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## STATUTORY INSTRUMENTS

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# 2001 No. 2636

## The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc. ) Order 2001

### PART VII

#### OTHER TRANSITIONAL STATUS AFTER COMMENCEMENT

##### **Employment of prohibited persons: disqualification directions**

79.—(1) Where, at commencement—

- (a) a person (“A”) is the subject of a disqualification direction made under section 59 of the Financial Services Act;
- (b) the kinds of investment business which A is prohibited from engaging in by that direction include functions in relation to regulated activities within the meaning of section 56; and
- (c) the persons by whom A is prohibited from being employed include one or more persons authorised under the Act,

the direction has effect after commencement as a prohibition order made under section 56.

(2) A prohibition order having effect under paragraph (1)—

- (a) is to be treated as prohibiting A from performing any functions in relation to regulated activities which correspond to the kinds of investment business covered by the disqualification direction before commencement;
- (b) is to be treated as prohibiting A from performing those functions for any person who was covered by the disqualification direction before commencement and is an authorised person after commencement,

taking into account, in both cases, any consent given by the Authority under section 59(3) of the Financial Services Act.

[<sup>F1</sup>(3) Paragraph (4) applies where—

- (a) a person (“I”) is subject to a prohibition order having effect under paragraph (1); and
- (b) information about I has been placed on the record maintained in accordance with section 347(1)(g) as required by section 347(2) (“transitional information”).

(4) Subsections (5) and (6) of section 347 apply to the record to the extent that it comprises transitional information—

- (a) as if subsection (5)(a) required the Authority to exclude the transitional information from the record made available for inspection unless—
  - (i) the person seeking to inspect the record has asked the Authority whether I is subject to a prohibition order; or
  - (ii) the Authority is otherwise satisfied that the person has a good reason for seeking to inspect the transitional information;

- (b) as if subsection (5)(b) required the Authority to exclude the transitional information from any certified copy of the record provided in accordance with that subsection;
  - (c) as if subsection (5)(b) further provided that the Authority may only provide a certified copy of the part of the record containing the transitional information if—
    - (i) the person requesting the copy of that part has asked the Authority whether I is subject to a prohibition order; or
    - (ii) the Authority is otherwise satisfied that the person has good reason for requesting a copy of the part of the record which includes the transitional information;
  - (d) as if subsection (6) did not apply to the record in so far as it contains the transitional information.
- (5) Paragraph (4) applies to transitional information until 18 January 2002 or, if on or before that date, I applies to the Authority under section 58 for the revocation of the prohibition order, then until that application is determined and there is no possibility (or no further possibility) of the determination being reversed or varied on a reference to the Tribunal or an appeal.]

**Textual Amendments**

- F1** [Art. 79\(3\)-\(5\)](#) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2001 \(S.I. 2001/3650\)](#), arts. 1(a), **10**

**Commencement Information**

- I1** [Art. 79](#) in force at 1.12.2001, see [art. 1\(2\)\(b\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc. ) Order 2001, Section 79.