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STATUTORY INSTRUMENTS

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**2001 No. 3592**

**The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001**

**PART II**

**AUTHORISATIONS AND RESTRICTIONS UNDER OLD LAW**

**CHAPTER I**

**APPLICATIONS, NOTICES OF INTENTION TO REFUSE AND SURRENDERS OF AUTHORISATION**

*Applications*

**Applications for authorisation**

**3.—(1)** Where an application to which this article applies was made but had not been decided before commencement by the body to which it was made, it is to be treated as an application for permission made to the Authority under section 40 or, where the person making the application has a Part IV permission, as an application under section 44 for the variation of that permission.

(2) The applications to which this article applies are—

- (a) an application by a person for membership of a recognised self-regulating organisation;
- (b) an application by a person for a certificate to be issued by a recognised professional body for the purposes of Part I of the Financial Services Act (but subject to paragraph (3));
- (c) an application under section 26 of the Financial Services Act;
- (d) an application for the variation of a direction under section 33(3) of the Financial Services Act;
- (e) an application for admission to the list maintained for the purposes of section 43 of the Financial Services Act;
- (f) an application under section 8 of the Banking Act;
- (g) an application for authorisation made under section 5 of the Insurance Companies Act;
- (h) an application to the Committee of Lloyd's by a body to have its name entered in the register of underwriting agents<sup>(1)</sup>.

(3) This article applies to an application falling within paragraph (2)(b) only if the applicant notifies the Authority, in such form as the Authority may direct, that he wishes his application to be treated as an application under the Act.

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<sup>(1)</sup> Such an application is made under the Lloyd's Underwriting Agents' Byelaw (No. 4 of 1984)

**Commencement Information**

**I1** Art. 3 in force at 1.12.2001, see [art. 1\(2\)](#)

**Applications for variation or cancellation of suspension or restriction**

**4.—(1)** Where an application to which this article applies—

- (a) related to a requirement, prohibition or other matter having effect after commencement as a requirement under section 43; and
- (b) had not been decided before commencement,

it is to be treated as an application made to the Authority under section 44 and as relating to the requirement under section 43.

**(2)** Where an application to which this article applies—

- (a) related to a requirement, prohibition or other matter having effect after commencement as a requirement under section 196; and
- (b) had not been decided before commencement,

it is to be treated as an application made to the Authority under section 200 and as relating to the requirement under section 196.

**(3)** The applications to which this article applies are—

- (a) an application under section 28(5) of the Financial Services Act;
- (b) an application under section 69 of that Act;
- (c) an application to a recognised self-regulating organisation or recognised professional body for the variation or withdrawal of a prohibition or requirement imposed by the organisation or body;
- (d) an application for the variation or withdrawal of a limit or condition imposed under section 12 of the Banking Act;
- (e) an application for the variation or revocation of a direction under section 19 of that Act;
- (f) an application under regulation 15(3) of the 2BCD Regulations or regulation 9(3) of the ISD Regulations;
- (g) an application for the variation or withdrawal of a restriction imposed under regulation 10 of the 2BCD Regulations.

**Commencement Information**

**I2** Art. 4 in force at 1.12.2001, see [art. 1\(2\)](#)

*Notices of intention to refuse applications for authorisation or variation of suspension*

**Notice of intention to refuse application for authorisation or variation of suspension under the Financial Services Act**

**5.—(1)** Where, before commencement—

- (a) a notice was given under section 29(1) of the Financial Services Act of intention to refuse an application under section 26 or 28(5) of that Act;

(b) the period within which the case could be required to be referred to the Financial Services Tribunal under that Act had not expired;

(c) no such reference had been required by the applicant,

the notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the applicant (and any person to whom a copy of the notice was given under section 29(3) of that Act) of that fact.

(2) Paragraph (1) does not affect the power of the Authority to serve a notice under section 52(7) in respect of the application (as effective by virtue of article 3 or 4(1)).

(3) Where, before commencement—

(a) a notice was given under section 29(1) of the Financial Services Act of intention to refuse an application under section 26 or 28(5) of that Act;

(b) the period within which the case could be required to be referred to the Financial Services Tribunal under that Act expired without such a reference being required by the applicant; and

(c) no notice under section 29(5) of that Act had been given,

the notice of intention has effect after commencement as if it were a decision notice given under section 52(9)(c), except that there is no right to refer the matter to the Tribunal under section 55(1).

(4) A decision notice having effect by virtue of paragraph (3) has effect as if—

(a) it gave notice of the Authority's decision to refuse the application (as effective by virtue of article 3 or 4(1));

(b) it stated that section 394 does not apply;

(c) it indicated that there is no right to have the matter referred to the Tribunal.

**Commencement Information**

**I3** Art. 5 in force at 1.12.2001, see [art. 1\(2\)](#)

**Notice of intention to refuse application for authorisation under the Banking Act**

**6.—(1)** Where, before commencement—

(a) a notice has been given under section 10(2) of the Banking Act of intention to refuse an application under section 8 of that Act; but

(b) no notice has been given under section 10(1) or (5) of that Act,

the notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the applicant (and any person to whom a copy of the notice was given under section 10(3)) of that fact.

