

2013 No. 431

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Exercise of Powers under Part 4A) (Consultation with Home State Regulators) Regulations 2013

<i>Made</i>	- - - -	<i>27th February 2013</i>
<i>Laid before Parliament</i>		<i>28th February 2013</i>
<i>Coming into force</i>	- -	<i>1st April 2013</i>

The Treasury, in exercise of the powers conferred by sections 55R(2) and 428(3) of the Financial Services and Markets Act 2000(a), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Financial Services and Markets Act 2000 (Exercise of Powers under Part 4A) (Consultation with Home State Regulators) Regulations 2013 and comes into force on 1st April 2013.

(2) In these Regulations—

“the Act” means the Financial Services and Markets Act 2000;

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

Connected persons: consultation with home state regulators

2.—(1) The circumstances specified in paragraphs (2) and (3) are prescribed for the purposes of section 55R(2) of the Act (consultation of home state regulator in considering an exercise of powers under Part 4A of the Act).

(2) The circumstance specified in this paragraph is that the regulator concerned is considering giving Part 4A permission of the kind described by section 55R(2)(a) of the Act and the permission does not relate only to a relevant activity.

(3) The circumstance specified in this paragraph is that the regulator concerned is considering varying a Part 4A permission given to a person of the kind described in section 55R(2)(a) of the Act and—

(a) the effect of the variation is to grant permission for the purposes of a single market directive other than the one for the purposes of which the existing permission was granted, and

(a) 2000 c.8. Section 55R inserted by section 11 of the Financial Services Act 2012 (c.21). “Prescribed” is defined in section 417 of the Act.

(b) SI 2001/544.

(b) the permission does not relate only to a relevant activity.

(4) In this regulation—

“insurance mediation activity” means any of the following activities—

- (a) an activity of the kind specified by article 21 of the Regulated Activities Order (dealing in investments as agent)(a) in so far as it relates to rights under a contract of insurance;
- (b) an activity of the kind specified by article 25 of the Regulated Activities Order (arranging deals in investments)(b) in so far as it relates to rights under a contract of insurance;
- (c) an activity of the kind specified by article 39A of the Regulated Activities Order (assisting in the administration and performance of a contract of insurance)(c);
- (d) an activity of the kind specified by article 53 of the Regulated Activities Order (advising on investments)(d) in so far as it relates to rights under a contract of insurance;
- (e) an activity of the kind specified by article 64 of the Regulated Activities Order (agreeing to carry on specified kinds of activity)(e) in so far as it applies to any of the activities specified in sub-paragraphs (a) to (d);

“relevant activity” means—

- (f) an insurance mediation activity, or
- (g) a regulated activity involving—
 - (i) a regulated mortgage contract,
 - (ii) a regulated home reversion plan,
 - (iii) a regulated home purchase plan, or
 - (iv) a regulated sale and rent back agreement,

where each of the terms in paragraphs (i) to (iv) has the meaning given in the Regulated Activities Order.

*Stephen Crabb
Robert Goodwill*

Two of the Lords Commissioners of Her Majesty’s Treasury

27th February 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 55R(2) of the Financial Services and Markets Act 2000 (c.8) (“the Act”) requires the Financial Conduct Authority or the Prudential Regulation Authority (“appropriate regulator”), when it is giving permission under Part 4A of the Act in response to an application made by a person who is connected with certain EEA firms to consult with the home state regulator of the EEA firm in prescribed circumstances. The appropriate regulator must also consult the home state regulator when cancelling or varying such a permission, in prescribed circumstances.

These regulations prescribe two circumstances in which consultation with the home state regulator must take place. First, the appropriate regulator must consult the home state regulator when giving permission unless the permission relates only to a “relevant activity” (as defined by regulation 2(4)). Second, the appropriate regulator must consult the home state regulator when varying permission unless the permission relates only to a “relevant activity” or where the effect of the variation is to give permission for the purposes of a single market directive other than the one for the purposes of which the existing permission was granted.

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- (a) Amended by SI 2003/1476 and SI 2006/3384.
 - (b) Amended by SI 2003/1476 and SI 2006/3384.
 - (c) Inserted by SI 2003/1476.
 - (d) Amended by SI 2003/1476.
 - (e) Amended by SI 2002/682, SI 2006/3384 and SI 2009/1389.

A full impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is available from Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.hm-treasury.gov.uk and is published alongside the Regulations on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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The Financial Services and Markets Act 2000 (Exercise of Powers under Part 4A) (Consultation with Home State Regulators) Regulations 2013

£4.00

E5906 02/2013 135906T 19585

ISBN 978-0-11-153532-5



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