
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential and transitional provisions for the purposes of the Financial Services and Markets Act 2000 (“the Act”) and in consequence of the Financial Services and Markets Act 2000 (Commencement No. 5) Order (S.I.2001/2632 (C. 87)). That Order brings into force the provisions of the Act relating to (amongst other things) the making of applications under the Act for permission or authorisation coming into force on the day on which section 19 of the Act comes into force (“commencement”). That Order also brings into force Part XI of the Act (information gathering and investigations).

Article 2 modifies section 165 of the Act to enable the Financial Services Authority (“the Authority”) to exercise its powers under that section in relation to information or documents which are reasonably required in connection with the exercise by it of functions which it has reasonable grounds to believe will be conferred on it by or under the Act or, in the case of persons who are not regulated under existing legislation, functions which will be conferred on the Authority at commencement by the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) Order 2001 (S.I. 2001/2657). Under article 2, the Authority may require regulated persons (as defined by article 1) to provide information or to produce documents if the Authority has reasonable grounds to believe that it will be able to impose such a requirement under the Act after commencement on the person concerned. Article 2 also enables the Authority to impose information requirements on recognised clearing houses and recognised investment exchanges (within the meaning of the Financial Services Act 1986).

The modifications to section 165 made by article 2 will cease to have effect on commencement. Any requirement imposed under section 165 pursuant to article 2 (and any requirement imposed under Part XI in connection with such a requirement) ceases to have effect at commencement if the Authority could not impose such a requirement immediately after commencement.

Article 3 makes further transitional modifications of certain provisions of the Act brought into force by the Commencement No. 5 Order. For example, references in the Act to “authorised persons” are treated as referring to persons who *will be* authorised at commencement. These modifications have effect until commencement.

Article 4 enables the Authority to require a recognised professional body (within the meaning of the Financial Services Act 1986) to furnish it with information which relates to investment business carried on by a person who holds (or has held) a certificate issued by that body for the purposes of Part I of that Act (regulation of investment business). The Authority may only impose such a requirement in relation to information which is reasonably required in connection with the exercise of functions which it has reasonable grounds to believe will be conferred on it by or under the Act. Any such requirement ceases to have effect at commencement if it could not be imposed immediately after commencement.

Articles 5 and 6 make transitional modifications to section 95 of the Banking Act 1987 and section 189 of, and Schedule 14 to, the Financial Services Act 1986. These provisions provide for exceptions to the Rehabilitation of Offenders Act 1974 which relate to the determination of applications for authorisation under those Acts and related matters. The modifications provide that the exceptions also apply in relation to the determination of an application for permission under Part IV of the Act or applications by a collective investment scheme under Part XVII of the Act and related matters.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Article 7 makes transitional modifications to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. [2001/1820](#)). These modifications will cease to have effect at commencement.

Article 8 makes transitional provision so that, despite the amendment made by paragraph 3 of Schedule 20 to the Act, the reference in Schedule 5 to the Civil Jurisdiction and Judgments Act 1982 to proceedings mentioned in section 188 of the Financial Services Act 1986 continues in effect until that section is repealed.

Article 9 provides that applications may be made for, and the Authority may grant, authorisation orders under the Open-Ended Investment Companies Regulations 2001 (S.I. [2001/1228](#)), so as to come into force not sooner than commencement.