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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 II**

**AUTHORISATION AND PERMISSION FOR PERSONS AUTHORISED ETC. UNDER OLD LAW**

**CHAPTER I**

permissions under part iv of the act

*Insurance companies*

**Companies authorised under the Insurance Companies Act**

**14.**—(1) This article applies to a person who, immediately before commencement, was authorised under section 3 or 4 of the Insurance Companies Act.

(2) Subject to paragraph (3), the person is to be treated as having, at commencement, a Part IV permission to carry on—

- (a) any regulated activities which, immediately before commencement, he was by reason of that authorisation able to carry on in the United Kingdom without contravening section 2(1) of the Insurance Companies Act; and
- (b) any regulated activities which he would then have been able so to carry on but for a direction under section 11 or 12A of that Act<sup>(1)</sup>.

(3) Where paragraph (2) would otherwise apply so as to treat a person as having a Part IV permission to carry on reinsurance business, it does not so apply if the person has on commencement (whether by virtue of this Order or otherwise) permission under Schedule 4 to carry on reinsurance business.

(4) If a person to whom this article applies was also, immediately before commencement, authorised under section 22 of the Financial Services Act, any Part IV permission which he is to be treated under this article as having includes permission to carry on any regulated activities which he was by reason of that authorisation then able to carry on in the United Kingdom without contravening section 3 of that Act.

(5) If a person to whom this article applies also, immediately before commencement, fell within paragraph 8 of Schedule 2 to the Banking Act, any Part IV permission which he is to be treated under this article as having includes permission to carry on any regulated activity which he was by reason of that paragraph then able to carry on in the United Kingdom without contravening section 3 of the Banking Act.

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<sup>(1)</sup> Section 12A was inserted by the 31D Regulations, reg. 11.

(6) The condition set out in paragraph 1(1) of Schedule 6 does not apply in relation to a person falling within paragraph (2) above if he did not meet that condition immediately before commencement.

(7) The condition set out in paragraph 1(2) (legal status) of Schedule 6 (threshold conditions) does not apply in relation to a person falling within paragraph (5) above if he did not meet that condition immediately before commencement.

### **EC companies carrying on reinsurance business**

**15.**—(1) This article applies to a person who was, immediately before commencement, an EC company within the meaning of the Insurance Companies Act and was by reason of compliance with—

- (a) the requirements of paragraph 4 of Schedule 2F to the Insurance Companies Act (2);
- (b) Gibraltar requirements (within the meaning of paragraph 28(2) of Schedule 2F to that Act) corresponding to those in that paragraph,

able to carry on reinsurance business through a branch in the United Kingdom without contravening section 2(1) of that Act.

(2) Subject to paragraph (3), the person is to be treated as having, at commencement, a Part IV permission to carry on any regulated activity which immediately before commencement he was—

- (a) by reason of compliance with the requirements mentioned in paragraph (1)(a) or (b) (as the case may be) able to carry on through a branch in the United Kingdom without contravening paragraph 4 of Schedule 2F to that Act; and
- (b) able so to carry on without contravening paragraph 5 of that Schedule.

(3) Paragraph (2) does not apply—

- (a) to a person falling within paragraph (1)(b) unless he is, at commencement, carrying on a regulated activity in the United Kingdom;
- (b) where the person falling within paragraph (1) has (whether by virtue of this Order or otherwise) permission under Schedule 4 to carry on reinsurance business.

### **EC companies carrying on investment business**

**16.**—(1) This article applies to a person who immediately before commencement was—

- (a) an EC company within the meaning of the Insurance Companies Act; and
- (b) an authorised person (within the meaning of the Financial Services Act) by reason of regulation 57 of the 31D Regulations.

(2) But this article applies only if there is an activity (a “relevant investment activity”)—

- (a) which immediately before commencement the person was, by reason of that regulation, able to carry on in the United Kingdom without contravening section 3 of the Financial Services Act;
- (b) which he was then carrying on in the United Kingdom, or had previously carried on there;
- (c) which he has no EEA right to carry on; and
- (d) which he does not by virtue of Schedule 4 have permission to carry on as mentioned in paragraph 4(1) of that Schedule.

(3) A person to whom this article applies is to be treated as having, at commencement, a Part IV permission to carry on any regulated activity which is a relevant investment activity.

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(2) Schedule 2F was inserted by the 31D Regulations, reg. 45(2), Sch 6.

### **Insurance business carried on overseas before commencement**

17.—(1) A person (“A”) who was, immediately before commencement—

- (a) authorised under the Insurance Companies Act; and
- (b) carrying on overseas insurance business,

is to be treated as having, at commencement, a Part IV permission to carry on any corresponding overseas regulated activities in the country or territory where he carried on that overseas insurance business.

(2) In this article—

“corresponding overseas regulated activities” means regulated activities which—

- (a) A carries on after commencement by virtue of continuing to carry on his overseas insurance business; and
- (b) A is regarded as carrying on in the United Kingdom by virtue of section 418;

“overseas insurance business” means business which constituted insurance business within the meaning of section 2 of the Insurance Companies Act and which A was carrying on in a country or territory outside the United Kingdom without contravening either paragraph 1 or 5 of Schedule 2G to that Act(3).

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(3) Schedule 2G was inserted by the 31D Regulations.