



Financial Services Act 1986 (Repealed)

1986 CHAPTER 60

PART I

REGULATION OF INVESTMENT BUSINESS

CHAPTER XIII

TRANSFER OF FUNCTIONS TO DESIGNATED AGENCY

114 Power to transfer functions to designated agency.

- (1) If it appears to the Secretary of State—
- that a body corporate has been established which is able and willing to discharge all or any of the functions to which this section applies; and
 - that the requirements of Schedule 7 to this Act are satisfied in the case of that body,
- he may, subject to the provisions of this section and Chapter XIV of this Part of this Act, make an order transferring all or any of those functions to that body.
- (2) The body to which functions are transferred by the first order made under subsection (1) above shall be the body known as The Securities and Investments Board Limited if it appears to the Secretary of State that it is able and willing to discharge them, that the requirements mentioned in paragraph (b) of that subsection are satisfied in the case of that body and that he is not precluded from making the order by the subsequent provisions of this section or Chapter XIV of this Part of this Act.
- (3) An order under subsection (1) above is in this Act referred to as “a delegation order” and a body to which functions are transferred by a delegation order is in this Act referred to as “a designated agency”.
- (4) Subject to subsections (5) and (6) below, this section applies to any functions of the Secretary of State under Chapters II to XII of this Part of this Act and to his

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Changes to legislation: Financial Services Act 1986 (Repealed), Section 114 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

functions under paragraphs 23 and 25(2) of Schedule 1 and paragraphs 4, 5 and 15 of Schedule 15 to this Act.

- (5) This section does not apply to any functions under—
- (a) section 31(4);
 - (b) section 46;
 - (c) section 48(8);
 - (d) section 58(3);
 - [^{F1}(dd) section 62A;]
 - (e) section 86(1) or 87(1);
 - (f) section 96;
 - (g) section 109(2) above.
- (6) This section does not apply to the making or revocation of a recognition order in respect of an overseas investment exchange or overseas clearing house or the making of an application to the court under section 12 above in respect of any such exchange or clearing house.
- (7) Any function may be transferred by a delegation order either wholly or in part.
- (8) In the case of a function under section 6 or 72 or a function under section 61 which is exercisable by virtue of subsection (1)(a)(ii) or (iii) of that section, the transfer may be subject to a reservation that it is to be exercisable by the Secretary of State concurrently with the designated agency and any transfer of a function under section 94, 105 or 106 shall be subject to such a reservation.
- [^{F2}(9) The Secretary of State shall not make a delegation order transferring any legislative functions unless—
- (a) the agency has furnished him with a copy of the instruments it proposes to issue or make in the exercise of those functions, and
 - (b) he is satisfied that those instruments will afford investors an adequate level of protection and, in the case of such provisions as are mentioned in Schedule 8 to this Act, comply with the principles set out in that Schedule.
- In this subsection “legislative functions” means the functions of issuing or making statements of principle, rules, regulations or codes of practice.]
- (10) The Secretary of State shall also before making a delegation order transferring any functions to a designated agency require it to furnish him with a copy of any guidance intended to have continuing effect which it proposes to issue in writing or other legible form and the Secretary of State may take any such guidance into account in determining whether he is satisfied as mentioned in subsection (9)(b) above.
- (11) No delegation order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (12) In this Act references to guidance issued by a designated agency are references to guidance issued or any recommendation made by it which is issued or made to persons generally or to any class of persons, being, in either case, persons who are or may be subject to [^{F3}statements of principle, rules, regulations or codes of practice issued or made] by it, or who are or may be recognised or authorised by it, in the exercise of its functions under a delegation order.

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Textual Amendments

- F1** S. 114(5)(dd) inserted by Companies Act 1989 (c. 40, SIF 27), s. 193(2)
- F2** S. 114(9) substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. I para. 12(2)
- F3** Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. I para. 12(3)

Modifications etc. (not altering text)

- C1** S. 114: certain functions transferred by S.I. 1987/942, arts. 3, 4, Schs. 1, 2
- C2** S. 114: applied with modifications (25.4.1991) by Companies Act 1989 (c. 40, SIF 27), ss. 154, 155, 168(1); S.I. 1991/878, art. 2, Sch.
- C3** S. 114: applied (1.10.1991) by S.I. 1990/1504 (N.I. 10), art. 91; S.R. 1991/438, art. 2(d).
s. 114 extended (6.1.1997) by S.I. 1996/2827, reg. 73(1)(2)
s. 114 extended (1.1.1996) by S.I. 1995/3275, reg. 56(2)

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