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## STATUTORY INSTRUMENTS

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# 2001 No. 2188

## The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

### PART V

#### TRANSITIONAL PROVISIONS

##### Interpretation

**13.** In this Part—

“pre-commencement information” means information which is subject to restrictions (with or without qualifications or exceptions) on disclosure by virtue of a pre-commencement provision;

“pre-commencement provision” means—

(a) any provision in—

- (i) Schedule 2B to the Insurance Companies Act 1982 <sup>F1</sup>;
- (ii) Part VIII of the Financial Services Act 1986 <sup>F2</sup>;
- (iii) Part V of the Banking Act 1987 <sup>F3</sup>; or
- (iv) SRO rules;

which imposes restrictions on the disclosure of information, or creates exceptions or qualifications to such restrictions; or

(b) regulation 48 of the Investment Services Regulations 1995 <sup>F4</sup>;

“recognised self-regulating organisation” means a body which immediately before the coming into force of section 348 of the Act was a recognised self-regulating organisation within the meaning of section 8(1) of the Financial Services Act 1986, or a recognised self-regulating organisation for friendly societies within the meaning of Schedule 11 to that Act;

“SRO rules” means the rules of a recognised self-regulating organisation;

“transitional information” means information which immediately before the coming into force of section 19 of the Act was subject to restrictions on disclosure by virtue of a pre-commencement provision.

**F1** 1982 c. 50.

**F2** 1986 c. 60.

**F3** 1987 c. 22.

**F4** S.I. 1995/3275. Regulation 48 was amended by Regulation 11 of S.I. 1996/1669.

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## Disclosure of pre-commencement information

**14.**—(1) Before the coming into force of section 19 of the Act, each pre-commencement provision is to be treated as permitting the disclosure of pre-commencement information—

- (a) in accordance with regulation 3(1) as if it were confidential information;
  - (b) to the Authority, the Secretary of State or the Treasury for the purpose referred to in regulation 3(2);
  - (c) to any person for the purposes referred to in regulation 4; and
  - (d) to—
    - (i) a person mentioned in regulation 5(3) for the purpose referred to in regulation 5(1)(a); or
    - (ii) any person for the purposes referred to in regulation 5(1)(b), but only if the proceedings in question are of the kind referred to in regulation 5(6)(a), (b) or (c).
- (2) Paragraph (1) is not to be taken as—
- (a) precluding disclosure of pre-commencement information where that is otherwise permitted under the pre-commencement provision in question; or
  - (b) permitting disclosure in contravention of any of the directive restrictions.

## Disclosure of transitional information

**15.**—(1) After the coming into force of section 19 of the Act, sections 348, 349 and 352 of the Act apply in relation to transitional information in the same way as they apply in relation to confidential information within the meaning of section 348(2) of the Act.

- (2) Paragraph (1) does not apply to transitional information which—
- (a) 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 section 348 of the Act or a pre-commencement provision; or
  - (b) satisfies the criterion set out in section 348(4)(b) of the Act.
- (3) For the purposes of sections 348 and 349 of the Act as they apply by virtue of paragraph (1)—
- (a) a person who holds transitional information is to be treated as a primary recipient of the information if he—
    - (i) obtained it as mentioned in paragraph 1(2) or 5(1)(a) of Schedule 2B to the Insurance Companies Act 1982 <sup>F5</sup>;
    - (ii) was a primary recipient of the information for the purposes of section 179 of the Financial Services Act 1986 <sup>F6</sup>;
    - (iii) received it as mentioned in section 82(1)(a) of the Banking Act 1987 <sup>F7</sup>; or
    - (iv) received it as mentioned in regulation 48(1) of the Investment Services Regulations 1995 <sup>F8</sup>;
  - (b) any other person who holds transitional information is to be treated as having obtained the information directly or indirectly from a primary recipient.
- (4) Transitional information which is subject to directive restrictions imposed by the single market directives or the UCITS directive is to be treated for the purposes of these Regulations as single market directive information or UCITS directive information respectively.
- (5) Part IV of these Regulations does not apply to transitional information which is subject to directive restrictions imposed by article 25.3 of the listing particulars directive.

