
STATUTORY INSTRUMENTS

2006 No. 3384

The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment No. 3) Order 2006

PART 2

AMENDMENTS OF THE PRINCIPAL ORDER

Amendments of the principal Order

3. In article 3(1)(1) (interpretation)—

(a) in paragraph (a) of the definition of “overseas person” after “25C,” insert “25D,”;

(b) at the appropriate place, insert—

““the Commission Regulation” means Commission Regulation 1287/2006 of 10 August 2006(2);

“credit institution” means—

(a) a credit institution authorised under the banking consolidation directive(3) other than an institution to which Article 2.1 of the markets in financial instruments directive(4) (the text of which is set out in Schedule 3) applies, or

(b) an institution which would satisfy the requirements for authorisation as a credit institution under that directive (other than an institution to which Article 2.1 of the markets in financial instruments directive would apply) if it had its registered office (or if it does not have a registered office, its head office) in an EEA State;

“financial instrument” means any instrument listed in Section C of Annex I to the markets in financial instruments directive (the text of which is set out in Part 1 of Schedule 2) read with Chapter VI of the Commission Regulation (the text of which is set out in Part 2 of Schedule 2);

“home Member State”, in relation to an investment firm, has the meaning given by Article 4.1.20 of the markets in financial instruments directive, and in relation to a credit institution, has the meaning given by Article 4.7 of the banking consolidation directive;

“investment firm” means a person whose regular occupation or business is the provision or performance of investment services and activities on a professional basis but does not include—

(1) The definition of “overseas person” was amended by S.I. 2003/1475 and 1476 and 2006/2383.

(2) OJ No L 241, 2.9.2006, p.1.

(3) OJ No L 177, 30.6.2006, p.1.

(4) OJ No L 145, 30.4.2004, p.1.

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- (a) a person to whom the markets in financial instruments directive does not apply by virtue of Article 2 of that directive (the text of which is set out in Schedule 3);
- (b) a person whose home Member State is an EEA State other than the United Kingdom and to whom, by reason of the fact that the State has given effect to Article 3 of that directive, that directive does not apply by virtue of that Article;
- (c) a person who does not have a home Member State and to whom (if he had his registered office in an EEA State, or, being a person other than a body corporate or a body corporate not having a registered office, if he had his head office in an EEA State) the markets in financial instruments directive would not apply by virtue of Article 2 of that directive;

“investment services and activities” means—

- (a) any service provided to third parties listed in Section A of Annex I to the markets in financial instruments directive (the text of which is set out in Part 3 of Schedule 2) read with Article 52 of Commission Directive [2006/73/EC](#) of 10 August 2006⁽⁵⁾ (the text of which is set out in Part 4 of Schedule 2), or
- (b) any activity listed in Section A of Annex I to that directive, relating to any financial instrument;

“management company” has the meaning given by Article 1a.2 of the UCITS directive⁽⁶⁾ as amended by Directive [2001/107/EC](#)⁽⁷⁾;

“market operator” means a market operator within the meaning of Article 4.1.13 of the markets in financial instruments directive, or a person who would be a market operator if he had his registered office, or if he does not have a registered office his head office, in an EEA State, but does not include—

- (a) a person to whom the markets in financial instruments directive does not apply by virtue of Article 2 of that directive (the text of which is set out in Schedule 3);
- (b) a person who does not have a home Member State to whom (if he had his registered office, or if he does not have a registered office his head office, in an EEA State) the markets in financial instruments directive would not apply by virtue of Article 2 of that directive;

“multilateral trading facility” means—

- (a) a multilateral trading facility (within the meaning of Article 4.1.15 of the markets in financial instruments directive) operated by an investment firm, a credit institution or a market operator, or
- (b) a facility which—
 - (i) is operated by an investment firm, a credit institution or market operator which does not have a home Member State, and
 - (ii) if its operator had a home Member State, would be a multilateral trading facility within the meaning of Article 4.1.15 of the markets in financial instruments directive;”.

⁽⁵⁾ OJ No L 241, 2.9.2006, p. 26.

⁽⁶⁾ OJ No L 375, 31.12.85, p.3.

⁽⁷⁾ OJ No L 41, 13.2.2002, p.20.