



Financial Services Act 2012

2012 CHAPTER 21

PART 7

OFFENCES RELATING TO FINANCIAL SERVICES

91 Misleading statements etc in relation to benchmarks

- (1) A person (“A”) who makes to another person (“B”) a false or misleading statement commits an offence if—
 - (a) A makes the statement in the course of arrangements for the setting of a relevant benchmark,
 - (b) A intends that the statement should be used by B for the purpose of the setting of a relevant benchmark, and
 - (c) A knows that the statement is false or misleading or is reckless as to whether it is.
- (2) A person (“C”) who does any act or engages in any course of conduct which creates a false or misleading impression as to the price or value of any investment or as to the interest rate appropriate to any transaction commits an offence if—
 - (a) C intends to create the impression,
 - (b) the impression may affect the setting of a relevant benchmark,
 - (c) C knows that the impression is false or misleading or is reckless as to whether it is, and
 - (d) C knows that the impression may affect the setting of a relevant benchmark.
- (3) In proceedings for an offence under subsection (1), it is a defence for the person charged (“D”) to show that the statement was made in conformity with—
 - (a) price stabilising rules,
 - (b) control of information rules, or
 - (c) the relevant provisions of [Commission Regulation \(EC\) No 2273/2003](#) of 22 December 2003 implementing Directive [2003/6/EC](#) of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments.

Status: This is the original version (as it was originally enacted).

- (4) In proceedings brought against any person (“D”) for an offence under subsection (2) it is a defence for D to show—
- (a) that D acted or engaged in the conduct—
 - (i) for the purpose of stabilising the price of investments, and
 - (ii) in conformity with price stabilising rules,
 - (b) that D acted or engaged in the conduct in conformity with control of information rules, or
 - (c) that D acted or engaged in the conduct in conformity with the relevant provisions of [Commission Regulation \(EC\) No 2273/2003](#) of 22 December 2003 implementing Directive [2003/6/EC](#) of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments.
- (5) Subsection (1) does not apply unless the statement is made in or from the United Kingdom or to a person in the United Kingdom.
- (6) Subsection (2) does not apply unless—
- (a) the act is done, or the course of conduct is engaged in, in the United Kingdom, or
 - (b) the false or misleading impression is created there.