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STATUTORY INSTRUMENTS

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**2001 No. 3592**

**The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001**

**PART IX**

**APPEALS**

**CHAPTER I**

**REFERENCES TO THE FINANCIAL SERVICES TRIBUNAL**

**Request for reference: further consideration by the Authority**

**103.**—(1) This article applies where before commencement—

- (a) a person has required the Authority under section 97(1)(a) to refer a matter to the Financial Services Tribunal;
- (b) the period of 28 days referred in section 97(1) has not expired, and
- (c) the Authority has not served on the person a written notice under section 97(2) or (3).

(2) Where this article applies and the notice to which the request for a reference relates was served under section 29, 34, 59(4) or 60(2) of the Financial Services Act (or is treated for the purposes of section 97(1) as having been so served<sup>(1)</sup>), the Authority may, before the expiry of the period mentioned in section 97(1), notify the person (and any person on whom a copy of the notice had been served) that it has decided—

- (a) to grant the application (where the notice proposed the refusal of an application);
- (b) not to take action in relation to the matter covered by the notice (where the notice proposed the withdrawal or suspension of authorisation or the giving of a direction or publishing of a statement); or
- (c) to withdraw its objection (where the notice was a notice of objection to the acquisition of control).

(3) Where this article applies, the notice to which the request for a reference relates was served under section 70 of the Financial Services Act and the matter was the refusal of an application for the rescission or variation of a prohibition or requirement, the Authority may, before the expiry of the period mentioned in section 97(1), notify the person (and any person on whom a copy of the notice had been served) that it has decided to grant the application.

(4) Where this article applies, the notice to which the request for a reference relates was served under section 70 of the Financial Services Act and the matter was the imposition or variation of a prohibition or requirement which has not yet taken effect, the Authority may, before the expiry of the

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(1) The reference in section 97 to a notice served under section 29 of the Financial Services Act includes a reference to a notice served under Schedule 4, paragraph 1 to the 2BCD Regulations or to the ISD Regulations (imposing a prohibition under regulation 15) (see Schedule 4 paragraph 2 of the ISD Regulations and the 2BCD Regulations); the reference in section 97 to a notice served under section 59(4) includes a reference to a notice of objection served by the Authority under regulation 42 of the ISD Regulations (see regulation 42(10) of the ISD Regulations).

period mentioned in section 97(1), notify the person (and any person on whom a copy of the notice had been served) that it has decided not to take action in relation to the matter covered by the notice.

(5) Where this article applies and the request for a reference relates to a decision to refuse to give a notice under paragraph 3 or 7(1) of Schedule 6 to the ISD Regulations, the Authority may, before the expiry of the period mentioned in section 97(1), notify the person that it has decided to give (as the case may be)—

- (a) a consent notice under paragraph 19 of Schedule 3; or
- (b) a notice under regulation 11(5)(a) of the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001(2).

(6) Where, before commencement, a substituted notice complying with section 97(5) was served by the Authority pursuant to section 97(4) this article has effect in relation to that notice as if the period mentioned in paragraph (1)(b) was the period of 28 days after the date of service of the original notice or 14 days after the date of service of the substituted notice, whichever ends later.