
STATUTORY INSTRUMENTS

2001 No. 2632 (C. 87)

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act
2000 (Commencement No. 5) Order 2001

Made - - - - 19th July 2001

The Treasury, in exercise of the powers conferred on them by section 431(2) of the Financial Services and Markets Act 2000⁽¹⁾ (“the Act”), hereby make the following Order:

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Commencement No. 5) Order 2001.

(2) In this Order, “section 19 day” means the day on which section 19 of the Act comes into force.

2.—(1) 20th July 2001 is the day appointed for the coming into force of the provisions of the Act listed in Part 1 of the Schedule to this Order, for all purposes.

(2) 3rd September 2001 is the day appointed for the coming into force of the provisions of the Act listed in Part 2 of that Schedule, for the purposes indicated there (or, where no purposes are indicated, for all purposes).

19th July 2001

Tony McNulty
Graham Stringer
Two of the Lords Commissioners of Her
Majesty’s Treasury

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SCHEDULE

Article 2

PART 1

PROVISIONS COMING INTO FORCE ON 20TH JULY 2001

- Section 355 (insolvency: interpretation)
- Section 360 (application to insurers of law on administration)
- Section 372 (bankruptcy petitions), for the purpose of making rules
- Section 378 (treatment of assets on winding up)
- Section 379 (winding-up rules)

PART 2

PROVISIONS COMING INTO FORCE ON 3RD SEPTEMBER 2001

- Subsection (1)(c) of section 31 (authorised persons), for the purpose of introducing Schedule 4 to the extent brought into force by this Order
- Section 37 (exercise of EEA rights by UK firms), for the purpose of introducing Part III of Schedule 3, to the extent brought into force by this Order
- Section 40 (application for permission)
- Section 41(2) and (3) (the threshold conditions)
- Sections 42 and 43 (permission), for the purposes of permissions coming into force not sooner than section 19 day, and applications for such permissions
- Sections 44 to 47 (variation and cancellation of Part IV permission), for the purposes of variations or cancellations taking effect not sooner than section 19 day, and applications for such variations or cancellations
- Section 48 (prohibitions and restrictions)
- Section 49 (connected persons)
- Section 50 (additional permissions)
- Sections 51 and 52 (procedure)
- Sections 53 and 54 (exercise of own-initiative power: procedure), for the purposes of variations and cancellations taking effect not sooner than section 19 day
- Sections 55 (right to refer matters to the Tribunal)
- Sections 56 to 58 (prohibition orders), for the purposes of prohibition orders coming into force not sooner than section 19 day
- Section 59 to 63 (approval for particular arrangements), for the purposes of approvals coming into force not sooner than section 19 day, and applications for such approvals
- Part IX (hearings and appeals), so far as not already in force
- Section 148 (modification or waiver of rules)
- Part XI (information gathering and investigations), so far as not already in force
- Section 193 (interpretation of Part XIII)
- Sections 194 to 197 and 199 (incoming firms: intervention by the Authority), for the purposes of requirements (as mentioned in section 196) taking effect not sooner than section 19 day

Sections 200 to 202 (supplemental)

Sections 242 to 245 (authorised unit trust schemes), for the purposes of authorisation orders coming into force not sooner than section 19 day, and applications for such orders

Section 246 (certificates for unit trust schemes), for the purposes of certificates coming into force not sooner than section 19 day

Section 250 (modification or waiver of trust scheme rules and scheme particulars rules)

Sections 251 (except subsection (4)(b)) and 252 (alterations of schemes etc., for the purposes of the giving of notice of any proposal to alter a scheme, or to replace its trustee or manager, not sooner than section 19 day, and the giving of approval to any such proposal

Sections 254 to 256 (ending of authorisation)

Sections 257 and 259 to 261 (powers of intervention), for the purposes of directions coming into force not sooner than section 19 day

Section 264 (schemes constituted in other EEA States), for the purposes of—

- (a) the giving of notice under subsection (1) of intention to make invitations not sooner than section 19 day; and
- (b) the giving of notice under subsections (2) or (6)

Section 265 (representations and references to the Tribunal), except subsection (3)

Section 270 (schemes authorised in designated countries or territories), for the purposes of—

