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STATUTORY INSTRUMENTS

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**2001 No. 3646**

The Financial Services and Markets Act 2000  
(Transitional Provisions and Savings) (Information  
Requirements and Investigations) Order 2001

PART 3

INVESTIGATIONS

**Section 94 of the Financial Services Act**

8.—(1) This article applies to an appointment, which is effective immediately before commencement, of a person under section 94(1) of the Financial Services Act to investigate any matter.

(2) The appointment is to be treated as an appointment of that person under section 284(1) of the Act (investigations of collective investment schemes) to investigate that matter by—

- (a) where the Secretary of State appointed that person, the Secretary of State; or
- (b) where the Authority appointed that person, the Authority,

subject to the modifications of section 284 and Part XI of the Act (as applied by that section) specified by paragraph (3).

(3) The modifications specified by this paragraph are—

- (a) the reference in section 170(6) of the Act to the investigator's investigation includes a reference to his investigation before commencement;
- (b) any direction given under section 94(8), (8A), (8B) or (9) of the Financial Services Act which is effective immediately before commencement is to be treated as a direction given under section 170(7) of the Act;
- (c) in its application to any statement made on or after commencement by a person in response to a question put to him by an investigator in exercise of powers conferred by section 434 of the Companies Act 1985(2), as applied by section 94 of the Financial Services Act, or under Part XI of the Act, section 174 of the Act (admissibility of statements) applies as if subsection (3)(d) were omitted;
- (d) any investigation under section 94(2) of the Financial Services Act begun by that person before, but not completed by, commencement, is to be treated as an investigation under section 284(2) of the Act (whether or not it could have been begun under that section);
- (e) any outstanding requirement imposed under section 434(1)(b) or (2) of the Companies Act 1985, as applied by section 94(3) of the Financial Services Act, is to be treated as a

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(1) Amended and repealed in part by the Companies Act 1989 (c. 40), section 72, Schedule 24. The functions under section 94 are exercisable by the Authority concurrently with the Secretary of State by virtue of the Financial Services Act 1986 (Delegation) (No. 2) Order 1988 (S.I.1988/738).

(2) 1985 c. 6; amended by the Companies Act 1989 (c. 40), section 56; and by the Youth Justice and Criminal Evidence Act 1999 (c. 23), paragraph 5, Schedule 3.

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requirement imposed under section 284(3) of the Act (whether or not such a requirement could have been imposed under that section);

- (f) any consent or authorisation given under section 94(7) of the Financial Services Act which was effective before commencement is to be treated as if given under section 284(9) of the Act.

(4) Where, on or after commencement, a person fails to comply with an outstanding requirement imposed under section 434 of the Companies Act 1985, as applied by section 94 of the Financial Services Act—

- (a) the court may not impose any penalty or other measure under section 177 of the Act that is more severe than the penalty or measure that it could have imposed had the Act not been passed; and
- (b) the Authority may not impose any penalty or other disciplinary measure under the Act that is more severe than the penalty or measure that it could have imposed had the Act not been passed.