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STATUTORY INSTRUMENTS

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**2001 No. 2636**

**The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001**

**PART V**

**COLLECTIVE INVESTMENT SCHEMES**

**CHAPTER 1**

authorisation and recognition of schemes

**Authorised unit trust schemes**

**65.**—(1) Where—

- (a) immediately before commencement, an order made under section 78(1) of the Financial Services Act (or having effect as if so made) was in force as respects a scheme; and
- (b) that scheme is a unit trust scheme within the meaning of section 237,

the order has effect after commencement as if it were an authorisation order made under section 243(1).

(2) In relation to any such order, the reference in section 254(1)(a) to the requirements for the making of the order are to be read as a reference to the requirements for the making of an order under section 243.

(3) Any certificate issued under—

- (a) section 78(8) of the Financial Services Act; or
- (b) the Financial Services (Authorised Unit Trust Scheme) (Certificate of Compliance) Regulations 1989(1),

which was in force immediately before commencement has effect after commencement as if it had been issued under section 246.

**Schemes constituted in other EEA States**

**66.**—(1) Where—

- (a) a scheme was recognised under section 86 of the Financial Services Act or recognised for the purposes of that Act by virtue of paragraph 10 of Schedule 15 to that Act; and
- (b) that scheme is a collective investment scheme constituted in another EEA State within the meaning of section 264(1),

the scheme is to be treated after commencement as a recognised scheme under section 264.

(2) For the purposes of paragraph 1(1) and 2(1) of Schedule 5, “recognised” includes recognised by virtue of this article.

**Schemes authorised in designated countries or territories**

67.—(1) An order under section 87(1) of the Financial Services Act which was in force immediately before commencement has effect after commencement as if it were an order made by the Treasury under section 270(1).

(2) Where—

- (a) immediately before commencement a scheme was a recognised scheme for the purposes of section 87 of the Financial Services Act;
- (b) that scheme is managed in and authorised under the law of a country or territory which is designated for the purposes of section 270 by an order made under section 270(1) (including an order having effect as so made by reason of paragraph (1)); and
- (c) the scheme is of a class specified in the order referred to in sub-paragraph (b),

the scheme is to be treated after commencement as a recognised scheme under section 270.

(3) Without prejudice to article 70, where immediately before commencement, a scheme would have been a recognised scheme under section 87 of the Financial Services Act but for a direction given under section 91(5) of that Act, this article applies as if the direction had not been given.

**Individually recognised overseas schemes**

68.—(1) Where—

- (a) immediately before commencement, an order made under section 88(1) of the Financial Services Act was in force in relation to a scheme; and
- (b) that scheme is a collective investment scheme which is managed in a country or territory outside the United Kingdom within the meaning of section 272,

the order has effect after commencement as if it were an order made under section 272(1) declaring the scheme to be a recognised scheme under section 272.

(2) In relation to any such order, the reference in section 279(c) to the requirements for the making of the order are to be read as a reference to the requirements for the making of an order under section 272.

(3) Without prejudice to article 71, where immediately before commencement, a scheme would have been a recognised scheme under section 88 of the Financial Services Act but for a direction given under section 91(5) of that Act, this article applies as if the direction had not been given.

**CHAPTER II****directions imposed on schemes****Directions imposed on authorised unit trust schemes**

69.—(1) Where—

- (a) a direction under section 91(2) of the Financial Services Act was in force in relation to a unit trust scheme immediately before commencement (whether or not the authorisation order has been revoked before commencement); and
- (b) the scheme to which the direction relates is a unit trust scheme within the meaning of section 237,

that direction has effect after commencement as if it were a direction given under section 257(1) to the same effect.

(2) Where a direction was imposed under section 91(2) of the Financial Services Act and the notice imposing it (given under section 92(1) of that Act) specifies that the direction is to take effect on a date falling after commencement—

- (a) that fact does not prevent the operation of paragraph (1); and
  - (b) the repeal of the Financial Services Act does not alter the date on which the direction takes effect.
- (3) Where—
- (a) an application has been made under section 91(8) of the Financial Services Act to revoke or vary a direction given under section 91(2) of that Act;
  - (b) that application has not been decided before commencement;
  - (c) the direction to which it relates is one having effect after commencement as a direction given under section 257(1) by virtue of paragraph (1),

the application has effect after commencement as an application under section 257(6) to revoke or vary a direction given under section 257.

(4) For the purposes of paragraph (3) an application is decided when it has been determined and there is no possibility (or no further possibility) of the determination being reversed or varied on a review or appeal.

#### **Directions imposed on schemes authorised in designated countries or territories**

**70.** Where—

- (a) a direction given under section 91(5) of the Financial Services Act is in force immediately before commencement in relation to a scheme recognised under section 87 of that Act; and
- (b) the scheme is by virtue of article 67 treated as a scheme recognised under section 270,

that direction has effect after commencement as a direction given under section 281 that the scheme is not to be a recognised scheme under section 270 for the period specified in the notice, or until the occurrence of the event specified in the notice or until the conditions specified in the notice are complied with (taking into account any variation of the direction made under section 91(8) of the Financial Services Act).

#### **Directions imposed on individually recognised schemes**

**71.** Where—

- (a) a direction given under section 91(5) of the Financial Services Act is in force immediately before commencement in relation to a scheme recognised under section 88 of that Act;
- (b) the scheme is by virtue of article 68 treated as a scheme recognised under section 272,

that direction takes effect after commencement as a direction given under section 281 that the scheme is not to be a recognised scheme under section 272 for the period specified in the notice, or until the occurrence of the event specified in the notice or until the conditions specified in the notice are complied with (taking into account any variation of the direction made under section 91(8) of the Financial Services Act).