- (a) the giving of notice under subsection (1)(c); and
- (b) the giving of notice of approval under subsection (1)(d)(i) coming into force not sooner than section 19 day

Section 271 (refusal of approval under section 270: procedure), except subsection (2)

Sections 272 to 276 (individually recognised overseas schemes), for the purposes of orders (and applications for orders) coming into force not sooner than section 19 day

Section 277 (alteration of schemes etc.), except subsection (2)(b), for the purposes of—

- (a) the giving of notice under subsection (1) of any proposal to alter a scheme not sooner than section 19 day, and the giving of approval to any such proposal; and
- (b) the giving of notice under subsection (3) of any proposal to replace an operator, trustee or depositary not sooner than section 19 day

Sections 279 to 282 (revocation of recognition)

Sections 287 to 289 and 292(1) (recognised investment exchanges and clearing houses)

Sections 290 and 292(2) to (5), for the purposes of recognition orders coming into force not sooner than section 19 day

Section 294 (recognised bodies: modification or waiver of rules)

Section 297 (revoking recognition)

Section 298 (directions and revocation: procedure), for the purposes of revocation orders under section 297

Sections 302 and 303 (competition scrutiny of recognised bodies: interpretation and initial report by Director)

Section 305 (investigations by Director), for the purposes of section 303

Section 306 (consideration by Competition Commission), for the purposes of reports issued by the Director under section 303

Section 307 (recognition orders: role of the Treasury)

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Section 310 (procedure on exercise of certain powers by the Treasury), for the purposes of section 307

Sections 311 and 312 (exclusion from the Competition Act 1998)⁽²⁾

Section 314 (Lloyds: Authority's general duty)

Subsections (3) to (5) of section 315 (the Society: authorisation and permission)

Section 320(3) and (4) and section 321 (requirements imposed on former underwriting members), for the purposes of requirements taking effect not sooner than section 19 day

Section 325(4) (duty of designated professional bodies to cooperate with the Authority)

Sections 328 and 329 (professions: directions and orders in relation to the general prohibition)

Section 330 (consultation)

Section 331 (procedure on making or varying orders under section 329)

Section 350 (disclosure of information by the Inland Revenue)

Section 352 (offences), so far as not already in force

Section 354 (Authority's duty to co-operate with others)

Sections 387 to 394 (notices)

Section 405 (directions in relation to third countries)⁽³⁾, except subsection (1)(c) and (d)

Section 407(1) and (2) (consequences of a direction under section 405)

Section 408 (EFTA firms), for the purposes of determinations coming into force not sooner than section 19 day

Section 413 (limitation on power to obtain documents)

Section 418 (carrying on regulated activities in the United Kingdom)

Section 432(1) (minor and consequential amendments etc.), for the purpose of introducing Schedule 20 so far as brought into force by this Order

Paragraphs 7 and 8 of Schedule 1 (investigation of complaints against the Authority), so far as not already in force

In Part III of Schedule 3 (exercise of EEA passport rights by UK firms)⁽⁴⁾—

- (a) paragraph 19 (establishment), for the purposes of the giving of notice under sub-paragraph (2) of intention to establish a branch not sooner than section 19 day; and
- (b) paragraph 20 (services), for the purposes of the giving of notice under sub-paragraph (1) of intention to provide services not sooner than section 19 day

In Schedule 4 (Treaty rights)—

- (a) paragraph 1;
- (b) paragraph 3, for the purposes of issuing certificates under sub-paragraph (4); and
- (c) paragraph 5, for the purposes of giving notice under sub-paragraph (2) of intention to carry on regulated activities not sooner than section 19 day

In Schedule 6 (threshold conditions)—

- (a) paragraphs 1 to 7; and
- (b) paragraphs 8 and 9, so far as not already in force

Schedule 13 (the Financial Services and Markets Tribunal), so far as not already in force

⁽²⁾ 1998 c. 41.

⁽³⁾ Section 405 was amended by S.I. 2000/2952, reg. 8(3).

⁽⁴⁾ Part III of Schedule 3 was amended by S.I. 2000/2952, reg. 8(5) and by S.I. 2001/1376.

