
STATUTORY INSTRUMENTS

2016 No. 715

The Financial Services and Markets Act
2000 (Transparency of Securities Financing
Transactions and of Reuse) Regulations 2016

PART 3

Administration and enforcement

CHAPTER 8

Offences

Misleading the FCA

24.—(1) A person must not, for the purposes of compliance or purported compliance with a requirement under this Part, knowingly or recklessly give the FCA information which is false or misleading in a material particular.

(2) A person must not provide information to another person—

- (a) knowing or being reckless as to whether the information is false or misleading in a material particular; and
- (b) knowing that the information is to be provided to, or to be used for the purposes of providing information to, the FCA in connection with the discharge of its functions under these Regulations.

(3) A person who contravenes paragraph (1) or (2) is guilty of an offence.

(4) A person guilty of an offence under this regulation is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

Restriction on penalties

25.—(1) A person who is convicted of an offence under these Regulations is not subsequently liable to a penalty under regulation 15 in respect of the same acts or omissions that constituted the offence.

(2) Where the FCA imposes a penalty on a person under regulation 15 the person may not subsequently be convicted of an offence under these Regulations in respect of the same acts or omissions that constituted the contravention for which the penalty was imposed.

Proceedings for offences

26. Proceedings for an offence under this Part may be instituted—

- (a) in England and Wales only by the FCA or by or with the consent of the Director of Public Prosecutions; or
- (b) in Northern Ireland only by the FCA or by or with the consent of the Director of Public Prosecutions for Northern Ireland.

Proceedings against unincorporated bodies

27.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or other unincorporated association must be brought in the name of the partnership or association (and not in that of any of its members).

(2) A fine imposed on a partnership or association on its conviction of an offence is to be paid out of the funds of the partnership or association.

(3) Rules of court relating to the service of documents are to have effect as if a partnership or association were a body corporate.

(4) In proceedings for an offence brought against a partnership or association—

- (a) section 33(1) (procedure on charge of offence against corporation) of the Criminal Justice Act 1925 and section 46 (corporations) of and Schedule 3(2) to the Magistrates' Courts Act 1980 apply as they do in relation to a body corporate;
- (b) section 70 and 143(3) (proceedings against organisations) of the Criminal Procedure (Scotland) Act 1995 apply; and
- (c) section 18 (procedure on charge) of the Criminal Justice (Northern Ireland) Act 1945(4) and section 166 (corporations) of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(5) apply as they do in relation to a body corporate.

(5) Summary proceedings for an offence under regulation 24 may be taken—

- (a) against a body corporate or unincorporated association at any place at which it has a place of business; and
- (b) against an individual at any place where that individual is for the time being.

(6) Paragraph (5) does not affect any jurisdiction exercisable apart from this regulation.

(1) 1925 c.86. Section 33 was amended by the Magistrates' Courts Act 1952 (c.55), section 132 and Schedule 6, the Courts Act 1971 (c.23), Schedule 8, and the Courts Act 2003 (c.39), Schedule 8, paragraph 71 and Schedule 10.

(2) 1980 c.43. Schedule 3 was amended by the Criminal Justice Act 1991 (c.53), section 25(2) and Schedule 13, and the Criminal Justice Act 2003 (c.44), Schedule 3, paragraph 51 and Schedule 37, Part 4.

(3) 1995 c.46. Section 70 was amended by section 66 of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13. Section 143 is amended by section 67 of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13, section 17 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 asp 6 and S.S.I. 2001/128.

(4) 1945 c.15.

(5) S.I. 1981/1675.