



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXIII

#### PUBLIC RECORD, DISCLOSURE OF INFORMATION AND CO-OPERATION

##### *The public record*

#### **347 The record of authorised persons etc.**

- (1) The [F<sup>1</sup>FCA] must maintain a record of every—
  - F<sup>2</sup>(a) person who appears to the [F<sup>1</sup>FCA] to be an authorised person;
  - (b) authorised unit trust scheme;
  - F<sup>3</sup>(ba) authorised contractual scheme;
  - (c) authorised open-ended investment company;
  - (d) recognised scheme;
  - (e) recognised investment exchange;
  - F<sup>4</sup>(f) .....
  - (g) individual to whom a prohibition order relates;
  - (h) approved person; F<sup>5</sup> . . .
  - F<sup>6</sup>(ha) person to whom subsection (2A) applies; F<sup>7</sup> ...]
  - F<sup>8</sup>(hb) appointed representative to whom subsection (2B) applies;
  - F<sup>9</sup>(hc) appointed representative to whom subsection (2C) applies; and
  - (i) person falling within such other class (if any) as the [F<sup>1</sup>FCA] may determine.
- (2) The record must include such information as the [F<sup>1</sup>FCA] considers appropriate and at least the following information—
  - (a) in the case of a person appearing to the [F<sup>1</sup>FCA] to be an authorised person—
    - (i) information as to the services which he holds himself out as able to provide; and
    - (ii) any address of which the [F<sup>1</sup>FCA] is aware at which a notice or other document may be served on him;

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- (b) in the case of an authorised unit trust scheme, the name and address of the manager and trustee of the scheme;
- [<sup>F10</sup>(ba) in the case of an authorised contractual scheme, the name and address of the operator and depositary of the scheme;]
- (c) in the case of an authorised open-ended investment company, the name and address of—
  - (i) the company;
  - (ii) if it has only one director, the director; and
  - (iii) its depositary (if any);
- (d) in the case of a recognised scheme, the name and address of—
  - (i) the operator of the scheme; and
  - (ii) any representative of the operator in the United Kingdom;
- (e) in the case of a recognised investment exchange <sup>F11</sup>... the name and address of the exchange <sup>F12</sup>...;
- (f) in the case of an individual to whom a prohibition order relates—
  - (i) his name; and
  - (ii) details of the effect of the order;
- (g) in the case of a person who is an approved person—
  - (i) his name;
  - (ii) the name of the [<sup>F13</sup>authorised person concerned];
  - (iii) if the approved person is performing a controlled function under an arrangement with a contractor of the [<sup>F14</sup>authorised person concerned], the name of the contractor.
  - [<sup>F15</sup>(iv) [<sup>F16</sup>in a case where the authorised person concerned is a relevant authorised person,] whether or not the person is a senior manager;]
- [<sup>F17</sup>(h) in the case of an approved person who is a senior manager in relation to [<sup>F18</sup>a relevant][<sup>F18</sup>an] authorised person—
  - (i) whether a final notice has been given to the person under section 390; and
  - (ii) if so, any information about the matter to which the notice relates which has been published under section 391(4).]
- [<sup>F19</sup>(i) in the case of a mortgage intermediary—
  - (i) the names of the persons within the management who are responsible for the activities specified by article 25A (arranging regulated mortgage contracts), article 36A (credit broking), article 53A (advising on regulated mortgage contracts) and article 53DA (advising on regulated credit agreements the purpose of which is to acquire land) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; and
  - (ii) whether the mortgage intermediary is a tied mortgage intermediary or not;
- (j) in the case of an appointed representative to whom subsection (2B) applies, the name of the mortgage intermediary on whose behalf the appointed representative acts;]
- [<sup>F20</sup>(2A) This subsection applies to—
  - (a) an appointed representative to whom subsection (1A) [<sup>F21</sup>or (1AA)] of section 39 applies for whom the applicable register (as defined by

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subsection (1B) of that section) is the record maintained by virtue of subsection (1)(ha) above;

- (b) a person mentioned in subsection (1)(a) of section 39A if—
  - (i) the contract with an authorised person to which he is party complies with the applicable requirements (as defined by subsection (7) of that section), and
  - (ii) the authorised person has accepted responsibility in writing for the person's activities in carrying on investment services business (as defined by subsection (8) of that section); and
- (c) any person not falling within paragraph (a) or (b) in respect of whom the [F<sup>1</sup>FCA] considers that a record must be maintained for the purpose of securing compliance with Article [F<sup>22</sup>29.3] of the markets in financial instruments directive (registration of tied agents).]

[F<sup>23</sup>(2B) This subsection applies to an appointed representative to whom section 39(1BA) applies or to whom that subsection would apply if the requirements of section 39(1BB) were not met.]

[F<sup>24</sup>(2C) This subsection applies to an appointed representative of an authorised person who has a Part 4A permission by virtue of regulation 4 or 7 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/XXXX).]

(3) If it appears to the [F<sup>1</sup>FCA] that a person in respect of whom there is an entry in the record as a result of one of the paragraphs of subsection (1) has ceased to be a person to whom that paragraph applies, the [F<sup>1</sup>FCA] may remove the entry from the record.

[F<sup>25</sup>(3A) But if a person ceases to be a person to whom one of the paragraphs of subsection (1) applies as a result of—

- (a) a cancellation of that person's Part 4A permission under section 55J(6) because one or more of the conditions in 55K(1)(b) to (d) was met; or
- (b) a cancellation of that person's Part 4A permission to carry on regulated activities as an exempt investment firm under section 55J(1) to (3) because—
  - (i) the person has contravened a requirement imposed on that person by or under the Act for the purposes of Article 3.2(a) of the markets in financial instruments directive; and
  - (ii) one or more of the conditions mentioned in Article 8(b) to (d) of the directive was met;

the power conferred by subsection (3) is not exercisable for a period of five years from the date on which the person ceased to be a person to whom subsection (1) applied.

(3B) Where the power conferred by subsection (3) is not exercisable in respect of an entry in the record as a result of subsection (3A) the FCA must—

- (a) make a note in the record that it considers the person to whom the entry relates has ceased to be person to whom one of the paragraphs of subsection (1) applies as a result of a cancellation of that person's Part 4A permission for a reason mentioned in subsection (3A)(a) or (b); and
- (b) state why it considers that is the case.]

(4) But if the [F<sup>1</sup>FCA] decides not to remove the entry, it must—

- (a) make a note to that effect in the record; and

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- (b) state why it considers that the person has ceased to be a person to whom that paragraph applies [<sup>F26</sup>in any case where it has not already done so under subsection (3B)].

[<sup>F27</sup>(4A) If the FCA cancels or varies the Part 4A permission of a mortgage intermediary and as a result the person to whom the entry relates no longer has a Part 4A permission to carry on a relevant mortgage activity within the meaning of section 55J(6C), the FCA must delete mention of such permission from the record without undue delay.]

(5) The [<sup>F1</sup>FCA] must—

- (a) make the record available for inspection by members of the public in a legible form at such times and in such place or places as the [<sup>F1</sup>FCA] may determine; and
- (b) provide a certified copy of the record, or any part of it, to any person who asks for it—
- (i) on payment of the fee (if any) fixed by the [<sup>F1</sup>FCA]; and
- (ii) in a form (either written or electronic) in which it is legible to the person asking for it.

(6) The [<sup>F1</sup>FCA] may—

- (a) publish the record, or any part of it;
- (b) exploit commercially the information contained in the record, or any part of that information.

(7) “Authorised unit trust scheme”, [<sup>F28</sup>“authorised contractual scheme”,] “authorised open-ended investment company” and “recognised scheme” have the same meaning as in Part XVII, and associated expressions are to be read accordingly.

