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STATUTORY INSTRUMENTS

2008 No.1813

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) (No.2) Order 2008

<i>Made</i>	- - - -	<i>8th July 2008</i>
<i>Laid before Parliament</i>		<i>9th July 2008</i>
<i>Coming into force</i>	- -	<i>14th July 2008</i>

The Treasury make the following Order in exercise of the powers conferred by sections 235(5) and 428(3) of the Financial Services and Markets Act 2000⁽¹⁾:

Citation and commencement

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) (No.2) Order 2008.

(2) This Order comes into force on 14th July 2008.

Amendment of the Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2008

2.—(1) The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2008⁽²⁾ is amended as follows.

(2) In paragraph 9 (schemes entered into for commercial purposes wholly or mainly related to existing business) of the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001⁽³⁾ as substituted by article 2(2)—

- (a) in sub-paragraph (1)(b)(ii), for “irrevocably agrees in writing”, substitute “agrees in writing in respect of the remaining life of the arrangements”;
- (b) in sub-paragraph (3), for the words from “each person” to the end, substitute “at any time each person which is at that time a permitted participant agrees in writing in respect of the life of the arrangements that the arrangements amount to a collective investment scheme”;

(1) [2000 c. 8](#).

(2) [S.I. 2008/1641](#).

(3) [S.I. 2001/1062](#); amended by [S.I. 2001/3650](#) and [2008/1641](#); there are other amending instruments but none is relevant.

- (c) in sub-paragraph (5), in paragraph (b) of the definition of “permitted participant”, after “unincorporated association” insert “,”;
- (d) for sub-paragraph (7) substitute—
 - “(7) An agreement made in respect of any arrangements in accordance with the provisions of sub-paragraph (1)(b)(ii) or sub-paragraph (3) is not affected by—
 - (a) the entry into such arrangements by any person as a further participant;
 - (b) the exit from such arrangements of any participant;
 - (c) any later agreement in writing or otherwise under which, contrary to the earlier agreement, such arrangements do or, as the case may be, do not amount to a collective investment scheme.”

Alan Campbell

Claire Ward

Two of the Lords Commissioners of Her
Majesty’s Treasury

8th July 2008

EXPLANATORY NOTE

(This note is not part of this Order)

This Order corrects a paragraph inserted into the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001 (S.I. 2001/1062) by the Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2008 (S.I. 2008/1641) (“the 2008 Order”). The correction enables participants in arrangements entered into on or after the coming into force of the 2008 Order to agree that the arrangements amount to a collective investment scheme. The opportunity has also been taken to remove the words “irrevocably agrees” from paragraph 9(1)(b)(ii) and 9(3) of the inserted text and replace them with words including “agrees in writing in respect of the life of the arrangements” (in the first case referring to “the remaining life”). In making a consequential amendment to sub-paragraph (7) the sub-paragraph has been substituted. The amendment makes clear that once the relevant agreement has been made its effect on the status of the arrangements as being or, as the case may be, not being a collective investment scheme cannot be altered.

A full regulatory impact assessment was prepared in respect of the 2008 Order. The impact assessment is annexed to the Explanatory Memorandum to the 2008 Order. It is also available on HM Treasury’s website (www.hm-treasury.gov.uk) or from the Savings and Investment Team, HM Treasury, 1 Horseguards Road, LONDON SW1A 2HQ.