
STATUTORY INSTRUMENTS

2001 No. 2659

The Financial Services and Markets Act 2000 (Consequential and Transitional Provisions) (Miscellaneous) (No. 2) Order 2001

Information gathering—transitional modifications of section 165

2.—(1) Section 165 (Authority’s power to require information) has effect until commencement as if—

(a) each reference to an authorised person (except the references in subsections (7)(b) and (8)) included a reference to a regulated person in relation to whom the Authority has reasonable grounds to believe that it will be able to impose a requirement under that section immediately after commencement;

(b) the reference in subsection (4) to information and documents reasonably required in connection with the exercise by the Authority of functions conferred on it by or under the Act—

(i) so far as that subsection relates to documents and information held by or on behalf of—

(aa) a regulated person who falls within paragraph (j) of the definition of that term, or

(bb) a person connected with such a person,

were a reference to information and documents reasonably required in connection with the exercise by the Authority of functions which will, at commencement, be conferred on it by, or exercisable by it by virtue of, the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) Order 2001(1) in relation to that regulated person;

(ii) otherwise, included a reference to information and documents reasonably required in connection with the exercise by the Authority of functions which the Authority has reasonable grounds to believe will be conferred on it by or under the Act at commencement;

(c) the reference to a recognised investment exchange or recognised clearing house in subsection (7)(c) included a reference to a recognised investment exchange or a recognised clearing house (in each case, within the meaning of the Financial Services Act) in relation to which the Authority has reasonable grounds to believe that it will be able to impose a requirement under that section immediately after commencement.

(2) In determining whether a person is connected with a regulated person under section 165(11), Part I of Schedule 15 has effect as if each reference to an authorised person were a reference to a regulated person.

(3) The reference to a requirement imposed by the Authority under section 165 in section 176(11) does not include a requirement imposed under that section as modified by this article.

(4) At commencement—

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- (a) any requirement imposed under section 165 or subsection (1) of section 175 (information and documents: supplemental provisions) ceases to have effect if it could not be imposed under that enactment immediately after commencement;
- (b) any requirement imposed under subsection (2) or (3) of section 175 (a “supplementary requirement”) ceases to have effect if the requirement pursuant to which the supplementary requirement was imposed ceases to have effect at commencement by virtue of subparagraph (a) (and no such supplementary requirement may be imposed thereafter); and
- (c) no action may be taken or continued under or pursuant to the Act in relation to any requirement which ceases to have effect by virtue of this paragraph.