



# Financial Services Act 1986

## 1986 CHAPTER 60

### PART I

#### REGULATION OF INVESTMENT BUSINESS

### CHAPTER XIV

#### PREVENTION OF RESTRICTIVE PRACTICES

##### *Consequential exemptions from competition law*

#### **124 The Fair Trading Act 1973**

- (1) For the purpose of determining whether a monopoly situation within the meaning of the Fair Trading Act 1973 exists by reason of the circumstances mentioned in section 7(1)(c) of that Act, no account shall be taken of—
  - (a) the rules made or guidance issued by a recognised self regulating organisation, recognised investment exchange or recognised clearing house or any conduct constituting such a practice as is mentioned in section 119(2) above;
  - (b) any clearing arrangements or any conduct required or contemplated by any such arrangements; or
  - (c) the rules or regulations made or guidance issued by a designated agency in the exercise of functions transferred to it by a delegation order or any conduct constituting such a practice as is mentioned in section 121(2) above.
- (2) Where a recognition order is revoked there shall be disregarded for the purpose mentioned in subsection (1) above any such conduct as is mentioned in that subsection which occurred while the order was in force.
- (3) Where on a monopoly reference under section 50 or 51 of the said Act of 1973 falling within section 49 of that Act the Monopolies and Mergers Commission find that a monopoly situation within the meaning of that Act exists and—

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- (a) that the person (or, if more than one, any of the persons) in whose favour it exists is subject to the rules of a recognised self-regulating organisation, recognised investment exchange or recognised clearing house or to the rules or regulations made by a designated agency in the exercise of functions transferred to it by a delegation order; or
- (b) that any such person's conduct in carrying on any business to which those rules or regulations relate is the subject of guidance issued by such an organisation, exchange, clearing house or agency; or
- (c) that any such person is a party to any clearing arrangements ; or
- (d) that the person (or, if more than one, any of the persons) in whose favour the monopoly situation exists is such an organisation, exchange or clearing house as is mentioned in paragraph (a) above or a designated agency,

the Commission, in making their report on that reference, shall exclude from their consideration the question whether the rules, regulations, guidance or clearing arrangements or any acts or omissions of such an organisation, exchange, clearing house or agency as is mentioned in paragraph (d) above in its capacity as such operate, or may be expected to operate, against the public interest; and section 54(3) of that Act shall have effect subject to the provisions of this subsection.

## **125 The Restrictive Trade Practices Act 1976**

- (1) The Restrictive Trade Practices Act 1976 shall not apply to any agreement for the constitution of a recognised self-regulating organisation, recognised investment exchange or recognised clearing house, including any term deemed to be contained in it by virtue of section 8(2) or 16(3) of that Act.
- (2) The said Act of 1976 shall not apply to any agreement the parties to which consist of or include—
  - (a) any such organisation, exchange or clearing house as is mentioned in subsection (1) above ; or
  - (b) a person who is subject to the rules of any such organisation, exchange or clearing house or to the rules or regulations made by a designated agency in the exercise of functions transferred to it by a delegation order,
 by reason of any term the inclusion of which in the agreement is required or contemplated by the rules, regulations or guidance of that organisation, exchange, clearing house or agency.
- (3) The said Act of 1976 shall not apply to any clearing arrangements or to any agreement between a recognised investment exchange and a recognised clearing house by reason of any term the inclusion of which in the agreement is required or contemplated by any clearing arrangements.
- (4) Where the recognition order in respect of a self-regulating organisation, investment exchange or clearing house is revoked the foregoing provisions shall have effect as if the organisation, exchange or clearing house had continued to be recognised until the end of the period of six months beginning with the day on which the revocation takes effect.
- (5) Where an agreement ceases by virtue of this section to be subject to registration—
  - (a) the Director shall remove from the register maintained by him under the said Act of 1976 any particulars which are entered or filed in that register in respect of the agreement; and

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- (b) any proceedings in respect of the agreement which are pending before the Restrictive Practices Court shall be discontinued.
- (6) Where an agreement which has been exempt from registration by virtue of this section ceases to be exempt in consequence of the revocation of a recognition order, the time within which particulars of the agreement are to be furnished in accordance with section 24 of and Schedule 2 to the said Act of 1976 shall be the period of one month beginning with the day on which the agreement ceased to be exempt from registration.
- (7) Where in the case of an agreement registered under the said Act of 1976 a term ceases to fall within subsection (2) or (3) above in consequence of the revocation of a recognition order and particulars of that term have not previously been furnished to the Director under section 24 of that Act, those particulars shall be furnished to him within the period of one month beginning with the day on which the term ceased to fall within that subsection.
- (8) The Restrictive Trade Practices (Stock Exchange) Act 1984 shall cease to have effect.

## **126 The Competition Act 1980**

- (1) No course of conduct constituting any such practice as is mentioned in section 119(2) or 121(2) above shall constitute an anti-competitive practice for the purposes of the Competition Act 1980.
- (2) Where a recognition order or delegation order is revoked, there shall not be treated as an anti-competitive practice for the purposes of that Act any such course of conduct as is mentioned in subsection (1) above which occurred while the order was in force.