) disappplied (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\)](#), arts. 1(3), 7, **Sch. para. 10**

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Commencement Information

- II** S. 347 partly in force; s. 347 not in force at Royal Assent see s. 431(2); s. 347(3)-(9) in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#); s. 347(1)(2) in force for specified purposes at 1.12.2001, 1.5.2002, 1.8.2002, 1.12.2002 by [S.I. 2001/3528](#), [art. 2\(1\)\(3\)](#)

Disclosure of information

348 Restrictions on disclosure of confidential information by Authority etc.

- (1) Confidential information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the consent of—
 - (a) the person from whom the primary recipient obtained the information; and
 - (b) if different, the person to whom it relates.
- (2) In this Part “confidential information” means information which—
 - (a) relates to the business or other affairs of any person;
 - (b) was received by the primary recipient for the purposes of, or in the discharge of, any functions of the Authority, the competent authority for the purposes of Part VI or the Secretary of State under any provision made by or under this Act; and
 - (c) is not prevented from being confidential information by subsection (4).
- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received—
 - (a) by virtue of a requirement to provide it imposed by or under this Act;
 - (b) for other purposes as well as purposes mentioned in that subsection.
- (4) Information is not confidential information if—
 - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by this section; or
 - (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.
- (5) Each of the following is a primary recipient for the purposes of this Part—
 - (a) the Authority;
 - (b) any person exercising functions conferred by Part VI on the competent authority;
 - (c) the Secretary of State;
 - (d) a person appointed to make a report under section 166;
 - (e) any person who is or has been employed by a person mentioned in paragraphs (a) to (c);
 - (f) any auditor or expert instructed by a person mentioned in those paragraphs.
- (6) In subsection (5)(f) “expert” includes—
 - (a) a competent person appointed by the competent authority under section 97;
 - (b) a competent person appointed by the Authority or the Secretary of State to conduct an investigation under Part XI;

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- (c) any body or person appointed under paragraph 6 of Schedule 1 to perform a function on behalf of the Authority.

Modifications etc. (not altering text)

- C7** S. 348 extended (1.12.2001) by [S.I. 2001/3648](#), [arts. 1, 3\(2\), 4, 5\(2\), 7\(2\)](#)
S. 348 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1986 c. 53](#), [s. 53A](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 8, 13\(1\)](#), [Sch. 3 Pt. II para. 152](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
S. 348 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1992 c. 40](#), [s. 63A\(1\)](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 8, 13\(1\)](#), [Sch. 3 Pt. I para. 78](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C8** S. 348 applied (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003](#) (S.I. 2003/1102), [regs. 16\(2\), 50\(3\)](#) (with [reg. 3](#))
- C9** S. 348 modified (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003](#) (S.I. 2003/1102), [reg. 50\(4\)](#) (with [reg. 3](#))
- C10** S. 348 applied (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004](#) (S.I. 2004/353), [reg. 16\(2\)\(3\)](#) (with [reg. 3](#))
- C11** S. 348 applied (with modifications) (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004](#) (S.I. 2004/353), [reg. 50\(3\)-\(6\)](#) (with [reg. 3](#))
- C12** S. 348 applied (with modifications) (5.5.2004) by [The Credit Institutions \(Reorganisation and Winding up\) Regulations 2004](#) (S.I. 2004/1045), [regs. 18, 38](#)
- C13** S. 348 excluded (20.5.2006) by [The Takeovers Directive \(Interim Implementation\) Regulations 2006](#) (S.I. 2006/1183), [reg. 18\(1\)](#)
- C14** S. 348 applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008](#) (S.I. 2008/346), [reg. 43](#)
- C15** S. 348 applied (with modifications) (2.3.2009) by [The Payment Services Regulations 2009](#) (S.I. 2009/209), [regs. 1\(2\)\(a\), 95](#), [Sch. 5 para. 5](#) (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\(6\)\(e\)](#) (with [Sch. 2 para. 156](#)))
- C16** S. 348 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010](#) (S.I. 2010/89), [reg. 19](#), [Sch. para. 4](#)
- C17** S. 348(1) restricted (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003](#) (S.I. 2003/1102), [regs. 16\(3\), 50\(5\)](#) (with [reg. 3](#))

349 Exceptions from section 348.

- (1) Section 348 does not prevent a disclosure of confidential information which is—
- made for the purpose of facilitating the carrying out of a public function; and
 - permitted by regulations made by the Treasury under this section.
- (2) The regulations may, in particular, make provision permitting the disclosure of confidential information or of confidential information of a prescribed kind—
- by prescribed recipients, or recipients of a prescribed description, to any person for the purpose of enabling or assisting the recipient to discharge prescribed public functions;
 - by prescribed recipients, or recipients of a prescribed description, to prescribed persons, or persons of prescribed descriptions, for the purpose of enabling or assisting those persons to discharge prescribed public functions;
 - by the Authority to the Treasury or the Secretary of State for any purpose;
 - by any recipient if the disclosure is with a view to or in connection with prescribed proceedings.