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- F5** Paragraphs 1(2) and 5(1)(a) were modified by S.I. 1997/2781, art. 8, **Sch. paras. 53** and 57(a)(i).
- F6** Section 179 was amended by the Companies Act 1989 (c. 40), **Sch. 24**; the Friendly Societies Act 1992 (c. 40), **Sch. 18**, para. 4; the Bank of England Act 1998 (c. 11), **Sch. 5**, para. 65(1) and Sch. 9; and S.I. 1992/1315 art. 10(1), Sch. 4, para. 4; and modified by S.I. 1992/3218, **Sch. 9**, para. 40; S.I. 1995/3275, **reg. 48**; and S.I. 1996/1669, **reg. 12**.
- F7** Section 82 was modified by S.I. 1992/3218, **Sch. 8**, para 22.
- F8** S.I. 1995/3275. Regulation 48 was amended by Regulation 11 of S.I. 1996/1669.

### Disclosure by recognised self-regulating organisations

**16.** If a recognised self-regulating organisation discloses any information to the Authority for the purpose of enabling or assisting the Authority to discharge functions corresponding to functions of the organisation, the disclosure is not to be taken as a contravention of any duty to which the organisation is subject.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Instrument ext (transl provn) by [S.I. 2001/3648 arts 46–8](#)
- Regulations amendment to earlier affecting S.I. 2009/209, Sch. 5 para. 10 by [S.I. 2015/1911 reg. 17\(3\)](#)
- Regulations amendment to earlier affecting provision S.I. 2012/3122, Sch. para. 9 by [S.I. 2019/681 reg. 7](#)
- Regulations amendment to earlier affecting provision SI 2011/99, Sch. 3 para. 11 by [S.I. 2019/681 reg. 14\(2\)](#)
- Regulations amendment to earlier affecting provision SI 2017/752, Sch. 6 para. 13 by [S.I. 2019/681 reg. 9\(3\)\(b\)](#)
- Regulations applied by [S.I. 2003/1102 reg. 16\(4\)](#)
- Regulations applied by [S.I. 2004/1045 reg. 18\(4\)](#)
- Regulations applied by [S.I. 2004/1045 reg. 38\(6\)](#)
- Regulations applied by [S.I. 2004/353 reg. 16\(4\)](#)
- Regulations applied by [S.I. 2014/3085 reg. 13](#)
- Regulations applied by [S.I. 2017/699 reg. 42](#)
- Regulations applied by [S.I. 2017/701 Sch. 1 para. 28](#)
- Regulations applied (with modifications) by [S.I. 2011/99 reg. 62Sch. 3 para. 11](#)
- Regulations applied (with modifications) by [S.I. 2012/3122 Sch. para. 9](#)
- Regulations applied (with modifications) by [S.I. 2015/1945 reg. 25\(2\)](#)
- Regulations applied (with modifications) by [S.I. 2015/1946 reg. 22\(2\)](#)
- Regulations applied (with modifications) by [S.I. 2015/2038 Sch. 7 para. 9](#)
- Regulations applied (with modifications) by [S.I. 2017/752 Sch. 6 para. 13](#)
- Regulations modified (temp.) by [S.I. 2001/2659 art. 7](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Pt. 5 Ch. 1 heading Pt. 5 heading substituted and renumbered as Pt. 5 Ch. 1 by [S.I. 2019/681 reg. 4\(14\)](#)
- Pt. 5 Ch. 2 inserted by [S.I. 2019/681 reg. 4\(17\)](#)
- Pt. 5 Ch. 1 heading words substituted in earlier amending provision S.I. 2019/681, reg. 4(14) by [S.I. 2020/1301 reg. 3Sch. para. 41\(c\)](#)
- Pt. 5 Ch. 2 words substituted in earlier amending provision S.I. 2019/681, reg. 4(17) by [S.I. 2020/1301 reg. 3Sch. para. 41\(e\)](#)
- Pt. 3 heading words substituted by [S.I. 2012/916 reg. 3\(5\)](#)
- Pt. 4 heading words substituted by [S.I. 2012/916 reg. 3\(8\)](#)
- Sch. 1 Pt. 5 inserted by [S.I. 2010/2628 Sch. 2 para. 2\(4\)\(c\)](#)
- Sch. 1 Pt. 6 inserted by [S.I. 2020/1406 reg. 6\(5\)\(b\)](#)
- Sch. 1 Pt. 5 omitted by [S.I. 2019/681 reg. 4\(23\)](#)
- Sch. 1 heading words substituted by [S.I. 2012/916 reg. 3\(12\)](#)
- Sch. 2 heading words substituted by [S.I. 2012/916 reg. 3\(14\)](#)
- Sch. 3(b)(x) word substituted by [S.I. 2013/2329 Sch. para. 34\(c\)\(ii\)](#)
- Sch. 3(b)(x) words omitted by [S.I. 2013/2329 Sch. para. 34\(c\)\(i\)](#)
- Sch. 3 para. (b)(v) words omitted by [S.I. 2014/549 Sch. 1 para. 30\(4\)\(a\)](#)
- Sch. 3 para. (b)(vi) words substituted by [S.I. 2014/549 Sch. 1 para. 30\(4\)\(b\)](#)

