
STATUTORY INSTRUMENTS

2016 No. 680

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

PART 2

Amendments to the Financial Services and Markets Act 2000

Amendments to Part 8 of the 2000 Act

- 9.**—(1) Part 8 of the 2000 Act is amended as follows.
- (2) For the heading of Part 8 substitute “ Provisions relating to market abuse ”.
- (3) Omit sections 118 (market abuse) to 122 (effect of the code) ^{M1}, including the italic headings before section 118 and section 119.
- (4) Before section 123 ^{M2} (power to impose penalties in cases of market abuse) and the italic cross heading preceding that section insert—

“Powers to require information and supplemental provisions

Power to require information from issuers

122A.—(1) The FCA may require an issuer, a person discharging managerial responsibilities or a person closely associated with a person discharging managerial responsibilities to provide—

- (a) any information the FCA reasonably requires for the purpose of protecting—
- (i) the interests of users of financial markets and exchanges in the United Kingdom; or
- (ii) the orderly operation of financial markets and exchanges in the United Kingdom; or
- (b) any information or explanation the FCA reasonably requires to verify whether Article 17 (public disclosure of inside information) or Article 19 (managers' transactions) of the market abuse regulation ^{M3} is being, or has been, complied with.
- (2) Information required under this section must be provided—
- (a) before the end of such reasonable period as may be specified by the FCA; and
- (b) at such place as may be specified by the FCA.
- (3) The FCA may require any information provided under this section to be provided in such form as it may reasonably require.
- (4) The FCA may require any information provided, whether in a document or otherwise, to be verified in such manner as it may reasonably require.
- (5) In this section—

“person closely associated” has the meaning given in Article 3.1(26) of the market abuse regulation (see section 131AC (meaning of “persons closely associated” in the market abuse regulation)); and

“person discharging managerial responsibilities” has the meaning given in Article 3.1(25) of the market abuse regulation.

(6) For the meaning of “issuer” in this Part, see section 131AB.

General power to require information

122B.—(1) The FCA may, by notice in writing, require a person—

- (a) to provide specified information or information of a specified description; or
- (b) to produce specified documents or documents of a specified description.

(2) This section applies only to information and documents that the FCA reasonably requires for the purpose of the exercise by it of functions under the market abuse regulation or a supplementary EU regulation.

(3) Information or documents required under this section must be provided or produced—

- (a) before the end of such reasonable period as may be specified; and
- (b) at such place as may be specified.

(4) The FCA may require any information provided under this section to be provided in such form as it may reasonably require.

(5) The FCA may require—

- (a) any information provided, whether in a document or otherwise, to be verified in such manner as it may reasonably require; or
- (b) any document produced to be authenticated in such manner as it may reasonably require.

(6) The FCA may exercise its powers under this section at the request of an EEA regulator where the regulator makes the request in the exercise of its functions under the market abuse regulation ^{M4} or a supplementary EU regulation.

(7) If such a request is made to the FCA it must, in deciding whether or not to exercise its powers under this section in response to the request, consider whether it is necessary to do so to comply with the market abuse regulation or a supplementary EU regulation.

(8) In this section “specified” means specified in the notice.

Power to require information: supplementary

122C.—(1) If a document is produced in response to a requirement imposed under section 122B, the FCA may—

- (a) take copies of, or extracts from, the document; or
- (b) require the person producing the document, or any relevant person, to provide an explanation of the document.

(2) In subsection (1)(b) “relevant person”, in relation to a person who is required to produce a document, means a person who—

- (a) has been, is, or is proposed to be, a director or controller of that person;
 - (b) has been or is an auditor of that person;
 - (c) has been or is an actuary, accountant or lawyer appointed or instructed by that person;
- or

(d) has been or is an employee of that person.

(3) If a person who is required under section 122B to produce a document fails to do so, the FCA may require the person to state, to the best of the person's knowledge and belief, where the document is.

(4) A lawyer may be required under section 122B to provide the name and address of the lawyer's client.

(5) A person ("P") may not be required under section 122A or 122B to disclose information or produce a document in respect of which P owes an obligation of confidence by virtue of carrying on the business of banking unless condition A, B or C is met.

