



Financial Services Act 2012

2012 CHAPTER 21

PART 5

INQUIRIES AND INVESTIGATIONS

Investigations

73 Duty of FCA to investigate and report on possible regulatory failure

- (1) Subsection (3) applies where it appears to the FCA that—
- (a) events have occurred in relation to a regulated person or collective investment scheme which—
 - (i) indicated a significant failure to secure an appropriate degree of protection for consumers,
 - (ii) had or could have had a significant adverse effect on the integrity of the UK financial system, as defined by section 1D of FSMA 2000 (the integrity objective), or
 - (iii) had or could have had a significant adverse effect on effective competition in the interests of consumers in the markets for the services described in paragraphs (a) and (b) of section 1E(1) of FSMA 2000 (the competition objective), and
 - (b) those events might not have occurred, or the failure or adverse effect might have been reduced, but for a serious failure in—
 - (i) the system established by FSMA 2000 for the regulation of authorised persons and [F1 of the carrying on of regulated activities,] for the listing of securities [F2 , for the regulation of collective investment schemes or for the regulation of recognised investment exchanges,], so far as it relates to the functions of the FCA, or
 - (ii) the operation of that system, so far as it relates to those functions.
- (2) Subsection (3) also applies where the Treasury direct the FCA that it appears to the Treasury that the conditions in subsection (1) are met in relation to specified events.

Changes to legislation: Financial Services Act 2012, Section 73 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) View outstanding changes

- (3) The FCA must carry out an investigation into the events and the circumstances surrounding them and report to the Treasury on the result of the investigation.
- (4) Subsection (3) does not apply by virtue of subsection (1) if the Treasury direct the FCA that it is not required to carry out an investigation into the events concerned.
- (5) “Regulated person” means—
- (a) an authorised person,
 - (b) a recognised investment exchange,
 - (c) any other person lawfully carrying on a regulated activity,
 - (d) a person carrying on business in contravention of the general prohibition in section 19 of FSMA 2000, or
 - (e) an issuer of listed securities.

Textual Amendments

- F1** Words in s. 73(1)(b)(i) substituted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 9\(a\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1
- F2** Words in s. 73(1)(b)(i) substituted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 10 para. 9\(b\)](#); S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1
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Commencement Information

- I1** S. 73 in force at 1.4.2013 by [S.I. 2013/423](#), art. 3, [Sch.](#)

Changes to legislation:

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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\(10\)](#)