



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART V

#### PERFORMANCE OF REGULATED ACTIVITIES

##### *Approval*

#### **59 Approval for particular arrangements.**

- (1) An authorised person (“A”) must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by A in relation to the carrying on by A of a regulated activity, unless the Authority approves the performance by that person of the controlled function to which the arrangement relates.
- (2) An authorised person (“A”) must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by a contractor of A in relation to the carrying on by A of a regulated activity, unless the Authority approves the performance by that person of the controlled function to which the arrangement relates.
- (3) “Controlled function” means a function of a description specified in rules.
- (4) The Authority may specify a description of function under subsection (3) only if, in relation to the carrying on of a regulated activity by an authorised person, it is satisfied that the first, second or third condition is met.
- (5) The first condition is that the function is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the authorised person’s affairs, so far as relating to the regulated activity.
- (6) The second condition is that the function will involve the person performing it in dealing with customers of the authorised person in a manner substantially connected with the carrying on of the regulated activity.

*Status: Point in time view as at 14/01/2005. This version of this provision has been superseded.*

*Changes to legislation: Financial Services and Markets Act 2000, Section 59 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) The third condition is that the function will involve the person performing it in dealing with property of customers of the authorised person in a manner substantially connected with the carrying on of the regulated activity.
- (8) Neither subsection (1) nor subsection (2) applies to an arrangement which allows a person to perform a function if the question of whether he is a fit and proper person to perform the function is reserved under any of the single market directives to an authority in a country or territory outside the United Kingdom.
- (9) In determining whether the first condition is met, the Authority may take into account the likely consequences of a failure to discharge that function properly.
- (10) “Arrangement”—
- (a) means any kind of arrangement for the performance of a function of A which is entered into by A or any contractor of his with another person; and
  - (b) includes, in particular, that other person’s appointment to an office, his becoming a partner or his employment (whether under a contract of service or otherwise).
- (11) “Customer”, in relation to an authorised person, means a person who is using, or who is or may be contemplating using, any of the services provided by the authorised person.

#### Modifications etc. (not altering text)

- C1** S. 59 extended (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 74(2), 76(2); [S.I. 2001/3538](#), **art. 2(1)**  
S. 59 extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 49(1) (with [art. 23\(2\)](#))
- C2** S. 59 modified (29.9.2008 at 8.00 a.m.) by The Bradford & Bingley plc [Transfer of Securities and Property etc. Order 2008](#) ([S.I. 2008/2546](#)), **art. 15(1)**
- C3** S. 59 modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009](#) ([S.I. 2009/1342](#)), **arts. 1(2)**, 34, {Sch. paras. 1, 3}
- C4** S. 59 modified (1.1.2010) by The Northern Rock plc [Transfer Order 2009](#) ([S.I. 2009/3226](#)), **arts. 1(2)(b)**, **10**
- C5** S. 59(1) extended (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 75(2); [S.I. 2001/3538](#), **art. 2(1)**

#### Commencement Information

- II** S. 59 wholly in force at 1.12.2001; s. 59 not in force at Royal Assent see s. 431(2); s. 59 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2**, **Sch.**; s. 59 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 59 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

**Status:**

Point in time view as at 14/01/2005. This version of this provision has been superseded.

**Changes to legislation:**

Financial Services and Markets Act 2000, Section 59 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.