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## STATUTORY INSTRUMENTS

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# 2001 No. 2636

## The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc. ) Order 2001

### PART IV

#### SCOPE OF PERMISSION: PROCEDURE

##### Notice of scope of permission

**55.**—(1) The Authority must give notice in accordance with paragraph (2) (in this Part referred to as a “scope of permission notice”) to each person who has a Part IV permission by virtue of this Order.

(2) A scope of permission notice must be in writing and must—

- (a) specify the regulated activity or activities the Authority considers the person has a Part IV permission to carry on at commencement, described in such manner as the Authority considers appropriate;
- (b) specify all the requirements (if any) under section 43 to which the Authority considers he is subject at commencement.

(3) A scope of permission notice must be given as soon as reasonably practicable and, except in respect of a person who gives notice to the Authority in accordance with article 5(3), the Authority must use its best endeavours to send out the notices before commencement.

(4) For the purpose of determining the description of the Part IV permission in accordance with paragraph (2)—

- (a) the person to whom the notice is given must be treated as satisfying the threshold conditions in relation to all of the regulated activities which he has, by virtue of Chapter I of Part II of this Order, permission to carry on at commencement, having regard to all the requirements under section 43 to which he is subject by virtue of Part III of this Order;
- (b) the Authority must not consider any material relating to the matters set out in section 45(1).

(5) Subject to paragraph (4), where an authorisation conferred before commencement by a provision referred to in Chapter I of Part II of this Order circumscribed the activity to which the authorisation related in a particular way, the Authority may specify in the scope of permission notice a permission which is not so circumscribed provided that it also specifies in the notice a requirement imposed under section 43 which achieves the same effect.

(6) In relation to a person falling within article 5(1), the scope of permission notice may take into account any indication given by that person which is contained in the notice given pursuant to paragraph (5) of that article.

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##### Commencement Information

**II** [Art. 55](#) in force at 10.8.2001, see [art. 1\(2\)\(a\)](#)

### Responding to the scope of permission notice

**56.**—(1) A scope of permission notice must specify a period of not less than three months from the date on which the notice is given as the period within which the recipient must notify the Authority either—

- (a) that he agrees with the matters stated in the notice; or
- (b) that for specified reasons he disagrees with the matters stated in the notice.

(2) A person who receives a scope of permission notice must notify the Authority in accordance with paragraph (1) within the period specified in the notice.

(3) A scope of permission notice may be withdrawn and replaced by another such notice at any time before notification has been given under paragraph (2) as respects the first notice.

#### Commencement Information

**I2** Art. 56 in force at 10.8.2001, see [art. 1\(2\)\(a\)](#)

### Scope of permission where person agrees with notice

**57.**—(1) Where a scope of permission notice has been given to a person under article 55 and he notifies the Authority that he agrees with the matters stated in the notice then—

- (a) the regulated activities the person has permission under Part IV to carry on at commencement, and
- (b) the requirements (if any) to which he is subject under section 43 at commencement, are, notwithstanding anything in any other provision of this Order, to be taken to be as stated in the scope of permission notice.

(2) If a scope of permission notice given to a person under article 55 is withdrawn before he notifies agreement, paragraph (1) does not apply in relation to that notice.

#### Modifications etc. (not altering text)

- C1** Art. 57(1) applied (with modifications) (1.12.2001) by S.I. 2001/3650, [art. 30\(2\)](#) (as substituted by The Financial Services and Markets Act 2000 (Scope of Permission Notices) Order 2001 (S.I. 2001/3771), arts. 1(1), [5\(3\)](#))
- C2** Art. 57(1) applied (with modifications) (1.12.2001) by S.I. 2001/3650, [art. 29\(3\)](#) (as substituted by The Financial Services and Markets Act 2000 (Scope of Permission Notices) Order 2001 (S.I. 2001/3771), arts. 1(1), [5\(2\)](#))
- C3** Art. 57(1) applied (with modifications) (1.12.2001) by S.I. 2001/3650, [art. 30\(3\)](#) (as substituted by The Financial Services and Markets Act 2000 (Scope of Permission Notices) Order 2001 (S.I. 2001/3771), arts. 1(1), [5\(3\)](#))
- C4** Art. 57(1) applied (with modifications) (1.12.2001) by S.I. 2001/3650, [art. 29\(2\)](#) (as substituted by The Financial Services and Markets Act 2000 (Scope of Permission Notices) Order 2001 (S.I. 2001/3771), arts. 1(1), [5\(2\)](#))

