



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXVII

OFFENCES

Modifications etc. (not altering text)

- C1** Pt. 27 applied (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **50(3)**
- C2** Pt. 27 applied (with modifications) (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), **3(12)**

Miscellaneous offences

^{F1}397 Misleading statements and practices.

.....

Textual Amendments

- F1** S. 397 repealed (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), ss. **95**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

398 Misleading [^{F2}FCA or PRA]: residual cases.

- (1) A person who, in purported compliance with any requirement [^{F3}falling within subsection (1A)] knowingly or recklessly gives [^{F4}a regulator] information which is false or misleading in a material particular is guilty of an offence.

[^{F5}(1A) A requirement falls within this subsection if it is imposed by or under—

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- (a) this Act;
 - (b) the Alternative Investment Fund Managers Regulations 2013;
 - (c) the short selling regulation;
 - (d) Regulation (EU) No 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds; ^{F6}...
 - (e) Regulation (EU) No 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds.]]^{F7}; or]
 - ^{F8}(f) Regulation (EU) No 2015/760 of the European Parliament and of the Council of 29th April 2015 on European Long-term Investment Funds.]
- (2) Subsection (1) applies only to a requirement in relation to which no other provision of this Act creates an offence in connection with the giving of information.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

Textual Amendments

- F2** Words in s. 398 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 36\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F3** Words in s. 398(1) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\), reg. 1, Sch. 1 para. 30\(a\)](#)
- F4** Words in s. 398(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 36\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F5** S. 398(1A) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\), reg. 1, Sch. 1 para. 30\(b\)](#)
- F6** Word in s. 398(1A)(d) omitted (3.12.2015) by virtue of [The European Long-term Investment Funds Regulations 2015 \(S.I. 2015/1882\), regs. 1, 3\(4\)\(a\)](#)
- F7** Word in s. 398(1A)(e) inserted (3.12.2015) by [The European Long-term Investment Funds Regulations 2015 \(S.I. 2015/1882\), regs. 1, 3\(4\)\(b\)](#)
- F8** S. 398(1A)(f) inserted (3.12.2015) by [The European Long-term Investment Funds Regulations 2015 \(S.I. 2015/1882\), regs. 1, 3\(4\)\(c\)](#)

Modifications etc. (not altering text)

- C3** S. 398 extended (1.12.2001) by [S.I. 2001/3646, arts. 1\(2\), 3\(3\)\(b\)\(4\)](#)
S. 398 excluded (1.12.2001) by [S.I. 2001/3646, arts. 1\(2\), 2\(6\)](#)
- C4** S. 398 modified (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\), regs. 1, 12\(2\)](#)
- C5** S. 398 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\), reg. 25](#)
- C6** S. 398 applied (1.11.2012) by [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\), regs. 1\(1\), 5\(5\)](#)
- C7** S. 398 applied (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\), regs. 1\(2\), 45](#)
- C8** S. 398 modified (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\), arts. 1\(5\), 23\(1\)\(e\)](#) (with [Pt. 4](#))
- C9** S. 398(1)(3) applied (1.12.2001) by [S.I. 1995/1537, reg. 23\(5\)](#) (as amended (1.12.2001) by [S.I. 2001/3649, arts. 1, 509\(f\)](#))

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C10 S. 398(1)(3) applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), [reg. 38\(1\)](#)

399 Misleading [^{F9}the CMA].

Section 44 of the ^{M1}Competition Act 1998 (offences connected with the provision of false or misleading information) applies in relation to any function of [^{F10}the Competition and Markets Authority] under this Act as if it were a function under Part I of that Act.

Textual Amendments

- F9** Words in s. 399 heading substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 130\(b\)](#) (with art. 3)
- F10** Words in s. 399 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 130\(a\)](#) (with art. 3)

Marginal Citations

- M1** 1998 c. 41.

Bodies corporate and partnerships

400 Offences by bodies corporate etc.

- (1) If an offence under this Act committed by a body corporate is shown—
 - (a) to have been committed with the consent or connivance of an officer, or
 - (b) to be attributable to any neglect on his part,the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.
- (3) If an offence under this Act committed by a partnership is shown—
 - (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to any neglect on his part,the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (4) In subsection (3) “partner” includes a person purporting to act as a partner.
- (5) “Officer”, in relation to a body corporate, means—
 - (a) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; and
 - (b) an individual who is a controller of the body.

