
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (“the principal Order”). It gives effect to Directive [2000/46/EC](#) of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions (OJ L275, 27.10.2000, p.39); and Directive [2000/28/EC](#) of the European Parliament and of the Council of 18 September 2000 amending Directive [2000/12/EC](#) relating to the taking up and pursuit of the business of credit institutions (OJ L275, 27.10.2000, p.37).

Part II of the Order provides for the issuing of electronic money to be a regulated activity under the Financial Services and Markets Act 2000 (“the Act”).

Article 2 inserts a definition of “electronic money” into the principal Order. Article 3 amends that Order to provide that a sum is not a “deposit” for the purposes of that Order if it is immediately exchanged for electronic money.

Articles 4 to 6 insert provisions into the principal Order relating to the regulated activity of issuing electronic money. They include provisions excluding from the scope of that activity certain persons whose operations are on a limited scale, and to whom the Financial Services Authority (“the Authority”) has issued a certificate. The Authority is given powers to obtain information from such “certified persons”, and to make rules prohibiting the issue of electronic money at a discount. Provision is made excluding the issuing of electronic money from the Financial Services Compensation Scheme established under Part XV of the Act, and providing for details of “certified persons” to be included in the public record maintained by the Authority under section 347 of the Act.

Articles 7 and 8 of the Order make supplemental amendments to provide that the issuing of electronic money is not an exempt activity for the purposes of Part XX of the Act (provision of financial services by members of the professions); and to provide that persons seeking permission under the Act to carry on the regulated activity of issuing electronic money must comply with the threshold condition in paragraph 1(2) of Schedule 6 to the Act (i.e. they must be either bodies corporate or partnerships). Article 9 makes transitional provisions relating to persons who were issuing electronic money immediately before 27th April 2002. Article 10 makes provision about anticipatory consultation on rules to be made under the new powers conferred by articles 9G(1) and 9H of the principal Order.

Part III of the Order makes further, miscellaneous amendments to the principal Order. Article 11 makes additions to the list, in article 4(4) of the principal Order, of those exclusions which must be disregarded for the purposes of giving proper effect to the investment services directive ([93/22/EEC](#)). Article 12 makes a clarificatory amendment to article 9 of the principal Order, which provides an exclusion from the activity of accepting deposits for sums received in consideration for the issue of debt securities. Article 13 provides for article 45 of the principal Order (sending dematerialised instructions) to apply to instructions relating to contractually based investments as well as those relating to securities. It also replaces references to the Uncertificated Securities Regulations 1995 with references to the corresponding 2001 Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002.