

2001 No. 3801

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000
(Consequential Amendments) (No. 2) Order 2001**

Made - - - - - *27th November 2001*

Laid before Parliament *27th November 2001*

Coming into force - - *1st December 2001*

The Treasury, in exercise of the powers conferred on them by sections 426 and 427 of the Financial Services and Markets Act 2000(a), hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Consequential Amendments) (No. 2) Order and comes into force on 1st December 2001.

Amendment to the Terrorism (United Nations Measures) Order 2001 (S.I. 2001/3365)

2.—(1) Article 2 of the Terrorism (United Nations Measures) Order 2001 (interpretation) is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1), for the definition of “relevant institution” substitute—

““relevant institution” means—

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits; or
- (c) an institution, not falling within paragraph (a), which continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987,

but does not include a person of the kind mentioned in paragraph (a) who has permission to accept deposits for the purpose of effecting or carrying out contracts of insurance;”.

(4) After paragraph (1) insert—

“(2) The definition of “relevant institution” in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(a) 2000 c. 8.

Amendment to the Terrorism (United Nations Measures) (Overseas Territories) Order 2001 (S.I. 2001/3366)

3.—(1) Article 2 of the Terrorism (United Nations Measures) (Overseas Territories) Order 2001 (interpretation) is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1), in the definition of “relevant institution”—

(a) for paragraph (b) substitute—

“(b) a person who may lawfully accept deposits in or from within the Territory by way of business;”;

(b) omit paragraph (c).

(4) After paragraph (1) insert—

“(2) For the purposes of the definition of “relevant institution” in paragraph (1)—

(a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000; and

(b) a person is not regarded as accepting deposits by way of business if—

(i) he does not hold himself out as accepting deposits on a day to day basis, and

(ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.”.

Tony McNulty

John Heppell

27th November 2001

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order contains amendments to secondary legislation consequential on the coming into force of the Financial Services and Markets Act 2000 (c. 8) (“FSMA”). In each case the definition of “relevant institution” is amended so as to refer to the appropriate terminology under FSMA.

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