

INVESTMENT EXCHANGES AND CLEARING HOUSES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Power of FSA to disallow excessive regulatory provision

9. This section inserts new section 300A into the Financial Services and Markets Act 2000.
10. Section 300A confers the new power on the FSA to disallow excessive regulatory provision of recognised bodies and provides that any regulatory provision made by a recognised body when the FSA has directed it not to do so cannot be enforced.

Section 2: Procedural and other supplementary provisions

11. This section inserts new sections 300B, 300C, 300D and 300E into the Financial Services and Markets Act 2000.
12. Section 300B imposes a duty on recognised bodies to notify the FSA when they propose to make new regulatory provision. It also extends the FSA's existing power under section 293 of the Financial Services and Markets Act 2000 (power to make rules requiring recognised bodies to notify the FSA of certain events and information) to include a power to specify types of proposed new regulatory provision or circumstances in which proposed new regulatory provision does not need to be notified, and to make procedural provision in relation to the notification of proposed new regulatory provision.
13. Section 300C provides for an initial period in which the FSA can consider whether to call in a proposal for further scrutiny. A recognised body may not make a change to its regulatory provision before it has notified it to the FSA, or during the initial period (unless the FSA notifies it before the end of the period that it is not calling in the proposal). If the FSA decides not to call in the proposal during the initial period, the body may make the change to its regulatory provision.
14. Section 300D sets out what is to happen if the FSA calls in a proposed change to regulatory provision for examination. It provides that the FSA must publish a notice, giving details of the proposal that it has called in and setting a period for making representations; it sets a period within which the FSA must take a decision about a proposal it has called in; and it provides that the proposed change to a body's regulatory provision cannot be made while any legal proceedings are pending.
15. Section 300E contains supplementary provision.

Section 3: Interim power to give directions about notification

16. This section gives the FSA a power to give directions to recognised bodies that the obligation to notify proposed new regulatory provision in section 300B(1) is not to apply to specified provisions, provisions of a specified description or provisions made

These notes refer to the Investment Exchanges and Clearing Houses Act 2006 (c.55) which received Royal Assent on 19 December 2006

in specified circumstances. This power will cease to have effect 12 months after Royal Assent. Its purpose is to ensure that recognised bodies can be relieved of the notification obligation in appropriate circumstances from the passing of the Act until the FSA is able to make rules under section 300B.

Section 4: Consequential amendment of grounds for refusing recognition

17. This section inserts new section 290A into the Financial Services and Markets Act 2000. This section ensures that an applicant for recognition as a UK recognised body is subject to the same requirement not to have excessive regulatory provision.

Section 5: Short title and commencement

18. This section provides for the Act to come into force on the day after Royal Assent and for transitional provisions in respect of sections 300A to 300E of the Financial Services and Markets Act 2000.