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- (3) The regulations may also include provision—
- (a) making any permission to disclose confidential information subject to conditions (which may relate to the obtaining of consents or any other matter);
 - (b) restricting the uses to which confidential information disclosed under the regulations may be put.

[^{F4}(3A) Section 348 does not apply to—

- (a) the disclosure by a recipient to which subsection (3B) applies of confidential information disclosed to it by the Authority in reliance on subsection (1);
- (b) the disclosure of such information by a person obtaining it directly or indirectly from a recipient to which subsection (3B) applies.

(3B) This subsection applies to—

- (a) the Panel on Takeovers and Mergers;
- (b) an authority designated as a supervisory authority for the purposes of Article 4.1 of the Takeovers Directive;
- (c) any other person or body that exercises public functions, under legislation in an EEA State other than the United Kingdom, that are similar to the Authority's functions or those of the Panel on Takeovers and Mergers.]

(4) In relation to confidential information, each of the following is a “recipient”—

- (a) a primary recipient;
- (b) a person obtaining the information directly or indirectly from a primary recipient.

(5) “Public functions” includes—

- (a) functions conferred by or in accordance with any provision contained in any enactment or subordinate legislation;
- (b) functions conferred by or in accordance with any provision contained in the Community Treaties or any Community instrument;
- (c) similar functions conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom;
- (d) functions exercisable in relation to prescribed disciplinary proceedings.

(6) “Enactment” includes—

- (a) an Act of the Scottish Parliament;
- (b) Northern Ireland legislation.

(7) “Subordinate legislation” has the meaning given in the ^{M1}Interpretation Act 1978 and also includes an instrument made under an Act of the Scottish Parliament or under Northern Ireland legislation.

(8) ^{F5}.....

Textual Amendments

F4 S. 349(3A)(3B) inserted (6.4.2007) by [Companies Act 2006 \(c. 46\), ss. 964\(4\), 1300\(2\)](#); S.I. 2007/1093, [art. 2\(1\)\(b\)](#) (with arts. 4, 11)

F5 S. 349(8) repealed (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), art. 7, [Sch. 5](#) (with arts. 4, 11) (as amended by S.I. 2008/2860, [art. 6](#))

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Modifications etc. (not altering text)

- C18** S. 349 extended (1.12.2001) by S.I. 2001/3648, **arts. 1, 3(2), 4, 5(2), 7(2)**
S. 349 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, **s. 53A** as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, **arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152; S.I. 2001/3538, art. 2(1)**
S. 349 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40 (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, **arts. 2, 8, 13(1), Sch. 3 Pt. I para. 78; S.I. 2001/3538, art. 2(1)**)
- C19** S. 349 applied (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **regs. 16(2), 50(3)** (with reg. 3)
- C20** S. 349 modified (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **reg. 50(4)** (with reg. 3)
- C21** S. 349 applied (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 16(2)(3)** (with reg. 3)
- C22** S. 349 applied (with modifications) (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 50(3)-(6)** (with reg. 3)
- C23** S. 349 applied (with modifications) (5.5.2004) by The Credit Institutions (Reorganisation and Winding up) Regulations 2004 (S.I. 2004/1045), **regs. 18, 38**
- C24** S. 349 applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), **reg. 43**
- C25** S. 349 applied (with modifications) (2.3.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), **regs. 1(2)(a), 95, Sch. 5 para. 5** (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)(e)** (with Sch. 2 para. 156))
- C26** S. 349 applied (with modifications) (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), **reg. 19, Sch. para. 4**
- C27** S. 349 applied (with modifications) (9.2.2011 for certain purposes and 30.4.2011 otherwise) by The Electronic Money Regulations 2011 (S.I. 2011/99), **regs. 1(2)(a)(xiv)(b), 62, Sch. 3 para. 6** (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. 196(5)(f)**)

Commencement Information

- I2** S. 349 wholly in force at 18.6.2001; s. 349 not in force at Royal Assent see s. 431(2); s. 349 in force for certain purposes at 25.2.2001 by S.I. 2001/516, **art. 2(b), Sch. Pt. 2**; s. 349 in force in so far as not already in force at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**

Marginal Citations

- M1** 1978 c. 30.

350 Disclosure of information by the Inland Revenue.

- (1) No obligation as to secrecy imposed by statute or otherwise prevents the disclosure of Revenue information to—
- the Authority, or
 - the Secretary of State,
- if the disclosure is made for the purpose of assisting in the investigation of a matter under section 168 or with a view to the appointment of an investigator under that section.
- (2) A disclosure may only be made under subsection (1) by or under the authority of the Commissioners of Inland Revenue.