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- (6) If an offence under this Act committed by an unincorporated association (other than a partnership) is shown—
- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
 - (b) to be attributable to any neglect on the part of such an officer or member, that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.
- [^{F11}(6A) References in this section to an offence under this Act include a reference to an offence under Part 7 of the Financial Services Act 2012 (offences relating to financial services).]
- (7) Regulations may provide for the application of any provision of this section, with such modifications as the Treasury consider appropriate, to a body corporate or unincorporated association formed or recognised under the law of a territory outside the United Kingdom.

Textual Amendments

F11 S. 400(6A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 9 para. 37** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

Modifications etc. (not altering text)

- C11** S. 400 applied (3.9.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/1228](#), **regs. 1(2)(b)(c)**, 81 (with [reg. 1\(2\)\(3\)](#)); [S.I. 2001/2632](#), art. 2(2), **Sch. Pt. 2**; [S.I. 2001/3538](#), **art. 2(1)**
S. 400 applied (1.12.2001) by [S.I. 1995/1537](#), **reg. 23(6)** (as amended (1.12.2001) by [S.I. 2001/3649](#), **arts. 1**, 509(g))
S. 400 amended (1.12.2001) by [S.I. 2001/2657](#), **arts. 1(1)**, 10(8), 11(8) (which was revoked (8.10.2001) by [S.I. 2001/3083](#), **arts. 1(2)**, 23); [S.I. 2001/3538](#), **art. 2(1)**
S. 400 amended (1.12.2001) by [S.I. 2001/3083](#), **arts. 1(2)**, 10(8), 11(8); [S.I. 2001/3538](#), **art. 2(1)**
S. 400 modified (1.12.2001) by [S.I. 2001/3646](#), **arts. 1(1)**, 12(2), 13(3)
- C12** S. 400 applied (N.I.) (1.11.2004) by [Open-Ended Investment Companies Regulations \(Northern Ireland\) 2004 \(S.R. 2004/335\)](#), **regs. 1(1)(b)**, **80** (with [reg. 1\(2\)](#))
- C13** S. 400 applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), **reg. 38(2)**
- C14** S. 400 applied by [Companies \(Audit, Investigations and Community Enterprise\) Act 2004 \(c. 27\)](#), s. 15A(7) (as substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **arts. 2(2)**, 3(1), **Sch. 1 para. 232(2)** (with **arts. 6**, 11, 12))
- C15** S. 400 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\)](#), **reg. 26**
- C16** S. 400 applied (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), **regs. 1(2)**, **57** (with **regs. 52-58**)

Institution of proceedings

401 Proceedings for offences.

- [^{F12}(1) In this section “offence” means—
- (a) an offence under this Act,

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- (b) an offence under subordinate legislation made under this Act, or
 - (c) an offence under Part 7 of the Financial Services Act 2012 (offences relating to financial services).]
- (2) Proceedings for an offence may be instituted in England and Wales only—
- (a) by the [^{F13}appropriate regulator] or the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions.
- (3) Proceedings for an offence may be instituted in Northern Ireland only—
- (a) by the [^{F14}appropriate regulator] or the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- [^{F15}(3A) For the purposes of subsections (2)(a) and (3)(a), the PRA is the “appropriate regulator” in respect of each of the following offences—
- (a) an offence under section 55P(10) where the contravention is of a requirement imposed by the PRA;
 - (b) an offence under section 56(4) where the prohibition order is made by the PRA;
 - (c) an offence under section 177(3) where the investigation is being, or is likely to be, conducted on behalf of the PRA;
 - (d) an offence under section 177(4) where the requirement is imposed by the PRA;
 - (e) an offence under section 177(6) where the warrant is issued as a result of information on oath given by the PRA or a person appointed by the PRA to conduct an investigation on its behalf;
 - (f) an offence under section 191F(1) where the notice should have been given to the PRA;
 - (g) an offence under any of section 191F(2) to (7) where the notice, approval or information was given to or by the PRA;
 - (h) an offence under section 366(3), unless the activity of effecting or carrying out long-term contracts of insurance is not to any extent a PRA-regulated activity;
 - (i) an offence under section 398(1) where the information was given to the PRA.
- (3B) For the purposes of subsections (2)(a) and (3)(a), the FCA is the “appropriate regulator” in respect of any other offence.]
- ^{F16}(4)
- (5) In exercising its power to institute proceedings for an offence, the [^{F17}appropriate regulator] must comply with any conditions or restrictions imposed in writing by the Treasury.
- (6) Conditions or restrictions may be imposed under subsection (5) in relation to—
- (a) proceedings generally; or
 - (b) such proceedings, or categories of proceedings, as the Treasury may direct.

