



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXVI

#### NOTICES

##### *Publication*

#### **391 Publication.**

(1) Neither the Authority nor a person to whom a warning notice <sup>F1</sup> . . . is given or copied may publish the notice or any details concerning it.

[<sup>F2</sup>(1A) A person to whom a decision notice is given or copied may not publish the notice or any details concerning it unless the Authority has published the notice or those details.]

(2) A notice of discontinuance must state that, if the person to whom the notice is given consents, the Authority may publish such information as it considers appropriate about the matter to which the discontinued proceedings related.

(3) A copy of a notice of discontinuance must be accompanied by a statement that, if the person to whom the notice is copied consents, the Authority may publish such information as it considers appropriate about the matter to which the discontinued proceedings related, so far as relevant to that person.

(4) The Authority must publish such information about the matter to which a [<sup>F3</sup>decision notice or] final notice relates as it considers appropriate.

(5) When a supervisory notice takes effect, the Authority must publish such information about the matter to which the notice relates as it considers appropriate.

(6) But the Authority may not publish information under this section if publication of it would, in its opinion, be unfair to the person with respect to whom the action was taken or prejudicial to the interests of consumers.

(7) Information is to be published under this section in such manner as the Authority considers appropriate.

*Status: Point in time view as at 27/02/2013.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Publication is up to date with all changes known to be in force on or before 30 May 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)*

[<sup>F4</sup>(7A) Where the Authority publishes information under subsection (4) or (5) in respect of a final notice or a supervisory notice which relates to a contravention of a requirement falling within subsection (7B) at the same time as it publishes the information it must notify ESMA that it has done so.

(7B) A requirement falls within this subsection if it is imposed—

- (a) by or under any provision made by or under this Act which implements Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse),
- (b) by any directly applicable EU regulation made under that directive,
- (c) by or under any provision made by or under this Act which implements the markets in financial instruments directive, or
- (d) by any directly applicable EU regulation made under the markets in financial instruments directive.]

(8) For the purposes of determining when a supervisory notice takes effect, a matter to which the notice relates is open to review if—

- (a) the period during which any person may refer the matter to the Tribunal is still running;
- (b) the matter has been referred to the Tribunal but has not been dealt with;
- (c) the matter has been referred to the Tribunal and dealt with but the period during which an appeal may be brought against the Tribunal’s decision is still running; or
- (d) such an appeal has been brought but has not been determined.

(9) “Notice of discontinuance” means a notice given under section 389.

(10) “Supervisory notice” has the same meaning as in section 395.

[<sup>F5</sup>(11) Section 425A (meaning of “consumers”) applies for the purposes of this section.]

#### Textual Amendments

- F1** Words in s. 391(1) omitted (12.10.2010) by virtue of Financial Services Act 2010 (c. 28), ss. 13(2), 26(3); S.I. 2010/2480, art. 2 (with art. 4)
- F2** S. 391(1A) inserted (12.10.2010) by Financial Services Act 2010 (c. 28), ss. 13(3), 26(3); S.I. 2010/2480, art. 2 (with art. 4)
- F3** Words in s. 391(4) inserted (12.10.2010) by Financial Services Act 2010 (c. 28), ss. 13(4), 26(3); S.I. 2010/2480, art. 2 (with art. 4)
- F4** S. 391(7A)(7B) inserted (16.4.2012) by The Financial Services (Omnibus 1 Directive) Regulations 2012 (S.I. 2012/916), regs. 1, 2(13)
- F5** S. 391(11) substituted (8.4.2010) by Financial Services Act 2010 (c. 28), ss. 24(1), 26(1)(l), Sch. 2 para. 28

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

- C1** S. 391 applied (1.12.2001) by S.I. 2001/1228, regs. 1(2)(c), 9 (with reg. 1(2)(3)); S.I. 2001/3538, art. 2(1)
- C2** S. 391 applied (N.I.) (1.11.2004) by Open-Ended Investment Companies Regulations (Northern Ireland) 2004 (S.R. 2004/335), regs. 1(1)(b), 9 (with reg. 1(2))
- C3** S. 391(4)(6)(7) applied (1.12.2001) by S.I. 2001/2957, arts. 1, 13(8)(a), S.I. 2001/3538, art. 2(1)
- C4** S. 391(4) applied (1.12.2001) by S.I. 2001/3592, arts. 1(2), 61(7), 85(5)(b), 110(7), 115(5), 122(4), 129 (with art. 23(2))

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- C5** S. 391(8) applied (N.I.) (1.11.2004) by [Open-Ended Investment Companies Regulations \(Northern Ireland\) 2004 \(S.R. 2004/335\)](#), regs. 1(1)(b), **27(14)** (with reg. 1(2))
- C6** S. 391(8)(a)-(d) applied (1.5.2009 for certain purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2)(b)(v)(c), {11(13)} (with reg. 3)
- C7** S. 391(11) modified (18.6.2001) by [S.I. 2001/1821](#), **arts. 1(1), 3(5)**

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