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Financial Services and Markets Act 2000

2000 CHAPTER 8

PART VI

OFFICIAL LISTING

[^{F1}Compensation for false or misleading statements etc^{F2}]

Textual Amendments

- F1** S. 90 cross-heading substituted (8.11.2006) by [Companies Act 2006 \(c. 46\), ss. 1272, 1300\(1\)\(a\), Sch. 15 para. 4](#)
- F2** Ss. 90A, 90B inserted (8.11.2006) by [Companies Act 2006 \(c. 46\), ss. 1270, 1300\(1\)\(a\)](#)

90 *[^{F3}Compensation for statements in listing particulars or prospectus]*

- (1) Any person responsible for listing particulars is liable to pay compensation to a person who has—
- (a) acquired securities to which the particulars apply; and
 - (b) suffered loss in respect of them as a result of—
 - (i) any untrue or misleading statement in the particulars; or
 - (ii) the omission from the particulars of any matter required to be included by section 80 or 81.
- (2) Subsection (1) is subject to exemptions provided by Schedule 10.
- (3) If listing particulars are required to include information about the absence of a particular matter, the omission from the particulars of that information is to be treated as a statement in the listing particulars that there is no such matter.
- (4) Any person who fails to comply with section 81 is liable to pay compensation to any person who has—
- (a) acquired securities of the kind in question; and
 - (b) suffered loss in respect of them as a result of the failure.

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- (5) Subsection (4) is subject to exemptions provided by Schedule 10.
- (6) This section does not affect any liability which may be incurred apart from this section.
- (7) References in this section to the acquisition by a person of securities include references to his contracting to acquire them or any interest in them.
- (8) No person shall, by reason of being a promoter of a company or otherwise, incur any liability for failing to disclose information which he would not be required to disclose in listing particulars in respect of a company’s securities—
- (a) if he were responsible for those particulars; or
 - (b) if he is responsible for them, which he is entitled to omit by virtue of section 82.
- (9) The reference in subsection (8) to a person incurring liability includes a reference to any other person being entitled as against that person to be granted any civil remedy or to rescind or repudiate an agreement.
- (10) “Listing particulars”, in subsection (1) and Schedule 10, includes supplementary listing particulars.
- [^{F4}(11) This section applies in relation to a prospectus as it applies to listing particulars, with the following modifications—
- (a) references in this section or in Schedule 10 to listing particulars, supplementary listing particulars or sections 80, 81 or 82 are to be read, respectively, as references to a prospectus, supplementary prospectus and sections 87A, 87G and 87B;
 - (b) references in Schedule 10 to admission to the official list are to be read as references to admission to trading on a regulated market;
 - (c) in relation to a prospectus, “securities” means “transferable securities”.
- (12) A person is not to be subject to civil liability solely on the basis of a summary in a prospectus unless the summary is misleading, inaccurate or inconsistent when read with the rest of the prospectus; and, in this subsection, a summary includes any translation of it.]

Textual Amendments

F3 S. 90 words in heading substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), ss. 1272, 1300(1)(a), [Sch. 15 para. 5](#)

F4 S. 90(11)(12) inserted (1.7.2005) by [The Prospectus Regulations 2005 \(S.I. 2005/1433\)](#), reg. 2(1), [Sch. 1 para. 6\(2\)](#)

Modifications etc. (not altering text)

C1 S. 90 restricted (1.12.2001) by [S.I. 2001/2957](#), [arts. 1, 7\(3\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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VALID FROM 01/07/2011

**[^{F5}]
^{F5}90ZA** **Liability for key investor information**

- (1) A person is not to be subject to civil liability solely on the basis of the key investor information produced in relation to a collective investment scheme or a sub-fund of such a scheme in accordance with rules or other provisions implementing Chapter IX of the UCITS directive, or of any translation of that information, unless the key investor information is misleading, inaccurate or inconsistent with the relevant parts of the prospectus published for that collective investment scheme or sub-fund in accordance with rules made by the Authority under section 248 of this Act.
- (2) In this section, a reference to a sub-fund of a collective investment scheme is a reference to a part of the property of the collective investment scheme which forms a separate pool where—
- (a) the collective investment scheme provides arrangements for separate pooling of the contributions of the participants and the profits and income out of which payments are made to them; and
 - (b) the participants are entitled to exchange rights in one pool for rights in another.]]

