
STATUTORY INSTRUMENTS

2001 No. 3645

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000
(Misleading Statements and Practices) Order 2001**

Made - - - - 9th November 2001
Laid before Parliament 9th November 2001
Coming into force in accordance with article 1(2)

The Treasury, in exercise of the powers conferred on them by section 397(9), (10) and (14) of the Financial Services and Markets Act 2000⁽¹⁾, hereby make the following Order:

Citation and commencement

1.—(1) This order may be cited as the Financial Services and Markets Act 2000 (Misleading Statements and Practices) Order 2001.

(2) This Order comes into force—

- (a) for the purposes of articles 3(b) and 4(b), on 1st January 2002;
- (b) for the purposes of articles 3(c) and 4(c), on 1st September 2002;
- (c) for all other purposes, on 1st December 2001.

Interpretation

2. In this Order —

“the Act” means the Financial Services and Markets Act 2000;

“controlled activity” means an activity which falls within Part I of Schedule 1 to the Financial Promotion Order other than an activity which falls within—

- (a) paragraph 9 or 10 of that Schedule, or
- (b) paragraph 11 so far as relating to paragraph 9 or 10;

“controlled investment” means an investment which falls within Part II of Schedule 1 to the Financial Promotion Order other than an investment which falls within paragraph 25 or 26 of that Schedule;

“the Financial Promotion Order” means the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001⁽²⁾.

Specified kinds of activity

3. The following kinds of activity are specified for the purposes of section 397(9)(a) of the Act—
- (a) a controlled activity;
 - (b) an activity which falls within paragraph 9 (providing funeral plan contracts) of Schedule 1 to the Financial Promotion Order, or agreeing to carry on such an activity;
 - (c) an activity which falls within paragraph 10 (providing qualifying credit) of that Schedule, or agreeing to carry on such an activity;
 - (d) an activity of the kind specified by article 45 (sending dematerialised instructions), 51 (establishing etc. a collective investment scheme), 52 (establishing etc. a stakeholder pension scheme) or 57 (managing the underwriting capacity of a Lloyd’s syndicate) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽³⁾.

Specified kinds of investment

4. The following kinds of investment are specified for the purposes of section 397(10) of the Act—
- (a) a controlled investment;
 - (b) an investment which falls within paragraph 25 (funeral plan contracts) of Schedule 1 to the Financial Promotion Order;
 - (c) an investment which falls within paragraph 26 (agreements for qualifying credit) of that Schedule.

John Heppell
Tony McNulty
Two of the Lords Commissioners of Her
Majesty’s Treasury

9th November 2001

(2) S.I.2001/1335, amended by S.I. 2001/2633.
(3) S.I. 2001/544, amended by S.I. 2001/3544.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies certain kinds of activity and investment for the purposes of section 397(9)(a) and (10) of the Financial Services and Markets Act 2000 (“the Act”).

An agreement, the entering into or performance of which constitutes an activity of the kind specified by article 3, and which relates to an investment of the kind specified by article 4, is a relevant agreement for the purposes of section 397 of the Act. Misleading statements and practices of the kind referred to in section 397(1) to (3) of the Act are criminal offences if made, or engaged in, in connection with a relevant agreement or an investment of the kind specified by article 4.