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## STATUTORY INSTRUMENTS

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# 2001 No. 3592

## The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

### PART IX

#### APPEALS

#### CHAPTER I

#### REFERENCES TO THE FINANCIAL SERVICES TRIBUNAL

#### Test to be applied by the Financial Services Tribunal

**109.**—(1) Where in any transitional reference the issues arising for consideration included the issue whether a person authorised under the Financial Services Act was a fit and proper person to carry on investment business (within the meaning of that Act), the Financial Services Tribunal must consider instead whether that person is failing or is likely to fail to satisfy the threshold conditions (within the meaning of section 41 of the Act).

(2) Where in any transitional reference the issues arising for consideration included the issue whether a person was a fit and proper person to be employed in connection with investment business (within the meaning of the Financial Services Act) or investment business of a particular kind, the Financial Services Tribunal must consider instead whether that person is a fit and proper person to perform the functions in relation to a regulated activity corresponding to that investment business which he was performing before commencement.

(3) Where in any transitional reference the issues arising for consideration included the issue whether a person was a fit and proper person to be a controller of any description to which regulation 41 of the ISD Regulations applies, the Financial Services Tribunal must consider instead—

- (a) in a case where, after commencement, the person would require the approval of the Authority under section 59, the question whether that person is a fit and proper person to perform the functions in relation to a regulated activity corresponding to the investment business which he was performing before commencement;
- (b) in a case where, after commencement, the person would have control over a UK authorised person (within the meaning of Part XII of the Act), the question whether the person meets the approval requirements within the meaning of section 186.

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#### Commencement Information

**II** Art. 109 in force at 1.12.2001, see [art. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, Section 109.