- reg. 2(f) words inserted by S.I. 2016/225 reg. 4(2)
- reg. 3(1)(d) inserted by S.I. 2013/472 Sch. 2 para. 47(3)(b)(ii)
- reg. 8(a) word omitted by S.I. 2013/504 reg. 35(3)(a)
- reg. 8(a) words substituted by S.I. 2012/916 reg. 3(6)
- reg. 8(a) words substituted by S.I. 2019/681 reg. 4(7)(a)
- reg. 8(b) word omitted by S.I. 2014/3348 Sch. 3 para. 8(3)(a)
- reg. 8(b) word omitted by S.I. 2019/681 reg. 4(7)(b)(i)
- reg. 8(b) words substituted by S.I. 2019/681 reg. 4(7)(b)(ii)
- reg. 8(b)(i) words substituted by S.I. 2017/701 Sch. 3 para. 4(3)(a)(i)
- reg. 8(b)(ii) words substituted by S.I. 2017/701 Sch. 3 para. 4(3)(a)(ii)
- reg. 8(c) and word inserted by S.I. 2013/504 reg. 35(3)(b)
- reg. 8(c) omitted by S.I. 2019/681 reg. 4(7)(c)
- reg. 8(c) word omitted by S.I. 2016/680 reg. 18(3)(a)
- reg. 8(d) and word inserted by S.I. 2014/3348 Sch. 3 para. 8(3)(b)
- reg. 8(d) word inserted by S.I. 2017/701 Sch. 3 para. 4(3)(b)
- reg. 8(d) word omitted by S.I. 2016/715 Sch. 2 para. 2(3)(a)
- reg. 8(d) word omitted by S.I. 2019/681 reg. 4(7)(d)(i)
- reg. 8(d) word omitted by S.I. 2019/681 reg. 4(7)(d)(ii)
- reg. 8(e) and word inserted by S.I. 2016/680 reg. 18(3)(b)
- reg. 8(e) omitted by S.I. 2017/701 Sch. 3 para. 4(3)(c)
- reg. 8(e) word inserted by S.I. 2016/715 Sch. 2 para. 2(3)(b)
- reg. 8(f) inserted by S.I. 2016/715 Sch. 2 para. 2(3)(c)
- reg. 8(f) omitted by S.I. 2019/681 reg. 4(7)(e)
- art. 9(1) word inserted by S.I. 2013/504 reg. 35(4)(a)
- reg. 9(1A) inserted by S.I. 2013/3115 Sch. 2 para. 55(3)(a)
- reg. 9(1A) words omitted by S.I. 2019/681 reg. 4(8)(b)
- reg. 9(2)(d)(f) omitted by S.I. 2015/575 Sch. 2 para. 12(3)(b)
- reg. 9(2)(f) and word inserted by S.I. 2007/3255 reg. 3(3)(b)
- reg. 9(2A) omitted by S.I. 2019/681 reg. 13(4)(a)
- reg. 9(2A) word omitted by S.I. 2004/3379 reg. 19(3)(b)
