
STATUTORY INSTRUMENTS

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

Persons authorised under the Banking Act

Persons authorised under the Banking Act

11.—(1) Any person who immediately before commencement held an authorisation granted (or deemed to be granted) under section 9 of the Banking Act is to be treated as having, at commencement, a Part IV permission to carry on 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 3 of that Act.

(2) 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 (1) if he did not meet that condition immediately before commencement.

(3) Where, immediately before commencement, a decision to revoke a person's authorisation had been taken but had not come into effect by virtue of section 27(4) of the Banking Act—

- (a) paragraph (1) applies to the person as if that decision had not been taken; but
- (b) his Part IV permission to carry on the regulated activities referred to in paragraph (1) lapses at the end of the period within which an appeal can be brought against that decision, unless such an appeal is brought within that period.

[^{F1}(4) A person who has a Part IV permission by virtue of paragraph (1) is also to be treated as having, at commencement, a Part IV permission to carry on any regulated activities which he was able, by virtue of section 2(4) of the Insurance Companies Act, to carry on in the United Kingdom without contravening section 2(1) of that Act and which he was, immediately before commencement, so carrying on.

(5) A person who has a Part IV permission by virtue of paragraph (1) and who was not, immediately before commencement, authorised under the Financial Services Act, is also to be treated as having, at commencement, a Part IV permission to carry on regulated activities—

- (a) of the kind specified by article 14 of the Regulated Activities Order (dealing in investments as principal) in so far as it consists of his entering into a transaction of the kind mentioned in article 16 of that Order (dealing in contractually based investments); and

- (b) of the kind specified by article 64 of that Order (agreeing to carry on specified kinds of activity) in so far as it relates to the activity mentioned in sub-paragraph (a).]

Textual Amendments

- F1** [Art. 11\(4\)\(5\)](#) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2001 \(S.I. 2001/3650\)](#), arts. 1(a), 6

Commencement Information

- I1** [Art. 11](#) in force at 1.12.2001, see [art. 1\(2\)\(b\)](#)

Banking business carried on overseas before commencement

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

- (a) held an authorisation granted (or deemed to be granted) under the Banking Act; and
- (b) was carrying on overseas banking 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 banking 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 banking business; and
- (b) A is regarded as carrying on in the United Kingdom by virtue of section 418;

“overseas banking business” means business which was deposit-taking business within the meaning of section 6 of the Banking Act and which A was carrying on in a country or territory outside the United Kingdom without contravening regulation 22 of the 2BCD Regulations.

Commencement Information

- I2** [Art. 12](#) in force at 1.12.2001, see [art. 1\(2\)\(b\)](#)

Permission to carry on non-banking listed activities

13.—(1) This article applies to a person who, immediately before commencement—

- (a) held an authorisation granted (or deemed to be granted) under the Banking Act; or
- (b) was authorised or treated as authorised for the purposes of the Building Societies Act.

(2) Subject to paragraphs (3) and (4), 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 was a non-banking listed activity and which he had described in a notice given by him in accordance with paragraph 2 of Schedule 6 to the 2BCD Regulations as an activity—

- (a) which he proposed to carry on in a particular member State by the provision of services; or
- (b) which he proposed to carry on in a particular member State from a branch in that state.

(3) The permission referred to in paragraph (2) extends only to carrying on that regulated activity in the particular member State which was mentioned in the notice referred to in paragraph (2).

(4) The permission referred to in paragraph (2) does not extend to carrying on the regulated activity referred to in that paragraph from a branch in that state unless—

- (a) the UK authority gave a notice to the relevant supervisory authority under paragraph 3(1) of Schedule 6 to the 2BCD Regulations referring to that non-banking listed activity; and
- (b) either the relevant supervisory authority informed the institution that it could establish the branch or the period of two months beginning with the day on which the UK authority gave the relevant supervisory authority notice elapsed.

(5) Where a person to whom this article applies—

- (a) was, immediately before the relevant date, carrying on in another member State by the provision of services a non-banking listed activity; or
- (b) had, before the relevant date, established in another member State for the purposes of carrying on such an activity a branch which was in existence immediately before the relevant date,

he is to be treated, for the purposes of this article, as if he had, in relation to that activity, given the notice referred to in paragraph (2).

(6) In this article—

“non-banking listed activity” means an activity listed in Annex 1 to the banking co-ordination directive other than the first activity so listed;

“relevant date” means the commencement date within the meaning of paragraph 2 of Schedule 11 to the 2BCD Regulations;

“relevant supervisory authority” has the meaning given in regulation 2 of the 2BCD Regulations;

“UK authority” has the meaning given in regulation 20(7) of those Regulations.

Commencement Information

I3 [Art. 13](#) 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, Cross Heading: Persons authorised under the Banking Act.