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- (3) Section 348 does not apply to Revenue information.
- (4) Information obtained as a result of subsection (1) may not be used except—
- (a) for the purpose of deciding whether to appoint an investigator under section 168;
 - (b) in the conduct of an investigation under section 168;
 - (c) in criminal proceedings brought against a person under this Act or the ^{M2}Criminal Justice Act 1993 as a result of an investigation under section 168;
 - (d) for the purpose of taking action under this Act against a person as a result of an investigation under section 168;
 - (e) in proceedings before the Tribunal as a result of action taken as mentioned in paragraph (d).
- (5) Information obtained as a result of subsection (1) may not be disclosed except—
- (a) by or under the authority of the Commissioners of Inland Revenue;
 - (b) in proceedings mentioned in subsection (4)(c) or (e) or with a view to their institution.
- (6) Subsection (5) does not prevent the disclosure of information obtained as a result of subsection (1) to a person to whom it could have been disclosed under subsection (1).
- (7) “Revenue information” means information held by a person which it would be an offence under section 182 of the ^{M3}Finance Act 1989 for him to disclose.

Modifications etc. (not altering text)

- C28** S. 350 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 53A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152); S.I. 2001/3538, art. 2(1)
- S. 350 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 78); S.I. 2001/3538, art. 2(1)
- C29** S. 350 restricted (7.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 17(6), 53(1), Sch. 2 Pt. 2 para. 18 (with s. 22); S.I. 2005/1126, art. 2(1)

Commencement Information

- I3** S. 350 wholly in force 3.9.2001; s. 350 not in force at Royal Assent see s. 431(2); s. 350(3)(7) in force at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; s. 350 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2(2), Sch. Pt. 2

Marginal Citations

- M2** 1993 c. 36.
M3 1989 c. 26.

351 Competition information.

- (1) ^{F6}
- (2) ^{F6}
- (3) ^{F6}

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- (4) Section 348 does not apply to competition information.
- (5) “Competition information” means information which—
 - (a) relates to the affairs of a particular individual or body;
 - (b) is not otherwise in the public domain; and
 - (c) was obtained under or by virtue of a competition provision.
- (6) “Competition provision” means any provision of—
 - (a) an order made under section 95;
 - (b) Chapter III of Part X; or
 - (c) Chapter II of Part XVIII.
- (7) ^{F7}.....

Textual Amendments

- F6** S. 351(1)-(3) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(k), 278(2), 279, Sch. 26 (with s. 237); S.I. 2003/1397, art. 2(1), Sch.
- F7** S. 351(7) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(k), 278(2), 279, Sch. 26 (with s. 237); S.I. 2003/1397, art. 2(1), Sch.

Modifications etc. (not altering text)

- C30** S. 351 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 53A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152); S.I. 2001/3538, art. 2(1)
S. 351 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 78); S.I. 2001/3538, art. 2(1)
- C31** S. 351 applied (2.3.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(a), 95, Sch. 5 para. 5 (with reg. 3)
- C32** S. 351 applied (9.2.2011 for certain purposes and 30.4.2011 otherwise) by The Electronic Money Regulations 2011 (S.I. 2011/99), regs. 1(2)(a)(xiv)(b), 62, Sch. 3 para. 6 (with reg. 3)

Commencement Information

- I4** S. 351 wholly in force at 18.6.2001; s. 351 not in force at Royal Assent see s. 431(2); s. 351(7) in force at 25.2.2001 by S.I. 2001/516, art. 2(a), Sch. Pt. 1; s. 351 in force in so far as not already in force at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.

VALID FROM 01/07/2011

^{F8} ^{F8}351A Disclosure under the UCITS directive

- (1) This section applies in relation to a disclosure made by a person who falls within subsection (2) for the purpose of compliance with requirements set out in rules made by the Authority to implement Chapter VIII of the UCITS directive.
- (2) The following persons fall within this subsection—
 - (a) the auditor of an authorised unit trust scheme that is a master UCITS;
 - (b) the trustee of an authorised unit trust scheme that is a master UCITS;
 - (c) the auditor of an authorised unit trust scheme that is a feeder UCITS;

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- (d) the trustee of an authorised unit trust scheme that is a feeder UCITS; or
 - (e) a person acting on behalf of a person within paragraph (a), (b), (c) or (d) above.
- (3) A disclosure to which this section applies is not to be taken as a contravention of any duty to which the person making the disclosure is subject.
- (4) In this section, “authorised unit trust scheme”, “master UCITS” and “feeder UCITS” have the meaning given in section 237.]]