(6) Condition A is met if the FCA suspects that P or a member of P's group—

(a) has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation; or

(b) has contravened, or been knowingly concerned in the contravention of—

(i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or

(ii) a provision of a supplementary EU regulation.

(7) Condition B is met if the FCA suspects that the person to whom the obligation of confidence is owed or a member of that person's group—

(a) has contravened Article 14 or Article 15 of the market abuse regulation; or

(b) has contravened, or been knowingly concerned in the contravention of—

(i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or

(ii) a provision of a supplementary EU regulation.

(8) Condition C is met if the person to whom the obligation of confidence is owed consents to the disclosure or production.

(9) If a person claims a lien on a document, its production under section 122B does not affect the lien.

Entry of premises under warrant

122D.—(1) A justice of the peace may issue a warrant under this section if satisfied on information on oath given by or on behalf of the FCA that there are reasonable grounds for believing that the conditions in subsection (2) are met.

(2) The conditions are—

(a) that a person on whom a requirement has been imposed under section 122B or 122C has failed (wholly or in part) to comply with it; and

(b) that on the premises specified in the warrant—

(i) there are documents which have been required; or

(ii) there is information which has been required.

(3) A warrant under this section shall authorise a constable—

(a) to enter the premises specified in the warrant;

(b) to search the premises and take possession of any documents or information appearing to be documents or information of a kind in respect of which a warrant under this section was issued ("the relevant kind") or to take, in relation to any such

documents or information, any other steps which may appear to be necessary for preserving them or preventing interference with them;

- (c) to take copies of, or extracts from, any documents or information appearing to be of the relevant kind;
- (d) to require any person on the premises to provide an explanation of any document or information appearing to be of the relevant kind or to state where it may be found; and
- (e) to use such force as may be reasonably necessary.

(4) A warrant under this section may be executed by any constable.

(5) The warrant may authorise persons to accompany any constable who is executing it.

(6) The powers in subsection (3) may be exercised by a person authorised by the warrant to accompany a constable; but that person may exercise those powers only in the company of, and under the supervision of, a constable.

(7) In England and Wales, sections 15(5) to (8) ^{M5} and 16(3) to (12) ^{M6} of the Police and Criminal Evidence Act 1984 (execution of search warrants and safeguards) apply to warrants issued under this section.

(8) In Northern Ireland, Articles 17(5) to (8) ^{M7} and 18(3) to (12) ^{M8} of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) apply to warrants issued under this section.

(9) In the application of this section to Scotland—

- (a) for the reference to a justice of the peace substitute a reference to a justice of the peace or a sheriff; and
- (b) for the references to information on oath substitute references to evidence on oath.

(10) The FCA may give information under subsection (1) or under section 176(1) ^{M9} at the request of an EEA regulator where the regulator makes the request in the exercise of its functions under the market abuse regulation or a supplementary EU regulation.

(11) The FCA must, in deciding whether or not to exercise a power referred to in subsection (10), consider whether the exercise of that power is necessary to comply with an obligation under the market abuse regulation or a supplementary EU regulation.

Retention of documents taken under section 122D

122E.—(1) Any document of which possession is taken under section 122D (“a seized document”) may be retained so long as it is necessary to retain it (rather than copies of it) in the circumstances.

(2) A person claiming to be the owner of a seized document may apply to a magistrates' court or (in Scotland) the sheriff for an order for the delivery of the document to the person appearing to the court or sheriff to be the owner.

(3) If, on an application under subsection (2), the court or (in Scotland) the sheriff cannot ascertain who is the owner of the seized document the court or sheriff (as the case may be) may make such order as the court or sheriff thinks fit.

(4) An order under subsection (2) or (3) does not affect the right of any person to take legal proceedings against any person in possession of a seized document for the recovery of the document.

(5) Any right to bring proceedings (as described in subsection (4)) may only be exercised within 6 months of the date of the order made under subsection (2) or (3).

Offences

122F.—(1) If a person (“A”) fails to comply with a requirement imposed on A under section 122B or 122C the FCA may certify that fact in writing to the court.

