

1988 No. 738

FINANCIAL SERVICES

**The Financial Services Act 1986 (Delegation) (No. 2)
Order 1988**

Made - - - - - 5th April 1988

Coming into force 6th April 1988

Whereas it appears to the Secretary of State that The Securities and Investments Board is able and willing to discharge the functions transferred by this Order and that the requirements of Schedule 7 to the Financial Services Act 1986(a) are satisfied with respect to it, and

Whereas the Secretary of State has been furnished by The Securities and Investments Board with a copy of the regulations it proposes to make in the exercise of the functions transferred by this Order, and

Whereas the Secretary of State is satisfied that the regulations which The Securities and Investments Board proposes to make in the exercise of the functions transferred by this Order will afford investors an adequate level of protection and comply with the principle set out in paragraph 1 of Schedule 8 to the Financial Services Act 1986, and

Whereas the Secretary of State has required The Securities and Investments Board to furnish him with a copy of any guidance intended to have continuing effect which it proposes to issue in writing or other legible form, and

Whereas The Securities and Investments Board is not proposing to issue, in writing or other legible form, any guidance intended to have continuing effect, and

Whereas the Secretary of State has sent to the Director General of Fair Trading a copy of the regulations which the Secretary of State is required to consider in making the decision whether he is precluded by section 121(1) of the Financial Services Act 1986 from making this Order together with such other information as the Secretary of State considers will assist the Director General of Fair Trading in discharging his functions under section 122(2) of that Act, and

Whereas the Secretary of State has had regard to the report made to him by the Director General of Fair Trading under section 122(2) of the Financial Services Act 1986 in deciding whether he is precluded by section 121(1) of that Act from making this Order, and

Whereas the Secretary of State is satisfied that the regulations of which copies have been furnished to him under section 114(9) of the Financial Services Act 1986 do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, and

Whereas a draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 114(11) of the Financial Services Act 1986:

(a) 1986 c.60.

Now, therefore, the Secretary of State in exercise of the powers conferred on him by sections 114 and 118 of that Act and of all other powers enabling him in that behalf hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services Act 1986 (Delegation) (No. 2) Order 1988 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“the Act” means the Financial Services Act 1986; and

“designated agency” means the body known as The Securities and Investments Board.

Transfer of functions

3.—(1) Except as provided in paragraph (3) of this article and subject to the provisions of paragraph (4), all those functions of the Secretary of State to which section 114 of the Act applies which are specified in paragraph (2) of this article are hereby transferred to the designated agency.

(2) The functions specified in this paragraph are—

(a) all functions under Chapter VIII of Part 1 of the Act;

(b) all functions under section 112 of the Act with respect to fees in respect of—

(i) applications under section 77 or 88 of the Act; and

(ii) notices under section 86(2) or 87(3) of the Act; and

(c) all functions under section 113 of the Act with respect to periodical fees in respect of managers of authorised unit trust schemes and operators of recognised schemes insofar as those functions are exercisable by virtue of section 113(8) of the Act.

(3) Paragraph (1) of this article does not apply to the following functions—

(a) the power to make regulations under section 81 of the Act with respect to the matters referred to in section 81(2)(d) and with respect to any other matters dealt with in the Authorised Unit Trust Scheme (Investment and Borrowing Powers) Regulations 1988(a);

(b) the power to prescribe the period referred to in section 87(3) of the Act; and

(c) functions under section 76(4) to (7) of the Act except insofar as they relate to the following matters—

(i) regulations imposing obligations or liabilities on the operator or the trustee (if any) of a single property scheme exempted by regulations made by the Secretary of State from the provisions of section 76(1) of the Act, including provisions for purposes corresponding to those for which provision can be made under section 85 of the Act in relation to authorised unit trust schemes; and

(ii) regulations making transitional or supplementary provisions with respect to the matters dealt with in sub-paragraph (i) above.

(4) The functions of the Secretary of State under section 94 of the Act are transferred to the designated agency subject to a reservation that they are to be exercisable by the Secretary of State concurrently with the designated agency.

Supplementary provisions

4. The Authorised Unit Trust Scheme (Pricing of Units and Dealings by Trustee and Manager) Regulations 1988(b) shall have effect for all purposes as if they had been made by the designated agency in exercise of functions transferred to it by this Order.

(a) S.I. 1988/284.

(b) S.I. 1988/280.

5th April 1988

Francis Maude
Parliamentary Under Secretary of State,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers certain of the Secretary of State's functions under the Financial Services Act 1986 to the body known as The Securities and Investments Board. The functions in question are described in article 3 to the Order. The functions under section 94 of the Act are transferred to The Securities and Investments Board subject to a reservation that they are to be exercisable concurrently by the Secretary of State.

The Order provides that the Authorised Unit Trust Scheme (Pricing of Units and Dealings by Trustee and Manager) Regulations 1988 are to have effect for all purposes as if they had been made by The Securities and Investments Board in exercise of functions transferred to it.