

2001 No. 996

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000 (Prescribed
Markets and Qualifying Investments) Order 2001**

Made - - - - 15th March 2001

Laid before Parliament 15th March 2001

Coming into force in accordance with article 2

The Treasury, in exercise of the powers conferred upon them by section 118(3) of the Financial Services and Markets Act 2000^(a), hereby make the following Order:

Citation

1. This Order may be cited as the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001.

Commencement

2. This Order comes into force on the day on which section 123 of the Act (power to impose penalties in cases of market abuse) comes into force.

Interpretation

3. In this Order—

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

“UK recognised investment exchange” means a body corporate or unincorporated association in respect of which there is in effect a recognition order made under section 290(1)(a) of the Act (recognition orders in respect of investment exchanges other than overseas investment exchanges).

Prescribed markets

4. There are prescribed, as markets to which section 118 of the Act applies, all markets which are established under the rules of a UK recognised investment exchange.

Qualifying investments

5. There are prescribed, as qualifying investments in relation to the markets prescribed by article 4, all investments of a kind specified for the purposes of section 22 of the Act.

(a) 2000 c.8.

15th March 2001

David Clelland
Clive Betts
Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Section 123 of the Financial Services and Markets Act 2000 (c.8) (“the Act”) gives the Financial Services Authority power to impose penalties or publish statements in cases of market abuse. Section 118 of the Act defines market abuse as behaviour, meeting conditions set out in section 118(1) and (2), which occurs in relation to a qualifying investment traded on a market to which section 118 applies. This Order prescribes (in article 4) the markets to which section 118 applies, and (in article 5) the investments which are qualifying investments in relation to those markets.

Article 4 prescribes, as markets to which section 118 applies, markets established under the rules of a UK recognised investment exchange. This is defined in article 3 as meaning any investment exchange recognised under section 290(1)(a) of the Act (which covers recognition of investment exchanges whose head office or registered office is in the UK). Investment exchanges (other than overseas investment exchanges) which are recognised under section 37 of the Financial Services Act 1986 (c.60) will be given recognition under section 290(1)(a) of the Act by virtue of the transitional provisions contained in regulation 9 of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 (S.I. 2001/995). At the time of making this Order the exchanges in this category were the exchanges known as: COREDEAL, the International Petroleum Exchange, Jiway, the London International Financial Futures Exchange (LIFFE), the London Metal Exchange, OM London Exchange, the London Stock Exchange, and virt-X.

Article 5 prescribes the qualifying investments by reference to section 22 of the Act. The effect is that the market abuse regime in Part VIII of the Act applies to the same range of investments (if they are traded on a prescribed market) as is relevant in determining whether the general prohibition in section 19 of the Act applies. At the time of making this Order, the relevant investments were those set out in Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), which covers a wide range of financial investments, including debt instruments, shares, government and public securities, and derivatives. Under section 118(6) of the Act the behaviour which is to be regarded as occurring in relation to qualifying investments includes behaviour which occurs in relation to anything which is the subject matter of (or whose price or value is expressed by reference to the price or value of) qualifying investments, or if it occurs in relation to investments whose subject matter is qualifying investments.

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