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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 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<sup>(1)</sup> 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<sup>(2)</sup>; or
- (d) regulation 7 of the Friendly Societies (Amendment) Regulations 1997<sup>(3)</sup>.

### **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.

### **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,

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,

(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.

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

**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.