Textual Amendments

- F5** S. 90ZA inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(3\)](#)

90A Compensation for statements in certain publications

- (1) The publications to which this section applies are—
- (a) any reports and statements published in response to a requirement imposed by a provision implementing Article 4, 5 or 6 of the transparency obligations directive, and
 - (b) any preliminary statement made in advance of a report or statement to be published in response to a requirement imposed by a provision implementing Article 4 of that directive, to the extent that it contains information that it is intended—
 - (i) will appear in the report or statement, and
 - (ii) will be presented in the report or statement in substantially the same form as that in which it is presented in the preliminary statement.
- (2) The securities to which this section applies are—
- (a) securities that are traded on a regulated market situated or operating in the United Kingdom, and
 - (b) securities that—
 - (i) are traded on a regulated market situated or operating outside the United Kingdom, and
 - (ii) are issued by an issuer for which the United Kingdom is the home Member State within the meaning of Article 2.1(i) of the transparency obligations directive.

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- (3) The issuer of securities to which this section applies is liable to pay compensation to a person who has—
- (a) acquired such securities issued by it, and
 - (b) suffered loss in respect of them as a result of—
 - (i) any untrue or misleading statement in a publication to which this section applies, or
 - (ii) the omission from any such publication of any matter required to be included in it.
- (4) The issuer is so liable only if a person discharging managerial responsibilities within the issuer in relation to the publication—
- (a) knew the statement to be untrue or misleading or was reckless as to whether it was untrue or misleading, or
 - (b) knew the omission to be dishonest concealment of a material fact.
- (5) A loss is not regarded as suffered as a result of the statement or omission in the publication unless the person suffering it acquired the relevant securities—
- (a) in reliance on the information in the publication, and
 - (b) at a time when, and in circumstances in which, it was reasonable for him to rely on that information.
- (6) Except as mentioned in subsection (8)—
- (a) the issuer is not subject to any other liability than that provided for by this section in respect of loss suffered as a result of reliance by any person on—
 - (i) an untrue or misleading statement in a publication to which this section applies, or
 - (ii) the omission from any such publication of any matter required to be included in it, and
 - (b) a person other than the issuer is not subject to any liability, other than to the issuer, in respect of any such loss.
- (7) Any reference in subsection (6) to a person being subject to a liability includes a reference to another person being entitled as against him to be granted any civil remedy or to rescind or repudiate an agreement.
- (8) This section does not affect—
- (a) the powers conferred by section 382 and 384 (powers of the court to make a restitution order and of the Authority to require restitution);
 - (b) liability for a civil penalty;
 - (c) liability for a criminal offence.
- (9) For the purposes of this section—
- (a) the following are persons “discharging managerial responsibilities” in relation to a publication—
 - (i) any director of the issuer (or person occupying the position of director, by whatever name called),
 - (ii) in the case of an issuer whose affairs are managed by its members, any member of the issuer,
 - (iii) in the case of an issuer that has no persons within sub-paragraph (i) or (ii), any senior executive of the issuer having responsibilities in relation to the publication;

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- (b) references to the acquisition by a person of securities include his contracting to acquire them or any interest in them.

[^{F2}90B Power to make further provision about liability for published information

- (1) The Treasury may by regulations make provision about the liability of issuers of securities traded on a regulated market, and other persons, in respect of information published to holders of securities, to the market or to the public generally.
- (2) Regulations under this section may amend any primary or subordinate legislation, including any provision of, or made under, this Act.]

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