(2) Paragraph (1) does not affect the power of the Authority to serve a notice under section 52(7) in respect of the application (as effective by virtue of article 3).

**Commencement Information**

**I4** Art. 6 in force at 1.12.2001, see [art. 1\(2\)](#)

## Notice of intention to refuse application for variation of limited prohibition under the 2BCD or ISD Regulations

7.—(1) Where, before commencement—

- (a) a notice was given under paragraph 1(1) of Schedule 4 to the 2BCD Regulations or ISD Regulations of intention to refuse an application under regulation 15(3) of the 2BCD Regulations or regulation 9(3) of the ISD Regulations;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal under the Financial Services Act had not expired; and
- (c) no such reference had been required by the applicant,

the notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the applicant (and any person to whom a copy of the notice was given under paragraph 1(3) of the relevant Schedule) of that fact.

(2) Paragraph (1) does not affect the power of the Authority to serve a notice under section 200(4) in respect of the application (as effective by virtue of article 3(2)).

(3) Where, before commencement—

- (a) a notice was given under paragraph 1(1) of Schedule 4 to the 2BCD Regulations or ISD Regulations of intention to refuse an application under regulation 15(3) of the 2BCD Regulations or regulation 9(3) of the ISD Regulations;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal under the Financial Services Act had expired without such a reference being required by the applicant; and
- (c) no notice under paragraph 1(5) of the relevant Schedule had been given,

the notice of intention has effect after commencement as if it were a decision notice given under section 200(5)(a), except that there is no right to refer the matter to the Tribunal under section 200(5)(b).

(4) A decision notice having effect by virtue of paragraph (3) is to be treated as if—

- (a) it gave notice of the Authority's decision to refuse the application (as effective by virtue of article 3(2));
- (b) it stated that section 394 does not apply;
- (c) it indicated that there is no right to have the matter referred to the Tribunal under section 200(5)(b).

### Commencement Information

**I5** Art. 7 in force at 1.12.2001, see [art. 1\(2\)](#)

## *Surrenders of authorisations*

### Surrenders of authorisations

8.—(1) This article applies to—

- (a) a request by a person for cancellation of his membership of a recognised self-regulating organisation (but subject to paragraph (3));
- (b) a request by a person under section 30(1) of the Financial Services Act for his authorisation to be withdrawn;

- (c) a notice of surrender of authorisation given by a person under section 15(1) of the Banking Act; or
- (d) a request by a person for a direction under section 11(1) of the Insurance Companies Act, which had not been granted or (in the case of a notice) taken effect before commencement.

(2) If the person who made the request or gave the notice to which this article applies has a Part IV permission, the request or notice is to be treated as an application made to the Authority under section 44 for variation of that Part IV permission by removing from that permission the regulated activities corresponding to the activities to which the request or notice related.

(3) This article does not apply to an application falling within paragraph (1)(a) where the person making the request is a person who is treated by virtue of article 35(5) of the Authorised Persons Order as being subject to a requirement under section 43 that he refrain from carrying on any regulated activity; but section 44(4) applies to that person as if his position were the result of a variation of his Part IV permission under that section.

**Commencement Information**

**I6** Art. 8 in force at 1.12.2001, see [art. 1\(2\)](#)

*Determination of applications*

**Procedure**

**9.—(1)** Section 52 has effect in relation to an application, notice or request which is treated, pursuant to a provision in this Part, as an application under section 40 or 44 subject to the provisions of this article.

(2) If the body to whom the application, notice or request was originally made or sent was subject to an express requirement to determine it within a particular period and had not determined it for the purposes of that requirement before commencement—

- (a) subsection (1) of section 52 is to be read as if that period were substituted for the period of six months mentioned in that subsection;
- (b) the application is to be treated for the purposes of section 52(1) and (2) as having been received by the Authority on the date on which it was received by the body to whom it was originally made or sent.

(3) In a case where the body to whom the application, notice or request was originally made or sent was—

- (a) not subject to an express requirement to determine it within a particular period, or
- (b) was subject to such a requirement but had, for the purposes of that requirement, determined it before commencement,

the application is to be treated for the purposes of section 52(1) and (2) as if it had been received by the Authority on commencement.

(4) The application is not to be treated as incomplete for the purposes of section 52(2) if it complied with the procedure applicable to it when it was originally made or sent.

(5) The application is to be treated as incomplete for the purposes of section 52(2) if it would have been treated as incomplete for the purposes of the provision under which it was originally made or sent.

(6) Nothing in this article affects the power of the Authority to require information under section 51(4) and (6).

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**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, CHAPTER I. (See end of Document for details)

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**Commencement Information**

**I7** Art. 9 in force at 1.12.2001, see [art. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, CHAPTER I.