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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 II**

**NOTICES TO WITHDRAW, SUSPEND OR RESTRICT AUTHORISATION**

*Notices under the Financial Services Act*

**Notice of intention to withdraw or suspend authorisation under section 29 of the Financial Services Act: time for reference not expired**

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

- (a) a notice was given under section 29(1) of the Financial Services Act of intention to withdraw or suspend an authorisation;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal has not expired; and
- (c) no such reference has been required,

the notice has effect after commencement as if it were a notice given under section 53(4).

(2) Such a notice has effect—

- (a) as if it stated that the Authority proposes to vary the authorised person's permission by imposing a requirement that he refrain from carrying on the regulated activity or activities covered by the notice;
- (b) as if it informed the recipient that he may make representations to the Authority (whether or not he refers the matter to the Tribunal) within—
  - (i) the new period (if any) specified for this purpose under article 90; or
  - (ii) if there is no new period so specified, 28 days beginning with the date of service of the notice;
- (c) as if it informed the recipient that the variation takes effect on—
  - (i) the new date (if any) specified for this purpose under article 90; or
  - (ii) if there is no new date so specified, the date when (but for the repeal of the Financial Services Act) the withdrawal or suspension of authorisation would have taken effect;
- (d) (in the case of a notice proposing suspension) as if it informed the recipient that the variation takes effect—
  - (i) for the new period (if any) specified for this purpose under article 90; or

- (ii) if there is no new period so specified, then for the period for which (but for the repeal of the Financial Services Act) the suspension of authorisation would have had effect;
- (e) as if it informed the recipient that he has a right to refer the matter to the Tribunal—
  - (i) within the new period (if any) specified for this purpose under article 90; or
  - (ii) if there is no new period so specified, within 28 days beginning with the date of service of the notice.
- (3) Where a notice has effect under paragraph (1)—
  - (a) the Authority must decide whether to issue a notice under section 53(7) or (8);
  - (b) in taking that decision, section 41 applies to the Authority; and
  - (c) the Authority must have regard to any representations made before commencement in relation to the notice given under section 29 of the Financial Services Act.

**Withdrawal or suspension of authorisation under section 29 of the Financial Services Act: time for reference expired**

- 11.—(1) Where, before commencement—
- (a) a notice of intention to withdraw or suspend an authorisation was given under section 29(1) of the Financial Services Act;
  - (b) the period within which the case could be required to be referred to the Financial Services Tribunal has expired without such a reference being required; but
  - (c) no notice under section 29(5) of that Act has been given in respect of the notice of intention,
- the Authority must, as soon as practicable after commencement, notify any recipient of the notice whether or not the notice is to be treated as a notice given under section 53(7).
- (2) Where the Authority notifies the recipient that the notice is to be treated as a notice given under section 53(7)—
- (a) the notice has effect as if it varied the authorised person's permission by imposing a requirement that he refrain from carrying on the regulated activity or activities covered by the notice;
  - (b) the date on which the requirement takes effect is—
    - (i) the new date (if any) specified for this purpose under article 90; or
    - (ii) if there is no new date so specified, the date when (but for the repeal of the Financial Services Act) the withdrawal of authorisation would have taken effect;
  - (c) (in the case of a notice proposing suspension) the period for which the requirement has effect is—
    - (i) the new period (if any) specified for this purpose under article 90; or
    - (ii) if there is no new period so specified, the period for which (but for the repeal of the Financial Services Act), the suspension of authorisation would have taken effect;
  - (d) there is no right to refer the matter to the Tribunal;
  - (e) the Authority may publish such information about the matter to which the notice relates as it considers appropriate.
- (3) Where the Authority notifies the recipient that the notice is not to be treated as a notice given under section 53(7) then the notice ceases to have effect on commencement.

**Notice of intention to terminate or suspend authorisation under section 33 of the Financial Services Act: time for reference not expired**

12.—(1) Where, before commencement—

- (a) the Authority has given notice under section 34 of the Financial Services Act that it intends to give a direction (pursuant to section 33(1)(a) or (b) of that Act) that a person cease to be an authorised person under section 31 of that Act or that a person’s authorisation under that section be suspended;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal has not expired; and
- (c) no such reference has been required,

the notice has effect after commencement as if it were a notice given under 197(3).

(2) Such a notice has effect—

- (a) as if it stated that the Authority proposes to impose a requirement that the authorised person refrain from carrying on the regulated activity or activities covered by the notice;
- (b) as if it informed the recipient that he may make representations to the Authority (whether or not he refers the matter to the Tribunal) within—
  - (i) the new period (if any) specified for this purpose under article 90; or
  - (ii) if there is no new period so specified, 28 days from the date of service of the notice;
- (c) as if it informed the recipient that the requirement takes effect—
  - (i) on the new date specified for this purpose under article 90; or
  - (ii) if there is no new date so specified, on the date when (but for the repeal of the Financial Services Act) authorisation would have been terminated or suspended;
- (d) (in the case of a notice proposing suspension) as if it informed the recipient that the requirement takes effect—
  - (i) for the new period (if any) specified for this purpose under article 90; or
  - (ii) if there is no new period so specified, then for the period for which (but for the repeal of the Financial Services Act) the authorisation would have been suspended;
- (e) as if it informed the recipient that he has a right to refer the matter to the Tribunal within—
  - (i) the new period (if any) specified for this purpose under article 90; or
  - (ii) if there is no new period so specified, 28 days beginning with the date of service of the notice.

(3) Where a notice has effect under paragraph (1)—

- (a) the Authority must decide whether to issue a notice under section 197(6) or (7),
- (b) in taking that decision, section 194 applies to the Authority; and
- (c) the Authority must have regard to any representations made before commencement in respect of the notice given under section 34 of the Financial Services Act.

**Termination or suspension of authorisation under section 33 of the Financial Services Act: time for reference expired**

13.—(1) Where, before commencement—

- (a) the Authority has given notice under section 34 of the Financial Services Act that it intends to give a direction (pursuant to section 33(1)(a) or (b) of that Act) that a person cease to be an authorised person under section 31 of that Act or that his authorisation under that section be suspended;

- (b) the period within which the case could be required to be referred to the Financial Services Tribunal has expired without such a reference being required; but
  - (c) no notice under section 34(5) of that Act has been given in respect of the notice of intention, the Authority must, as soon as practicable after commencement, notify any recipient of the notice whether or not the notice is to be treated as a notice given under section 197(6).
- (2) Where the Authority notifies the recipient that the notice is to be treated as a notice given under section 197(6)—
- (a) the notice has effect as if it imposed a requirement that the authorised person refrain from carrying on the regulated activity or activities covered by the notice;
  - (b) the date on which the requirement has effect is—
    - (i) the new date (if any) specified for that purpose under article 90; or
    - (ii) if there is no new date so specified, the date when (but for the repeal of the Financial Services Act) the authorisation would have been terminated or suspended;
  - (c) (in the case of a notice proposing suspension) the period for which the suspension has effect is—
    - (i) the period (if any) specified for this purpose under article 90; or
    - (ii) if there is no new period so specified, then the period for which (but for the repeal of the Financial Services Act) the authorisation would have been suspended;
  - (d) there is no right to refer the notice to the Tribunal;
  - (e) the Authority may publish such information about the matter to which the notice relates as it considers appropriate.
- (3) Where the Authority notifies the recipient that the notice is not to be treated as a notice given under section 197(6) then the notice ceases to have effect on commencement.