(2) If the court is satisfied that A failed without reasonable excuse to comply with the requirement, it may deal with A (and where A is a body corporate, any director or other officer) as if A (or as the case may be the director or officer) were in contempt.

(3) A person (“B”) who, in purported compliance with a requirement imposed on B under section 122B or 122C—

- (a) provides information which B knows to be false or misleading in a material particular; or
- (b) recklessly provides information which is false or misleading in a material particular;

is guilty of an offence.

(4) A person guilty of an offence under subsection (3) is liable—

- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding three months or a fine, or both;
 - (ii) in Scotland, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(5) Any person who intentionally obstructs the exercise of any rights conferred by a warrant under section 122D is guilty of an offence and liable on summary conviction—

- (a) in England and Wales, to imprisonment for a term not exceeding three months or a fine, or both;
- (b) in Scotland, to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both;
- (c) in Northern Ireland, to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.

(6) In this section—

- (a) “court” means—
 - (i) the High Court;
 - (ii) in Scotland, the Court of Session;
- (b) “officer”, in relation to a limited liability partnership, means a member of the partnership.

Other administrative powers

Publication of information and corrective statements by issuers

122G.—(1) If condition A or B is met, the FCA may require an issuer to publish—

- (a) specified information; or
- (b) a specified statement.

(2) Condition A is met if the FCA considers that the publication of the information or statement is necessary for the purpose of protecting—

- (a) the interests of users of financial markets and exchanges in the United Kingdom; or
- (b) the orderly operation of financial markets and exchanges in the United Kingdom.

(3) Condition B is met if—

- (a) the information or statement corrects false or misleading information made public, or a false or misleading impression given to the public, by that person; and
- (b) the FCA considers that the publication of the information is necessary for the purpose of the exercise by it of functions under the market abuse regulation^{M10} or a supplementary EU regulation.

(4) Information or statements required to be published under this section must be published—

- (a) before the end of such reasonable period as may be specified; and
- (b) by any method as may be specified.

(5) If a person fails to comply with a requirement to publish information or a statement under this section, the FCA may publish the information or statement.

(6) But before doing so, the FCA must give that person an opportunity to make representations to it regarding its decision to publish the information or statement under subsection (5).

(7) In this section “specified” means specified by the FCA.

(8) For the meaning of “issuer”, see section 131AB.

Publication of corrective statements generally

122H.—(1) If condition A or B is met, the FCA may, by notice in writing, require a person to publish—

- (a) specified information; or
- (b) a specified statement

correcting false or misleading information made public, or a false or misleading impression given to the public, by that person.

(2) Condition A is met if the FCA considers that the publication of the information or statement is necessary for the purpose of protecting—

- (a) the interests of users of financial markets and exchanges in the United Kingdom; or
- (b) the orderly operation of financial markets and exchanges in the United Kingdom.

(3) Condition B is met if the FCA considers that the publication of the information or statement is necessary for the purpose of the exercise by it of functions under the market abuse regulation or a supplementary EU regulation.

(4) Information or statements required to be published under this section must be published—

- (a) before the end of such reasonable period as may be specified; and
- (b) by any method as may be specified.

(5) If a person fails to comply with a requirement to publish information or a statement under this section the FCA may publish the information or statement.

(6) But before doing so, the FCA must give that person an opportunity to make representations to it regarding its decision to publish the information or statement under subsection (5).

(7) In this section “specified” means specified in the notice.

Power to suspend trading in financial instruments

122I.—(1) The FCA may suspend trading of a financial instrument where it considers it necessary for the purpose of the exercise by it of functions under the market abuse regulation or a supplementary EU regulation.

(2) If the FCA does so the issuer of the financial instrument may refer the matter to the Tribunal.

(3) The FCA may—

- (a) cancel a suspension under subsection (1); and
- (b) impose such conditions for the cancellation to take effect as it considers appropriate.

(4) The provisions relating to suspension of listing of securities in section 78 ^{M11} (discontinuance or suspension: procedure) apply to a suspension of trading in a financial instrument under subsection (1) and for the purposes of this section—

- (a) the references in section 78 to listing are to be read as references to trading; and
- (b) the references in section 78 to securities are to be read as references to financial instruments.

