
STATUTORY INSTRUMENTS

2001 No. 1821

The Financial Services and Markets Act 2000 (Consequential and Transitional Provisions) (Miscellaneous) Order 2001

Application of definition of “consumer” to users of regulated services before commencement

3.—(1) In section 138 (Authority’s general rule-making power), “consumers” means (in addition to persons defined as “consumers” in subsection (7)) persons—

- (a) who used any of the services provided before commencement by persons who were then regulated persons in carrying on relevant activities;
- (b) who have rights or interests which are derived from, or are otherwise attributable to, the use of any such services by other persons; or
- (c) who have rights or interests which may be adversely affected by the use of any such services by persons acting on their behalf or in a fiduciary capacity in relation to them.

(2) The definition of “consumers” in paragraph (1) is referred to in this article as “the extended definition”.

(3) For the purposes of the extended definition, subsections (8) and (9) of section 138 apply as if—

- (a) references to an authorised person were references to a regulated person; and
- (b) references to a regulated activity were references to a relevant activity.

(4) In subsection (3) of section 5 (the protection of consumers), subsection (7) of section 10 (the Consumer Panel), and subsection (5) of section 14 (cases in which the Treasury may arrange independent inquiries), in each case—

- (a) the extended definition applies for the purposes of paragraph (a); and
- (b) in paragraph (b), the references to “authorised persons” and “regulated activities” are to be treated as including references to regulated persons and relevant activities, respectively.

(5) The extended definition also applies for the purposes of subsection (6) of section 186 (objection to acquisition of control) and subsection (11) of section 391 (publication of notices).

(6) But the extended definition does not apply for the purposes of paragraph 1 of Schedule 4 (Treaty rights).

(7) In this article—

“commencement” means the beginning of the day on which section 19 comes into force;

“regulated person” means—

- (a) an authorised person within the meaning of the Financial Services Act 1986;
- (b) a person who is an exempted person by virtue of section 43(1) (listed money market institutions) or section 44(2) (appointed representatives) of that Act;
- (c) an authorised institution within the meaning of the Banking Act 1987(3);

(1) Amended by the Bank of England Act 1998 (c. 11) sections 23, 25 and 26 and modified by S.I.1992/3218, S.I. 1995/3275 and S.I. 1996/1669.

(2) Modified by S.I. 1992/3218 and S.I. 1995/3275.

(3) 1987 c. 22.

- (d) a person who is authorised under section 3 or 4 of the Insurance Companies Act 1982⁽⁴⁾;
- (e) a European institution within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992⁽⁵⁾;
- (f) a European investment firm within the meaning of the Investment Services Regulations 1995⁽⁶⁾;
- (g) an EC company within the meaning of the Insurance Companies Act 1982 which, by virtue of paragraph 1 or 8 of Schedule 2F to that Act⁽⁷⁾, is able to carry on direct insurance business through a branch in the United Kingdom or provide insurance in the United Kingdom;
- (h) a friendly society which is authorised or treated as authorised for the purposes of Part IV of the Friendly Societies Act 1992⁽⁸⁾, or which is permitted by virtue of section 31(2) or (3) of that Act to carry on any activities without authorisation under that Part; or
- (i) a building society which is authorised or treated as authorised for the purposes of the Building Societies Act 1986⁽⁹⁾;

“relevant activities” means—

- (a) in relation to persons falling within sub-paragraph (a), (b), (e) or (f) of the definition of “regulated person”, activities constituting investment business within the meaning of the Financial Services Act 1986;
- (b) in relation to persons falling within sub-paragraph (c), (e) or (i) of that definition, activities constituting a deposit-taking business within the meaning of the Banking Act 1987;
- (c) in relation to persons falling within sub-paragraph (d) or (g) of that definition, activities constituting insurance business within the meaning of the Insurance Companies Act 1982;
- (d) in relation to persons falling within sub-paragraph (h) of that definition, activities constituting insurance business within the meaning of the Friendly Societies Act 1992.

(4) 1982 c. 50; section 3 was amended by S.I. 1997/2781.

(5) S.I. 1992/3218; relevant amendments are made by S.I. 1999/2094.

(6) S.I. 1995/3275; to which there are amendments not relevant to this Order.

(7) Inserted by S.I. 1994/1696 and amended by S.I. 1997/2781.

(8) 1992 c. 40.

(9) 1986 c. 53.