
STATUTORY INSTRUMENTS

2001 No. 2636

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

PART VII

OTHER TRANSITIONAL STATUS AFTER COMMENCEMENT

UK firms with “passports” before commencement

77.—(1) This article applies to a UK firm within the meaning of Schedule 3.

(2) If, before commencement, the requirements of—

- (a) paragraph 1 of Schedule 6 to the 2BCD Regulations;
- (b) paragraph 1 of Schedule 6 to the ISD Regulations;
- (c) paragraph 1 of Schedule 2G to the Insurance Companies Act; or
- (d) paragraph 1 of Schedule 13B to the Friendly Societies Act,

were complied with in relation to the establishment of a branch by the firm in an EEA State, the conditions in sub-paragraphs (2) to (5) of paragraph 19 of Schedule 3 are to be treated as satisfied in relation to the establishment of the branch (subject to any pre-commencement changes).

(3) In paragraph (2), “pre-commencement changes” means any changes relating to the branch in respect of which the requirements of—

- (a) paragraph 5 of Schedule 6 to the 2BCD Regulations;
- (b) paragraph 6 of Schedule 6 to the ISD Regulations;
- (c) paragraph 2 or 3 of Schedule 2G to the Insurance Companies Act; or
- (d) paragraph 2 or 3 of Schedule 13B to the Friendly Societies Act,

were complied with before commencement.

(4) If, before commencement, the requirements of—

- (a) paragraph 1 of Schedule 6 to the 2BCD Regulations;
- (b) paragraph 1 of Schedule 6 to the ISD Regulations;
- (c) paragraph 5 of Schedule 2G to the Insurance Companies Act; or
- (d) paragraph 5 of Schedule 13B to the Friendly Societies Act,

were complied with in relation to the firm’s provision of services in an EEA State, the condition in paragraph 20(1) of Schedule 3 is to be treated as satisfied in relation to its provision of those services in that State (subject to any pre-commencement changes).

(5) In paragraph (4), “pre-commencement changes” means any changes relating to the provision of the services in respect of which the requirements of—

- (a) paragraph 5 of Schedule 6 to the ISD Regulations;
- (b) paragraph 6 of Schedule 2G to the Insurance Companies Act; or

(c) paragraph 6 of Schedule 13B to the Friendly Societies Act, were complied with before commencement.

(6) Where paragraph (4) applies by reason of compliance with the requirements of—

- (a) paragraph 5 of Schedule 2G to the Insurance Companies Act; or
- (b) paragraph 5 of Schedule 13B to the Friendly Societies Act;

then a consent notice is deemed to have been given by the Authority under paragraph 20(3A)(a) of Schedule 3 and the notice required by paragraph 20(4B) of that Schedule(1) is deemed to have been received by the firm.

(7) References in this article to compliance with any requirements of Schedule 6 to the 2BCD or ISD Regulations, Schedule 2G to the Insurance Companies Act or Schedule 13B to the Friendly Societies Act include references to deemed compliance by virtue of—

- (a) paragraph 2 of Schedule 11 to the 2BCD Regulations or ISD Regulations;
- (b) regulation 70 of the 31D Regulations;
- (c) regulation 15 of the Friendly Societies Act 1992 (Amendment) Regulations 1994(2); or
- (d) regulation 7 of the Friendly Societies (Amendment) Regulations 1997(3).

Commencement Information

11 [Art. 77](#) in force at 1.12.2001, see [art. 1\(2\)\(b\)](#)

Disqualification of auditors

78. Where, at commencement, an auditor has been disqualified pursuant to section 111(3) of the Financial Services Act or section 21A(5) of the Insurance Companies Act, the disqualification has effect after commencement as disqualifying the auditor under section 345 from acting as auditor for any person—

- (a) for whom he was disqualified from acting immediately before commencement; and
- (b) who is an authorised person on commencement.

Commencement Information

12 [Art. 78](#) in force at 1.12.2001, see [art. 1\(2\)\(b\)](#)

Employment of prohibited persons: disqualification directions

79.—(1) Where, at commencement—

- (a) a person (“A”) is the subject of a disqualification direction made under section 59 of the Financial Services Act;
- (b) the kinds of investment business which A is prohibited from engaging in by that direction include functions in relation to regulated activities within the meaning of section 56; and
- (c) the persons by whom A is prohibited from being employed include one or more persons authorised under the Act,

(1) Sub-paragraphs (3A) and (4B) of paragraph 20 of Schedule 3 were inserted by the Financial Services (EEA Passport Rights) Regulations 2001 (S.I.2001/1376).

(2) S.I. 1994/1984.

(3) S.I. 1997/2849.

the direction has effect after commencement as a prohibition order made under section 56.

- (2) A prohibition order having effect under paragraph (1)—
- (a) is to be treated as prohibiting A from performing any functions in relation to regulated activities which correspond to the kinds of investment business covered by the disqualification direction before commencement;
 - (b) is to be treated as prohibiting A from performing those functions for any person who was covered by the disqualification direction before commencement and is an authorised person after commencement,

taking into account, in both cases, any consent given by the Authority under section 59(3) of the Financial Services Act.

[^{F1}(3) Paragraph (4) applies where—

- (a) a person (“I”) is subject to a prohibition order having effect under paragraph (1); and
- (b) information about I has been placed on the record maintained in accordance with section 347(1)(g) as required by section 347(2) (“transitional information”).

(4) Subsections (5) and (6) of section 347 apply to the record to the extent that it comprises transitional information—

- (a) as if subsection (5)(a) required the Authority to exclude the transitional information from the record made available for inspection unless—
 - (i) the person seeking to inspect the record has asked the Authority whether I is subject to a prohibition order; or
 - (ii) the Authority is otherwise satisfied that the person has a good reason for seeking to inspect the transitional information;
- (b) as if subsection (5)(b) required the Authority to exclude the transitional information from any certified copy of the record provided in accordance with that subsection;
- (c) as if subsection (5)(b) further provided that the Authority may only provide a certified copy of the part of the record containing the transitional information if—
 - (i) the person requesting the copy of that part has asked the Authority whether I is subject to a prohibition order; or
 - (ii) the Authority is otherwise satisfied that the person has good reason for requesting a copy of the part of the record which includes the transitional information;
- (d) as if subsection (6) did not apply to the record in so far as it contains the transitional information.

(5) Paragraph (4) applies to transitional information until 18 January 2002 or, if on or before that date, I applies to the Authority under section 58 for the revocation of the prohibition order, then until that application is determined and there is no possibility (or no further possibility) of the determination being reversed or varied on a reference to the Tribunal or an appeal.]

F1 [Art. 79\(3\)-\(5\)](#) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2001 \(S.I. 2001/3650\)](#), arts. 1(a), **10**

Commencement Information

I3 [Art. 79](#) in force at 1.12.2001, see [art. 1\(2\)\(b\)](#)

International securities self-regulating organisations

80. An organisation which was, immediately before commencement, approved under paragraph 25B of Schedule 1 to the Financial Services Act is to be treated after commencement as approved under article 35 of the Regulated Activities Order.

Commencement Information

I4 [Art. 80](#) in force at 1.12.2001, see [art. 1\(2\)\(b\)](#)

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 VII.