(5) For the meaning of “issuer” in this Part, see section 131AB.”.

(5) For section 123 ^{M12} (power to impose penalties in cases of market abuse) and the italic heading before it substitute—

“Administrative sanctions

123 Power to impose penalties or issue censure

(1) The FCA may exercise its power under subsection (2) if it is satisfied that—

- (a) a person has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;
- (b) a person has contravened, or been knowingly concerned in the contravention of—
 - (i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or
 - (ii) a provision of a supplementary EU regulation; or
- (c) a person other than an authorised person has contravened any requirement—
 - (i) imposed on that person under section 122A, 122B, 122C, 122G, 122H, 122I, 123A or 123B; or
 - (ii) relating to the market abuse regulation or any supplementary EU regulation imposed on that person under Part 11.

(2) The FCA’s power under this subsection is a power to impose a penalty of such amount as it considers appropriate on the person.

(3) The FCA may, instead of imposing a penalty on a person, publish a statement censuring the person.

123A Power to prohibit individuals from managing or dealing

(1) The FCA may exercise its power under subsection (2) if it is satisfied that an individual—

- (a) has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;
- (b) has contravened, or been knowingly concerned in the contravention of—
 - (i) a provision of the market abuse regulation other than Article 14 or 15 of that regulation; or
 - (ii) a provision of a supplementary EU regulation; or
- (c) has contravened a requirement imposed on that individual under this section or section 122A, 122B, 122C, 122G, 122H, 122I or 123B.

(2) The FCA's power under this subsection is a power to impose either or both of the following—

- (a) a temporary prohibition on the individual holding an office or position involving responsibility for taking decisions about the management of an investment firm;
- (b) a temporary prohibition on the individual acquiring or disposing of financial instruments, whether on his or her own account or the account of a third party and whether directly or indirectly.

(3) If the FCA is satisfied that an individual has contravened Article 14 or 15 of the market abuse regulation the FCA may impose a permanent prohibition on the individual holding an office or position involving responsibility for taking decisions about the management of an investment firm.

(4) A prohibition imposed under subsection (2) may be expressed to expire at the end of such period as the FCA may specify, but the imposition of a prohibition that expires at the end of a specified period does not affect the FCA's power to impose a new prohibition under subsection (2).

(5) A prohibition imposed under subsection (2)(a) or (3) may be expressed to prohibit an individual holding an office or position involving responsibility for taking decisions about the management of—

- (a) a named investment firm;
- (b) an investment firm of a specified description; or
- (c) any investment firm.

(6) An investment firm must take reasonable care to ensure that no individual who is subject to a prohibition under subsection (2)(a) or (3) on the holding of an office or position involving responsibility for taking decisions about the management of the firm holds such an office or position.

(7) The FCA may vary or revoke a prohibition imposed under this section.

123B Suspending permission to carry on regulated activities etc

(1) The FCA may exercise its power under subsection (2) if it is satisfied that an authorised person—

- (a) has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;

- (b) has contravened, or been knowingly concerned in the contravention of—
 - (i) a provision of the market abuse regulation other than Article 14 and 15 of that regulation;
 - (ii) a provision of a supplementary EU regulation; or
- (c) has contravened a requirement imposed on that person under this section or section 122A, 122B, 122C, 122G, 122H, 122I or 123A.
- (2) The FCA's power under this subsection is a power to do either or both of the following—
 - (a) to suspend, for such period as it considers appropriate, any permission which the person has to carry on a regulated activity;
 - (b) to impose, for such period as it considers appropriate, such limitations or other restrictions in relation to the carrying on of a regulated activity by the person as it considers appropriate.
- (3) In subsection (2) “permission” means any permission that the authorised person has, whether given (or treated as given) by the FCA or the PRA or conferred by any provision of this Act.
- (4) The period for which a suspension or restriction is to have effect may not exceed 12 months.
- (5) A suspension may relate only to the carrying on of an activity in specified circumstances.
- (6) A restriction may, in particular, be imposed so as to require the person concerned to take, or refrain from taking, specified action.
- (7) The FCA may—
 - (a) withdraw a suspension or restriction; or
 - (b) vary a suspension or restriction so as to reduce the period for which it has effect or otherwise to limit its effect.
- (8) The power under this section may (but need not) be exercised so as to have effect in relation to all the regulated activities that the person concerned carries on.

