

2001 No. 3338

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000
(Controllers) (Exemption) (No. 2) Order 2001**

Made - - - - - 4th October 2001

Laid before Parliament 8th October 2001

Coming into force - - in accordance with article 1

The Treasury, in exercise of the powers conferred on them by sections 192(a) and 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 (Controllers) (Exemption) (No. 2) Order 2001 and comes into force on the day on which section 19 of the Act comes into force.

(2) In this Order—

“the Act” means the Financial Services and Markets Act 2000;

“associate” has the meaning given by section 422(4) of the Act;

“authorised building society” means a building society (within the meaning of the Building Societies Act 1986(b)) which is a UK authorised person for the purposes of Part XII of the Act(c);

“capital”, in relation to an authorised building society, consists of the following—

- (a) any shares of a class defined as deferred shares for the purposes of section 119 of the Building Societies Act 1986 which have been issued by that society; and
- (b) the general reserves of that society.

Acquiring and increasing control over an authorised building society

2.—(1) In any case where a person (“the acquirer”)—

(a) proposes to take a step which would result in his—

- (i) acquiring control over an authorised building society in the case mentioned in paragraph (a) of subsection (2) of section 179 of the Act (holding of 10% or more of the shares), or
- (ii) acquiring an additional kind of control over such a society of the kind mentioned in paragraph (a) of subsection (4) of that section (holding of shares), or

(a) 2000 c. 8.

(b) 1986 c. 53; see the definition in section 119(1).

(c) See the definition in section 178(4).

- (b) without himself taking any such step, has acquired such control or such an additional kind of control over such a society,

the acquirer is exempt from any obligation imposed by section 178 of the Act to notify the Authority of his proposal or his acquisition unless paragraph (2) applies.

(2) This paragraph applies if the proposed step would result in the acquirer holding, or the acquirer holds, a holding of 10% or more of the capital of that authorised building society.

(3) In paragraph (2), “acquirer” means—

- (a) the acquirer;
- (b) any of the acquirer’s associates; or
- (c) the acquirer and any of his associates.

(4) In any case where a controller of an authorised building society—

- (a) proposes to take a step which would result in his acquiring an increase of his control over that society in the circumstances mentioned in paragraph (a) of subsection (1) of section 180 of the Act (increase in percentage of shares), or
- (b) without himself taking any such step, has acquired increased control over that society in those circumstances,

the controller is exempt from any obligation imposed by section 178 of the Act to notify the Authority of his proposal or his acquisition unless paragraph (5) applies.

(5) This paragraph applies if the proposed step would result in the controller increasing, or the controller has increased, his holding of the capital of that authorised building society by any of the steps mentioned in section 180(2) of the Act.

(6) In paragraph (5), “controller” means—

- (a) the controller;
- (b) any of the controller’s associates; or
- (c) the controller and any of his associates.

Reducing control over an authorised building society

3.—(1) In any case where a controller of an authorised building society—

- (a) proposes to take a step which would result in his ceasing to have control of the kind mentioned in paragraph (a) of subsection (4) of section 179 of the Act (holding of shares) over that society, or
- (b) without himself taking any such step, has ceased to have such control,

the controller is exempt from any obligation imposed by section 190 of the Act to notify the Authority of his proposal or that cessation unless paragraph (2) applies.

(2) This paragraph applies if the proposed step would result in the controller ceasing, or the controller has ceased, to hold 10% or more of the capital of that authorised building society.

(3) In any case where a controller of an authorised building society—

- (a) proposes to take a step which would result in his reducing his control over that society in the circumstances mentioned in paragraph (a) of subsection (1) of section 181 of the Act (decrease in percentage of shares), or
- (b) without himself taking any such step, has reduced his control in those circumstances,

the controller is exempt from any obligation imposed by section 190 of the Act to notify the Authority of his proposal or that reduction unless paragraph (4) applies.

(4) This paragraph applies if the proposed step would result in the controller reducing, or the controller has reduced, his holding of the capital of that authorised building society by any of the steps mentioned in section 181(2) of the Act.

(5) In paragraphs (2) and (4), “controller” means—

- (a) the controller;
- (b) any of the controller’s associates; or
- (c) the controller and any of his associates.

*Tony McNulty
Anne McGuire*

4th October 2001

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order exempts those who acquire control, an additional kind of control or an increase in a relevant kind of control over authorised building societies (as defined in article 1) from the obligation imposed under Part XII of the Financial Services and Markets Act 2000 to notify the Financial Services Authority of that change of control. The exemptions do not apply if the person is acquiring or increasing holdings of a specified percentage of the capital (as defined in article 1) of such a society. Article 3 exempts those who reduce their control over authorised building societies. The exemptions do not apply if the person is reducing his holding of the capital of such a society by a specified percentage.

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