(8) “Approved person” means a person in relation to whom the [<sup>F29</sup>FCA or the PRA] has given its approval under section 59 and “controlled function” and “arrangement” have the same meaning as in that section.

[<sup>F30</sup>(8A) In this section—

[<sup>F31</sup>“exempt investment firm” means an authorised person who—

- (a) is an investment firm; and
- (b) has a Part 4A permission;

but to whom Title II of the markets in financial instruments directive does not apply by virtue of Article 3 of the directive..]

[<sup>F32</sup>“relevant authorised person” has the same meaning as in Part 5 (see section 71A),]

“senior manager”, in relation to [<sup>F33</sup>a relevant][<sup>F33</sup>an] authorised person, means a person who has approval under section 59 to perform a designated senior management function in relation to the carrying on by the authorised person of a regulated activity, and

“designated senior management function” [<sup>F34</sup>means a function designated as a senior management function under section 59(6A) or (6B)].[<sup>F34</sup>has the meaning given by section 59ZB.]]

[<sup>F35</sup>(9) The authorised person concerned”, in relation to an approved person, means the person on whose application approval was given.]

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## Textual Amendments

- F1** Word in s. 347(1)-(6) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 16\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F2** S. 347(1)(a)(hc) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(2\)](#) (with reg. 7)
- F3** S. 347(1)(ba) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(16\)\(a\)](#) (with reg. 24)
- F4** S. 347(1)(f) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 16\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F5** Word in s. 347(1) omitted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), [Sch. 5 para. 12\(a\)](#)
- F6** S. 347(1)(ha) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), [Sch. 5 para. 12\(b\)](#)
- F7** Word in s. 347(1)(ha) omitted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by virtue of [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 1\(7\)\(a\)\(i\)](#) (with Pt. 4)
- F8** S. 347(1)(hb) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 1\(7\)\(a\)\(ii\)](#) (with Pt. 4)
- F9** S. 347(1)(hc) substituted for word (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(2\)](#) (with reg. 7)
- F10** S. 347(2)(ba) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(16\)\(b\)](#) (with reg. 24)
- F11** Words in s. 347(2)(e) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 16\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F12** Words in s. 347(2)(e) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 16\(4\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F13** Words in s. 347(2)(g)(ii) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 3 para. 11](#); S.I. 2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F14** Words in s. 347(2)(g)(iii) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 3 para. 11](#); S.I. 2015/490, art. 2(1)(b) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F15** S. 347(2)(g)(iv) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 34\(2\)\(a\)](#), 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F16** Words in s. 347(2)(g)(iv) omitted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 19\(2\)\(a\)](#); S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with reg. 3)
- F17** S. 347(2)(h) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 34\(2\)\(b\)](#), 148(5); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

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- F18** Word in s. 347(2)(h) substituted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by [Bank of England and Financial Services Act 2016 \(c. 14\), s. 41\(3\), Sch. 4 para. 19\(2\)\(b\)](#); S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with reg. 3)
- F19** S. 347(2)(i)(j) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 1\(7\)\(b\)](#) (with Pt. 4)
- F20** S. 347(2A) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), [Sch. 5 para. 12\(c\)](#)
- F21** Words in s. 347(2A)(a) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(3\)\(a\)](#) (with reg. 7)
- F22** Word in s. 347(2A)(c) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(3\)\(b\)](#) (with reg. 7)
- F23** S. 347(2B) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 1\(7\)\(c\)](#) (with Pt. 4)
- F24** S. 347(2C) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(4\)](#) (with reg. 7)
- F25** S. 347(3A)(3B) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(5\)](#) (with reg. 7)
- F26** Words in s. 347(4)(b) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(6\)](#) (with reg. 7)
- F27** S. 347(4A) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 1\(7\)\(d\)](#) (with Pt. 4)
- F28** Words in s. 347(7) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(16\)\(c\)](#) (with reg. 24)
- F29** Words in s. 347(8) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 16\(5\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch. 12 para. 16\(5\)](#)
- F30** S. 347(8A) inserted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 34\(3\), 148\(5\)](#); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))
- F31** Words in s. 347(8A) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 44\(7\)](#) (with reg. 7)
- F32** Words in s. 347(8A) omitted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 4 para. 19\(3\)\(a\)](#); S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with reg. 3)

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- F33** Word in s. 347(8A) substituted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by [Bank of England and Financial Services Act 2016 \(c. 14\), s. 41\(3\), Sch. 4 para. 19\(3\)\(b\)](#); S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with reg. 3)
- F34** Words in s. 347(8A) substituted (13.9.2018 for specified purposes, 10.12.2018 for specified purposes, 18.7.2019 for specified purposes, 9.8.2019 for specified purposes, 9.12.2019 for specified purposes, 7.12.2020 in so far as not already in force) by [Bank of England and Financial Services Act 2016 \(c. 14\), s. 41\(3\), Sch. 4 para. 19\(3\)\(c\)](#); S.I. 2018/990, reg. 2(1)(2)(3) (with regs. 3-6); S.I. 2019/1136, reg. 2(2)(3)(4)(5) (with reg. 3)
- F35** S. 347(9) substituted (7.3.2016) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 34\(4\), 148\(5\)](#); S.I. 2015/490, art. 2(1)(c) (with savings and transitional provisions in S.I. 2015/492 (as amended by S.I. 2015/1660))

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

- C1** S. 347 excluded by S.I. 2013/1881, art. 56(2E) (as inserted (17.3.2016 for specified purposes, 20.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\), arts. 1\(2\)\(3\)\(b\), 7\(2\)](#) (with Pt. 5))
- C2** S. 347(1)(a) disapplied (temp. from 31.10.2004 until 30.4.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Mortgages\) Order 2004 \(S.I. 2004/2615\), arts. 1\(2\)\(b\), 5, Sch. para. 9](#)
- C3** S. 347(1)(a) disapplied (temp. from 14.1.2005 until 14.7.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(General Insurance Intermediaries\) Order 2004, \(S.I. 2004/3351\), arts. 1\(2\)\(b\), 5, {Sch. para. 8}](#)
- C4** S. 347(1)(a) disapplied (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\), arts. 1\(3\), 7, Sch. para. 9](#)
- C5** S. 347(1)(h) disapplied (temp. from 31.10.2004 until 30.4.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Mortgages\) Order 2004 \(S.I. 2004/2615\), arts. 1\(2\)\(b\), 5, Sch. para. 10](#)
- C6** S. 347(1)(h) disapplied (temp. from 14.1.2005 until 14.7.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(General Insurance Intermediaries\) Order 2004, \(S.I. 2004/3351\), arts. 1\(2\)\(b\), 5, {Sch. para. 9}](#)
- C7** S. 347(1)(h) disapplied (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\), arts. 1\(3\), 7, Sch. para. 10](#)

#### Commencement Information

- II** S. 347 partly in force; s. 347 not in force at Royal Assent see s. 431(2); s. 347(3)-(9) in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#); s. 347(1)(2) in force for specified purposes at 1.12.2001, 1.5.2002, 1.8.2002, 1.12.2002 by [S.I. 2001/3528, art. 2\(1\)\(3\)](#)

### [<sup>F36</sup>347A] Duty of PRA to disclose information relevant to the record

- (1) The PRA must, for the purpose of assisting the FCA to comply with its duty under section 347—
- notify the FCA if the information included in the record as required under section 347(2)(a) appears to the PRA to be incomplete or inaccurate,
  - if it makes a prohibition order relating to an individual, provide the FCA with information falling within section 347(2)(f) in relation to that order,
  - where it is the appropriate regulator in relation to an approved person, provide the FCA with information falling within section 347(2)(g) in relation to that approved person, and



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- (d) where the FCA has notified the PRA that it considers it appropriate to include in the record information of a certain description, disclose to the FCA such information of that description as the PRA has in its possession.
- (2) The duty to provide information under this section does not apply to information which the PRA reasonably believes is in the possession of the FCA.
- (3) Subsection (1) does not require or authorise the disclosure of information whose disclosure is prohibited by or under section 348.
- (4) This section is without prejudice to any other power to disclose information.
- (5) In this section references to the “record” are to the record maintained under section 347.]

