
STATUTORY INSTRUMENTS

2001 No. 3592

The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

PART VI

PROCEEDINGS OF RECOGNISED SELF-REGULATING ORGANISATIONS

CHAPTER II

EXPEDITED DECISION NOTICES, ETC.

Members of self-regulating organisations

Public censure

68.—(1) This article applies where—

- (a) the Authority proposes to publish a statement about a person (“P”) under section 205, pursuant to the power conferred on it by article 7 of the Civil Remedies Order;
- (b) the reasons for which the Authority proposes to take action relate to or arise from the same failure, misconduct or other contravention which was the subject of incomplete disciplinary proceedings to which P was subject immediately before commencement;
- (c) the relevant SRO in relation to those incomplete disciplinary proceedings would have had power to make a statement about P corresponding to the power of the Authority under section 205 at the conclusion of those proceedings;
- (d) the expedited decision conditions are satisfied.

(2) In a case where this article applies, the Authority may give a decision notice under section 208(1)(a) without having given a warning notice.

Financial penalty

69.—(1) This article applies where—

- (a) the Authority proposes to impose a penalty on a person (“P”) under section 206, pursuant to the power conferred on it by article 8 of the Civil Remedies Order;
- (b) the reasons for which the Authority proposes to take action relate to or arise from the same failure, misconduct or other contravention which was the subject of incomplete disciplinary proceedings to which P was subject immediately before commencement;
- (c) the relevant SRO in relation to those incomplete disciplinary proceedings would have had power to impose a penalty on P corresponding to the power of the Authority under section 206 at the conclusion of those proceedings;
- (d) the expedited decision conditions are satisfied.

(2) In a case where this article applies, the Authority may give a decision notice under section 208(1)(b) without having given a warning notice.

Power to order restitution

70.—(1) This article applies where—

- (a) the Authority proposes to require a person (“P”) to make payments under section 384(5), pursuant to the power conferred on it by article 3 of the Civil Remedies Order;
- (b) the reasons for which the Authority proposes to take action relate to or arise from the same failure, misconduct or other contravention which was the subject of the incomplete disciplinary proceedings to which P was subject immediately before commencement;
- (c) the relevant SRO in relation to those incomplete disciplinary proceedings would have had power to order P to make payments corresponding to the power of the Authority under section 384(5) at the conclusion of those proceedings;
- (d) the expedited decision conditions are satisfied.

(2) In a case where this article applies, the Authority may give a decision notice under section 386(1) without having given a warning notice.

Cancellation of Part IV permission

71.—(1) This article applies where—

- (a) the Authority proposes to cancel a person’s Part IV permission under section 54;
- (b) the reasons for which the Authority proposes to take action relate to or arise from the same failure, misconduct or other contravention which was the subject of the incomplete disciplinary proceedings to which P was subject immediately before commencement;
- (c) the relevant SRO in relation to those incomplete disciplinary proceedings would have had power to expel P from membership at the conclusion of those proceedings;
- (d) the expedited decision conditions are satisfied.

(2) In a case where this article applies, the Authority may give a decision notice under section 54(2) without having given a warning notice.

Exercise of own initiative powers

72.—(1) This article applies where—

- (a) the Authority proposes to exercise its powers to vary a person’s Part IV permission under section 53 or to impose a requirement under section 196;
- (b) the reasons for which the Authority proposes to take action relate to or arise from the same failure, misconduct or other contravention which was the subject of incomplete disciplinary proceedings to which that person (“P”) was subject immediately before commencement;
- (c) the relevant SRO in relation to those incomplete disciplinary proceedings would have had power—
 - (i) to suspend in whole or in part P’s entitlement to carry on investment business (within the meaning of the Financial Services Act);
 - (ii) to terminate part of P’s entitlement to carry on such business;
 - (iii) to impose conditions on P in respect of his carrying on such business.
- (d) the conditions specified in paragraph (3) are satisfied.

(2) In a case where this article applies, the Authority may specify in a notice given under section 53(4) or section 197(3) that the variation has immediate effect.

(3) The conditions specified in this paragraph are that—

- (a) P had, before commencement, been given a reasonable opportunity to make representations to the relevant SRO in respect of the failure, misconduct or other contravention which was the subject of the incomplete disciplinary proceedings; and
- (b) the Authority has taken any representations so made by P into account in deciding whether to specify that the variation has immediate effect.