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STATUTORY INSTRUMENTS

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**2006 No. 2383**

**The Financial Services and Markets Act 2000  
(Regulated Activities) (Amendment) (No.2) Order 2006**

**PART 5**

**TRANSITIONAL PROVISIONS**

**Interpretation**

**36.** In this Part—

“the Act” means the Financial Services and Markets Act 2000(1);

“commencement” means the beginning of 6th April 2007;

“the Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

**Interim permission**

**37.—**(1) This article applies where—

(a) a person (“the applicant”) has submitted to the Authority an application for Part IV permission or a variation of a Part IV permission, to the extent that the application relates to an activity of the kind specified by any of the following articles of the Regulated Activities Order (as amended by this Order)—

(i) article 25B (arranging regulated home reversion plans);

(ii) article 25C (arranging regulated home purchase plans);

(iii) article 53B (advising on regulated home reversion plans);

(iv) article 53C (advising on regulated home purchase plans);

(v) article 63B (entering into and administering regulated home reversion plans);

(vi) article 63F (entering into and administering regulated home purchase plans); or

(vii) article 64 (agreeing to carry on specified kinds of activity), so far as relevant to any of the above activities;

(b) the applicant had carried on such activity before 6th November 2006;

(c) the Authority received the application on or before 23rd March 2007; and

(d) the application has not been finally decided before commencement.

(2) The applicant is to be treated as having on commencement the permission to which the application relates.

(3) A permission which an applicant is to be treated as having is referred to in this Part as an “interim permission”.

(4) Without prejudice to the exercise by the Authority of its powers under Part 4 of the Act, an interim permission lapses—

- (a) where the application relates to an activity of the kind specified by article 63B or 63F of the Regulated Activities Order or article 64 of that Order, so far as relevant to any such activity, when the application has been finally decided;
- (b) where the application relates to an activity of the kind specified by article 25B, 25C, 53B or 53C of the Regulated Activities Order or article 64 of that Order, so far as relevant to any such activity—
  - (i) when the application has been finally decided; or
  - (ii) at the beginning of 6th April 2008,
 whichever is the earlier.

(5) In this article, “finally decided” means—

- (a) subject to paragraph (6), when the application is withdrawn;
- (b) when the Authority grants permission under section 42 of the Act (giving permission) to carry on the activity in question;
- (c) when the Authority varies a permission under section 44 of the Act (variation etc. at request of authorised person) to add the activity in question;
- (d) where the Authority has refused an application and the matter is not referred to the Tribunal, when the time for referring the matter to the Tribunal has expired;
- (e) where the Authority has refused an application and the matter is referred to the Tribunal, when—
  - (i) if the reference is determined by the Tribunal (including a determination following remission back to the Tribunal for rehearing in accordance with section 137(3)(a) of the Act (appeal on a point of law)), the time for bringing an appeal has expired; or
  - (ii) on an appeal from a determination by the Tribunal on a point of law, the Court itself determines the application in accordance with section 137 of the Act.

(6) An applicant who is treated as having an interim permission may not withdraw the application without first obtaining the consent of the Authority.

(7) Where—

- (a) the Authority exercises its powers under section 45 (variation etc. on the Authority’s own initiative) in relation to an authorised person who holds an interim permission; and
- (b) as a result of the variation there are no longer any regulated activities for which the authorised person has permission,

the Authority must, once it is satisfied that it is no longer necessary to keep the interim permission in force, cancel it.

### **Interim approval**

**38.**—(1) This article applies where—

- (a) the applicant (within the meaning of article 37(1)(a)) has submitted to the Authority an application made under section 60 of the Act (applications for approval); and
- (b) the application has not been finally decided before commencement.

(2) The person in respect of whom the application is made is to be treated as having on commencement the approval of the Authority for the purposes of section 59 of the Act (approval for particular arrangements) in relation to the functions to which the application relates.

(3) An approval which a person is to be treated as having is referred to in this Part as an “interim approval”.

(4) Without prejudice to the exercise by the Authority of its powers under Part 5 of the Act, an interim approval lapses—

- (a) where the application relates to an activity of the kind specified by article 63B or 63F of the Regulated Activities Order or article 64 of that Order, so far as relevant to any such activity, when the application has been finally decided;
- (b) where the application relates to an activity of the kind specified by article 25B, 25C, 53B or 53C of the Regulated Activities Order or article 64 of that Order, so far as relevant to any such activity—
  - (i) when the application has been finally decided; or
  - (ii) at the beginning of 6th April 2008,whichever is the earlier.

(5) In this article, “finally decided” means—

- (a) when the application is withdrawn;
- (b) when the Authority grants the application for approval under section 62 of the Act (applications for approval: procedure and right to refer to Tribunal);
- (c) where the Authority has refused an application and the matter is not referred to the Tribunal, when the time for referring the matter to the Tribunal has expired;
- (d) where the Authority has refused an application and the matter is referred to the Tribunal, when—
  - (i) if the reference is determined by the Tribunal (including a determination following remission back to the Tribunal for rehearing in accordance with section 137(3)(a) of the Act), the time for bringing an appeal has expired; or
  - (ii) on an appeal from a determination by the Tribunal on a point of law, the Court itself determines the application in accordance with section 137 of the Act.

#### **Application of the Authority’s rules etc. to persons with an interim permission or an interim approval**

**39.**—(1) The Authority may direct in writing that any relevant provision which would otherwise apply to a person by virtue of his interim permission or interim approval is not to apply or is to apply to him as modified in the way specified in the direction.

(2) Where the Authority makes a rule, gives guidance or issues a statement or code which applies only to persons with an interim permission or an interim approval (or only to a class of such persons), sections 65 (statements and codes: procedure), 155 (consultation) and 157(3) (guidance) of the Act do not apply to that rule, guidance, statement or code.

(3) For the purposes of paragraph (1) a “relevant provision” is any provision made as a result of the exercise by the Authority of any of its legislative functions mentioned in paragraph 1(2) of Schedule 1 to the Act (the Financial Services Authority).

#### **Application of the Act etc.**

**40.** The Schedule modifies the application of the Act and the Regulated Activities Order in relation to persons with an interim permission or an interim approval.