



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XX

#### PROVISION OF FINANCIAL SERVICES BY MEMBERS OF THE PROFESSIONS

#### **328 Directions in relation to the general prohibition.**

- (1) The [<sup>F1</sup>FCA] may direct that section 327(1) is not to apply to the extent specified in the direction.
- (2) A direction under subsection (1)—
  - (a) must be in writing;
  - (b) may be given in relation to different classes of person or different descriptions of regulated activity.
- (3) A direction under subsection (1) must be published in the way appearing to the [<sup>F1</sup>FCA] to be best calculated to bring it to the attention of the public.
- (4) The [<sup>F1</sup>FCA] may charge a reasonable fee for providing a person with a copy of the direction.
- (5) The [<sup>F1</sup>FCA] must, without delay, give the Treasury a copy of any direction which it gives under this section.
- [<sup>F2</sup>(6) The [<sup>F1</sup>FCA] may exercise the power conferred by subsection (1) only if it is satisfied  
<sup>F3</sup>...—
  - (a) that it is desirable to do so in order to protect the interests of clients; <sup>F4</sup>...
  - <sup>F5</sup>(b) .....]
- (7) In considering whether it is [<sup>F6</sup>satisfied of the matter specified in subsection (6) (a)], the [<sup>F1</sup>FCA] must have regard amongst other things to the effectiveness of any arrangements made by any designated professional body—
  - (a) for securing compliance with rules made under section 332(1);
  - (b) for dealing with complaints against its members in relation to the carrying on by them of exempt regulated activities;

*Changes to legislation: Financial Services and Markets Act 2000, Section 328 is up to date with all changes known to be in force on or before 13 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) View outstanding changes*

- (c) in order to offer redress to clients who suffer, or claim to have suffered, loss as a result of misconduct by its members in their carrying on of exempt regulated activities;
  - (d) for co-operating with the [F<sup>1</sup>FCA] under section 325(4).
- (8) In this Part “clients” means—
- (a) persons who use, have used or are or may be contemplating using, any of the services provided by a member of a profession in the course of carrying on exempt regulated activities;
  - (b) persons who have rights or interests which are derived from, or otherwise attributable to, the use of any such services by other persons; or
  - (c) persons who have rights or interests which may be adversely affected by the use of any such services by persons acting on their behalf or in a fiduciary capacity in relation to them.
- (9) If a member of a profession is carrying on an exempt regulated activity in his capacity as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or are or may be contemplating using services provided by that person in his carrying on of that activity.

#### Textual Amendments

- F1** Word in s. 328 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 16 para. 2** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F2** S. 328(6) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 9(a)**
- F3** Word in s. 328(6) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **65(a)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F4** Word in s. 328(6)(a) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **65(b)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F5** S. 328(6)(b) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **65(c)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F6** Words in s. 328(7) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 9(b)**

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

- C1** S. 328(8) modified by [S.I. 2001/544](#), art. 60S(2)(3) (as inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **2(37)**)
- C2** S. 328(8) modified by [S.I. 2001/544](#), art. 60LA(2)(3) (as inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **2(33)**)

### Changes to legislation:

Financial Services and Markets Act 2000, Section 328 is up to date with all changes known to be in force on or before 13 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.

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### Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(iia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to legislation.gov.uk. Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))