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## STATUTORY INSTRUMENTS

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# 2016 No. 680

## The Financial Services and Markets Act 2000 (Market Abuse) Regulations 2016

### PART 3

#### Other amendments to legislation

#### CHAPTER 1

#### Amendments to primary legislation

#### **Criminal Justice Act 1993**

**11.** For paragraph 5 of Schedule 1 <sup>F1</sup> to the Criminal Justice Act 1993 (special defences) and the italic heading before paragraph 5 substitute—

*“Buy-back programmes and stabilisation*

**5.** An individual is not guilty of insider dealing by virtue of dealing in securities or encouraging another person to deal if he shows that he acted in conformity with—

- (a) Article 5 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and each directly applicable EU regulation made under that Article;
- (b) rules made under section 137Q(1) <sup>F2</sup> of the Financial Services and Markets Act 2000.”.

**F1** [Paragraph 5](#) of Schedule 1 was amended by [S.I. 2001/3649](#) and 2005/381 and by paragraph 76 of Schedule 18 to the Financial Services Act 2012.

**F2** [Section 137Q\(1\)](#) was inserted by section 24(1) of the Financial Services Act 2012.

#### **Terrorism Act 2000**

**12.** For paragraph 1(6) of Part 1 of Schedule 3A (regulated sector and supervisory authorities) to the Terrorism Act 2000 <sup>F3</sup> substitute—

“(6) For the purposes of sub-paragraph (5) “the specified disclosure obligations” means—

- (a) disclosure requirements set out in Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation);
- (b) disclosure requirements consistent with Articles 3, 5, 7, 8, 10, 14 and 16 of Directive [2003/71/EC](#) of the European Parliament and of the Council of 4 November 2003 on

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the prospectuses to be published when securities are offered to the public or admitted to trading <sup>F4</sup>;

- (c) disclosure requirements consistent with Articles 4 to 6, 14, 16 to 19 and 30 of Directive [2004/109/EC](#) of the European Parliament and of the Council of 15 December 2004 relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market <sup>F5</sup>; or
- (d) disclosure requirements consistent with EU legislation made under the provisions mentioned in paragraphs (a) to (c).”.

**F3** [Paragraph 1\(6\)](#) of Schedule 3A was inserted by [S.I. 2007/3288](#) and amended by [S.I. 2011/1043](#).

**F4** OJ No L 345, 31.12.2003, p64.

**F5** OJ No L 32, 5.2.2004, p17.

## Criminal Justice and Police Act 2001

**13.**—(1) The Criminal Justice and Police Act 2001 <sup>F6</sup> is amended as follows.

(2) In section 57(1)(o) <sup>F7</sup> (retention of seized items), for “section 176A <sup>F8</sup>” substitute “ sections 122E and 176A ”.

(3) In section 66(5)(i) (general interpretation of Part 2), for “section 176(5)” substitute “ sections 122D(3) and 176(5) ”.

(4) In section 68(2)(f) (application to Scotland), for “section 176(5)” substitute “ sections 122D(3) and 176(5) ”.

(5) In Part 1 of Schedule 1 (powers of seizure to which section 50 applies), before paragraph 69 and after the italic heading before it, insert—

“**68A.** The power of seizure conferred by section 122D(3) of the Financial Services and Markets Act 2000 (entry of premises under warrant).”.

**F6** [2001 c. 16](#).

**F7** [Section 57\(1\)\(o\)](#) was amended by paragraph 92 of Schedule 18 to the Financial Services Act 2012.

**F8** [Section 176A](#) of the Financial Services and Markets Act 2000 was inserted by paragraph 15 of Schedule 12 to the Financial Services Act 2012.

## Proceeds of Crime Act 2002

**14.** For paragraph 1(6) of Part 1 of Schedule 9 (regulated sector and supervisory authorities) to the Proceeds of Crime Act 2002 <sup>F9</sup> substitute—

“(6) For the purposes of sub-paragraph (5) “the specified disclosure obligations” means—

- (a) disclosure requirements set out in Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation);
- (b) disclosure requirements consistent with Articles 3, 5, 7, 8, 10, 14 and 16 of Directive [2003/71/EC](#) of the European Parliament and of the Council of 4th November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading;
- (c) disclosure requirements consistent with Articles 4 to 6, 14, 16 to 19 and 30 of Directive [2004/109/EC](#) of the European Parliament and of the Council of 15th December 2004

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- relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; or
- (d) disclosure requirements consistent with EU legislation made under the provisions mentioned in paragraphs (a) to (c).”

**F9** 2002 c. 29; paragraph 1(6) was amended by S.I. 2011/1043.

## Financial Services Act 2012

- 15.—**(1) The Financial Services Act 2012 is amended as follows.
- (2) For section 89(3)(c) (misleading statements) substitute—
- “(c) the relevant provisions of Article 5 (exemption for buy-back programmes and stabilisation) of the market abuse regulation.”
- (3) In section 90 (misleading impressions)—
- (a) in subsection (9) for paragraph (d) substitute—
- “(d) that D acted or engaged in the conduct in conformity with the relevant provisions of Article 5 (exemption for buy-back programmes and stabilisation) of the market abuse regulation.”; and
- (b) after subsection (10) insert—
- “(11) See section 137Q(3) of FSMA 2000 regarding the power of the FCA to make rules for the purposes of subsection (9)(d).”
- (4) In section 91 (misleading statements etc. in relation to benchmarks)—
- (a) in subsection (3)—
- (i) omit paragraph (a); and
- (ii) for paragraph (c) substitute—
- “(c) the relevant provisions of Article 5 (exemption for buy-back programmes and stabilisation) of the market abuse regulation.”;
- (b) for subsection (4)(c) substitute—
- “(c) that D acted or engaged in the conduct in conformity with the relevant provisions of Article 5 (exemption for buy-back programmes and stabilisation) of the market abuse regulation.”; and
- (c) after subsection (6) insert—
- “(7) See section 137Q(3) of FSMA 2000 regarding the power of the FCA to make rules for the purposes of subsection (4)(c).”
- (5) After section 93(8) (interpretation of Part 7) insert—
- “(8A) “Market abuse regulation” means Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.
- (8B) References to Article 5 of the market abuse regulation include any directly applicable EU regulation made under that Article.”

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

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)