

2015 No. 1660

FINANCIAL SERVICES AND MARKETS

**The Financial Services (Banking Reform) Act 2013
(Transitional and Savings Provisions) (Amendment) Order 2015**

<i>Made</i>	- - - -	<i>8th September 2015</i>
<i>Laid before Parliament</i>		<i>9th September 2015</i>
<i>Coming into force</i>	- -	<i>1st October 2015</i>

The Treasury, in exercise of the powers conferred by section 146 of the Financial Services (Banking Reform) Act 2013(a), make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) (Amendment) Order 2015 and comes into force on 1st October 2015.

Amendments to the Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) Order 2015

2. The Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) Order 2015(b) is amended in accordance with articles 3 to 7 of this Order.

Amendments to article 1 (citation, commencement and interpretation)

3.—(1) Article 1(2) is amended as follows.

(2) Omit the definition of “branch”.

(3) For the definition of “class 2 firm” substitute—

““class 2 firm” means a PRA-authorised person(c) other than a relevant authorised person(d);”.

(4) After the definition of “FSMA” insert—

““insurer” has the meaning given in section 71A(6)(d);

“non-UK institution” has the meaning given in section 71A(6)(b);”

(5) Omit the definition of “the rule-making date”.

(a) 2013 c.33 (“the 2013 Act”).

(b) S.I. 2015/492.

(c) “PRA-authorised person” is defined in section 2B(5) of the Financial Services and Markets Act 2000 (c. 8) (“the 2000 Act”).

(d) “relevant authorised person” is defined in section 71A of the 2000 Act. Section 71A was inserted by the 2013 Act, section 33.

Amendments to article 10 (period for consideration of an application to perform controlled functions)

4.—(1) Article 10 is amended as follows.

(2) Article 10 becomes article 10(1).

(3) After article 10(1) insert—

“(2) In this article the “rule-making date” means—

(a) in relation to a pre-implementation application concerning the performance of controlled functions in relation to a relevant non-UK institution (whether on the date concerned the institution is a class 1 or a class 2 firm)—

(i) the date on which both regulators publish rules made under article 17 specifying in relation to relevant non-UK institutions equivalent functions for the purposes of this Order; or

(ii) if the regulators publish such rules on different dates, the last day on which such rules are published;

(b) in relation to a pre-implementation application concerning the performance of controlled functions in relation to an insurer that is not a solvency-II firm—

(i) the date on which both regulators publish rules made under article 17 specifying in relation to such insurers equivalent functions for the purpose of this Order; or

(ii) if the regulators publish such rules on different dates, the last day on which such rules are published; and

(c) in relation to a pre-implementation application concerning the performance of controlled functions in relation to any other firm—

(i) the date on which both regulators publish rules made under article 17 specifying in relation to such firms equivalent functions for the purposes of this Order; or

(ii) if the regulators publish such rules on different dates, the last day on which such rules are published.

(3) For the purposes of this article—

(a) “relevant non-UK institution” has the meaning given in article 10A (relevant non-UK institutions); and

(b) “solvency II firm” has the meaning given in article 10B (solvency II firms).”

New articles 10A and 10B

5. After article 10 insert—

“Relevant non-UK institutions

10A.—(1) A “relevant non-UK institution” is a non-UK institution which—

(a) meets condition A or B;

(b) has a branch in the United Kingdom; and

(c) is not an insurer.

(2) Condition A is that the non-UK institution is a credit institution which has permission under Part 4A or resulting from Schedule 3 or 4 to carry on the regulated activity of accepting deposits^(a).

(a) “regulated activity” is defined in section 22 of the 2000 Act. The activity of accepting deposits is specified in articles 5 to 9AC of S.I. 2001/544.

- (3) Condition B is that—
- (a) the non-UK institution is an investment firm;
 - (b) it has permission under Part 4A or resulting from Schedule 3 or 4 to carry on the regulated activity of dealing in investments as principal^(a); and
 - (c) when carried on by it, that activity is a PRA-regulated activity^(b).
- (4) In this article—
- (a) “branch” means a place of business that forms a legally dependent part of a non-UK institution and conducts directly all or some of the operations inherent in the institution’s business;
 - (b) “credit institution” has the meaning given in section 71A(6)(c)^(c);
 - (c) “investment firm” has the meaning given in section 424A^(d).

Solvency II firms

10B.—(1) “Solvency II firm” means—

- (a) an insurance undertaking within the meaning of Article 13(1) of the Solvency II Directive that is not—
 - (i) an insurance undertaking falling under Article 308b(1) of the Solvency II Directive; or
 - (ii) excluded from the scope of the Solvency II Directive by Section 2 of Chapter 1 of Title 1 of that Directive;
- (b) a reinsurance undertaking within the meaning of Article 13(4) of the Solvency II Directive that is not—
 - (i) a reinsurance undertaking falling under Article 308b(1) of the Solvency II Directive; or
 - (ii) excluded from the scope of the Solvency II Directive by Section 2 of Chapter 1 of Title 1 of that Directive;
- (c) a special purpose vehicle within the meaning of Article 13(26) of the Solvency II Directive;
- (d) a third country insurance undertaking within the meaning of Article 13(3) of the Solvency II Directive which has a branch in the United Kingdom; or
- (e) a third country reinsurance undertaking within the meaning of Article 13(6) of the Solvency II Directive which has a branch in the United Kingdom.

(2) In this article “branch” has the meaning given in Article 13(11) of the Solvency II Directive^(e).”

Amendment to article 12 (continuation of an application to perform controlled functions)

6. In article 12(1)(a) after “notified” insert “application”.

Amendment to article 22 (consultation)

7. In article 22, for paragraph (2) substitute—

“(2) The requirement may be satisfied by things done (wholly or in part)—

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- (a) The activity of dealing in investments as principal is specified in article 14 of S.I. 2001/544.
 - (b) “PRA-regulated” activity is defined in section 22A of the 2000 Act, inserted by section 9 of the Financial Services Act 2012 (c. 21). The Treasury have specified PRA-regulated activities in S.I. 2013/556.
 - (c) Section 71A was inserted by the 2013 Act, section 33.
 - (d) Section 424A was inserted by S.I. 2006/2975.
 - (e) OJ L 335, 17.12.2009, p1.

- (a) before the commencement of this Order, or
- (b) where the rules, instrument or document relate (wholly or in part) to a person to whom this Order applies as a result of any amendment to this Order, before the date on which that amendment comes into force.”.

David Evennett
George Hollingbery

8th September 2015

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) Order 2015 (the “transitional and savings Order”). The transitional and savings Order makes transitional and savings provisions in connection with the commencement of Part 4 of the Financial Services (Banking Reform) Act 2013 which makes amendments to Part 5 of the Financial Services and Markets Act 2000 (“FSMA”).

The amendments to the transitional and savings Order extend its scope to include all persons who are authorised by the Prudential Regulation Authority (“PRA”) to provide financial services in the United Kingdom, and to make minor changes to the definition of “rule-making date” in the transitional and savings Order.

Article 3 makes changes to the definitions used generally in the transitional and savings Order.

Article 4 amends article 10 of the transitional and savings Order to insert a new definition of “rule-making date” and article 5 inserts supplementary definitions for this purpose.

Articles 6 and 7 make minor amendments to the transitional and savings Order.

This Order will have no effect on the costs of business and the voluntary sector. For that reason, no impact assessment has been produced for this instrument.

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