



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXVI

#### NOTICES

##### *The Authority's procedures*

#### **395 The Authority's procedures.**

- (1) The Authority must determine the procedure that it proposes to follow in relation to the giving of—
  - (a) supervisory notices; and
  - (b) warning notices and decision notices.
- (2) That procedure must be designed to secure, among other things, that the decision which gives rise to the obligation to give any such notice is taken by a person not directly involved in establishing the evidence on which that decision is based.
- (3) But the procedure may permit a decision which gives rise to an obligation to give a supervisory notice to be taken by a person other than a person mentioned in subsection (2) if—
  - (a) the Authority considers that, in the particular case, it is necessary in order to protect the interests of consumers; and
  - (b) the person taking the decision is of a level of seniority laid down by the procedure.
- (4) A level of seniority laid down by the procedure for the purposes of subsection (3)(b) must be appropriate to the importance of the decision.
- (5) The Authority must issue a statement of the procedure.
- (6) The statement must be published in the way appearing to the Authority to be best calculated to bring it to the attention of the public.

*Status: Point in time view as at 28/08/2007.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: The Authority's procedures is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) The Authority may charge a reasonable fee for providing a person with a copy of the statement.
- (8) The Authority must, without delay, give the Treasury a copy of any statement which it issues under this section.
- (9) When giving a supervisory notice, or a warning notice or decision notice, the Authority must follow its stated procedure.
- (10) If the Authority changes the procedure in a material way, it must publish a revised statement.
- (11) The Authority's failure in a particular case to follow its procedure as set out in the latest published statement does not affect the validity of a notice given in that case.
- (12) But subsection (11) does not prevent the Tribunal from taking into account any such failure in considering a matter referred to it.
- (13) "Supervisory notice" means a notice given in accordance with section—
- (a) 53(4), (7) or (8)(b);
  - (b) 78(2) or (5);
  - [<sup>F1</sup>(bza) 78A(2) or (8)(b);]
  - [<sup>F2</sup>(ba) 96C;]
  - [<sup>F3</sup>(bb) 87O(2) or (5);]
  - (c) 197(3), (6) or (7)(b);
  - (d) 259(3), (8) or (9)(b);
  - (e) 268(3), (7)(a) or (9)(a) (as a result of subsection (8)(b));
  - (f) 282(3), (6) or (7)(b);
  - (g) 321(2) or (5).

#### Textual Amendments

- F1** S. 395(13)(bza) inserted (12.7.2007) by [The Regulatory Reform \(Financial Services and Markets Act 2000\) Order 2007 \(S.I. 2007/1973\)](#), [art. 8](#)
- F2** S. 395(13)(ba) inserted (1.7.2005) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2005 \(S.I. 2005/381\)](#), [reg. 7](#)
- F3** S. 395(13)(bb) inserted (1.7.2005) by [The Prospectus Regulations 2005 \(S.I. 2005/1433\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 14](#)

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

- C1** S. 395 applied (1.12.2001) by [S.I. 2001/1228](#), [regs. 1\(2\)\(c\)](#), 10 (with [reg. 1\(2\)\(3\)](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)  
S. 395 amended (1.12.2001) by [S.I. 2001/1228](#), [regs. 1\(2\)\(c\)](#), 27(15) (with [reg. 1\(2\)\(3\)](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C2** S. 395 applied (N.I.) (1.11.2004) by [Open-Ended Investment Companies Regulations \(Northern Ireland\) 2004 \(S.R. 2004/335\)](#), [regs. 1\(1\)\(b\)](#), 10 (with [reg. 1\(2\)](#))
- C3** S. 395 modified (N.I.) (1.11.2004) by [Open-Ended Investment Companies Regulations \(Northern Ireland\) 2004 \(S.R. 2004/335\)](#), [regs. 1\(1\)\(b\)](#), 27(15) (with [reg. 1\(2\)](#))
- C4** S. 395(1)(9) excluded (1.12.2001) by [S.I. 2001/2957](#), [arts. 1](#), 12(9); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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### **396 Statements under section 395: consultation.**

- (1) Before issuing a statement of procedure under section 395, the Authority must publish a draft of the proposed statement in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the Authority within a specified time.
- (3) Before issuing the proposed statement of procedure, the Authority must have regard to any representations made to it in accordance with subsection (2).
- (4) If the Authority issues the proposed statement of procedure it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (2); and
  - (b) its response to them.
- (5) If the statement of procedure differs from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant, the Authority must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The Authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (7) This section also applies to a proposal to revise a statement of policy.

**Status:**

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