

2001 No. 3544

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2001

Made - - - - - 1st November 2001

Laid before Parliament 1st November 2001

Coming into force - - in accordance with article 1

The Treasury, in exercise of the powers conferred on them by sections 22(1) and (5) and 428(3) of, and paragraph 25 of Schedule 2 to, the Financial Services and Markets Act 2000(a), hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2001, and comes into force—
 - (a) other than for the purposes of article 8, on 1st December 2001;
 - (b) for the purposes of article 8, on 1st September 2002.

Amendment of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

2. The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(b) (“the principal Order”) is amended as provided in the following provisions of this Order.

Accepting deposits: sums received by persons authorised to deal etc.

3. In article 8 of the principal Order, for “carrying on that activity” substitute “carrying on any such activity (or any activity which would be such an activity but for any exclusion made by this Part)”.

Dealing as principal: issue by a company of its own shares etc.

4. In article 18(2)(c) of the principal Order, for “that company” substitute “the person concerned”.

Arranging deals in investments: arranging transactions in connection with lending on the security of insurance policies

5. For sub-paragraph (a) of paragraph (1) of article 30 of the principal Order substitute—
 - “(a) a relevant authorised person or a person acting on his behalf will introduce to the money-lender persons with whom the relevant authorised person has entered, or proposes to enter, into a relevant transaction, or will advise such persons to approach the money-lender, with a view to the money-lender lending money on the security of any contract effected pursuant to a relevant transaction;”.

(a) 2000 c. 8.
(b) S.I. 2001/544.

Managing investments: attorneys

6. In article 38(b) of the principal Order—
- (a) omit “or” after sub-paragraph (i); and
 - (b) after sub-paragraph (ii) insert: “; or
 - (iii) an overseas person.”

Causing dematerialised instructions to be sent

7. In article 45(2) of the principal Order, after “sent” the first time it occurs insert “on behalf of another person”.

Regulated mortgage contracts

8. In article 61 of the principal Order—
- (a) in paragraph (2), after “entered into” insert “by way of business”;
 - (b) for paragraph (3)(a) substitute—
 - “(a) a contract is a “regulated mortgage contract” if, at the time it is entered into, the following conditions are met—
 - (i) the contract is one under which a person (“the lender”) provides credit to an individual or to trustees (“the borrower”);
 - (ii) the contract provides for the obligation of the borrower to repay to be secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom;
 - (iii) at least 40% of that land is used, or is intended to be used, as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who is a beneficiary of the trust, or by a related person;”;
 - (c) in paragraph (4), for “paragraph (3)(a)(ii)” substitute “paragraph 3(a)”.

Activities carried on in the course of a profession or non-investment business

9. In article 67(1)(a) of the principal Order, for “regulated activities” substitute “the carrying on of regulated activities in the United Kingdom”.

Activities carried on in connection with the sale of goods or supply of services

10. In article 68(3) of the principal Order, for “as agent by a supplier with a customer” substitute “by a supplier as agent for a customer”.

Anne McGuire
John Heppell

1st November 2001

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Regulated Activities Order) 2001 (S.I. 2001/544) (“the principal Order”).

Article 3 amends article 8 of the principal Order, which provides an exclusion from the regulated activity of accepting deposits for sums received by persons who are authorised (or exempt) in relation to certain investment activities. The amendment widens the exclusion so that it applies to sums received in the course of, or for the purposes of, not only certain regulated activities but also activities which *would* be such activities but for exclusions in the principal Order.

Article 4 makes a minor amendment to article 18 of the principal Order (exclusion from the activity of dealing as principal, for companies issuing their own shares and share warrants and persons issuing their own debentures and debenture warrants).

Article 5 amends article 30 of the principal Order, which provides an exclusion from the regulated activity of arranging deals for certain arrangements made by money-lenders in connection with lending on the security of insurance policies. The amendment widens the exclusion so that it applies to arrangements involving introductions of existing (as well as new) customers of the money-lender, and arrangements involving the giving of advice to persons to approach the money-lender.

Article 6 extends the exclusion in article 38 of the principal Order (management of investments by attorneys) to cases where relevant decisions are taken on behalf of the attorney by an overseas person.

Article 7 clarifies article 45(2) of the principal Order (causing dematerialised instructions to be sent).

Article 8 clarifies the definitions of “regulated mortgage contract” in article 61 of the principal Order, and the scope of the regulated activity of “administering” such contracts.

Article 9 amends article 67 of the principal Order, which provides exclusions for certain activities carried on in the course of a profession or non-investment business. The amendment provides that the exclusions apply where the profession or business does not consist of carrying on regulated activities *in the United Kingdom*.

Article 10 makes a minor clarification to article 68(3) of the principal Order (exclusion for certain activities carried on in connection with the sale of goods or supply of services).

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Activities) (Amendment) Order 2001**

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