123C Exercise of administrative sanctions

123C. Any one or more of the powers under sections 123, 123A and 123B may be exercised in relation to the same contravention.”.

- (6) In section 124^{M13} (statement of policy)—
 - (a) for subsections (1) and (2) substitute—
 - “(1) The FCA must prepare and issue a statement of its policy with respect to the type and level of administrative sanctions it may impose on a relevant person.
 - (2) The FCA's policy in determining the type and level of administrative sanctions to be imposed must take into account all relevant circumstances including, where appropriate, the matters referred to in Article 31(1) of the market abuse regulation.”;
 - (b) omit subsection (3);
 - (c) for subsection (6) substitute—
 - “(6) When imposing, or deciding whether to impose, an administrative sanction on a relevant person the FCA must have regard to any statement published under this section in force at the time of the contravention.”; and
 - (d) after subsection (9) insert—
 - “(10) In this section—

“administrative sanction” means—

- (a) a penalty or statement of censure imposed or published under section 123;
- (b) a prohibition imposed under section 123A; or
- (c) a suspension or restriction imposed under section 123B; and

“relevant person” means a person—

- (a) who has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation;
- (b) who has contravened, or been knowingly concerned in the contravention of—
 - (i) a provision of the market abuse regulation ^{M14} other than Article 14 or 15 of that regulation; or
 - (ii) a provision of a supplementary EU regulation; or
- (c) who has contravened—
 - (i) any requirement imposed on the person under section 122A, 122B, 122C, 122G, 122H, 122I, 123A or 123B; or
 - (ii) in the case of a person other than an authorised person, any requirement relating to the market abuse regulation or a supplementary EU regulation imposed on the person under Part 11.”.

(7) In section 126 ^{M15} (warning notices)—

(a) for subsection (1) substitute—

“(1) If the FCA proposes—

- (a) to impose a penalty on a person under section 123(2);
- (b) to publish a statement censuring a person under section 123(3);
- (c) to impose a temporary prohibition on an individual under section 123A(2)(a);
- (d) to impose a temporary prohibition on an individual under section 123A(2)(b);
- (e) to impose a permanent prohibition on an individual under section 123A(3); or
- (f) to impose a suspension or restriction in relation to a person under section 123B;

it must give the person a warning notice.”;

(b) in subsection (2) after “a penalty” insert “ under section 123 ”;

(c) in subsection (3) after “a statement” insert “ under section 123 ”; and

(d) after subsection (3) insert—

“(4) A warning notice about a proposal to impose a prohibition under section 123A must set out the terms of the proposed prohibition.

(5) A warning notice about a proposal to impose a suspension or restriction under section 123B must state the period for which the suspension or restriction is to have effect.”.

(8) In section 127 (decision notices)—

(a) for subsection (1) ^{M16} substitute—

“(1) If the FCA decides—

- (a) to impose a penalty on a person under section 123(2);
- (b) to publish a statement censuring a person under section 123(3);

- (c) to impose a temporary prohibition on an individual under section 123A(2)(a);
- (d) to impose a temporary prohibition on an individual under section 123A(2)(b);
- (e) to impose a permanent prohibition on an individual under section 123A(3);
- (f) to impose a suspension or restriction in relation to a person under section 123B; it must give the person a decision notice.”;
- (b) in subsection (2) after “a penalty” insert “ under section 123 ”;
- (c) in subsection (3) after “a statement” insert “ under section 123 ”;
- (d) after subsection (3) insert—
 - “(3A) A decision notice about the imposition of a prohibition under section 123A must set out the terms of the prohibition.
 - (3B) A decision notice about the imposition of a suspension or restriction under section 123B must state the period for which the suspension or restriction is to have effect.”; and
- (e) for subsection (4) ^{M17} substitute—
 - “(4) If the FCA decides—
 - (a) to impose a penalty on a person under section 123(2);
 - (b) to publish a statement censuring a person under section 123(3);
 - (c) to impose a prohibition on an individual under section 123A; or
 - (d) to impose a suspension or restriction in relation to a person under section 123B; that person may refer the matter to the Tribunal.”.
- (9) After section 127 (decision notices) insert—

