

Status: Point in time view as at 01/12/2001.

Changes to legislation: Financial Services and Markets Act 2000, SCHEDULE 10 is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 90(2) and (5).

COMPENSATION: EXEMPTIONS

Modifications etc. (not altering text)

C1 Sch. 10 restricted (1.12.2001) by S.I. 2001/2957, arts. 1, 7(3); S.I. 2001/3538, art. 2(1)

Statements believed to be true

- 1 (1) In this paragraph “statement” means—
- (a) any untrue or misleading statement in listing particulars; or
 - (b) the omission from listing particulars of any matter required to be included by section 80 or 81.
- (2) A person does not incur any liability under section 90(1) for loss caused by a statement if he satisfies the court that, at the time when the listing particulars were submitted to the competent authority, he reasonably believed (having made such enquiries, if any, as were reasonable) that—
- (a) the statement was true and not misleading, or
 - (b) the matter whose omission caused the loss was properly omitted,
- and that one or more of the conditions set out in sub-paragraph (3) are satisfied.
- (3) The conditions are that—
- (a) he continued in his belief until the time when the securities in question were acquired;
 - (b) they were acquired before it was reasonably practicable to bring a correction to the attention of persons likely to acquire them;
 - (c) before the securities were acquired, he had taken all such steps as it was reasonable for him to have taken to secure that a correction was brought to the attention of those persons;
 - (d) he continued in his belief until after the commencement of dealings in the securities following their admission to the official list and they were acquired after such a lapse of time that he ought in the circumstances to be reasonably excused.

Statements by experts

- 2 (1) In this paragraph “statement” means a statement included in listing particulars which—
- (a) purports to be made by, or on the authority of, another person as an expert; and
 - (b) is stated to be included in the listing particulars with that other person’s consent.

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- (2) A person does not incur any liability under section 90(1) for loss in respect of any securities caused by a statement if he satisfies the court that, at the time when the listing particulars were submitted to the competent authority, he reasonably believed that the other person—
- (a) was competent to make or authorise the statement, and
 - (b) had consented to its inclusion in the form and context in which it was included,
- and that one or more of the conditions set out in sub-paragraph (3) are satisfied.
- (3) The conditions are that—
- (a) he continued in his belief until the time when the securities were acquired;
 - (b) they were acquired before it was reasonably practicable to bring the fact that the expert was not competent, or had not consented, to the attention of persons likely to acquire the securities in question;
 - (c) before the securities were acquired he had taken all such steps as it was reasonable for him to have taken to secure that that fact was brought to the attention of those persons;
 - (d) he continued in his belief until after the commencement of dealings in the securities following their admission to the official list and they were acquired after such a lapse of time that he ought in the circumstances to be reasonably excused.

Corrections of statements

- 3 (1) In this paragraph “statement” has the same meaning as in paragraph 1.
- (2) A person does not incur liability under section 90(1) for loss caused by a statement if he satisfies the court—
- (a) that before the securities in question were acquired, a correction had been published in a manner calculated to bring it to the attention of persons likely to acquire the securities; or
 - (b) that he took all such steps as it was reasonable for him to take to secure such publication and reasonably believed that it had taken place before the securities were acquired.
- (3) Nothing in this paragraph is to be taken as affecting paragraph 1.

Corrections of statements by experts

- 4 (1) In this paragraph “statement” has the same meaning as in paragraph 2.
- (2) A person does not incur liability under section 90(1) for loss caused by a statement if he satisfies the court—
- (a) that before the securities in question were acquired, the fact that the expert was not competent or had not consented had been published in a manner calculated to bring it to the attention of persons likely to acquire the securities; or
 - (b) that he took all such steps as it was reasonable for him to take to secure such publication and reasonably believed that it had taken place before the securities were acquired.
- (3) Nothing in this paragraph is to be taken as affecting paragraph 2.

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Official statements

- 5 A person does not incur any liability under section 90(1) for loss resulting from—
- (a) a statement made by an official person which is included in the listing particulars, or
 - (b) a statement contained in a public official document which is included in the listing particulars,
- if he satisfies the court that the statement is accurately and fairly reproduced.

False or misleading information known about

- 6 A person does not incur any liability under section 90(1) or (4) if he satisfies the court that the person suffering the loss acquired the securities in question with knowledge—
- (a) that the statement was false or misleading,
 - (b) of the omitted matter, or
 - (c) of the change or new matter,
- as the case may be.

Belief that supplementary listing particulars not called for

- 7 A person does not incur any liability under section 90(4) if he satisfies the court that he reasonably believed that the change or new matter in question was not such as to call for supplementary listing particulars.

Meaning of “expert”

- 8 “Expert” includes any engineer, valuer, accountant or other person whose profession, qualifications or experience give authority to a statement made by him.

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