
STATUTORY INSTRUMENTS

1999 No. 2999

FINANCIAL SERVICES

**The Financial Services Act 1986
(Restriction of Exemption) Order 1999**

Made - - - - 3rd November 1999

Coming into force - - 1st December 1999

Whereas a draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 46(2) of the Financial Services Act 1986(1);

Now, therefore, the Treasury, in exercise of the powers conferred on them by section 46(1) of that Act hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services Act 1986 (Restriction of Exemption) Order 1999 and shall come into force on 1st December 1999.

(2) In this order—

- (a) “charity trustees” has the same meaning as in section 97(1) of the Charities Act 1993(2);
- (b) “common investment scheme” has the same meaning as in section 24(1) of that Act; and
- (c) “pooling scheme fund” means a fund established by a common investment scheme the trusts of which provide that property is not to be transferred to the fund except by or on behalf of a charity the charity trustees of which are the trustees appointed to manage the fund.

Restriction of exemption for managers of certain funds

2. Subject to the provisions of article 3, the exemption for which section 45(1)(j)(3) of the Financial Services Act 1986 makes provision for a person acting in his capacity as manager of a fund established under section 22 of the Charities Act 1960(4) or under section 24 of the Charities Act 1993 shall be restricted so that it applies only where the fund is a pooling scheme fund.

(1) 1986 c. 60. Certain functions of the Secretary of State under the Financial Services Act 1986, including functions under section 46 of that Act, have been transferred to the Treasury by the Financial Services (Transfer of Functions) Order 1992 (S.I.1992/1315).

(2) 1993 c. 10.

(3) Section 45(1)(j) of the Financial Services Act 1986 has been amended by section 78(1) of and Schedule 6 to the Charities Act 1992 (c. 41) and by section 98(1) of and Schedule 6 to the Charities Act 1993 (c. 10).

(4) 1960 c. 58.

Transitional provision

3. A person acting in his capacity as manager of a fund, other than a pooling scheme fund, established by a common investment scheme which takes effect before the date on which this Order comes into force shall not cease to be an exempted person as respects his management of that fund until whichever first occurs of the following events—

- (a) the expiry of the period of six months beginning with the date upon which this Order comes into force;
- (b) a further common investment scheme taking effect in relation to the fund.

3rd November 1999

Clive Betts
Bob Ainsworth
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

The Order restricts the exemption for which section 45(1)(j) of the Financial Services Act 1986 makes provision for the managers of common investment funds established under section 22 of the Charities Act 1960 or section 24 of the Charities Act 1993. Subject to the transitional provision for which article 3 of the Order makes provision, its effect is that the exemption will only apply to the manager of a fund the trusts of which prevent property being transferred to the fund except by or on behalf of a charity the charity trustees of which are also the trustees appointed to manage the fund. This type of fund is commonly known as a pooling scheme fund.

Article 3 of the Order contains a transitional provision. The provision means that the manager of any fund other than a pooling scheme fund which is established by a common investment scheme before the date on which the Order comes into force will continue to be exempt until the end of the period of six months beginning with the date on which the Order comes into force unless a further common investment scheme takes effect in relation to the fund before the end of that period.