#### Textual Amendments

**F36** S. 347A inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 17](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

### *Disclosure of information*

#### **348 Restrictions on disclosure of confidential information by [<sup>F37</sup>FCA, PRA] etc.**

- (1) Confidential information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the consent of—
  - (a) the person from whom the primary recipient obtained the information; and
  - (b) if different, the person to whom it relates.
- (2) In this Part “confidential information” means information which—
  - (a) relates to the business or other affairs of any person;
  - (b) was received by the primary recipient for the purposes of, or in the discharge of, any functions of the [<sup>F38</sup>FCA, the PRA]<sup>F39</sup>... or the Secretary of State under any provision made by or under this Act; and
  - (c) is not prevented from being confidential information by subsection (4).
- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received—
  - (a) by virtue of a requirement to provide it imposed by or under this Act;
  - (b) for other purposes as well as purposes mentioned in that subsection.
- (4) Information is not confidential information if—
  - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by this section; or
  - (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.
- (5) Each of the following is a primary recipient for the purposes of this Part—
  - [<sup>F40</sup>(a) the FCA;
  - (aa) the [<sup>F41</sup>Bank of England];]



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- <sup>F42</sup>(b) .....
- (c) the Secretary of State;
- <sup>F43</sup>(zd) a person appointed to act as a temporary manager by the FCA or the PRA under section 71C;]
- (d) a person appointed <sup>F44</sup>to collect or update information under section <sup>F45</sup>166A] or] to make a report under section 166;
- (e) any person who is or has been employed by a person mentioned in paragraphs (a) to (c);
- <sup>F46</sup>(ea) a person who is or has been engaged to provide services to a person mentioned in those paragraphs;]
- (f) any auditor or expert instructed by a person mentioned in those paragraphs.
- (6) In subsection (5)(f) “expert” includes—
- (a) a competent person appointed by <sup>F47</sup>the FCA] under section 97;
- (b) a competent person appointed by the <sup>F48</sup>FCA, the PRA] or the Secretary of State to conduct an investigation under Part XI;
- <sup>F49</sup>(c) .....
- <sup>F50</sup>(7) Nothing in this section applies to information received by a primary recipient for the purposes of, or in the discharge of, any functions of the FCA under the Competition Act 1998 or the Enterprise Act 2002 by virtue of Part 16A of this Act.
- (For provision about the disclosure of such information, see Part 9 of the Enterprise Act 2002.)]
- <sup>F51</sup>(8) In this section references to the Bank of England include the Bank acting in its capacity as the PRA.]

#### Textual Amendments

- F37** Words in s. 348 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(5\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F38** Words in s. 348(2)(b) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(2\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F39** Words in s. 348(2)(b) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(2\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F40** S. 348(5)(a)(aa) substituted for s. 348(5)(a) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(3\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F41** Words in s. 348(5)(aa) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 2 para. 45\(2\)](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)
- F42** S. 348(5)(b) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(3\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F43** S. 348(5)(zd) inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), [34](#)
- F44** Words in s. 348(5)(d) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(e), [Sch. 2 para. 26](#)
- F45** Word in s. 348(5)(d) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(3\)\(c\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F46** S. 348(5)(ea) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(3\)\(d\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F47** Words in s. 348(6)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 18\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

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- F48** Words in s. 348(6)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 12 para. 18(4)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F49** S. 348(6)(c) omitted (1.4.2013) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 12 para. 18(4)(c)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F50** S. 348(7) inserted (1.11.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 8 para. 5**; S.I. 2014/2458, art. 2(b)(bb)(ii)
- F51** S. 348(8) inserted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 45(3)** (with Sch. 3); S.I. 2017/43, reg. 2(g)

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

- C8** S. 348 extended (1.12.2001) by S.I. 2001/3648, **arts. 1, 3(2), 4, 5(2), 7(2)**  
S. 348 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, **s. 53A** (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 152**); S.I. 2001/3538, **art. 2(1)**  
S. 348 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, **s. 63A(1)** (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. I para. 78**); S.I. 2001/3538, **art. 2(1)**
- C9** S. 348 applied (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **regs. 16(2), 50(3)** (with reg. 3)
- C10** S. 348 modified (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **reg. 50(4)** (with reg. 3)
- C11** S. 348 applied (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 16(2)(3)** (with reg. 3)
- C12** S. 348 applied (with modifications) (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 50(3)-(6)** (with reg. 3)
- C13** S. 348 applied (with modifications) (5.5.2004) by The Credit Institutions (Reorganisation and Winding up) Regulations 2004 (S.I. 2004/1045), **regs. 18, 38**
- C14** S. 348 excluded (20.5.2006) by The Takeovers Directive (Interim Implementation) Regulations 2006 (S.I. 2006/1183), **reg. 18(1)**
- C15** S. 348 applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), **reg. 43**
- C16** S. 348 applied (with modifications) (2.3.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(a), 95, **Sch. 5 para. 5** (with reg. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 155(6)(e)** (with Sch. 2 para. 156))
- C17** S. 348 applied (with modifications) (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), reg. 19, **Sch. para. 4**
- C18** S. 348 applied (with modifications) (9.2.2011 for certain purposes and 30.4.2011 otherwise) by The Electronic Money Regulations 2011 (S.I. 2011/99), regs. 1(2)(a)(xiv)(b), 62, **Sch. 3 para. 6** (with reg. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 196(5)(f)**)
- C19** S. 348 applied (with modifications) (15.1.2013) by The Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (S.I. 2012/3122), reg. 1, **Sch. para. 4** (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 248(6)(i)(m)**)
- C20** S. 348 applied (with modifications) (E.W.) (9.7.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (S.I. 2013/1635), regs. 1, **11(1)**
- C21** S. 348 applied (with modifications) (12.12.2014) by The Immigration Act 2014 (Bank Accounts) Regulations 2014 (S.I. 2014/3085), regs. 1, **12**
- C22** S. 348 applied (with modifications) by 2009 c. 1, s. 89L (as inserted (1.1.2015) by The Bank Recovery and Resolution Order 2014 (S.I. 2014/3329), arts. 1(2), **103**) (as amended (16.12.2016) by The Bank Recovery and Resolution Order 2016 (S.I. 2016/1239), arts. 1(2), **25**; and as amended (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 55** (with Sch. 3); S.I. 2017/43, reg. 2(g))

