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STATUTORY INSTRUMENTS

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**2001 No. 3083**

The Financial Services and Markets Act 2000  
(Transitional Provisions and Savings) (Civil Remedies,  
Discipline, Criminal Offences etc.) (No. 2) Order 2001

PART 4

PROVISIONS RELATING TO THOSE FORMERLY  
AUTHORISED IN RELATION TO DEPOSIT TAKING

**Winding-up of former authorised institutions etc.**

12.—(1) Section 367 (winding-up petitions) has effect as if—

- (a) the reference in subsection (1)(a) to a body which has been an authorised person included a reference to a body which—
  - (i) is not and never has been an authorised person (within the meaning of the Act);
  - (ii) has been an authorised institution within the meaning of the Banking Act;
  - (iii) was not, immediately before commencement, authorised under that Act; and
  - (iv) continues to have any liability in respect of deposits which it accepted when it was authorised under that Act;
- (b) the reference in subsection (1)(c) to a body which has carried on a regulated activity in contravention of the general prohibition included a reference to a company or partnership which has, before commencement, contravened section 3 of the Banking Act and which continues to have any liability in respect of deposits which it accepted in contravention of that enactment.

(2) If a body specified by paragraph (1)(a) or (b) is in default on an obligation to pay a sum due and payable in respect of a deposit, within the meaning of section 5 of the Banking Act<sup>(1)</sup> (including any sum which would otherwise be excluded by subsection (3)(a), (b) or (e) of that section), it is to be treated for the purpose of subsection (3)(a) of section 367 as unable to pay its debts.

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<sup>(1)</sup> Amended by S.I.1995/1442 and modified by S.I. 1992/3218.