“127A Consultation with the PRA in relation to administrative sanctions

- (1) The FCA must consult the PRA before giving a warning notice under section 126(1) (a), (b), (d) or (f) or a decision notice under section 127(1)(a), (b), (d) or (f) in relation to a person who—
 - (a) is a PRA-authorised person; or
 - (b) is a member of a PRA-authorised person's immediate group.
- (2) The FCA must consult the PRA before giving a warning notice under section 126(1) (c) or (e) or a decision notice under section 127(1)(c) or (e) if as a result of the prohibition in question an individual would be prohibited from holding an office or position involving responsibility for taking decisions about the management of a PRA-authorised investment firm.
- (3) The FCA must consult the PRA before varying or revoking a prohibition under section 123A(2)(a) or (3) if as a result of the proposed variation or revocation an individual would no longer be prohibited from holding an office or position involving responsibility for taking decisions about the management of a PRA-authorised investment firm.
- (4) In this section “PRA-authorised investment firm” means an investment firm which is a PRA-authorised person and carries on a regulated activity.”.
- (10) In section 128 (suspension of investigations)—
 - (a) in subsection (1) ^{M18} for “power relating to market abuse” substitute “ relevant power ”; and
 - (b) for subsection (3) ^{M19} substitute—
 - “(3) In this section “relevant power” means the FCA's power—

- (a) to impose a penalty or publish a statement of censure under section 123;
- (b) to impose a prohibition under section 123A;
- (c) to impose a suspension or restriction under section 123B;
- (d) to appoint a person to conduct an investigation under section 168 in a case falling within subsection (2)(d) of that section; or
- (e) to appoint a person to conduct an investigation under section 169 (investigation etc in support of an overseas regulator) in a case falling within subsection (2A) of that section.”.

(11) For section 129^{M20} (power of court to impose penalty in cases of market abuse) substitute—

“129 Power of court to impose administrative sanctions in cases of market abuse

(1) The FCA may, on an application to the court under sections 380 to 383 which relates to a market abuse requirement, request the court to consider whether it is appropriate to impose one or more of the following on the person to whom the application relates—

- (a) a penalty;
- (b) if the person concerned is an individual, a temporary prohibition or a permanent prohibition; or
- (c) a suspension or restriction.

(2) The court may, if it considers it appropriate, make an order which does one or more of the following—

- (a) requires the person concerned to pay to the FCA a penalty of such amount as the court considers appropriate;
- (b) if the person concerned is an individual, imposes a temporary prohibition or a permanent prohibition on that individual; or
- (c) imposes a suspension or restriction on the person concerned.

(3) But the court may impose a permanent prohibition only where it is satisfied the person concerned has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation.

(4) Section 123A(4) to (6) apply to a prohibition imposed by an order made under subsection (2) as they do to a prohibition under section 123A, but with—

- (a) references to a prohibition under section 123A having effect as references to a prohibition under this section; and
- (b) references to the FCA having effect as references to the court which makes the order under this section.

(5) Section 123B(4) to (6) and (8) apply to a suspension or restriction imposed by an order under subsection (2) as they do to a suspension or restriction imposed under section 123B.

(6) The court may—

- (a) vary or revoke a prohibition imposed under this section;
- (b) withdraw a suspension or restriction imposed under this section; or
- (c) vary a suspension or a restriction imposed under this section so as to reduce the period for which it has effect or otherwise to limit its effect.