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- C23** S. 348 applied (with modifications) by S.I. 2004/1045, reg. 18(5) (as inserted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014](#) (S.I. 2014/3348), art. 1(2), **Sch. 3 para. 10(5)(c)**)
- C24** S. 348 applied (with modifications) by S.I. 2004/1045, reg. 38(8) (as added (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014](#) (S.I. 2014/3348), art. 1(2), **Sch. 3 para. 10(5)(c)**)
- C25** S. 348 applied (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015](#) (S.I. 2015/910), arts. 1(5), **18(3)** (with Pt. 4)
- C26** Ss. 348, 349 applied (with modifications) (1.1.2016) by [The Small and Medium Sized Business \(Credit Information\) Regulations 2015](#) (S.I. 2015/1945), regs. 1(2), **25(1)**
- C27** Ss. 348, 349 applied (with modifications) (1.1.2016) by [The Small and Medium Sized Business \(Finance Platforms\) Regulations 2015](#) (S.I. 2015/1946), regs. 1(2), **22(1)**
- C28** S. 348 applied (with modifications) (18.9.2016) by [The Payment Accounts Regulations 2015](#) (S.I. 2015/2038), reg. 1(2)(b), **Sch. 7 para. 3**
- C29** S. 348 applied (with modifications) (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017](#) (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 1 para. 20** (with reg. 7)
- C30** S. 348 applied (with modifications) (3.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Data Reporting Services Regulations 2017](#) (S.I. 2017/699), regs. 1(2)(a)(b), **35**
- C31** S. 348 applied (with modifications) (13.10.2017) by [The Payment Services Regulations 2017](#) (S.I. 2017/752), reg. 1(3)(c), **Sch. 6 para. 8** (with reg. 3)
- C32** Ss. 348, 349 applied (with modifications) (1.1.2018) by [The Packaged Retail and Insurance-based Investment Products Regulations 2017](#) (S.I. 2017/1127), reg. 1, **Sch. 1 para. 4**
- C33** S. 348 applied (with modifications) (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018](#) (S.I. 2018/135), regs. 1(2), **21**
- C34** Ss. 348-350 applied (14.11.2018) by [The Central Counterparties \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1184), regs. 1(3), **22**
- C35** S. 348(1) restricted (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003](#) (S.I. 2003/1102), **regs. 16(3), 50(5)** (with reg. 3)

### **349 Exceptions from section 348.**

- (1) Section 348 does not prevent a disclosure of confidential information which is—
- made for the purpose of facilitating the carrying out of a public function; and
  - permitted by regulations made by the Treasury under this section.
- (2) The regulations may, in particular, make provision permitting the disclosure of confidential information or of confidential information of a prescribed kind—
- by prescribed recipients, or recipients of a prescribed description, to any person for the purpose of enabling or assisting the recipient to discharge prescribed public functions;
  - by prescribed recipients, or recipients of a prescribed description, to prescribed persons, or persons of prescribed descriptions, for the purpose of enabling or assisting those persons to discharge prescribed public functions;
  - by the [<sup>F52</sup>FCA or the PRA] to the Treasury or the Secretary of State for any purpose;
  - by any recipient if the disclosure is with a view to or in connection with prescribed proceedings.
- (3) The regulations may also include provision—
- making any permission to disclose confidential information subject to conditions (which may relate to the obtaining of consents or any other matter);

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- (b) restricting the uses to which confidential information disclosed under the regulations may be put.

[<sup>F53</sup>(3A) Section 348 does not apply to—

- (a) the disclosure by a recipient to which subsection (3B) applies of confidential information disclosed to it by the [<sup>F54</sup>FCA or the PRA] in reliance on subsection (1);
- (b) the disclosure of such information by a person obtaining it directly or indirectly from a recipient to which subsection (3B) applies.

(3B) This subsection applies to—

- (a) the Panel on Takeovers and Mergers;
- (b) an authority designated as a supervisory authority for the purposes of Article 4.1 of the Takeovers Directive;
- (c) any other person or body that exercises public functions, under legislation in an EEA State other than the United Kingdom, that are similar to the [<sup>F55</sup>functions of the FCA or the PRA] or those of the Panel on Takeovers and Mergers.]

(4) In relation to confidential information, each of the following is a “recipient”—

- (a) a primary recipient;
- (b) a person obtaining the information directly or indirectly from a primary recipient.

(5) “Public functions” includes—

- (a) functions conferred by or in accordance with any provision contained in any enactment or subordinate legislation;
- (b) functions conferred by or in accordance with any provision contained in the [<sup>F56</sup>EU] Treaties or any [<sup>F56</sup>EU] instrument;
- (c) similar functions conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom;
- (d) functions exercisable in relation to prescribed disciplinary proceedings.

(6) “Enactment” includes—

- (a) an Act of the Scottish Parliament;
- (b) Northern Ireland legislation.

(7) “Subordinate legislation” has the meaning given in the <sup>M1</sup>Interpretation Act 1978 and also includes an instrument made under an Act of the Scottish Parliament or under Northern Ireland legislation.

(8) <sup>F57</sup> .....

#### Textual Amendments

**F52** Words in s. 349(2)(c) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 12 para. 19(2)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**F53** S. 349(3A)(3B) inserted (6.4.2007) by Companies Act 2006 (c. 46), **ss. 964(4)**, 1300(2); S.I. 2007/1093, **art. 2(1)(b)** (with arts. 4, 11)

**F54** Words in s. 349(3A)(a) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 12 para. 19(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**F55** Words in s. 349(3B)(c) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 12 para. 19(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

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- F56** Words in s. 349(5) substituted (22.4.2011 with application in accordance with art. 3 of the amending S.I.) by virtue of [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), **art. 6(1)(3)(4)**
- F57** S. 349(8) repealed (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), art. 7, **Sch. 5** (with arts. 4, 11) (as amended by S.I. 2008/2860, **art. 6**)

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

- C26** Ss. 348, 349 applied (with modifications) (1.1.2016) by [The Small and Medium Sized Business \(Credit Information\) Regulations 2015 \(S.I. 2015/1945\)](#), regs. 1(2), **25(1)**
- C27** Ss. 348, 349 applied (with modifications) (1.1.2016) by [The Small and Medium Sized Business \(Finance Platforms\) Regulations 2015 \(S.I. 2015/1946\)](#), regs. 1(2), **22(1)**
- C32** Ss. 348, 349 applied (with modifications) (1.1.2018) by [The Packaged Retail and Insurance-based Investment Products Regulations 2017 \(S.I. 2017/1127\)](#), reg. 1, **Sch. 1 para. 4**
- C34** Ss. 348-350 applied (14.11.2018) by [The Central Counterparties \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1184\)](#), regs. 1(3), **22**
- C36** S. 349 extended (1.12.2001) by S.I. 2001/3648, **arts. 1, 3(2), 4, 5(2), 7(2)**  
S. 349 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, **s. 53A** as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 152**; S.I. 2001/3538, **art. 2(1)**  
S. 349 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40 (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. I para. 78**; S.I. 2001/3538, **art. 2(1)**)
- C37** S. 349 applied (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003 \(S.I. 2003/1102\)](#), **regs. 16(2), 50(3)** (with reg. 3)
- C38** S. 349 modified (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003 \(S.I. 2003/1102\)](#), **reg. 50(4)** (with reg. 3)
- C39** S. 349 applied (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), **reg. 16(2)(3)** (with reg. 3)
- C40** S. 349 applied (with modifications) (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), **reg. 50(3)-(6)** (with reg. 3)
- C41** S. 349 applied (with modifications) (5.5.2004) by [The Credit Institutions \(Reorganisation and Winding up\) Regulations 2004 \(S.I. 2004/1045\)](#), **regs. 18, 38**
- C42** S. 349 applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), **reg. 43**
- C43** S. 349 applied (with modifications) (2.3.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(a), 95, **Sch. 5 para. 5** (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 155(6)(e)** (with Sch. 2 para. 156))
- C44** S. 349 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), reg. 19, **Sch. para. 4**
- C45** S. 349 applied (with modifications) (9.2.2011 for certain purposes and 30.4.2011 otherwise) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xiv)(b), 62, **Sch. 3 para. 6** (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(f)**)
- C46** S. 349 applied (with modifications) (15.1.2013) by [The Payments in Euro \(Credit Transfers and Direct Debits\) Regulations 2012 \(S.I. 2012/3122\)](#), reg. 1, **Sch. para. 4** (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 248(6)(i)(m)**)
- C47** S. 349 applied (with modifications) (E.W.) (9.7.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Referral Fees\) Regulations 2013 \(S.I. 2013/1635\)](#), regs. 1, **11(1)**
- C48** S. 349 applied (with modifications) (12.12.2014) by [The Immigration Act 2014 \(Bank Accounts\) Regulations 2014 \(S.I. 2014/3085\)](#), regs. 1, **12**



