



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART I

THE REGULATOR

Inquiries

14 Cases in which the Treasury may arrange independent inquiries

- (1) This section applies in two cases.
- (2) The first is where it appears to the Treasury that—
 - (a) events have occurred in relation to—
 - (i) a collective investment scheme, or
 - (ii) a person who is, or was at the time of the events, carrying on a regulated activity (whether or not as an authorised person),which posed or could have posed a grave risk to the financial system or caused or risked causing significant damage to the interests of consumers; and
 - (b) those events might not have occurred, or the risk or damage might have been reduced, but for a serious failure in—
 - (i) the system established by this Act for the regulation of such schemes or of such persons and their activities; or
 - (ii) the operation of that system.
- (3) The second is where it appears to the Treasury that—
 - (a) events have occurred in relation to listed securities or an issuer of listed securities which caused or could have caused significant damage to holders of listed securities; and
 - (b) those events might not have occurred but for a serious failure in the regulatory system established by Part VI or in its operation.

- (4) If the Treasury consider that it is in the public interest that there should be an independent inquiry into the events and the circumstances surrounding them, they may arrange for an inquiry to be held under section 15.
- (5) “Consumers” means persons—
 - (a) who are consumers for the purposes of section 138; or
 - (b) who, in relation to regulated activities carried on otherwise than by authorised persons, would be consumers for those purposes if the activities were carried on by authorised persons.
- (6) “The financial system” has the same meaning as in section 3.
- (7) “Listed securities” means anything which has been admitted to the official list under Part VI.

15 Power to appoint person to hold an inquiry

- (1) If the Treasury decide to arrange for an inquiry to be held under this section, they may appoint such person as they consider appropriate to hold the inquiry.
- (2) The Treasury may, by a direction to the appointed person, control—
 - (a) the scope of the inquiry;
 - (b) the period during which the inquiry is to be held;
 - (c) the conduct of the inquiry; and
 - (d) the making of reports.
- (3) A direction may, in particular—
 - (a) confine the inquiry to particular matters;
 - (b) extend the inquiry to additional matters;
 - (c) require the appointed person to discontinue the inquiry or to take only such steps as are specified in the direction;
 - (d) require the appointed person to make such interim reports as are so specified.

16 Powers of appointed person and procedure

- (1) The person appointed to hold an inquiry under section 15 may—
 - (a) obtain such information from such persons and in such manner as he thinks fit;
 - (b) make such inquiries as he thinks fit; and
 - (c) determine the procedure to be followed in connection with the inquiry.
- (2) The appointed person may require any person who, in his opinion, is able to provide any information, or produce any document, which is relevant to the inquiry to provide any such information or produce any such document.
- (3) For the purposes of an inquiry, the appointed person has the same powers as the court in respect of the attendance and examination of witnesses (including the examination of witnesses abroad) and in respect of the production of documents.
- (4) “Court” means—
 - (a) the High Court; or
 - (b) in Scotland, the Court of Session.

17 Conclusion of inquiry

- (1) On completion of an inquiry under section 15, the person holding the inquiry must make a written report to the Treasury—
 - (a) setting out the result of the inquiry; and
 - (b) making such recommendations (if any) as he considers appropriate.
- (2) The Treasury may publish the whole, or any part, of the report and may do so in such manner as they consider appropriate.
- (3) Subsection (4) applies if the Treasury propose to publish a report but consider that it contains material—
 - (a) which relates to the affairs of a particular person whose interests would, in the opinion of the Treasury, be seriously prejudiced by publication of the material; or
 - (b) the disclosure of which would be incompatible with an international obligation of the United Kingdom.
- (4) The Treasury must ensure that the material is removed before publication.
- (5) The Treasury must lay before each House of Parliament a copy of any report or part of a report published under subsection (2).
- (6) Any expenses reasonably incurred in holding an inquiry are to be met by the Treasury out of money provided by Parliament.

18 Obstruction and contempt

- (1) If a person (“A”)—
 - (a) fails to comply with a requirement imposed on him by a person holding an inquiry under section 15, or
 - (b) otherwise obstructs such an inquiry,the person holding the inquiry may certify the matter to the High Court (or, in Scotland, the Court of Session).
- (2) The court may enquire into the matter.
- (3) If, after hearing—
 - (a) any witnesses who may be produced against or on behalf of A, and
 - (b) any statement made by or on behalf of A,the court is satisfied that A would have been in contempt of court if the inquiry had been proceedings before the court, it may deal with him as if he were in contempt.