Schedule 15 (information and investigations: connected persons)

In Schedule 20 (minor and consequential amendments)—

- (a) paragraph 1(b);
- (b) paragraph 2(b);
- (c) paragraph 3; and
- (d) paragraph 7 (except sub-paragraph (3)(a)).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, on 20th July 2001, the provisions of the Financial Services and Markets Act 2000 (“the Act”) listed in Part 1 of the Schedule. These are provisions relating to insolvency, including powers to make subordinate legislation.

In addition the Order brings into force, on 3rd September 2001, the provisions of the Act listed in Part 2 of the Schedule. They include provisions relating to the making of applications and the granting of permissions to come into force on the day on which section 19 of the Act comes into force, and the doing of other preparatory acts in advance of that day. (Section 19 contains the “general prohibition” on carrying on regulated activities unless authorised or exempt.)

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
ss. 22, 38, 41(1), 79(3), 86, 87(4), (5), 103, 118(3), (4), (10), 132(3), 134, 135, 137(6), 142 (except (5)), 144(4), (5), 145(5), 192(a), 215(6), (8), (9), 235 to 237, 239(1) to (3), 262, 286, 313, 326, 334(1), (2), 335, 336(1), (2), 337, 338(1), (2), 339, 342(5), 343(5), 351(7), 353, 397(9) to (14), 409, 414(1) to (3), 416(4), (5), 417, 419 to 423, 424(1), (2), 425 to 427, 429, Schedule 2, Schedule 9 (except for paragraph 7), Schedule 11, para. 6(2) of	25th February 2001	2001/516 (C. 21)

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<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Schedule 12 and para. 9 of Schedule 13		
ss. 20(3), 21, 39(1), 47(1), (3), 71(2), (3), 75(3), 108, 150(3) to (5), 168(4)(b), 183(2), 188(2), 202(2), 213(10), 214(5), 224(4), 238, 264(1), (3)(c), 270, 284(2), 327(6), 349, 402(1)(b), 412, 424(3), Schedule 3, paragraphs 8 and 9 of Schedule 6, paragraph 19 of Part II of Schedule 19 (for the purposes of making regulations/orders)	25th February 2001	2001/516 (C. 21)
ss. 31(1)(b), 37, 111(2), 132(1), 132(4) (partially)	25th February 2001	2001/516 (C. 21)
ss. 416(1)(c) and (3)(a)	30th April 2001	2001/1282 (C. 48)
ss. 432(3) and Schedule 22 (for the purpose of repealing the Insurance Brokers (Registration) Act 1977)	30th April 2001	2001/1282 (C. 48)
ss. 1 to 11, 64, 65, 69, 70, 72, 73, 74(4), (5), 79 (so far as already not in force), 84, 87 (so far as not already in force), 88(1) to (3), 89(1), 93, 94, 96, 99, 100, 101, 102, 119 to 121, 124, 125, 138 to 141, 144 and 145 (so far as not already in force), 146, 147, 149, 152 to 164, 210 to 212, 213 to 217 (so far as not already in force), 218, 222, 225, 230, 234, 239 (so far as not already in force), 247, 248, 266, 278, 283(1), 299, 317, 319, 323, 324, 332, 340, 348, 349 (so far as not already in force), 350(3), (7), 351 (so far as not already in force), 380, 382, 395, 396, 398, 399, 400, 401, 403, 410, 414, 415, Schedule 1 (except paragraphs 7 and 8), Schedule 7, Schedule 8, Schedule 9 (so far as not already in force), Schedule 14, Schedule 17, Schedule 19 (so far as not already in force)	18th June 2001	2001/1820 (C. 62)

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
ss. 59, 75(1), 77(1), (2), (4), 81(1), (5), 82(1), (5), (7), 98(1), 136, 143, 150, 226, 227, 229, 238, 293, 295, 322 and Schedule 3 (for the purpose of making rules)	18th June 2001	2001/1820 (C. 62)
ss. 51, 60, 148, 182, 242, 274, 287, 288, 294, 316 and 318 (for the purposes of giving directions and/or imposing requirements)	18th June 2001	2001/1820 (C. 62)
ss. 31(1)(b), 169, 223 and 352 (partially)	18th June 2001	2001/1820 (C. 62)
paragraph 6 of Schedule 20 and s. 432(1) (partially)	3rd July 2001	2001/2364 (C. 81)
paragraphs 6 and 7 of Schedule 1 (partially)	19th July 2001	2001/2364 (C. 81)