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- C49** S. 349 applied (with modifications) by 2009 c. 1, s. 89L (as inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **103**)
- C50** S. 349 applied (with modifications) by S.I. 2004/1045, reg. 18(5) (as inserted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 10(5)(c)**)
- C51** S. 349 applied (with modifications) by S.I. 2004/1045, reg. 38(8) (as added (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 10(5)(c)**)
- C52** S. 349 applied (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), arts. 1(5), **18(3)** (with Pt. 4)
- C53** S. 349 applied (with modifications) (18.9.2016) by [The Payment Accounts Regulations 2015 \(S.I. 2015/2038\)](#), reg. 1(2)(b), **Sch. 7 para. 3**
- C54** S. 349 applied (with modifications) (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 1 para. 20** (with reg. 7)
- C55** S. 349 applied (with modifications) (3.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Data Reporting Services Regulations 2017 \(S.I. 2017/699\)](#), regs. 1(2)(a)(b), **35**
- C56** S. 349 applied (with modifications) (13.10.2017) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(3)(c), **Sch. 6 para. 8** (with reg. 3)
- C57** S. 349 applied (with modifications) (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **21**

#### Commencement Information

- I2** S. 349 wholly in force at 18.6.2001; s. 349 not in force at Royal Assent see s. 431(2); s. 349 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b), **Sch. Pt. 2**; s. 349 in force in so far as not already in force at 18.6.2001 by [S.I. 2001/1820](#), art. 2, **Sch.**

#### Marginal Citations

- M1** 1978 c. 30.

### 350 Disclosure of information by the Inland Revenue.

- [<sup>F58</sup>(1) No obligation as to secrecy imposed by statute or otherwise prevents the disclosure of Revenue information to—
- (a) the FCA or the PRA, if the disclosure is made for the purpose of assisting or enabling that regulator to discharge its functions under this or any other Act, or
  - (b) the Secretary of State, if the disclosure is made for the purpose of assisting in the investigation of a matter under section 168 or with a view to the appointment of an investigator under that section.]
- (2) A disclosure may only be made under subsection (1) by or under the authority of the Commissioners of Inland Revenue.
- (3) Section 348 does not apply to Revenue information.
- (4) Information obtained as a result of [<sup>F59</sup>subsection (1)(b)] may not be used except—
- (a) for the purpose of deciding whether to appoint an investigator under section 168;
  - (b) in the conduct of an investigation under section 168;
  - (c) in criminal proceedings brought against a person under this Act or the <sup>M2</sup>Criminal Justice Act 1993 as a result of an investigation under section 168;

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- (d) for the purpose of taking action under this Act against a person as a result of an investigation under section 168;
  - (e) in proceedings before the Tribunal as a result of action taken as mentioned in paragraph (d).
- (5) Information obtained as a result of subsection (1) may not be disclosed except—
- (a) by or under the authority of the Commissioners of Inland Revenue;
  - (b) in proceedings mentioned in subsection (4)(c) or (e) or with a view to their institution.
- (6) Subsection (5) does not prevent the disclosure of information obtained as a result of subsection (1) to a person to whom it could have been disclosed under subsection (1).
- (7) “Revenue information” means information held by a person which it would be an offence under section 182 of the <sup>M3</sup>Finance Act 1989 for him to disclose.

#### Textual Amendments

- F58** S. 350(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 12 para. 20(2)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F59** Words in s. 350(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 12 para. 20(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

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

- C34** [Ss. 348-350](#) applied (14.11.2018) by [The Central Counterparties \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1184\)](#), regs. 1(3), **22**
- C58** S. 350 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1986 c. 53](#), s. **53A** (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 152**); [S.I. 2001/3538](#), art. **2(1)**
- S. 350 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1992 c. 40](#), s. **63A** (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), **Sch. 3 Pt. I para. 78**); [S.I. 2001/3538](#), art. **2(1)**
- C59** S. 350 restricted (7.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 17(6), [53\(1\)](#), **Sch. 2 Pt. 2 para. 18** (with s. 22); [S.I. 2005/1126](#), art. **2(1)**

#### Commencement Information

- I3** S. 350 wholly in force 3.9.2001; s. 350 not in force at Royal Assent see s. 431(2); s. 350(3)(7) in force at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); s. 350 in force in so far as not already in force at 3.9.2001 by [S.I. 2001/2632](#), art. 2(2), [Sch. Pt. 2](#)

#### Marginal Citations

- M2** [1993 c. 36](#).
- M3** [1989 c. 26](#).

<sup>F60</sup>**351 Competition information.**

.....



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### Textual Amendments

- F60** S. 351 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 21](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

### [<sup>F61</sup>351A] Disclosure under the UCITS directive

- (1) This section applies in relation to a disclosure made by a person who falls within subsection (2) for the purpose of compliance with requirements set out in rules made by [<sup>F62</sup>the FCA or the PRA] to implement Chapter VIII of the UCITS directive.
- (2) The following persons fall within this subsection—
- (a) the auditor of an authorised unit trust scheme [<sup>F63</sup>or authorised contractual scheme] that is a master UCITS;
  - (b) the trustee of an authorised unit trust scheme that is a master UCITS;
  - [<sup>F64</sup>(ba) the depositary of an authorised contractual scheme that is a master UCITS;]
  - (c) the auditor of an authorised unit trust scheme [<sup>F65</sup>or authorised contractual scheme] that is a feeder UCITS;
  - (d) the trustee of an authorised unit trust scheme that is a feeder UCITS; [<sup>F66</sup>...]
  - [<sup>F67</sup>(da) the depositary of an authorised contractual scheme that is a feeder UCITS; or]
  - [<sup>F68</sup>(e) a person acting on behalf of a person within any of paragraphs (a) to (da)]
- (3) A disclosure to which this section applies is not to be taken as a contravention of any duty to which the person making the disclosure is subject.
- (4) In this section, “authorised unit trust scheme”, [<sup>F69</sup>“authorised contractual scheme”], “master UCITS” and “feeder UCITS” have the meaning given in section 237.]

### Textual Amendments

- F61** S. 351A inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(28\)](#)
- F62** Words in s. 351A(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 22](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F63** Words in s. 351A(2)(a) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(17\)\(a\)\(i\)](#) (with reg. 24)
- F64** S. 351A(2)(ba) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(17\)\(a\)\(ii\)](#) (with reg. 24)
- F65** Words in s. 351A(2)(c) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(17\)\(a\)\(i\)](#) (with reg. 24)
- F66** Word in s. 351A(2)(d) omitted (6.6.2013) by virtue of [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(17\)\(a\)\(iii\)](#) (with reg. 24)
- F67** S. 351A(2)(da) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(17\)\(a\)\(iii\)](#) (with reg. 24)
- F68** S. 351A(2)(e) substituted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(17\)\(a\)\(iv\)](#) (with reg. 24)
- F69** Words in s. 351A(4) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, [3\(17\)\(b\)](#) (with reg. 24)

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### 352 Offences.

