

2001 No. 2507

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000
(Variation of Threshold Conditions) Order 2001**

Made - - - - - 12th July 2001

Laid before Parliament 13th July 2001

Coming into force in accordance with article 1(1)

The Treasury, in exercise of the powers conferred upon them by paragraphs 8 and 9 of Schedule 6 to, and section 428(3) of, the Financial Services and Markets Act 2000(a), hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001 and comes into force on the day on which paragraphs 1 to 7 of Schedule 6 come into force.

(2) In this Order—

“section 41” and “Schedule 6” mean (respectively) section 41 of, and Schedule 6 to, the Financial Services and Markets Act 2000;

“supervisory authority” means an authority responsible for supervising persons carrying on insurance business;

“Swiss general insurance company” means a person—

- (a) whose head office is in Switzerland;
- (b) who is authorised by the supervisory authority in Switzerland as mentioned in Article 7.1 of the Agreement between the European Economic Community and the Swiss Confederation on direct insurance other than life insurance, signed at Luxembourg on 10 October 1989(b);
- (c) who is seeking to carry on, or is carrying on, from a branch in the United Kingdom, a regulated activity consisting of the effecting or carrying out of contracts of insurance of a kind which is subject to that Agreement.

Limited liability partnerships

2. In paragraph 1(1) of Schedule 6 (legal status of insurers), after “body corporate” insert “(other than a limited liability partnership)”.

(a) 2000 c. 8.

(b) Annexed to Council Decision 91/370/EEC, O.J. No. L205, 27.07.1991, p. 2.

Non-EEA insurers

3.—(1) If paragraph 8 of Schedule 6 (additional conditions applying to non-EEA insurers) applies to the person concerned, it must, for the purposes of section 41 and Schedule 6, satisfy the following additional conditions—

- (a) it must have a representative who is resident in the United Kingdom and who has authority to bind it in its relations with third parties and to represent it in its relations with the Authority and the courts in the United Kingdom;
- (b) subject to paragraph (2), if the person concerned is not a Swiss general insurance company—
 - (i) it must be a body corporate entitled under the law of the place where its head office is situated to effect and carry out contracts of insurance;
 - (ii) it must have in the United Kingdom assets of such value as may be specified;
 - (iii) unless the regulated activity in question relates solely to reinsurance, it must have made a deposit (of money or securities, as may be specified) of such an amount and with such a person as may be specified, and on such terms and subject to such other provisions as may be specified.

(2) Where the person concerned is seeking to carry on an activity relating to insurance business in one or more other EEA States (as well as in the United Kingdom), and the Authority and the supervisory authority in the other EEA State or States concerned so agree—

- (a) the reference in paragraph (1)(b)(ii) to the United Kingdom is to be read as a reference to the United Kingdom and the other EEA State or States concerned; and
- (b) the reference in paragraph (1)(b)(iii) to such a person as may be specified is to be read as a reference to such a person as may be agreed between the Authority and the other supervisory authority or authorities concerned.

(3) The conditions set out in paragraphs 3 to 5 of Schedule 6 (close links; adequate resources; and suitability) are removed in relation to a Swiss general insurance company.

(4) In this article, “specified” means specified in rules.

Nick Ainger
Tony McNulty

12th July 2001

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order varies the threshold conditions in Schedule 6 to the Financial Services and Markets Act 2000, which authorised persons, and applicants for authorisation, under that Act must satisfy.

Article 2 varies the condition set out in paragraph 1(1) of Schedule 6 with the effect that limited liability partnerships, a new form of legal entity created by the Limited Liability Partnerships Act 2000 (c. 12), are not eligible to obtain permission to effect or carry out contracts of insurance.

Article 3(1) sets out additional threshold conditions which must be satisfied by insurers having their head office outside the European Economic Area. Conversely, article 3(3) provides that the conditions set out in paragraphs 3 to 5 of Schedule 6 (relating to the supervision of persons who have close links with other persons; adequacy of resources; and fitness and properness) do not apply to Swiss general insurance companies (as defined in article 1(2)).

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