



# Financial Services Act 2012

## 2012 CHAPTER 21

### PART 5

#### INQUIRIES AND INVESTIGATIONS

##### *Inquiries*

#### **68 Cases in which Treasury may arrange independent inquiries**

- (1) This section applies in [<sup>F1</sup>three] cases.
- (2) The first case is where it appears to the Treasury that—
  - (a) events have occurred in relation to—
    - (i) a collective investment scheme,
    - (ii) a person who is, or was at the time of the events, carrying on a regulated activity (whether or not as an authorised person), or
    - (iii) listed securities or an issuer of listed securities,which posed or could have posed a serious threat to the stability of the UK financial system or caused or risked causing significant damage to the interests of consumers, and
  - (b) those events might not have occurred, or the threat or damage might have been reduced, but for a serious failure in—
    - (i) the system established by FSMA 2000, or by any previous statutory provision, for the regulation of such schemes, or of such persons and their activities, or the listing of securities, or
    - (ii) the operation of that system.
- (3) The second case is where it appears to the Treasury that—
  - (a) events have occurred in relation to a recognised clearing house or [<sup>F2</sup>, a recognised payment system or a recognised CSD] which—
    - (i) posed or could have posed a serious threat to the stability of or confidence in the UK financial system, or

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- (ii) caused or risked causing significant damage to business or other interests throughout the United Kingdom, and
  - (b) those events might not have occurred, or the threat or damage might have been reduced, but for a serious failure in—
    - (i) the system established by Part 18 of FSMA 2000, or by any previous statutory provision, for the regulation of clearing houses [<sup>F3</sup> or central securities depositories] ,
    - (ii) the system established by Part 5 of the Banking Act 2009 for the regulation of <sup>F4</sup>... payment systems, or
    - (iii) the operation of either of those systems.
- [<sup>F5</sup>(3A) The third case is where it appears to the Treasury that—
- (a) events have occurred in relation to a regulated payment system which caused or risked causing significant damage to business or other interests throughout the United Kingdom, and
  - (b) those events might not have occurred, or the threat or damage might have been reduced, but for a serious failure in—
    - (i) the system established by Part 5 of the Financial Services (Banking Reform) Act 2013 for the regulation of payment systems, or
    - (ii) the operation of that system.]
- (4) If the Treasury consider that it is in the public interest that there should be an independent inquiry into the events and the circumstances surrounding them, they may arrange for an inquiry to be held under section 69.
- (5) In this section—
- “event” does not include any event occurring before 1 December 2001 (but no such limitation applies to the reference in subsection (4) to surrounding circumstances);
  - “recognised <sup>F6</sup>... payment system” means [<sup>F7</sup>a] payment system, as defined by section 182 of the Banking Act 2009, that is a recognised system for the purposes of Part 5 of that Act.

#### Textual Amendments

- F1** Word in s. 68(1) substituted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 105\(2\), 148\(5\); S.I. 2014/377, art. 2\(1\)\(a\), Sch. Pt. 1](#)
- F2** Words in s. 68(3)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), reg. 1, Sch. para. 17\(2\)\(a\)](#) (with regs. 7(4), 9(1))
- F3** Words in s. 68(3)(b)(i) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), reg. 1, Sch. para. 17\(2\)\(b\)](#) (with regs. 7(4), 9(1))
- F4** Word in s. 68(3)(b)(ii) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\), Sch. 9 para. 32\(2\)](#)
- F5** S. 68(3A) inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), ss. 105\(3\), 148\(5\); S.I. 2014/377, art. 2\(1\)\(a\), Sch. Pt. 1](#)
- F6** Word in s. 68(5) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), s. 118\(2\), Sch. 9 para. 32\(3\)\(a\)](#)
- F7** Word in s. 68(5) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\), s. 118\(2\), Sch. 9 para. 32\(3\)\(b\)](#)

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**Modifications etc. (not altering text)**

- C1** S. 68 modified (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6)**65(3)(d)**

**Commencement Information**

- I1** S. 68 in force at 1.4.2013 by [S.I. 2013/423](#), art. 3, [Sch.](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)