Textual Amendments

F12 S. 401(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 38\(2\)](#) (with Sch. 20); [S.I. 2013/423, art. 3, Sch.](#)

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- F13** Words in s. 401(2)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 38\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F14** Words in s. 401(3)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 38\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F15** S. 401(3A)(3B) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 38\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F16** S. 401(4) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), arts. 1\(2\)\(6\), 10\(14\)](#)
- F17** Words in s. 401(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 38\(5\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

Modifications etc. (not altering text)

- C17** S. 401 applied (1.12.2001) by [S.I. 1995/1537, reg. 23\(6\)](#) (as amended (1.12.2001) by [S.I. 2001/3649, arts. 1, 509\(g\)](#))
- C18** S. 401 amended (1.12.2001) by [S.I. 2001/2657, arts. 1\(1\), 10\(8\), 11\(8\), 13\(1\)\(3\)](#) (which was revoked (8.10.2001) by [S.I. 2001/3083, arts. 1\(2\), 23](#)); [S.I. 2001/3538, art. 2\(1\)](#)
S. 401 amended (1.12.2001) by [S.I. 2001/3083, arts. 1\(2\), 10\(8\), 11\(8\), 13\(1\)](#); [S.I. 2001/3538, art. 2\(1\)](#)
S. 401 modified (1.12.2001) by [S.I. 2001/3646, arts. 1\(1\), 12\(2\), 13\(3\)](#)
- C19** S. 401 applied by [Companies \(Audit, Investigations and Community Enterprise\) Act 2004 \(c. 27\), s. 15A\(7\)](#) (as substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\), arts. 2\(2\), 3\(1\), Sch. 1 para. 232\(2\)](#) (with arts. 6, 11, 12))
- C20** S. 401 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\), reg. 27](#)
- C21** S. 401 applied (with modifications) (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Enforcement\) Order 2013 \(S.I. 2013/441\), arts. 1\(1\), 34\(2\)](#)
- C22** S. 401 applied (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\), regs. 1\(2\), 57](#) (with [regs. 52-58](#))
- C23** S. 401(2)(3)(5)(6) applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\), reg. 38\(2\)](#)

402 Power of ^{F18}FCA to institute proceedings for certain other offences.

- (1) Except in Scotland, the ^{F19}FCA may institute proceedings for an offence under—
- Part V of the ^{M2}Criminal Justice Act 1993 (insider dealing); ^{F20} . . .
 - prescribed regulations relating to money laundering. ^{F21} or
 - Schedule 7 to the Counter-Terrorism Act 2008 (terrorist financing or money laundering).]
- (2) In exercising its power to institute proceedings for any such offence, the ^{F22}FCA must comply with any conditions or restrictions imposed in writing by the Treasury.
- (3) Conditions or restrictions may be imposed under subsection (2) in relation to—
- proceedings generally; or
 - such proceedings, or categories of proceedings, as the Treasury may direct.

