

These notes refer to the Financial Services and Markets Act 2000 (c.8) which received Royal Assent on 14 June 2000

FINANCIAL SERVICES AND MARKETS ACT 2000

EXPLANATORY NOTES

BACKGROUND

Financial Services Overview

6. The UK financial services industry accounts for approximately 7 per cent of GDP, employing over 1 million people in the City of London and across the country.
7. Businesses to be authorised and regulated under the Act include:
 - Banks
 - Building societies
 - Insurance companies
 - Friendly societies
 - Credit unions
 - Lloyd's
 - Investment and pensions advisers
 - Stockbrokers
 - Professional firms offering certain types of investment services
 - Fund managers
 - Derivatives traders

Regulatory Framework

8. The regulation of financial services has, historically, been the responsibility of a range of different bodies:
 - the Authority (formerly the Securities and Investment Board);
 - the Self-Regulating Organisations ("SROs"): most recently the Personal Investment Authority, the Investment Management Regulatory Organisation and the Securities and Futures Authority;
 - the former Supervision and Surveillance Branch of the Bank of England;
 - the Building Societies Commission;
 - the Insurance Directorate of the Treasury;
 - the Friendly Societies Commission; and

- the Registry of Friendly Societies.
9. Following the Government's announcement of its proposals to introduce legislation to reform the regulation of financial services in May 1997, steps were taken to transfer responsibility for regulation to the Authority. Certain functions under the Banking Act 1987 ("Banking Act") were transferred by the Bank of England Act 1998. In other cases, the Authority entered into contracts with the relevant bodies to perform regulatory functions on their behalf. For example, the Treasury contracted with the Authority for the performance of certain functions under the Insurance Companies Act 1982 ("ICA 1982"). Many relevant staff transferred to the Authority and relocated to its headquarters building. This process of integration will be completed when the Act is brought into force.
 10. The Act will broadly continue the regime for recognised investment exchanges and clearing houses under the Financial Services Act 1986 ("FS Act 1986"), although the Authority's powers under the Act will be widened as compared with those under the predecessor legislation. The Authority will have powers to regulate the Lloyd's insurance market, and have powers of direction over the Council of Lloyd's, although the latter will retain its responsibilities under Lloyd's Acts for the superintendence and governance of the Society of Lloyd's. The recognised professional bodies regime under the FS Act 1986 will not continue. Professional firms (such as solicitors, accountants and actuaries) carrying on mainstream regulated activities will be authorised and regulated directly by the Authority. However, some categories of professional firm will benefit from an exclusion from the scope of regulation under the Act, subject to arms-length oversight by and certain powers of the Authority. The Act does not affect the professional bodies' wider powers to regulate the professional activities of members of their respective professions.
 11. The Act is intended to coordinate and modernise financial regulatory arrangements which are currently established under a number of different enactments:
 - the Credit Unions Act 1979
 - the Insurance Companies Act 1982
 - the Financial Services Act 1986
 - the Building Societies Act 1986
 - the Banking Act 1987
 - the Friendly Societies Act 1992
 12. Those enactments are generally supplemented by secondary legislation or rules. It is intended that the powers conferred by section 426 will be used so that the relevant parts of that legislation, and rules and regulations made under it, will be substantially repealed when the Act comes into force. Certain other enactments will also be repealed, or substantially repealed, including the Policyholders Protection Acts 1975-97, the Industrial Assurance Acts 1923-48 and the Insurance Brokers (Registration) Act 1977.
 13. The Act also provides for the transfer of the remaining functions, including for example functions relating to the registration of mutual societies, of the Building Societies Commission, the Friendly Societies Commission and the Registry of Friendly Societies.

Consultation and scrutiny

14. In July 1998, the Treasury published a paper entitled *Financial Services and Markets Bill: A Consultation Document* which explained its policy in detail and included a draft of the Bill. That consultation exercise attracted comments from over 220 firms and bodies interested in the regulation of financial services, including those representing consumers. The Treasury also published a number of relevant consultation papers,

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including drafts of secondary legislation to be made under the Act. Copies of relevant documents, including consultation papers and press notices, were made available at the Treasury's website (www.hm-treasury.gov.uk).

15. The draft Bill was subject to pre-legislative scrutiny prior to its introduction into the House of Commons. The Treasury Committee published its third report of Session 1998-1999 on Financial Services Regulation in February 1999 (*Financial Services Regulation, Volumes I and II*; House of Commons 73 I – II). The Government's response was published in March 1999 (*Financial Services Regulation: The Government's Response to the Third Report from the Committee of Session 1998-99*; House of Commons 347).
16. A Joint Committee of both Houses of Parliament was also established to consider aspects of the draft Bill. That committee was also able to consider the Treasury's Progress Report published in March 1999. The Joint Committee published its first report on 29 April 1999 (*Draft Financial Services and Markets Bill: First Report*; House of Lords, 50 I – II; House of Commons, HC328 I – II) and its second report on 2 June 1999 (*Draft Financial Services and Markets Bill: Second Report*; House of Lords, 66; House of Commons, HC465). The Government response to the reports of the Joint Committee on Financial Services and Markets was published in June 1999.
17. The Bill was introduced into the House of Commons on 17 June 1999 and given its second reading on 28 June 1999. The Bill was the first public Bill to be carried over from session of Parliament to the another, under a new procedure recommended by the Select Committee on Modernisation of the House of Commons. The Bill was scrutinised in Standing Committee A between 6 July 1999 and 9 December 1999 (35 sessions). Report Stage took place on 27 January 2000 and on 1 and 9 February 2000. The Bill also received its third reading in the House of Commons on 9 February 2000.
18. The Bill was introduced into the House of Lords on 10 February 2000. It received its second reading on 21 February 2000. There were five Committee days, between 16 and 30 March 2000, followed by three days on Report, on 13 and 18 April 2000 and on 9 May 2000. The Bill received its third reading on 18 May 2000.
19. While the Bill was before the House of Lords, the Treasury also submitted a number of memoranda on the powers to make delegated legislation under the Bill to the Delegated Powers and Deregulation Committee. The Committee reported its view in a number of published reports. The relevant reports were the Seventh Report (16 February 2000), Eighth Report (8 March 2000), Tenth Report (15 March 2000) Twelfth Report (12 April 2000) and Sixteenth Report (17 May 2000). The Treasury's memorandum in each case was annexed to the report.
20. The Bill returned to the Commons for consideration of Lords Amendments on 5 June 2000. It was subsequently returned to the Lords for consideration of Commons amendments on 12 June 2000. This completed the Bill's Parliamentary passage. Royal Assent was given on 14 June 2000.
21. The Authority consults widely on the way it proposes to use its powers and carry out functions under the Act in accordance with the requirements under the Act. Full details of the Authority's consultation papers are available on its website (www.fsa.gov.uk) from where copies of current documents can be downloaded.