- reg. 9(2B) inserted by S.I. 2013/1773 Sch. 2 para. 12(3)(c)
- art. 9(2B)(a) substituted by 2018 c. 12 Sch. 19 para. 278(2)
- reg. 9(2B)(a) word inserted by S.I. 2019/681 reg. 4(8)(d)(i)
- reg. 9(2B)(a) words substituted by S.I. 2019/419 Sch. 3 para. 37(2)
- reg. 9(2B)(b) words substituted by S.I. 2019/681 reg. 4(8)(d)(ii)
- reg. 9(2B)(b)(iii) words substituted in earlier amending provision S.I. 2019/681, reg. 4(8)(d)(ii) by S.I. 2020/1301 reg. 3Sch. para. 41(b)
- reg. 9(2B)(c) omitted by S.I. 2019/681 reg. 4(8)(d)(iii)
- reg. 9(2C) inserted by S.I. 2014/3348 Sch. 3 para. 8(4)(c)
- reg. 9(2C) substituted by S.I. 2019/681 reg. 4(8)(e)
- reg. 9(2D) inserted by S.I. 2016/680 reg. 18(4)(c)
- reg. 9(2D) omitted by S.I. 2017/701 Sch. 3 para. 4(4)(d)
- reg. 9(2ZA) inserted by S.I. 2013/1773 Sch. 2 para. 12(3)(b)
- reg. 9(2ZA) words inserted by S.I. 2019/681 reg. 4(8)(c)(ii)
- reg. 9(2ZA) words substituted by S.I. 2017/701 Sch. 3 para. 4(4)(c)
- reg. 9(2ZA)(b) substituted by S.I. 2013/3115 Sch. 2 para. 55(3)(b)
- reg. 9(2ZA)(e) word omitted by S.I. 2019/681 reg. 4(8)(c)(i)
- reg. 9(3)(b)(v) and word inserted by S.I. 2007/3255 reg. 3(4)(b)
- reg. 9(3)(b)(vi) substituted for reg. 9(3)(b)(iii)(iv)(v) by S.I. 2019/681 reg. 13(4)(b)
- reg. 9(3A)(a) substituted by S.I. 2019/681 reg. 4(8)(g)
- reg. 9(3A)(a) words substituted by S.I. 2017/701 Sch. 3 para. 4(4)(e)
- reg. 9(3A)(a) words substituted by S.I. 2019/681 reg. 13(4)(c)
- reg. 9(3B)(b) omitted by S.I. 2019/681 reg. 4(8)(h)(i)
- reg. 9(3B)(c) word omitted by S.I. 2012/916 reg. 3(7)(a)
- reg. 9(3B)(d) words omitted by S.I. 2019/681 reg. 4(8)(h)(ii)
- reg. 9(3B)(e)(f) inserted by S.I. 2012/916 reg. 3(7)(b)
- reg. 9(3B)(e) omitted by S.I. 2019/681 reg. 4(8)(h)(iii)
- reg. 9(3B)(f) omitted by S.I. 2019/681 reg. 4(8)(h)(iii)

