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STATUTORY INSTRUMENTS

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**2001 No. 2657**

**The Financial Services and Markets Act 2000  
(Transitional Provisions and Savings) (Civil Remedies,  
Discipline, Criminal Offences etc.) Order 2001**

**PART 3**

**DISCIPLINARY POWERS**

**Public statements in respect of pre-commencement contraventions of the Financial Services Act**

6.—(1) Paragraph (3) applies if—

- (a) the Authority considers that an authorised person contravened a pre-commencement provision that related to him before commencement; and
- (b) the Authority has not given a written notice under section 60(2) of the Financial Services Act in respect of that contravention.

(2) Paragraph (3) also applies if—

- (a) the Authority considers that an authorised person contravened a pre-commencement friendly societies provision that related to him before commencement;
- (b) that person was, immediately before commencement, a regulated friendly society other than a member society; and
- (c) the Authority has not given a written notice under paragraph 21 of Schedule 11 to the Financial Services Act<sup>(1)</sup> in respect of that contravention.

(3) The Authority may exercise the power conferred by section 205 (public censure) as if the contravention of the pre-commencement provision or pre-commencement friendly societies provision were a contravention of a requirement imposed by or under the Act.

(4) “Pre-commencement provision”, in relation to an authorised person (“A”), means—

- (a) if immediately before commencement A was a regulated person—
  - (i) any rule or regulation made under Chapter V of Part I of the Financial Services Act;
  - (ii) section 56 or 59 of that Act; or
  - (iii) any condition imposed under section 50 of that Act;
- (b) if immediately before commencement A was an authorised person (within the meaning of that Act), any prohibition or requirement imposed under Chapter VI of Part I of that Act (powers of intervention);
- (c) if immediately before commencement A was a manager or trustee (within the meaning of that Act) of an authorised unit trust scheme (within the meaning of that Act), any

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(1) Functions transferred by S.I.1987/925.

- direction given to an authorised unit trust scheme under section 91 of that Act (directions to authorised unit trust schemes); or
- (d) any direction under regulation 18 of the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996 to which A was subject.
- (5) “Pre-commencement friendly societies provision” means—
- (a) any rule or regulation made under Schedule 11 to the Financial Services Act;
- (b) section 56 or 59 of that Act;
- (c) any condition imposed under section 50 of that Act as it applied by virtue of paragraph 14(3) of Schedule 11 to that Act;
- (d) any prohibition or requirement imposed under Chapter VI of Part I of that Act as it applied by virtue of paragraph 23 of that Schedule; or
- (e) any requirement imposed by paragraph 24 of that Schedule.
- (6) For the purposes of paragraph (2)(b), “regulated friendly society” and “member society” have the meanings given by the Financial Services Act.
- (7) For the purposes of paragraph (4)(a), “regulated person” means any of—
- (a) an authorised person under the Financial Services Act by virtue of—
- (i) section 22 (authorised insurers)(2);
- (ii) section 24 (operators and trustees of recognised schemes);
- (iii) section 25 (authorisation by the Authority)(3); or
- (iv) section 31 (authorisation in other member State)(4);
- (b) a European institution carrying on home-regulated investment business in the United Kingdom, within the meaning of the 2BCD Regulations; or
- (c) a European investment firm carrying on home-regulated investment business in the United Kingdom, within the meaning of the ISD Regulations.

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(2) Modified by S.I. 1994/1696.

(3) Functions transferred by S.I. 1987/942.

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