



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART VI

#### OFFICIAL LISTING

##### *Penalties*

#### **91 Penalties for breach of listing rules**

- (1) If the competent authority considers that—
  - (a) an issuer of listed securities, or
  - (b) an applicant for listing,has contravened any provision of listing rules, it may impose on him a penalty of such amount as it considers appropriate.
- (2) If, in such a case, the competent authority considers that a person who was at the material time a director of the issuer or applicant was knowingly concerned in the contravention, it may impose on him a penalty of such amount as it considers appropriate.
- (3) If the competent authority is entitled to impose a penalty on a person under this section in respect of a particular matter it may, instead of imposing a penalty on him in respect of that matter, publish a statement censuring him.
- (4) Nothing in this section prevents the competent authority from taking any other steps which it has power to take under this Part.
- (5) A penalty under this section is payable to the competent authority.
- (6) The competent authority may not take action against a person under this section after the end of the period of two years beginning with the first day on which it knew of the contravention unless proceedings against that person, in respect of the contravention, were begun before the end of that period.
- (7) For the purposes of subsection (6)—

- (a) the competent authority is to be treated as knowing of a contravention if it has information from which the contravention can reasonably be inferred; and
- (b) proceedings against a person in respect of a contravention are to be treated as begun when a warning notice is given to him under section 92.

## **92 Procedure**

- (1) If the competent authority proposes to take action against a person under section 91, it must give him a warning notice.
- (2) A warning notice about a proposal to impose a penalty must state the amount of the proposed penalty.
- (3) A warning notice about a proposal to publish a statement must set out the terms of the proposed statement.
- (4) If the competent authority decides to take action against a person under section 91, it must give him a decision notice.
- (5) A decision notice about the imposition of a penalty must state the amount of the penalty.
- (6) A decision notice about the publication of a statement must set out the terms of the statement.
- (7) If the competent authority decides to take action against a person under section 91, he may refer the matter to the Tribunal.

## **93 Statement of policy**

- (1) The competent authority must prepare and issue a statement (“its policy statement”) of its policy with respect to—
  - (a) the imposition of penalties under section 91; and
  - (b) the amount of penalties under that section.
- (2) The competent authority’s policy in determining what the amount of a penalty should be must include having regard to—
  - (a) the seriousness of the contravention in question in relation to the nature of the requirement contravened;
  - (b) the extent to which that contravention was deliberate or reckless; and
  - (c) whether the person on whom the penalty is to be imposed is an individual.
- (3) The competent authority may at any time alter or replace its policy statement.
- (4) If its policy statement is altered or replaced, the competent authority must issue the altered or replacement statement.
- (5) In exercising, or deciding whether to exercise, its power under section 91 in the case of any particular contravention, the competent authority must have regard to any policy statement published under this section and in force at the time when the contravention in question occurred.
- (6) The competent authority must publish a statement issued under this section in the way appearing to the competent authority to be best calculated to bring it to the attention of the public.

- (7) The competent authority may charge a reasonable fee for providing a person with a copy of the statement.
- (8) The competent authority must, without delay, give the Treasury a copy of any policy statement which it publishes under this section.

#### **94 Statements of policy: procedure**

- (1) Before issuing a statement under section 93, the competent authority must publish a draft of the proposed statement in the way appearing to the competent 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 competent authority within a specified time.
- (3) Before issuing the proposed statement, the competent authority must have regard to any representations made to it in accordance with subsection (2).
- (4) If the competent authority issues the proposed statement 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 differs from the draft published under subsection (1) in a way which is, in the opinion of the competent authority, significant, the competent authority must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The competent 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 alter or replace a statement.