
STATUTORY INSTRUMENTS

2003 No. 2817

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000
(Disclosure of Confidential Information)
(Amendment) (No. 3) Regulations 2003

<i>Made</i>	- - - -	<i>4th November 2003</i>
<i>Laid before Parliament</i>		<i>5th November 2003</i>
<i>Coming into force</i>	- -	<i>26th November 2003</i>

The Treasury, in exercise of the powers conferred on them by sections 349(1)(b) and (2), and 417(1)(1) of the Financial Services and Markets Act 2000(2), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) (No. 3) Regulations 2003, and come into force on 26th November 2003.

Amendment

2. The table in Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(3) is amended by—

(a) substituting the following for the words in the second column beside “The Institute of Actuaries or the Faculty of Actuaries”—

“Their supervisory functions in relation to the exercise by an actuary of his professional duties, including the conduct of disciplinary proceedings and determining whether to institute or terminate such proceedings”;

(b) adding the following entry at the end—

(1) See the definition of “prescribed”.

(2) 2000 c. 8.

(3) S.I. 2001/2188, as amended by the Enterprise Act 2002 (c. 40), section 2, S.I. 2001/3437, S.I. 2001/3624, S.I. 2001/3648, S.I. 2002/1775, S.I. 2003/693, S.I. 2003/1092 (revoked by S.I. 2003/2174), S.I. 2003/1473 and S.I. 2003/2174.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“A person authorised by the Secretary of State for the purposes of section 245B(1) (b) of the Companies Act 1985(4) His functions as such”

4th November 2003

Nick Ainger
Derek Twigg
Two of the Lords Commissioners of Her Majesty’s Treasury

(4) 1985 c. 6. Section 245B was inserted by the Companies Act 1989 (c. 40), section 12.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the table in Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I.2001/2188) (“the principal regulations”). As provided in regulations 9 and 12 of those regulations, the content of the table determines the persons to whom, and the purposes for which, it is permitted to disclose “confidential information” (as defined in section 348(2) of the Financial Services and Markets Act 2000 (c. 8) (“the Act”)), including “confidential information” which is “single market directive information” within the meaning of regulation 2 of the principal regulations.

The words in the second column of the table beside “The Institute of Actuaries or the Faculty of Actuaries” are amended to read: “Their supervisory functions in relation to the exercise by an actuary of his professional duties, including the conduct of disciplinary proceedings and determining whether to institute or terminate such proceedings”. This is to ensure that the scope of disclosure to the Institute or Faculty permitted under the principal regulations is as broad as is permitted under the various single market directives (as defined in paragraph 1 of Schedule 3 to the Act), for example, under the second indent of article 15, paragraph 5a of Council Directive 92/96/EEC.

The Regulations also insert a new entry at the end of the table, which refers to a person (“P”) authorised by the Secretary of State for the purposes of 245B(1)(b) of the Companies Act 1985, and his functions as such.

The effect of the new entry is to permit the Financial Services Authority (“the Authority”) to disclose “single market directive information” (within the meaning of the principal regulations) to P for the purpose of enabling or assisting P to perform his functions as such (see regulation 9 of the principal regulations). It also permits the disclosure to P for that purpose of any other “confidential information” (as defined in section 348(2) of the Act) by any person (including the Authority) who is a “primary recipient” within the meaning of that section, and any person obtaining such information directly or indirectly from such a recipient (see regulation 12 of the principal regulations).

The Financial Reporting Review Panel Limited is currently authorised by the Secretary of State for the purposes of section 245B(1)(b) of the Companies Act 1985 (see S.I. 1991/13).