- (1) A person who discloses information in contravention of section 348 or 350(5) is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (3) A person is guilty of an offence if, in contravention of any provision of regulations made under section 349, he uses information which has been disclosed to him in accordance with the regulations.
- (4) A person is guilty of an offence if, in contravention of subsection (4) of section 350, he uses information which has been disclosed to him in accordance with that section.
- (5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.
- (6) In proceedings for an offence under this section it is a defence for the accused to prove—
  - (a) that he did not know and had no reason to suspect that the information was confidential information or that it had been disclosed in accordance with section 350;
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

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

- C60** S. 352 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 53A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152); S.I. 2001/3538, art. 2(1)  
S. 352 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 78; S.I. 2001/3538, art. 2(1)  
S. 352 extended (1.12.2001) by S.I. 2001/3648, arts. 1, 3(2)
- C61** S. 352 applied (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), regs. 16(2), 50(3) (with reg. 3)
- C62** S. 352 modified (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), reg. 50(4) (with reg. 3)
- C63** S. 352 applied (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), reg. 16(2)(3) (with reg. 3)
- C64** S. 352 applied (with modifications) (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), reg. 50(3)-(6) (with reg. 3)
- C65** S. 352 applied (with modifications) (5.5.2004) by The Credit Institutions (Reorganisation and Winding up) Regulations 2004 (S.I. 2004/1045), regs. 18, 38
- C66** S. 352 applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), reg. 43
- C67** S. 352 applied (2.3.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2) (a), 95, Sch. 5 para. 5 (with reg. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 155(6)(e) (with Sch. 2 para. 156))

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- C68** S. 352 applied (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), reg. 19, **Sch. para. 4**
- C69** S. 352 applied (9.2.2011 for certain purposes and 30.4.2011 otherwise) by The Electronic Money Regulations 2011 (S.I. 2011/99), regs. 1(2)(a)(xiv)(b), 62, **Sch. 3 para. 6** (with reg. 3)
- C70** S. 352 applied (with modifications) (15.1.2013) by The Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (S.I. 2012/3122), reg. 1, **Sch. para. 4** (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 248(6)(i)(m)**)
- C71** S. 352 applied (with modifications) (E.W.) (9.7.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (S.I. 2013/1635), regs. 1, **11(1)**
- C72** S. 352 applied (with modifications) (12.12.2014) by The Immigration Act 2014 (Bank Accounts) Regulations 2014 (S.I. 2014/3085), regs. 1, **12**
- C73** S. 352 applied (with modifications) by 2009 c. 1, s. 89L (as inserted (1.1.2015) by The Bank Recovery and Resolution Order 2014 (S.I. 2014/3329), arts. 1(2), **103**)
- C74** S. 352 applied (with modifications) by S.I. 2004/1045, reg. 18(5) (as inserted (10.1.2015) by The Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 2014/3348), art. 1(2), **Sch. 3 para. 10(5)(c)**)
- C75** S. 352 applied (with modifications) by S.I. 2004/1045, reg. 38(8) (as added (10.1.2015) by The Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 2014/3348), art. 1(2), **Sch. 3 para. 10(5)(c)**)
- C76** S. 352 applied (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), arts. 1(5), **18(3)** (with Pt. 4)
- C77** S. 352 applied (with modifications) (1.1.2016) by The Small and Medium Sized Business (Credit Information) Regulations 2015 (S.I. 2015/1945), regs. 1(2), **25(1)**
- C78** S. 352 applied (with modifications) (1.1.2016) by The Small and Medium Sized Business (Finance Platforms) Regulations 2015 (S.I. 2015/1946), regs. 1(2), **22(1)**
- C79** S. 352 applied (with modifications) (18.9.2016) by The Payment Accounts Regulations 2015 (S.I. 2015/2038), reg. 1(2)(b), **Sch. 7 para. 3**
- C80** S. 352 applied (with modifications) (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 1 para. 20** (with reg. 7)
- C81** S. 352 applied (with modifications) (3.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Data Reporting Services Regulations 2017 (S.I. 2017/699), regs. 1(2)(a)(b), **35**
- C82** S. 352 applied (with modifications) (13.10.2017) by The Payment Services Regulations 2017 (S.I. 2017/752), reg. 1(3)(c), **Sch. 6 para. 8** (with reg. 3)
- C83** S. 352 applied (with modifications) (1.1.2018) by The Packaged Retail and Insurance-based Investment Products Regulations 2017 (S.I. 2017/1127), reg. 1, **Sch. 1 para. 4**
- C84** S. 352 applied (with modifications) (27.2.2018) by The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018 (S.I. 2018/135), regs. 1(2), **21**

#### **Commencement Information**

- I4** S. 352 wholly in force at 3.9.2001; s. 352 not in force at Royal Assent see s. 431(2); s. 352 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; s. 352 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**

### **353 Removal of other restrictions on disclosure.**

- (1) The Treasury may make regulations permitting the disclosure of any information, or of information of a prescribed kind—
- (a) by prescribed persons for the purpose of assisting or enabling them to discharge prescribed functions under this Act or any rules or regulations made under it;

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- (b) by prescribed persons, or persons of a prescribed description, to the [<sup>F70</sup>FCA or the PRA] for the purpose of assisting or enabling the [<sup>F71</sup>either of them] to discharge prescribed functions.
- <sup>F72</sup>(c) .....
- (2) Regulations under this section may not make any provision in relation to the disclosure of confidential information by primary recipients or by any person obtaining confidential information directly or indirectly from a primary recipient.
- (3) If a person discloses any information as permitted by regulations under this section the disclosure is not to be taken as a contravention of any duty to which he is subject.

#### Textual Amendments

- F70** Words in s. 353(1)(b) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 12 para. 23\(1\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F71** Words in s. 353(1)(b) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 12 para. 23\(1\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F72** S. 353(1)(c) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\), arts. 1\(2\)\(6\), 10\(13\)](#)

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

- C85** S. 353 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1986 c. 53, s. 53A](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617, arts. 2, 8, 13\(1\), Sch. 3 Pt. II para. 152](#)); [S.I. 2001/3538, art. 2\(1\)](#)  
S. 353 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1992 c. 40, 63A](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617, arts. 2, 8, 13\(1\), Sch. 3 Pt. I para. 78](#)); [S.I. 2001/3538, art. 2\(1\)](#)
- C86** S. 353 applied (with modifications) by 2009 c. 1, s. 89L (as inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\), arts. 1\(2\), 103](#))
- C87** S. 353 applied (14.11.2018) by [The Central Counterparties \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1184\), regs. 1\(3\), 22](#)

### *[<sup>F73</sup>Information received from Bank of England*

#### Textual Amendments

- F73** S. 353A and cross-heading inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 12 para. 24](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

### **353A Information received from Bank of England**

- (1) [<sup>F74</sup>The FCA] must not disclose to any person specially protected information.
- (2) “Specially protected information” is information in relation to which the first and second conditions are met.
- (3) The first condition is that [<sup>F75</sup>the FCA received the information from the Bank of England.]

