



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART III

#### AUTHORISATION AND EXEMPTION

##### *Authorisation*

#### **31 Authorised persons**

- (1) The following persons are authorised for the purposes of this Act—
  - (a) a person who has a Part IV permission to carry on one or more regulated activities;
  - (b) an EEA firm qualifying for authorisation under Schedule 3;
  - (c) a Treaty firm qualifying for authorisation under Schedule 4;
  - (d) a person who is otherwise authorised by a provision of, or made under, this Act.
- (2) In this Act “authorised person” means a person who is authorised for the purposes of this Act.

#### **32 Partnerships and unincorporated associations**

- (1) If a firm is authorised—
  - (a) it is authorised to carry on the regulated activities concerned in the name of the firm; and
  - (b) its authorisation is not affected by any change in its membership.
- (2) If an authorised firm is dissolved, its authorisation continues to have effect in relation to any firm which succeeds to the business of the dissolved firm.
- (3) For the purposes of this section, a firm is to be regarded as succeeding to the business of another firm only if—

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- (a) the members of the resulting firm are substantially the same as those of the former firm; and
  - (b) succession is to the whole or substantially the whole of the business of the former firm.
- (4) “Firm” means—
- (a) a partnership; or
  - (b) an unincorporated association of persons.
- (5) “Partnership” does not include a partnership which is constituted under the law of any place outside the United Kingdom and is a body corporate.

#### *Ending of authorisation*

### **33 Withdrawal of authorisation by the Authority**

- (1) This section applies if—
- (a) an authorised person’s Part IV permission is cancelled; and
  - (b) as a result, there is no regulated activity for which he has permission.
- (2) The Authority must give a direction withdrawing that person’s status as an authorised person.

### **34 EEA firms**

- (1) An EEA firm ceases to qualify for authorisation under Part II of Schedule 3 if it ceases to be an EEA firm as a result of—
- (a) having its EEA authorisation withdrawn; or
  - (b) ceasing to have an EEA right in circumstances in which EEA authorisation is not required.
- (2) At the request of an EEA firm, the Authority may give a direction cancelling its authorisation under Part II of Schedule 3.
- (3) If an EEA firm has a Part IV permission, it does not cease to be an authorised person merely because it ceases to qualify for authorisation under Part II of Schedule 3.

### **35 Treaty firms**

- (1) A Treaty firm ceases to qualify for authorisation under Schedule 4 if its home State authorisation is withdrawn.
- (2) At the request of a Treaty firm, the Authority may give a direction cancelling its Schedule 4 authorisation.
- (3) If a Treaty firm has a Part IV permission, it does not cease to be an authorised person merely because it ceases to qualify for authorisation under Schedule 4.

### **36 Persons authorised as a result of paragraph 1(1) of Schedule 5**

- (1) At the request of a person authorised as a result of paragraph 1(1) of Schedule 5, the Authority may give a direction cancelling his authorisation as such a person.

- (2) If a person authorised as a result of paragraph 1(1) of Schedule 5 has a Part IV permission, he does not cease to be an authorised person merely because he ceases to be a person so authorised.

#### *Exercise of EEA rights by UK firms*

### **37 Exercise of EEA rights by UK firms**

Part III of Schedule 3 makes provision in relation to the exercise outside the United Kingdom of EEA rights by UK firms.

#### *Exemption*

### **38 Exemption orders**

- (1) The Treasury may by order (“an exemption order”) provide for—
- (a) specified persons, or
  - (b) persons falling within a specified class,
- to be exempt from the general prohibition.
- (2) But a person cannot be an exempt person as a result of an exemption order if he has a Part IV permission.
- (3) An exemption order may provide for an exemption to have effect—
- (a) in respect of all regulated activities;
  - (b) in respect of one or more specified regulated activities;
  - (c) only in specified circumstances;
  - (d) only in relation to specified functions;
  - (e) subject to conditions.
- (4) “Specified” means specified by the exemption order.

### **39 Exemption of appointed representatives**

- (1) If a person (other than an authorised person)—
- (a) is a party to a contract with an authorised person (“his principal”) which—
    - (i) permits or requires him to carry on business of a prescribed description, and
    - (ii) complies with such requirements as may be prescribed, and
  - (b) is someone for whose activities in carrying on the whole or part of that business his principal has accepted responsibility in writing,
- he is exempt from the general prohibition in relation to any regulated activity comprised in the carrying on of that business for which his principal has accepted responsibility.
- (2) A person who is exempt as a result of subsection (1) is referred to in this Act as an appointed representative.

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- (3) The principal of an appointed representative is responsible, to the same extent as if he had expressly permitted it, for anything done or omitted by the representative in carrying on the business for which he has accepted responsibility.
- (4) In determining whether an authorised person has complied with a provision contained in or made under this Act, anything which a relevant person has done or omitted as respects business for which the authorised person has accepted responsibility is to be treated as having been done or omitted by the authorised person.
- (5) “Relevant person” means a person who at the material time is or was an appointed representative by virtue of being a party to a contract with the authorised person.
- (6) Nothing in subsection (4) is to cause the knowledge or intentions of an appointed representative to be attributed to his principal for the purpose of determining whether the principal has committed an offence, unless in all the circumstances it is reasonable for them to be attributed to him.