- reg. 9(3C)(3D) inserted by S.I. 2011/1613 reg. 5(3)(c)
- reg. 9(3C) word omitted by S.I. 2019/681 reg. 4(8)(i)(i)
- reg. 9(3C)(a) words substituted by S.I. 2019/681 reg. 4(8)(i)reg. 4(8)(ii)(aa)
- reg. 9(3C)(a) words substituted by S.I. 2019/681 reg. 4(8)(i)reg. 4(8)(ii)(bb)
- reg. 9(3D)(b) words substituted by S.I. 2019/681 reg. 4(8)(j)(i)
- reg. 9(3D)(e) omitted by S.I. 2019/681 reg. 4(8)(j)(ii)
- art. 9(3E) inserted by S.I. 2013/504 reg. 35(4)(b)
- reg. 9(3E) omitted by S.I. 2019/681 reg. 4(8)(k)
- reg. 9(3F) inserted by S.I. 2015/910 Sch. 1 para. 8(3)(b)
- reg. 9(3F) omitted by S.I. 2019/681 reg. 4(8)(k)
- reg. 9(3G) inserted by S.I. 2016/680 reg. 18(4)(d)
- reg. 9(3G) omitted by S.I. 2017/701 Sch. 3 para. 4(4)(f)
- reg. 9(3EA) inserted by S.I. 2016/715 Sch. 2 para. 2(4)(b)
- reg. 9(3EA) omitted by S.I. 2019/681 reg. 4(8)(k)
- reg. 9(4) inserted by S.I. 2010/2628 Sch. 2 para. 2(3)(b)
- reg. 9(4) substituted by S.I. 2013/3115 Sch. 2 para. 55(3)(d)
- reg. 9(4) substituted by S.I. 2019/681 reg. 4(8)(l)
- reg. 9(4) words substituted by S.I. 2013/472 Sch. 2 para. 47(6)(c)
- reg. 9(4A) inserted by S.I. 2020/1406 reg. 6(3)
- reg. 9(5) inserted by S.I. 2014/3348 Sch. 3 para. 8(4)(d)
- reg. 9(5) word omitted by S.I. 2019/681 reg. 4(8)(m)
- art. 9(6) inserted by 2018 c. 12 Sch. 19 para. 278(3)
- reg. 9(6) substituted by S.I. 2019/419 Sch. 3 para. 37(3)
- reg. 10A10B inserted by S.I. 2014/3348 Sch. 3 para. 8(5)
- reg. 10A heading word omitted by S.I. 2019/681 reg. 4(9)
- reg. 10A(1) word omitted by S.I. 2019/681 reg. 4(10)(a)
- reg. 10A(3) word omitted by S.I. 2019/681 reg. 4(10)(b)
- reg. 10B(1) word omitted by S.I. 2019/681 reg. 4(11)(a)
- reg. 10B(2) words substituted by S.I. 2019/681 reg. 4(11)(b)
- reg. 10C inserted by S.I. 2020/1406 reg. 6(4)
- reg. 11(d) word omitted by S.I. 2019/681 reg. 4(13)(b)(i)
- reg. 11(d) words substituted by S.I. 2019/681 reg. 4(13)(b)(ii)
- reg. 11(d)(i) words substituted by S.I. 2017/701 Sch. 3 para. 4(5)(a)(i)
- reg. 11(d)(ii) word inserted by S.I. 2011/1613 reg. 5(4)(a)
- reg. 11(d)(ii) words substituted by S.I. 2017/701 Sch. 3 para. 4(5)(a)(ii)
- reg. 11(e) word omitted by S.I. 2019/681 reg. 4(13)(c)(i)
- reg. 11(e) words substituted by S.I. 2019/681 reg. 4(13)(c)(ii)
- art. 11(f) inserted by S.I. 2013/504 reg. 35(5)
- reg. 11(f) omitted by S.I. 2019/681 reg. 4(13)(d)
- reg. 11(g) inserted by S.I. 2014/3348 Sch. 3 para. 8(6)
- reg. 11(g) word omitted by S.I. 2019/681 reg. 4(13)(e)
- reg. 11(h) inserted by S.I. 2016/680 reg. 18(5)
- reg. 11(h) omitted by S.I. 2017/701 Sch. 3 para. 4(5)(b)
- reg. 11(fa) inserted by S.I. 2016/715 Sch. 2 para. 2(5)
- reg. 11(fa) omitted by S.I. 2019/681 reg. 4(13)(d)
- reg. 12(4) inserted by S.I. 2012/2554 reg. 3(3)
- reg. 12(5) inserted by S.I. 2017/701 Sch. 3 para. 4(6)
- reg. 12(6) inserted by S.I. 2018/135 reg. 56(3)
- reg. 12A added by S.I. 2001/3624 reg. 2(1)(4)
- reg. 12A omitted by S.I. 2013/1635 reg. 12(4)
- reg. 12A word substituted by S.I. 2013/2329 Sch. para. 34(a)
- reg. 12A heading words inserted by S.I. 2019/681 reg. 13(5)
- reg. 12A words substituted by S.I. 2012/725 art. 2(6)
- reg. 12B added by S.I. 2003/1092 reg. 3(c)
- reg. 12B and words inserted by S.I. 2002/1775 reg. 16
- reg. 12B omitted by S.I. 2019/1361 reg. 7 (This S.I. is amended by S.I. 2019/1390, reg. 6)
- reg. 12B words substituted by S.I. 2013/472 Sch. 2 para. 47(7)

- reg 12C added by [S.I. 2003/2174](#) reg 4(c)
- reg. 12C heading words inserted by [S.I. 2019/681](#) reg. 13(6)
- reg 17 added (1.11.2007) by [S.I. 2006/3413](#) reg 7
- reg. 17 words substituted by [S.I. 2019/681](#) reg. 4(16)