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- (4) The second condition is that the Bank notified the [<sup>F76</sup>FCA] that the Bank held the information for the purpose of its functions with respect to any of the following—
- (a) monetary policy;
  - (b) financial operations intended to support financial institutions for the purposes of maintaining stability;
  - (c) the provision of private banking services and related services.
- (5) The notification referred to in subsection (4) must be—
- (a) in writing, and
  - (b) given before, or at the same time as, the Bank discloses the information.
- (6) The prohibition in subsection (1) does not apply—
- <sup>F77</sup>(a) . . . . .
  - (b) where the Bank has consented to disclosure of the information;
  - (c) to information which has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by this section;
  - (d) to information which the [<sup>F78</sup>FCA] is required to disclose in pursuance of any EU obligation.
- (7) In this section references to disclosure by or to [<sup>F79</sup>the FCA] or by the Bank include references to disclosure by or to—
- (a) persons who are, or are acting as,—
    - (i) officers of, or members of the staff of, the [<sup>F80</sup>FCA], or
    - (ii) officers, employees or agents of the Bank, or
  - (b) auditors, experts, contractors or investigators appointed by the [<sup>F81</sup>FCA] or the Bank under powers conferred by this Act or otherwise.
- (8) References to disclosure by [<sup>F82</sup>the FCA] do not include references to disclosure between persons who fall within any paragraph of subsection (7)(a) or (b) in relation to [<sup>F83</sup>the FCA].
- (9) [<sup>F84</sup>The FCA] must take such steps as are reasonable in the circumstances to prevent the disclosure of specially protected information, in cases not excluded by subsection (6), by those who are or have been—
- (a) its officers or members of staff (including persons acting as its officers or members of staff);
  - (b) auditors, experts, contractors or investigators appointed by the [<sup>F85</sup>FCA] under powers conferred by this Act or otherwise;
  - (c) persons to whom the [<sup>F86</sup>FCA] has delegated any of its functions.

[<sup>F87</sup>In this section references to the Bank of England include the Bank acting in its capacity (10) as the PRA.]

#### Textual Amendments

- F74** Words in s. 353A(1) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016](#) (c. 14), s. 41(3), [Sch. 2 para. 46\(2\)](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)
- F75** Words in s. 353A(3) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016](#) (c. 14), s. 41(3), [Sch. 2 para. 46\(3\)](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)



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- F76** Word in s. 353A(4) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(4)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F77** S. 353A(6)(a) omitted (1.3.2017) by virtue of Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(5)(a)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F78** Word in s. 353A(6)(d) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(5)(b)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F79** Words in s. 353A(7) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(6)(a)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F80** Word in s. 353A(7)(a)(i) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(6)(b)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F81** Word in s. 353A(7)(b) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(6)(b)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F82** Words in s. 353A(8) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(7)(a)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F83** Words in s. 353A(8) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(7)(b)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F84** Words in s. 353A(9) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(8)(a)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F85** Word in s. 353A(9)(b) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(8)(b)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F86** Word in s. 353A(9)(c) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(8)(b)** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F87** S. 353A(10) inserted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 46(9)** (with Sch. 3); S.I. 2017/43, reg. 2(g)

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

- C88** S. 353A applied by 1998 c. 11, s. 7H (as inserted (6.7.2016) by Bank of England and Financial Services Act 2016 (c. 14), **ss. 11, 41(3)** (with Sch. 3); S.I. 2016/627, reg. 2(1)(l))

*Co-operation*

**<sup>F88</sup>354 Authority's duty to co-operate with others.**

.....

**Textual Amendments**

- F88** Ss. 354A-354C substituted for s. 354 (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 12 para. 25** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

**<sup>F88</sup>354AFCA's duty to co-operate with others**

- (1) The FCA must take such steps as it considers appropriate to co-operate with other persons (whether in the United Kingdom or elsewhere) who have functions—
  - (a) similar to those of the FCA, or
  - (b) in relation to the prevention or detection of financial crime.
- (2) The persons referred to in subsection (1) do not include the Bank of England or the PRA (but see sections 3D and 3Q).

*Status: Point in time view as at 10/12/2018.*

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[ Subsection (1) does not apply in relation to the Competition and Markets Authority in <sup>F89</sup>(2A) a case where the FCA has made a reference under section 131 of the Enterprise Act 2002 as a result of section 234I (but see section 234L).]

- (3) The FCA must take such steps as it considers appropriate to co-operate with—
- (a) the Panel on Takeovers and Mergers;
  - (b) an authority designated as a supervisory authority for the purposes of Article 4.1 of the Takeovers Directive;
  - (c) any other person or body that exercises functions of a public nature, under legislation in any country or territory outside the United Kingdom, that appear to the FCA to be similar to those of the Panel on Takeovers and Mergers.
- (4) Co-operation may include the sharing of information which the FCA is not prevented from disclosing.
- (5) “Financial crime” has the meaning given in section 1H(3).

#### Textual Amendments

- F88** Ss. 354A-354C substituted for s. 354 (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 25](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F89** S. 354A(2A) inserted (1.4.2015) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 8 para. 6](#); [S.I. 2014/2458](#), art. 3(b)(v)

#### **354B PRA's duty to co-operate with others**

- (1) The PRA must take such steps as it considers appropriate to co-operate with—
- (a) other persons (whether in the United Kingdom or elsewhere) who have functions similar to those of the PRA, and
  - (b) other bodies that have functions relevant to financial stability.
- (2) The persons referred to in subsection (1) do not include the [<sup>F90</sup>FCA (but see section 3D)].
- (3) Co-operation may include the sharing of information which the PRA is not prevented from disclosing.]

#### Textual Amendments

- F88** Ss. 354A-354C substituted for s. 354 (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 12 para. 25](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F90** Words in s. 354B(2) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 2 para. 47](#) (with [Sch. 3](#)); [S.I. 2017/43](#), reg. 2(g)

#### <sup>F91</sup>**354C PRA's duty to provide information to Bank of England**

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#### Textual Amendments

- F91** S. 354C omitted (1.3.2017) by virtue of [Bank of England and Financial Services Act 2016 \(c. 14\), s. 41\(3\)](#), [Sch. 2 para. 48](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)

*<sup>F92</sup>Provision of information to ESMA, the Commission and other EEA States*

#### Textual Amendments

- F92** Ss. 354D-354G and cross-heading inserted (8.12.2016) by [The Financial Services and Markets \(Disclosure of Information to the European Securities and Markets Authority etc. and Other Provisions\) Regulations 2016 \(S.I. 2016/1095\)](#), regs. 1, **3(3)**

### 354D. Information under the markets in financial instruments directive

- (1) The appropriate regulator must give ESMA—
- (a) information about any general difficulties encountered by UK investment firms in relation to their establishment of a branch or their provision of investment services and activities in a country or territory other than an EEA State;
  - (b) a return for each calendar year showing aggregated information about all—
    - (i) cases dealt with under section 177(2) (failure to comply with information gathering and investigation requirements treated as contempt of court) where the requirement was imposed in connection with the regulator’s markets in financial instruments directive functions;
    - (ii) convictions for an offence under section 177(3), (4) or (6) where the proceedings were instituted by the regulator in connection with the regulator’s markets in financial instruments directive functions;
    - (iii) final notices and supervisory notices given by the regulator in relation to the contravention of a markets in financial instruments directive requirement; <sup>F93</sup>...
  - (c) information about any complaint and redress procedures of the kind referred to in [<sup>F94</sup>Article 75.1] of the markets in financial instruments directive which are available in the United Kingdom [<sup>F95</sup>; and
  - (d) information about, and the final judgment of the court in relation to, any convictions where the proceedings were instituted by the regulator in connection with the regulator’s functions under the markets in financial instruments directive or the markets in financial instruments regulation.]
- (2) The appropriate regulator must also give the information specified in subsection (1) (a) to the Commission.
- (3) The PRA is the “appropriate regulator”—
- (a) for the purposes of subsection (1)(a), in relation to UK investment firms which are PRA-authorized persons;
  - (b) for the purposes of subsection (1)(b)(i), where the case relates to a failure to comply with a requirement imposed by the PRA or by a person appointed by the PRA;

