



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—
 - ^{F1}(a)
 - (b) control of information rules, or
 - ^{F2}(c) the relevant provisions of Article 5 (exemption for buy-back programmes and stabilisation) of the market abuse regulation.]

Changes to legislation: *Financial Services Act 2012, Section 91 is up to date with all changes known to be in force on or before 24 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*

- (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
 - [^{F3}(c) that D acted or engaged in the conduct in conformity with the relevant provisions of Article 5 (exemption for buy-back programmes and stabilisation) of the market abuse regulation.]
- (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.
- [^{F4}(7) See section 137Q(3) of FSMA 2000 regarding the power of the FCA to make rules for the purposes of subsection (4)(c).]

Textual Amendments

- F1** S. 91(3)(a) omitted (3.7.2016) by virtue of [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **15(4)(a)(i)**
 - F2** S. 91(3)(c) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **15(4)(a)(ii)**
 - F3** S. 91(4)(c) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **15(4)(b)**
 - F4** S. 91(7) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **15(4)(c)**
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Commencement Information

- I1** S. 91 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\(10\)](#)