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STATUTORY INSTRUMENTS

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**2001 No. 3083**

The Financial Services and Markets Act 2000  
(Transitional Provisions and Savings) (Civil Remedies,  
Discipline, Criminal Offences etc.) (No. 2) Order 2001

PART 7

MISCELLANEOUS

**Auditors**

**19.** Section 345 (disqualification of auditors) has effect as if the reference to a duty imposed on an auditor under the Act included a reference to a duty imposed (whether before or, where applicable, after commencement) on an auditor under any of the following enactments—

- (a) section 109 of the Financial Services Act (communication by auditor with supervisory authorities)(1);
- (b) section 47 of the Banking Act (communication by auditor with the Authority)(2);
- (c) section 21A of the Insurance Companies Act (communications by auditor with the Treasury or the Secretary of State)(3);
- (d) section 82 of the Building Societies Act (auditors' duties to Commission)(4);
- (e) section 79 of the Friendly Societies Act 1992 (auditors' duties to Commission)(5).

**Recognised professional bodies**

**20.**—(1) Notwithstanding any repeal of section 18 of, or Schedule 3 to, the Financial Services Act (requirements for recognition of professional bodies)(6), the following provisions of that Schedule continue to have effect in relation to any body which was, immediately before commencement, a recognised professional body—

- (a) paragraphs 3 and 3A, so far as they relate to the carrying on of investment business before commencement;
- (b) sub-paragraphs (2) and (4) to (6) of paragraph 4;
- (c) sub-paragraph (3) of paragraph 4, so far as it relates to provision for disciplining members of the body;
- (d) paragraph 5, so far as it relates to investment business carried on before commencement;

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(1) Modified by S.I.1992/3218, S.I. 1995/3275 and S.I. 1996/1669; functions transferred by S.I. 1987/942.

(2) Amended by the Bank of England Act 1998 (c. 11), Schedule 5 and S.I. 1996/1669 and modified by S.I. 1992/3218.

(3) Inserted by the Financial Services Act 1986, s.135 and amended by S.I. 1996/1669 and S.I. 1997/2781.

(4) Amended by the Building Societies Act 1997 (c. 40), Schedules 7 and 9, S.I. 1991/1729 and S.I. 1996/1669; repealed by S.I. 2001/2617.

(5) Amended by S.I. 1996/1669 and repealed by S.I. 2001/2617.

(6) Amended by the Companies Act 1989 (c. 40) section 204 and Schedule 23.

- (e) paragraph 6, so far as it relates to the obligation to co-operate with the Authority in the exercise of functions conferred on it by or under the Act in relation to the supervision or regulation of investment business or other financial services (or any other person having responsibility for the supervision or regulation of such business or services) in so far as that obligation relates to investment business carried on before commencement by a person who held a certificate issued by that body for the purposes of Part I of the Financial Services Act.

(2) Notwithstanding any repeal of section 211(3) of, or Schedule 15 to, the Financial Services Act (transitional provisions), sub-paragraphs (1) and (3) of paragraph 6 of that Schedule continue to have effect in relation to any rules which are required to be made by a body which was, immediately before commencement, a recognised professional body, so that the body can continue to satisfy the requirements of Schedule 3 to that Act which continue to have effect by virtue of paragraph (1).

(3) For the purposes of section 380(1) and (2) (injunctions), any requirement imposed by the provisions of Schedule 3 to the Financial Services Act which continues to have effect by virtue of paragraph (1) is deemed to be a relevant requirement.

### **Information from former recognised professional bodies**

**21.** The Authority may by notice in writing require any person who was, immediately before commencement, a recognised professional body to furnish it with information—

- (a) which relates to—
- (i) investment business carried on before commencement by a person who held a certificate issued by that body for the purposes of Part I of the Financial Services Act; or
  - (ii) the regulation or supervision of that investment business; and
- (b) which the Authority reasonably requires for the exercise of functions conferred on it by or under the Act.

### **Tribunal proceedings that relate to the contravention of a rule**

**22.** In any reference to, or proceedings before, the Tribunal, in any subsequent appeal under section 137 and in any proceedings under Part XXV, the validity of any rule of a recognised self-regulating organisation, a recognised self-regulating organisation for friendly societies, a recognised professional body, a recognised investment exchange or a recognised clearing house may, in accordance with any provisions that relate to such references, proceedings or appeals, be raised.

### **Revocation and amendments**

**23.—**(1) The Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) Order 2001<sup>(7)</sup> is revoked.

(2) In articles 2(1) and 4(2) of the Financial Services and Markets Act 2000 (Consequential and Transitional Provisions) (Miscellaneous) (No. 2) Order 2001<sup>(8)</sup> (“the Consequential No. 2 Order”), for “the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) Order 2001” in each case, substitute “the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) (No. 2) Order 2001”.

(3) The substitutions made by paragraph (2) do not affect the validity of any requirement imposed before this article comes into force under article 2 or 4 of the Consequential No. 2 Order but any

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<sup>(7)</sup> S.I. 2001/2657.

<sup>(8)</sup> S.I. 2001/2659.

such requirement ceases to have effect when this article comes into force if it could not have been imposed under that article as amended by paragraph (2).

(4) No action may be taken or continued under or pursuant to the Act in relation to any requirement which ceases to have effect by virtue of paragraph (3).