#### Commencement Information

**I3** Art. 57 in force at 10.8.2001, see [art. 1\(2\)\(a\)](#)

### Final view notices

**58.**—(1) Where a scope of permission notice has been given to a person and either—

- (a) he notifies the Authority that he disagrees with any of the matters stated in the notice; or
- (b) he fails to notify the Authority as required by article 56(2),

the Authority must within a reasonable period after receiving the notification or the expiry of the period allowed for notification (whichever is earlier) give the person a further notice (a “final view notice”).

(2) A final view notice must set out the Authority’s final view on—

- (a) the regulated activity or activities the Authority considers the person has a Part IV permission to carry on at commencement, described in such manner as the Authority considers appropriate; and
- (b) the requirements (if any) under section 43 to which he is subject at commencement.

(3) Article 55(4) to (6) applies to a final view notice as it applies to a scope of permission notice.

(4) The person may refer the final view notice to the Tribunal.

(5) A final view notice must be in writing and must give an indication of the person’s right to have the matter referred to the Tribunal and of the procedure on such a reference.

(6) Sections 133 and 137 apply in relation to a reference under this article, but as if—

- (a) the reference in section 133(1) to the Act were a reference to this article;
- (b) the reference in section 133(1)(a) to the decision notice or supervisory notice were a reference to the final view notice; and
- (c) section 133(4) to (12) were omitted.

**Commencement Information**

**I4** Art. 58 in force at 10.8.2001, see art. 1(2)(a)

**Scope of permission following final view notice**

**59.**—(1) This article applies where a final view notice is given under article 58(1) and either the person notifies the Authority that he agrees with the final view notice, or no reference to the Tribunal is made under article 58(4) within the period allowed for such a reference.

(2) In a case where this article applies, with effect from the date on which the person notifies his agreement with the final view notice or from the end of the period allowed for reference to the Tribunal (whichever is earlier)—

- (a) the regulated activities the person has permission under Part IV to carry on at commencement; and
- (b) the requirements (if any) to which he is subject under section 43 at commencement,

are, notwithstanding anything in any other provision of this Order, to be taken to be as stated in the final view notice.

**Commencement Information**

**I5** Art. 59 in force at 10.8.2001, see art. 1(2)(a)

### Scope of permission where reference is made to the Tribunal

**60.**—(1) On a reference under article 58 the Tribunal must determine the question whether the Authority’s view as stated in the final view notice was appropriate having regard to article 55(4) to (6).

(2) Where the Tribunal determines that the Authority’s view as stated in the final view notice was appropriate, with effect from the date of that determination—

(a) the regulated activities the person has permission under Part IV to carry on at commencement; and

(b) the requirements (if any) to which he is subject under section 43 at commencement, are, notwithstanding anything in any other provision of this Order, to be taken to be as stated in the final view notice.

(3) Where the Tribunal determines that the Authority’s view, as stated in the final view notice was not appropriate, the Tribunal must remit the matter to the Authority with such directions as the Tribunal thinks fit as to the scope of the person’s permission.

(4) The Authority must issue a further notice in accordance with the determination of, and any direction given by, the Tribunal setting out—

(a) the regulated activity or activities the person has permission under Part IV to carry on at commencement, described in such manner as the Authority considers appropriate;

(b) the requirements (if any) to which he is subject under section 43 at commencement, and, with effect from the date of that notice, those matters are to be taken to be as stated in that notice, notwithstanding anything in any other provision of this Order.

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#### Commencement Information

**I6** Art. 60 in force at 10.8.2001, see [art. 1\(2\)\(a\)](#)

### Information for public file of mutual society

**61.**—(1) The Authority must keep in the public file of a society a copy of any—

(a) scope of permission notice;

(b) notification by the society under article 56;

(c) final view notice;

(d) further notice given by the Authority under article 60(4),

given to the society in accordance with this Part.

(2) The Authority must make a note on the public file of a society to the effect that any future changes in the society’s Part IV permission will be recorded on the public record which the Authority is required to keep under section 347.

