



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART VIII

PENALTIES FOR MARKET ABUSE

The code

119 The code.

- (1) The Authority must prepare and issue a code containing such provisions as the Authority considers will give appropriate guidance to those determining whether or not behaviour amounts to market abuse.
- (2) The code may among other things specify—
 - (a) descriptions of behaviour that, in the opinion of the Authority, amount to market abuse;
 - (b) descriptions of behaviour that, in the opinion of the Authority, do not amount to market abuse;
 - (c) factors that, in the opinion of the Authority, are to be taken into account in determining whether or not behaviour amounts to market abuse.
 - [^{F1}(d) descriptions of behaviour that are accepted market practices in relation to one or more specified markets;
 - (e) descriptions of behaviour that are not accepted market practices in relation to one or more specified markets.]
- [^{F2}(2A) In determining, for the purposes of subsections (2)(d) and (2)(e) or otherwise, what are and what are not accepted market practices, the Authority must have regard to the factors and procedures laid down in Articles 2 and 3 respectively of Commission Directive [2004/72/EC](#) of 29 April 2004 implementing Directive [2003/6/EC](#) of the European Parliament and of the Council.]
- (3) The code may make different provision in relation to persons, cases or circumstances of different descriptions.

Status: Point in time view as at 28/03/2009.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: The code is up to date with all changes known to be in force on or before 11 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)

- (4) The Authority may at any time alter or replace the code.
- (5) If the code is altered or replaced, the altered or replacement code must be issued by the Authority.
- (6) A code issued under this section must be published by the Authority in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (7) The Authority must, without delay, give the Treasury a copy of any code published under this section.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of the code.

Textual Amendments

- F1** S. 119(2)(d)(e) inserted (1.7.2005) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2005 \(S.I. 2005/381\)](#), regs. 1(2), 5, [Sch. 2 para. 2\(2\)](#)
- F2** S. 119(2A) inserted (1.7.2005) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2005 \(S.I. 2005/381\)](#), regs. 1(2), 5, [Sch. 2 para. 2\(3\)](#)

120 Provisions included in the Authority’s code by reference to the City Code.

- (1) The Authority may include in a code issued by it under section 119 (“the Authority’s code”) provision to the effect that in its opinion behaviour conforming with the City Code—
 - (a) does not amount to market abuse;
 - (b) does not amount to market abuse in specified circumstances; or
 - (c) does not amount to market abuse if engaged in by a specified description of person.
- (2) But the Treasury’s approval is required before any such provision may be included in the Authority’s code.
- (3) If the Authority’s code includes provision of a kind authorised by subsection (1), the Authority must keep itself informed of the way in which the Panel on Takeovers and Mergers interprets and administers the relevant provisions of the City Code.
- (4) “City Code” means the City Code on Takeovers and Mergers issued by the Panel as it has effect at the time when the behaviour occurs.
- (5) “Specified” means specified in the Authority’s code.

121 Codes: procedure.

- (1) Before issuing a code under section 119, the Authority must publish a draft of the proposed code in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by—
 - (a) a cost benefit analysis; and
 - (b) notice that representations about the proposal may be made to the Authority within a specified time.

Status: Point in time view as at 28/03/2009.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: The code is up to date with all changes known to be in force on or before 11 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)

- (3) Before issuing the proposed code, the Authority must have regard to any representations made to it in accordance with subsection (2)(b).
- (4) If the Authority issues the proposed code it must publish an account, in general terms, of—
 - (a) the representations made to it in accordance with subsection (2)(b); and
 - (b) its response to them.
- (5) If the code differs from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant—
 - (a) the Authority must (in addition to complying with subsection (4)) publish details of the difference; and
 - (b) those details must be accompanied by a cost benefit analysis.
- (6) Subsections (1) to (5) do not apply if the Authority considers that there is an urgent need to publish the code.
- (7) Neither subsection (2)(a) nor subsection (5)(b) applies if the Authority considers—
 - (a) that, making the appropriate comparison, there will be no increase in costs; or
 - (b) that, making that comparison, there will be an increase in costs but the increase will be of minimal significance.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (9) This section also applies to a proposal to alter or replace a code.
- (10) “Cost benefit analysis” means an estimate of the costs together with an analysis of the benefits that will arise—
 - (a) if the proposed code is issued; or
 - (b) if subsection (5)(b) applies, from the code that has been issued.
- (11) “The appropriate comparison” means—
 - (a) in relation to subsection (2)(a), a comparison between the overall position if the code is issued and the overall position if it is not issued;
 - (b) in relation to subsection (5)(b), a comparison between the overall position after the issuing of the code and the overall position before it was issued.

122 Effect of the code.

- (1) If a person behaves in a way which is described (in the code in force under section 119 at the time of the behaviour) as behaviour that, in the Authority’s opinion, does not amount to market abuse that behaviour of his is to be taken, for the purposes of this Act, as not amounting to market abuse.
- (2) Otherwise, the code in force under section 119 at the time when particular behaviour occurs may be relied on so far as it indicates whether or not that behaviour should be taken to amount to market abuse.

Status:

Point in time view as at 28/03/2009.

Changes to legislation:

Financial Services and Markets Act 2000, Cross Heading: The code is up to date with all changes known to be in force on or before 11 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.