

*These notes refer to the Financial Services and Markets Act
2000 (c.8) which received Royal Assent on 14 June 2000*

FINANCIAL SERVICES AND MARKETS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part Xxiv: Insolvency

Winding up by the court

Section 367: Winding-up petitions

647. This section provides that the Authority may ask the court compulsorily to wind up any company or partnership which is doing or has done financial services business or which is or has carried on financial services business without authorisation. The powers also apply to an appointed representative. As with the other provisions in this part which empower the Authority to initiate proceedings, this enables the Authority to act on behalf of consumers, who could in theory take action themselves, but may in practice lack the resources and expertise to do so. The court may agree to this in cases where the business cannot pay its debts, or where it decides that it would be “just and equitable” to wind up the business. The Authority might make an application under the latter ground if, for example, a business had been guilty of such serious rule breaches that the Authority had found it necessary to cancel its permission in order to protect the public. This section also provides that for such businesses failure to pay money due to consumers on time can count as sufficient evidence to allow the initiation of insolvency proceedings.