(7) In this section—

“market abuse requirement” means a requirement imposed by the market abuse regulation or a supplementary EU regulation which is a relevant requirement for the purposes of section 380 or 382 (as the case may be);

“permanent prohibition” means a permanent prohibition on an individual holding an office or position involving responsibility for taking decisions about the management of an investment firm;

“suspension or restriction” means—

- (a) a suspension of any permission which a person has to carry on a regulated activity for such period as the court considers appropriate ; or
- (b) such limitations or other restrictions as the court considers appropriate in relation to the carrying on of a regulated activity by a person for such period as the court considers appropriate;

“temporary prohibition” means a temporary prohibition on an individual—

- (a) holding an office or position involving responsibility for taking decisions about the management of an investment firm; or
- (b) acquiring or disposing of financial instruments, whether on his or her own account or the account of a third party and whether directly or indirectly.”.

(12) In section 130 (guidance)—

(a) for subsection (1) ^{M21}, substitute—

“(1) The Treasury may from time to time issue written guidance for the purpose of helping relevant authorities to determine the action to be taken in cases where—

- (a) it appears a person has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation; and
- (b) in so doing the person appears to have committed an offence under Part 7 of the Financial Services Act 2012 ^{M22} or Part 5 of the Criminal Justice Act 1993 ^{M23} (insider dealing).”;

(b) in subsection (5) ^{M24} for “where behaviour mentioned in subsection (1) occurs” substitute “mentioned in subsection (1) ”.

(13) Omit section 130A ^{M25} (interpretation and supplementary provision).

(14) In section 131A (protected disclosures)—

(a) in subsection (2) ^{M26}—

(i) for subsection (b) substitute—

“(b) gives him reasonable grounds for knowing or suspecting that another person has engaged in market abuse”; and

(ii) after that paragraph, and as the closing words of the subsection, insert—

“that another person has contravened Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation.”; and

(b) in subsection (4) ^{M27} omit “to the FCA or”.

(15) After section 131A insert—

“131AA Reporting of infringements

(1) This section applies to employers who—

- (a) provide regulated financial services;
 - (b) carry on regulated activities in reliance on the exemption in section 327; or
 - (c) are recognised bodies, EEA central counterparties, or third country central counterparties.
- (2) Employers must have in place appropriate internal procedures for their employees to report contraventions of the market abuse regulation or any supplementary EU regulation.
- (3) In this section—
- “employee” and “employer” have the meaning given in section 230 ^{M28} of the Employment Rights Act 1996;
 - “recognised body” has the meaning given in section 313 ^{M29};
 - “regulated financial services” has the meaning given in section 1H ^{M30}.

131AB Interpretation

131AB. In this Part—

- “EEA regulator” means the competent authority of an EEA State other than the United Kingdom for the purposes of the market abuse regulation ^{M31};
- “financial instrument” has the meaning given in Article 4.1(17) of the markets in financial instruments directive ^{M32};
- “issuer” has the meaning given in Article 3.1(21) of the market abuse regulation; and
- “supplementary EU regulation” means a directly applicable EU regulation made under the market abuse regulation.

131AC Meaning of “persons closely associated” in the market abuse regulation

- (1) In Article 3.1(26)(a) (definitions) of the market abuse regulation “partner considered to be equivalent to a spouse” includes a civil partner.
- (2) In Article 3.1(26)(b) of the market abuse regulation “dependent child” means a child who—
- (a) is under the age of 18 years;
 - (b) is unmarried; and
 - (c) does not have a civil partner.
- (3) In this section “child” includes a stepchild.

131AD Individual liability in respect of legal persons under Articles 8 and 12 of the market abuse regulation

- (1) An individual participates in a decision by a body corporate for the purposes of Article 8.5 (insider dealing) or Article 12.4 (market manipulation) of the market abuse regulation where—
- (a) the individual was an officer of the body corporate when the decision was made; and
 - (b) the FCA are satisfied that the individual was knowingly concerned in the decision.
- (2) In this section “officer”, in relation to a body corporate, means—
- (a) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; or

- (b) an individual who is a controller of the body.

131AE Liability for contraventions of Article 14 or 15 of the market abuse regulation

131AE. For the purposes of any enactment a person contravenes Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) whether the contravention is by that person alone or by that person and one or more other persons jointly or in concert.”.