(3) In this article, the “public file” means—

(a) for a friendly society, the file maintained pursuant to section 104 of the Friendly Societies Act;

(b) for a building society, the file maintained pursuant to section 106 of the Building Societies Act.

**Commencement Information**

**17** Art. 61 in force at 10.8.2001, see [art. 1\(2\)\(a\)](#)

**Application of section 20**

**62.**—(1) Subject to paragraphs (2) and (5), where—

- (a) the period specified in a scope of permission notice for the purposes of article 56(1) expires on a date which falls more than two months after commencement; and
- (b) the recipient of the notice notifies the Authority that he agrees or disagrees in accordance with article 56(2),

section 20 does not apply to the carrying on by that recipient of a regulated activity during the period between commencement and the date on which the recipient so notifies the Authority.

(2) Paragraph (1) applies only to a regulated activity which the recipient of the notice was carrying on before commencement.

(3) Subject to paragraphs (4) and (5), where an authorised person notifies the Authority under article 56(2) that he disagrees with the scope of permission notice given to him, section 20 does not apply to the carrying on by that person of a regulated activity—

- (a) during the period between commencement and the date when the right to refer the final view notice to the Tribunal under article 58(4) expires (in a case where no such reference is made); or
- (b) during the period between commencement and the issue of the Authority’s notice under article 60(4) (in a case where the final view notice is referred to the Tribunal).

(4) Paragraph (3) applies only where the person reasonably believed that the final view notice or the notice given under article 60(4) (as the case may be) would specify that he had permission to carry on that regulated activity.

(5) This article does not apply (and therefore section 20 does apply) to the carrying on of a regulated activity in contravention of a provision which was included in the recipient’s Part IV permission by virtue of a variation of that permission under section 44, 45 or 46.

**Commencement Information**

**18** Art. 62 in force at 10.8.2001, see [art. 1\(2\)\(a\)](#)

**Requirement to reapply for Part IV permission**

**63.**—(1) At any time during the period of two years beginning with commencement, the Authority may give a direction under this article in relation to a class of persons—

- (a) which is specified in the direction; and
- (b) which is a class of persons who have a Part IV permission by virtue of this Order.

(2) A direction under this article is a direction that each person falling within the class specified in the direction must, before a date so specified, apply to the Authority under section 40 for a fresh permission to carry on the regulated activities which he wishes to carry on.

(3) Section 40(2) does not apply in relation to an application made in pursuance of the direction.

(4) If a person falling within the specified class fails to comply with the direction, his Part IV permission ceases to have effect on the date specified under paragraph (2).

(5) If a person complies with the direction but the application which he makes in pursuance of it is refused, his Part IV permission ceases to have effect when the application is decided.

(6) If a person complies with the direction and in response to his application the Authority gives him a Part IV permission, that permission has effect, from the time when the application is decided, in place of the Part IV permission which he had by virtue of this Order.

(7) For the purposes of this article, an application is decided when it has been determined and there is no possibility (or no further possibility) of the determination being reversed or varied on a reference to a tribunal or an appeal.

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**Commencement Information**

**I9** Art. 63 in force at 10.8.2001, see **art. 1(2)(a)**

**Requirement to reapply: procedure**

**64.**—(1) A direction given under article 63 must state the reasons why it has been given to the class of persons specified in the direction.

(2) The date specified in the direction under article 63(2) must be such as to allow a reasonable time for compliance, and in any event must fall after the end of three months beginning with the date when the direction is given.

(3) If the Authority gives a direction under article 63, it must as soon as practicable, and in any event not later than the due date, give a copy to each person falling within the class specified in the direction.

(4) “The due date” means the date three months before the date specified in the direction.

(5) If there is a person falling within that class to whom the Authority fails to give a copy by the due date, the direction does not apply to him (and therefore article 63(4) does not apply to him) but if the Authority gives him a copy of the direction after the due date, the direction has effect in relation to him as if the date specified in it under article 63(2) were three months after the date on which the copy was given to him, and the copy must indicate that fact.

(6) Any failure by the Authority to comply with paragraph (3) does not invalidate the direction in relation to any person to whom a copy is given in accordance with that paragraph.

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**Commencement Information**

**I10** Art. 64 in force at 10.8.2001, see **art. 1(2)(a)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc. ) Order 2001, PART IV.