



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART VIII

#### PENALTIES FOR MARKET ABUSE

##### *Statement of policy*

#### **124 Statement of policy**

- (1) The Authority must prepare and issue a statement of its policy with respect to—
  - (a) the imposition of penalties under section 123; and
  - (b) the amount of penalties under that section.
- (2) The Authority's policy in determining what the amount of a penalty should be must include having regard to—
  - (a) whether the behaviour in respect of which the penalty is to be imposed had an adverse effect on the market in question and, if it did, how serious that effect was;
  - (b) the extent to which that behaviour was deliberate or reckless; and
  - (c) whether the person on whom the penalty is to be imposed is an individual.
- (3) A statement issued under this section must include an indication of the circumstances in which the Authority is to be expected to regard a person as—
  - (a) having a reasonable belief that his behaviour did not amount to market abuse; or
  - (b) having taken reasonable precautions and exercised due diligence to avoid engaging in market abuse.
- (4) The Authority may at any time alter or replace a statement issued under this section.
- (5) If a statement issued under this section is altered or replaced, the Authority must issue the altered or replacement statement.

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*Status: This is the original version (as it was originally enacted).*

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- (6) In exercising, or deciding whether to exercise, its power under section 123 in the case of any particular behaviour, the Authority must have regard to any statement published under this section and in force at the time when the behaviour concerned occurred.
- (7) A statement issued under this section must be published by the Authority in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of a statement published under this section.
- (9) The Authority must, without delay, give the Treasury a copy of any statement which it publishes under this section.

### **125 Statement of policy: procedure**

- (1) Before issuing a statement of policy under section 124, 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, the Authority must have regard to any representations made to it in accordance with subsection (2).
- (4) If the 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 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 alter or replace a statement.