Textual Amendments

- F18** Word in s. 402 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 39\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

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- F19** Word in s. 402(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 39\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F20** Word in s. 402(1) omitted (27.11.2008) by virtue of [Counter-Terrorism Act 2008 \(c. 28\)](#), ss. 62, 100(2), [Sch. 7 para. 33\(4\)](#) (with s. 101(2), [Sch. 7 para. 43](#))
- F21** S. 402(1)(c) and preceding word inserted (27.11.2008) by [Counter-Terrorism Act 2008 \(c. 28\)](#), ss. 62, 100(2), [Sch. 7 para. 33\(4\)](#) (with s. 101(2), [Sch. 7 para. 43](#))
- F22** Word in s. 402(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 39\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

Modifications etc. (not altering text)

- C24** S. 402(1) applied (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [49](#)

Commencement Information

- II** S. 402 wholly in force at 1.12.2001; s. 402 not in force at Royal Assent see s. 431(2); s. 402(1)(b) in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b), [Sch. Pt. 2](#); s. 402 in force for specified purposes at 19.10.2001 by [S.I. 2001/3436](#), art. 2; s. 402 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. 2(1)

Marginal Citations

- M2** [1993 c. 36](#).

403 Jurisdiction and procedure in respect of offences.

- (1) A fine imposed on an unincorporated association on its conviction of an offence is to be paid out of the funds of the association.
- (2) Proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (4) In proceedings for an offence brought against an unincorporated association—
 - (a) section 33 of the ^{M3}Criminal Justice Act 1925 and Schedule 3 to the ^{M4}Magistrates' Courts Act 1980 (procedure) apply as they do in relation to a body corporate;
 - (b) section 70 of the ^{M5}Criminal Procedure (Scotland) Act 1995 (procedure) applies as if the association were a body corporate;
 - (c) section 18 of the ^{M6}Criminal Justice (Northern Ireland) Act 1945 and Schedule 4 to the ^{M7}Magistrates' Courts (Northern Ireland) Order 1981 (procedure) apply as they do in relation to a body corporate.
- (5) Summary proceedings for an offence may be taken—
 - (a) against a body corporate or unincorporated association at any place at which it has a place of business;
 - (b) against an individual at any place where he is for the time being.
- (6) Subsection (5) does not affect any jurisdiction exercisable apart from this section.

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- (7) “Offence” means an offence under this Act [^{F23}or an offence under Part 7 of the Financial Services Act 2012 (offences relating to financial services)].

Textual Amendments

- F23** Words in s. 403(7) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 9 para. 40](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

Modifications etc. (not altering text)

- C25** S. 403 applied (1.12.2001) by [S.I. 1995/1537, reg. 23\(6\)](#) (as amended (1.12.2001) by [S.I. 2001/3649, arts. 1, 509\(g\)](#))
- C26** S. 403 amended (1.12.2001) by [S.I. 2001/2657, arts. 1\(1\), 10\(8\), 11\(8\), 13\(1\)\(3\)](#) (which was revoked (8.10.2001) by [S.I. 2001/3083, arts. 1\(2\), 23](#)); [S.I. 2001/3538, art. 2\(1\)](#)
S. 403 amended (1.12.2001) by [S.I. 2001/3083, arts. 1\(2\), 10\(8\), 11\(8\), 13\(1\)](#); [S.I. 2001/3538, art. 2\(1\)](#)
S. 403 modified (1.12.2001) by [S.I. 2001/3646, arts. 1\(1\), 12\(2\), 13\(3\)](#)
S. 403 applied (3.9.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/1228, regs. 1\(2\)\(b\) \(c\), 82](#) (with [reg. 1\(2\)\(3\)](#)); [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#); [S.I. 2001/3538, art. 2\(1\)](#)
- C27** S. 403 applied (N.I.) (1.11.2004) by [Open-Ended Investment Companies Regulations \(Northern Ireland\) 2004 \(S.R. 2004/335\), regs. 1\(1\)\(b\), 81](#) (with [reg. 1\(2\)](#))
- C28** S. 403 applied by [Companies \(Audit, Investigations and Community Enterprise\) Act 2004 \(c. 27\), s. 15A\(7\)](#) (as substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\), arts. 2\(2\), 3\(1\), Sch. 1 para. 232\(2\)](#) (with [arts. 6, 11, 12](#)))
- C29** S. 403 applied (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\), reg. 28](#)
- C30** S. 403 applied (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\), regs. 1\(2\), 57](#) (with [regs. 52-58](#))

Marginal Citations

- M3** 1925 c. 86.
M4 1980 c. 43.
M5 1995 c. 46.
M6 1945 c. 15 (N.I.)
M7 S.I. 1981/1675

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