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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 II**

**AUTHORISATIONS AND RESTRICTIONS UNDER OLD LAW**

**CHAPTER I**

**APPLICATIONS, NOTICES OF INTENTION TO  
REFUSE AND SURRENDERS OF AUTHORISATION**

*Notices of intention to refuse applications for authorisation or variation of suspension*

**Notice of intention to refuse application for authorisation or variation of suspension under the Financial Services Act**

5.—(1) Where, before commencement—

- (a) a notice was given under section 29(1) of the Financial Services Act of intention to refuse an application under section 26 or 28(5) of that Act;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal under that Act had not expired;
- (c) no such reference had been required by the applicant,

the notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the applicant (and any person to whom a copy of the notice was given under section 29(3) of that Act) of that fact.

(2) Paragraph (1) does not affect the power of the Authority to serve a notice under section 52(7) in respect of the application (as effective by virtue of article 3 or 4(1)).

(3) Where, before commencement—

- (a) a notice was given under section 29(1) of the Financial Services Act of intention to refuse an application under section 26 or 28(5) of that Act;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal under that Act expired without such a reference being required by the applicant; and
- (c) no notice under section 29(5) of that Act had been given,

the notice of intention has effect after commencement as if it were a decision notice given under section 52(9)(c), except that there is no right to refer the matter to the Tribunal under section 55(1).

(4) A decision notice having effect by virtue of paragraph (3) has effect as if—

- (a) it gave notice of the Authority's decision to refuse the application (as effective by virtue of article 3 or 4(1));

- (b) it stated that section 394 does not apply;
- (c) it indicated that there is no right to have the matter referred to the Tribunal.

#### **Notice of intention to refuse application for authorisation under the Banking Act**

6.—(1) Where, before commencement—

- (a) a notice has been given under section 10(2) of the Banking Act of intention to refuse an application under section 8 of that Act; but
- (b) no notice has been given under section 10(1) or (5) of that Act,

the notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the applicant (and any person to whom a copy of the notice was given under section 10(3)) of that fact.

(2) Paragraph (1) does not affect the power of the Authority to serve a notice under section 52(7) in respect of the application (as effective by virtue of article 3).

#### **Notice of intention to refuse application for variation of limited prohibition under the 2BCD or ISD Regulations**

7.—(1) Where, before commencement—

- (a) a notice was given under paragraph 1(1) of Schedule 4 to the 2BCD Regulations or ISD Regulations of intention to refuse an application under regulation 15(3) of the 2BCD Regulations or regulation 9(3) of the ISD Regulations;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal under the Financial Services Act had not expired; and
- (c) no such reference had been required by the applicant,

the notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the applicant (and any person to whom a copy of the notice was given under paragraph 1(3) of the relevant Schedule) of that fact.

(2) Paragraph (1) does not affect the power of the Authority to serve a notice under section 200(4) in respect of the application (as effective by virtue of article 3(2)).

(3) Where, before commencement—

- (a) a notice was given under paragraph 1(1) of Schedule 4 to the 2BCD Regulations or ISD Regulations of intention to refuse an application under regulation 15(3) of the 2BCD Regulations or regulation 9(3) of the ISD Regulations;
- (b) the period within which the case could be required to be referred to the Financial Services Tribunal under the Financial Services Act had expired without such a reference being required by the applicant; and
- (c) no notice under paragraph 1(5) of the relevant Schedule had been given,

the notice of intention has effect after commencement as if it were a decision notice given under section 200(5)(a), except that there is no right to refer the matter to the Tribunal under section 200(5)(b).

(4) A decision notice having effect by virtue of paragraph (3) is to be treated as if—

- (a) it gave notice of the Authority's decision to refuse the application (as effective by virtue of article 3(2));
- (b) it stated that section 394 does not apply;
- (c) it indicated that there is no right to have the matter referred to the Tribunal under section 200(5)(b).