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STATUTORY INSTRUMENTS

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**2001 No. 2188**

The Financial Services and Markets Act 2000 (Disclosure  
of Confidential Information) Regulations 2001

PART V

TRANSITIONAL PROVISIONS

**Interpretation**

13. In this Part—

“pre-commencement information” means information which is subject to restrictions (with or without qualifications or exceptions) on disclosure by virtue of a pre-commencement provision;

“pre-commencement provision” means—

(a) any provision in—

- (i) Schedule 2B to the Insurance Companies Act 1982<sup>(1)</sup>;
- (ii) Part VIII of the Financial Services Act 1986<sup>(2)</sup>;
- (iii) Part V of the Banking Act 1987<sup>(3)</sup>; or
- (iv) SRO rules;

which imposes restrictions on the disclosure of information, or creates exceptions or qualifications to such restrictions; or

(b) regulation 48 of the Investment Services Regulations 1995<sup>(4)</sup>;

“recognised self-regulating organisation” means a body which immediately before the coming into force of section 348 of the Act was a recognised self-regulating organisation within the meaning of section 8(1) of the Financial Services Act 1986, or a recognised self-regulating organisation for friendly societies within the meaning of Schedule 11 to that Act;

“SRO rules” means the rules of a recognised self-regulating organisation;

“transitional information” means information which immediately before the coming into force of section 19 of the Act was subject to restrictions on disclosure by virtue of a pre-commencement provision.

**Disclosure of pre-commencement information**

14.—(1) Before the coming into force of section 19 of the Act, each pre-commencement provision is to be treated as permitting the disclosure of pre-commencement information—

- (a) in accordance with regulation 3(1) as if it were confidential information;

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(1) 1982 c. 50.

(2) 1986 c. 60.

(3) 1987 c. 22.

(4) S.I.1995/3275. Regulation 48 was amended by Regulation 11 of S.I. 1996/1669.

- (b) to the Authority, the Secretary of State or the Treasury for the purpose referred to in regulation 3(2);
- (c) to any person for the purposes referred to in regulation 4; and
- (d) to—
  - (i) a person mentioned in regulation 5(3) for the purpose referred to in regulation 5(1)(a); or
  - (ii) any person for the purposes referred to in regulation 5(1)(b), but only if the proceedings in question are of the kind referred to in regulation 5(6)(a), (b) or (c).
- (2) Paragraph (1) is not to be taken as—
  - (a) precluding disclosure of pre-commencement information where that is otherwise permitted under the pre-commencement provision in question; or
  - (b) permitting disclosure in contravention of any of the directive restrictions.

### **Disclosure of transitional information**

**15.**—(1) After the coming into force of section 19 of the Act, sections 348, 349 and 352 of the Act apply in relation to transitional information in the same way as they apply in relation to confidential information within the meaning of section 348(2) of the Act.

- (2) Paragraph (1) does not apply to transitional information which—
  - (a) has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by section 348 of the Act or a pre-commencement provision; or
  - (b) satisfies the criterion set out in section 348(4)(b) of the Act.
- (3) For the purposes of sections 348 and 349 of the Act as they apply by virtue of paragraph (1)—
  - (a) a person who holds transitional information is to be treated as a primary recipient of the information if he—
    - (i) obtained it as mentioned in paragraph 1(2) or 5(1)(a) of Schedule 2B to the Insurance Companies Act 1982<sup>(5)</sup>; or
    - (ii) was a primary recipient of the information for the purposes of section 179 of the Financial Services Act 1986<sup>(6)</sup>; or
    - (iii) received it as mentioned in section 82(1)(a) of the Banking Act 1987<sup>(7)</sup>; or
    - (iv) received it as mentioned in regulation 48(1) of the Investment Services Regulations 1995<sup>(8)</sup>;
  - (b) any other person who holds transitional information is to be treated as having obtained the information directly or indirectly from a primary recipient.
- (4) Transitional information which is subject to directive restrictions imposed by the single market directives or the UCITS directive is to be treated for the purposes of these Regulations as single market directive information or UCITS directive information respectively.
- (5) Part IV of these Regulations does not apply to transitional information which is subject to directive restrictions imposed by article 25.3 of the listing particulars directive.

<sup>(5)</sup> Paragraphs 1(2) and 5(1)(a) were modified by S.I. 1997/2781, art. 8, Sch. paras. 53 and 57(a)(i).

<sup>(6)</sup> Section 179 was amended by the Companies Act 1989 (c. 40), Sch. 24; the Friendly Societies Act 1992 (c. 40), Sch. 18, para. 4; the Bank of England Act 1998 (c. 11), Sch. 5, para. 65(1) and Sch. 9; and S.I. 1992/1315 art. 10(1), Sch. 4, para. 4; and modified by S.I. 1992/3218, Sch. 9, para. 40; S.I. 1995/3275, reg. 48; and S.I. 1996/1669, reg. 12.

<sup>(7)</sup> Section 82 was modified by S.I. 1992/3218, Sch. 8, para. 22.

<sup>(8)</sup> S.I. 1995/3275. Regulation 48 was amended by Regulation 11 of S.I. 1996/1669.

### **Disclosure by recognised self-regulating organisations**

**16.** If a recognised self-regulating organisation discloses any information to the Authority for the purpose of enabling or assisting the Authority to discharge functions corresponding to functions of the organisation, the disclosure is not to be taken as a contravention of any duty to which the organisation is subject.