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- (c) for the purposes of subsection (1)(b)(ii), where the conviction is for an offence in relation to which the PRA is the appropriate regulator under section 401(3A);
  - (d) for the purposes of subsection (1)(b)(iii), where the notice was given by the PRA; and
  - (e) for the purposes of subsection (1)(c), where the procedure is only available in relation to investment firms which are PRA-authorised persons.
- (4) The FCA is the “appropriate regulator” in any other case.
- (5) The FCA must give ESMA—
- (a) notice of any determination which the FCA makes in relation to any shares in compliance with [<sup>F96</sup>Article 14 of the markets in financial instruments regulation];
  - (b) a list of the regulated markets (within the meaning given by [<sup>F97</sup>Article 4.1.21] of the markets in financial instruments directive) for which the United Kingdom is the home Member State (within the meaning given by [<sup>F98</sup>Article 4.1.55(b)] of that directive); and
  - (c) notice of any change to that list.
- (6) The FCA must also give the information specified in subsection (5)(b) and (c) to all EEA States other than the United Kingdom.
- (7) Section 424A (meaning of “investment firm”) has effect for the purposes of this section as if subsections (3) and (4) were omitted.
- (8) In this section—
- “final notice” means a notice given under section 390;
  - “markets in financial instruments directive function” means a function conferred by any provision made by or under this Act to the extent that it implements the markets in financial instruments directive;
  - “markets in financial instruments directive requirement” means a requirement imposed—
    - (a) by or under any provision made by or under this Act which implements the markets in financial instruments directive; or
    - (b) by any directly applicable EU regulation made under the markets in financial instruments directive;
  - “supervisory notice” has the meaning given by section 395(13); and
  - “UK investment firm” means an investment firm whose home Member State (within the meaning given by [<sup>F99</sup>Article 4.1.55(a)] of the markets in financial instruments directive) is the United Kingdom.

#### **Textual Amendments**

- F93** Word in s. 354D(1)(b)(iii) omitted (21.7.2018) by virtue of [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(4)(a)(i)**
- F94** Words in s. 354D(1)(c) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(4)(a)(ii)**

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- F95** S. 354D(1)(d) and word inserted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(4)(a)(iii)**
- F96** Words in s. 354D(5)(a) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(4)(b)(i)**
- F97** Words in s. 354D(5)(b) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(4)(b)(ii)(aa)**
- F98** Words in s. 354D(5)(b) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(4)(b)(ii)(bb)**
- F99** Words in s. 354D(8) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(4)(c)**

### **354E. Competent authorities under the markets in financial instruments directive: designation and co-operation**

- (1) The Treasury must inform the Commission, ESMA and the competent authorities established in EEA States other than the United Kingdom—
  - (a) of the identity of the authority (or authorities) for the time being designated by the Treasury under [<sup>F100</sup>Article 67.1] of the markets in financial instruments directive (designation of authorities competent to carry out duties under that directive); and
  - (b) if more than one authority is designated, of the division of responsibilities between them.
- (2) The Treasury must inform the Commission, ESMA and EEA States other than the United Kingdom of the identity of the authority for the time being designated by the Treasury under [<sup>F101</sup>Article 79.1] of the markets in financial instruments directive as a contact point for the purposes of that directive (obligation to co-operate with competent authorities of other member States).
- (3) Subsection (4) applies where the FCA or the PRA has good reason to suspect that any person, other than an authorised person who has a Part 4A permission or a recognised investment exchange, has acted or is acting in an EEA State other than the United Kingdom in a manner contrary to the markets in financial instruments directive.
- (4) The FCA must give a competent authority established in that State and ESMA notice of those suspicions, together with information, which is as specific as reasonably practicable under the circumstances, about the reason for those suspicions.
- (5) Subsections (6) and (7) apply where a competent authority established in an EEA State other than the United Kingdom informs the FCA that it has good reason to suspect that an authorised person who has a Part 4A permission or a recognised investment exchange has acted or is acting in a manner contrary to the markets in financial instruments directive.
- (6) If the information relates to a PRA-authorised person, the FCA must inform the PRA.
- (7) The FCA must inform the competent authority and ESMA—
  - (a) of the outcome of any action taken by the FCA or PRA in response to receiving that information; and

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- (b) if reasonably practicable under the circumstances, of significant interim developments resulting from that action.
- (8) Subsections (9) and (10) apply where the FCA receives a request by a competent authority established in an EEA State other than the United Kingdom—
  - (a) under [F102 Article 80] of the markets in financial instruments directive for co-operation in carrying out any investigation, on-the-spot verification or supervisory activity; or
  - (b) for the supply of information required for the purposes referred to in [F103 Article 81.1] of that directive.
- (9) If the request relates to a PRA-authorised person, the FCA must inform the PRA.
- (10) Where the FCA or the PRA refuses on the grounds in [F104 Article 83(a) or (b)] of the markets in financial instruments directive to act on the request, the FCA must give the competent authority and ESMA notice of the refusal, together with as much detailed information as possible about the reasons for the refusal.
- (11) The PRA must provide the FCA with information required by the FCA for the purposes of complying with subsections (4), (7) and (10).
- (12) In this section “competent authority” means an authority designated by an EEA State under [F105 Article 67.1] of the markets in financial instruments directive.

#### Textual Amendments

- F100** Words in s. 354E(1)(a) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(5)(a)**
- F101** Words in s. 354E(2) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(5)(b)**
- F102** Words in s. 354E(8)(a) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(5)(c)(i)**
- F103** Words in s. 354E(8)(b) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(5)(c)(ii)**
- F104** Words in s. 354E(10) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(5)(d)**
- F105** Words in s. 354E(12) substituted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **2(5)(e)**

#### 354F. Information under the transparency obligations directive

- (1) The FCA must give ESMA notice of any exemption which the FCA grants from a requirement referred to in Article 23.1 of the transparency obligations directive (requirement relating to the provision of information by issuers of transferable securities situated in third countries).
- (2) “Transparency obligations directive” has the meaning given in section 103(1).

#### 354G. Information under the UCITS directive

- (1) The FCA must give the Commission and ESMA—

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- (a) information about any general difficulties which UKUCITS (within the meaning given in section 237(3)) encounter in marketing their units in a country or territory other than an EEA State; and
  - (b) the lists referred to in the third sub-paragraph of Article 52.4 of the UCITS directive (categories of bonds and of authorised issuers) and the notice required to be attached to those lists (specifying the status of guarantees offered).
- (2) The Treasury must inform the Commission and ESMA—
- (a) of the identity of the authority (or authorities) for the time being designated by the Treasury under Article 97.1 of the UCITS directive (designation of authorities competent to carry out duties under that directive);
  - (b) if more than one authority is designated, of the division of responsibilities between them; and
  - (c) of the names of the authorities with which the authority (or authorities) so designated may exchange information pursuant to Article 103.1 and 103.4 of the UCITS directive.
- (3) The Treasury must also give the information specified in subsection (2)(c) to all other EEA States.
- (4) In this section “units” means the rights or interests (however described) of the participants in a UK UCITS.]

#### [<sup>F106</sup>354H] **Information under the Insurance Distribution Directive**

- (1) The FCA and the PRA must give the Commission information about any general difficulties which UK insurance distributors encounter—
- (a) in establishing themselves, or
  - (b) in carrying out insurance distribution or reinsurance distribution, in any territory or country other than an EEA State.
- (2) In this section—
- “UK insurance distributor” is an insurance distributor, reinsurance intermediary or reinsurance undertaking (within the meanings in Article 2.1(5), (7) and (8) of the insurance distribution directive) whose home member state (within the meaning of Article 2.1(10) of the insurance distribution directive) is the United Kingdom;
  - “insurance distribution” has the meaning given in Article 2.1(1) of the insurance distribution directive; and
  - “reinsurance distribution” has the meaning given in Article 2.1(2) of the insurance distribution directive.]

#### **Textual Amendments**

**F106** S. 354H inserted (1.10.2018) by [The Insurance Distribution \(Regulated Activities and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/546\)](#), arts. 1(2), 15

**Status:**

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**Changes to legislation:**

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