Marginal Citations

- M1** Sections 118 to 118C were substituted for the original section 118 by [S.I. 2005/381](#) and sections 118 and 118A were further amended by [S.I. 2014/3081](#). Sections 119 to 122 were amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012 and section 121 was also amended by paragraph 9(3) of that Schedule.
- M2** Section 123 was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M3** OJ No L 173, 14.04.2014, p31.
- M4** OJ No L 173, 14.04.2014, p31.
- M5** 1984 c. 60; section 15(5) was amended and section 15(5A) was inserted by section 114(5) and (6) of the [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), section 15(6) was amended by section 113(8) of the Serious Organised Crime and Police Act 2005 and further amended by [S.I. 2005/3496](#), and section 15(7) was amended by section 114(7) of the Serious Organised Crime and Police Act 2005.
- M6** Section 16(3) was amended by section 114(8) of the Serious Organised Crime and Police Act 2005, section 16(3A) was inserted by section 113(9), section 16(10) and (10A) was substituted for section 16(10) by section 114(8) of the Serious Organised Crime and Police Act 2005, section 16(9) was amended by [S.I. 2005/3496](#) and section 16(11) was amended by paragraph 281 of Schedule 8 to the [Courts Act 2003 \(c. 39\)](#).
- M7** [S.I. 1989/1341 \(N.I. 12\)](#); Article 17(5) was amended by [S.I. 2007/288 \(N.I. 2\)](#), Article 17(5A) inserted by [S.I. 2007/288 \(N.I. 2\)](#) and Article 17(6) and (7) was amended by [S.I. 2007/288 \(N.I. 2\)](#).
- M8** Article 18(3) was amended by [S.I. 2007/288 \(N.I. 2\)](#), Article 18(3A) and (3B) were inserted by [S.I. 2007/288 \(N.I. 2\)](#), Article 18(9) was amended by [S.I. 2007/288 \(N.I. 2\)](#), Article 18(10) was substituted by [S.I. 2007/288 \(N.I. 2\)](#), Article 18(10A) was inserted by [S.I. 2007/288 \(N.I. 2\)](#), and Article 12 was amended by [S.I. 2007/288 \(N.I. 2\)](#).
- M9** Section 176(1) was amended by paragraph 14(1) and (2) of Schedule 12 to the Financial Services Act 2012.
- M10** OJ No L 173, 14.04.2014, p31.
- M11** Section 78 was amended by [S.I. 2007/1973](#), section 16(1) to (3) of the Financial Services Act 2012 and by [S.I. 2014/3329](#).
- M12** Section 123(1) and (3) was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M13** Section 124 was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M14** OJ No L 173, 14.04.2014, p31.
- M15** Section 126 was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M16** Section 127(1) was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M17** Section 127(4) was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M18** Section 128(1) was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M19** Section 128(3) was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M20** Section 129 was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M21** Section 130(1) was amended by paragraph 9(4) of Schedule 9 to the Financial Services Act 2012.

- M22** 2012 c. 21.
- M23** 1993 c. 36.
- M24** Section 130(5) was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M25** Section 130A was amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M26** Section 131A(2) was inserted by S.I. 2005/381.
- M27** Section 131A(4) was inserted by S.I. 2005/381 and further amended by paragraph 9(1) and (2) of Schedule 9 to the Financial Services Act 2012.
- M28** 1996 c. 18; section 230 was amended by section 15(1) of the Public Interest Disclosure Act 1989 (c.23), paragraph 41 of Schedule 7 to the Children and Families Act 2014 (c.6) and by section 149(3) of the Small Business, Enterprise and Employment Act 2015 (c.26).
- M29** Section 313 was amended by S.I. 2007/126, paragraph 36(3) of Schedule 8 to the Financial Services Act 2012 (c.21) and by S.I. 2013/504 and 2014/892.
- M30** Section 1H was inserted by section 6(1) of the Financial Services Act 2012 and further amended by S.I. 2013/1881; there are other amending instruments but none is relevant.
- M31** OJ No L 173, 14.04.2014, p31.
- M32** OJ No L 145, 30.04.2004, p1.

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Market Abuse) Regulations 2016, Section 9.