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STATUTORY INSTRUMENTS

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**2001 No. 3646**

The Financial Services and Markets Act 2000  
(Transitional Provisions and Savings) (Information  
Requirements and Investigations) Order 2001

PART 3

INVESTIGATIONS

**Section 177 of the Financial Services Act**

9.—(1) This article applies to an appointment, which is effective immediately before commencement, of a person under section 177(1) of the Financial Services Act to investigate any matter.

(2) The appointment is to be treated as an appointment of that person by the Secretary of State under section 168(3) of the Act, by virtue of section 168(2)(a) (offence under Part V of the Criminal Justice Act 1993(2)), to conduct an investigation on his behalf into that matter, subject to the modifications of Part XI of the Act specified by paragraph (3).

(3) The modifications specified by this paragraph are—

- (a) the reference in section 170(6) of the Act to the investigator's investigation includes a reference to his investigation before commencement;
- (b) any—
  - (i) provision made under subsection (2) of section 177 of the Financial Services Act;
  - (ii) variation made under subsection (2A) of that section; or
  - (iii) direction under subsection (5) or (5A) of that section,

which is effective immediately before commencement is to be treated as a direction given under section 170(7) of the Act;

- (c) any outstanding requirement imposed under section 177(3) of the Financial Services Act is to be treated as a requirement imposed under section 173 of the Act (whether or not such a requirement could have been imposed under that section);
- (d) in its application to any statement made on or after commencement by a person in compliance with a requirement imposed under section 177 of the Financial Services Act or under Part XI of the Act, section 174 of the Act (admissibility of statements) applies as if the reference in subsection (3) to section 177(4) or 398 of the Act included a reference to section 200(1) of the Financial Services Act; and

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(1) Amended by the Criminal Justice Act 1993 (c. 33), paragraph 9, Schedule 5; the Companies Act 1989 (c. 40), section 74 and the Youth Justice and Criminal Evidence Act 1999 (c. 23), paragraph 12, Schedule 3.  
(2) 1993 c. 36.

- (e) any consent or authorisation given under section 177(8) of the Financial Services Act which was effective before commencement is to be treated as if given under section 175(5) of the Act.
- (4) Where, on or after commencement, a person fails to comply with an outstanding requirement imposed under section 177 of the Financial Services Act—
  - (a) the court may not impose any penalty or other measure under section 177 of the Act that is more severe than the penalty or measure that it could have imposed had the Act not been passed; and
  - (b) the Authority may not impose any penalty or other disciplinary measure under the Act that is more severe than the penalty or measure that it could have been imposed had the Act not been passed.