Textual Amendments

- F8** S. 351A inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(28\)](#)

352 Offences.

- (1) A person who discloses information in contravention of section 348 or 350(5) is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (3) A person is guilty of an offence if, in contravention of any provision of regulations made under section 349, he uses information which has been disclosed to him in accordance with the regulations.
- (4) A person is guilty of an offence if, in contravention of subsection (4) of section 350, he uses information which has been disclosed to him in accordance with that section.
- (5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.
- (6) In proceedings for an offence under this section it is a defence for the accused to prove—
- (a) that he did not know and had no reason to suspect that the information was confidential information or that it had been disclosed in accordance with section 350;
 - (b) that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Modifications etc. (not altering text)

- C33** S. 352 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1986 c. 53, s. 53A](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617, arts. 2, 8, 13\(1\)](#), [Sch. 3 Pt. II para. 152](#)); [S.I. 2001/3538, art. 2\(1\)](#)

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- S. 352 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. 1 para. 78**; S.I. 2001/3538, **art. 2(1)**)
- S. 352 extended (1.12.2001) by S.I. 2001/3648, **arts. 1, 3(2)**
- C34** S. 352 applied (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **regs. 16(2), 50(3)** (with reg. 3)
- C35** S. 352 modified (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **reg. 50(4)** (with reg. 3)
- C36** S. 352 applied (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 16(2)(3)** (with reg. 3)
- C37** S. 352 applied (with modifications) (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 50(3)-(6)** (with reg. 3)
- C38** S. 352 applied (with modifications) (5.5.2004) by The Credit Institutions (Reorganisation and Winding up) Regulations 2004 (S.I. 2004/1045), **regs. 18, 38**
- C39** S. 352 applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), **reg. 43**
- C40** S. 352 applied (2.3.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), **regs. 1(2) (a), 95, Sch. 5 para. 5** (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)(e)** (with Sch. 2 para. 156))
- C41** S. 352 applied (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), **reg. 19, Sch. para. 4**
- C42** S. 352 applied (9.2.2011 for certain purposes and 30.4.2011 otherwise) by The Electronic Money Regulations 2011 (S.I. 2011/99), **regs. 1(2)(a)(xiv)(b), 62, Sch. 3 para. 6** (with reg. 3)

Commencement Information

- I5** S. 352 wholly in force at 3.9.2001; s. 352 not in force at Royal Assent see s. 431(2); s. 352 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 352 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, **art. 2(2), Sch. Pt. 2**

353 Removal of other restrictions on disclosure.

- (1) The Treasury may make regulations permitting the disclosure of any information, or of information of a prescribed kind—
- (a) by prescribed persons for the purpose of assisting or enabling them to discharge prescribed functions under this Act or any rules or regulations made under it;
 - (b) by prescribed persons, or persons of a prescribed description, to the Authority for the purpose of assisting or enabling the Authority to discharge prescribed functions.
 - [^{F9}(c) by the scheme operator to the Office of Fair Trading for the purpose of assisting or enabling that Office to discharge prescribed functions under the Consumer Credit Act 1974.]
- (2) Regulations under this section may not make any provision in relation to the disclosure of confidential information by primary recipients or by any person obtaining confidential information directly or indirectly from a primary recipient.
- (3) If a person discloses any information as permitted by regulations under this section the disclosure is not to be taken as a contravention of any duty to which he is subject.

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Textual Amendments

F9 S. 353(1)(c) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 61(9)**, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

Modifications etc. (not altering text)

C43 S. 353 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1986 c. 53](#), **s. 53A** (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), **arts. 2, 8, 13(1)**, **Sch. 3 Pt. II para. 152**); [S.I. 2001/3538](#), **art. 2(1)**

S. 353 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1992 c. 40](#), 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), **arts. 2, 8, 13(1)**, **Sch. 3 Pt. I para. 78**); [S.I. 2001/3538](#), **art. 2(1)**

Co-operation

354 Authority's duty to co-operate with others.

- (1) The Authority must take such steps as it considers appropriate to co-operate with other persons (whether in the United Kingdom or elsewhere) who have functions—
- (a) similar to those of the Authority; or
 - (b) in relation to the prevention or detection of financial crime.

[^{F10}(1A) The Authority must take such steps as it considers appropriate to co-operate with—

- (a) the Panel on Takeovers and Mergers;
- (b) an authority designated as a supervisory authority for the purposes of Article 4.1 of the Takeovers Directive;
- (c) any other person or body that exercises functions of a public nature, under legislation in any country or territory outside the United Kingdom, that appear to the Authority to be similar to those of the Panel on Takeovers and Mergers.]

- (2) Co-operation may include the sharing of information which the Authority is not prevented from disclosing.
- (3) “Financial crime” has the same meaning as in section 6.

Textual Amendments

F10 S. 354(1A) inserted (6.4.2007) by [Companies Act 2006 \(c. 46\)](#), **ss. 964(5)**, 1300(2); S.I. 2007/1093, **art. 2(1)(b)** (with **arts. 4, 11**)

Status:

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