

2015 No. 754

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2015

<i>Made</i> - - - -	<i>17th March 2015</i>
<i>Laid before Parliament</i>	<i>18th March 2015</i>
<i>Coming into force</i> - -	<i>13th April 2015</i>

The Treasury make the following Order in exercise of the powers conferred by sections 235(5) and 428(3) of the Financial Services and Markets Act 2000(a).

Citation and commencement

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2015.

(2) This Order comes into force on 13th April 2015.

Amendment of the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001

2.—(1) The Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001(b) is amended as follows.

(2) In article 2 (interpretation) after the definition of “the 1988 Act”, insert—

““the 2007 Act” means the Income Tax Act 2007(c);”.

(3) In the Schedule (arrangements not amounting to a collective investment scheme), in paragraph 2 (enterprise initiative schemes), in sub-paragraph (2)(a)(ii) for “refusing” substitute “reducing”.

(4) In the Schedule, after paragraph 2 insert—

“Social investment schemes

2A.—(1) Arrangements do not amount to a collective investment scheme if—

- (a) the property to which the arrangements relate (other than cash awaiting investment) consists of shares or debentures;
- (b) the arrangements constitute a complying fund;
- (c) each participant is entitled to a part of the property to which the arrangements relate and—

(a) 2000 c. 8.

(b) S.I. 2001/1062. There are amendments to that instrument but none is relevant to this instrument.

(c) 2007 c. 3.

- (i) to the extent that the property to which that participant is entitled comprises relevant shares, the participant is entitled to withdraw it at any time after the end of the period of seven years beginning with the date on which the shares in question were issued;
 - (ii) to the extent that the property to which that participant is entitled comprises relevant debentures, the participant is entitled to withdraw it at any time after the end of the period of seven years beginning with the date on which—
 - (aa) the debentures in question were issued; or
 - (bb) in a case where there is no such issuing, when the debentures, so far as relating to the debt owed to that participant, take effect between the debtor and the participant;
 - (iii) to the extent that the property to which that participant is entitled comprises shares other than relevant shares, the participant is entitled to withdraw it at any time after the end of the period of six months beginning with the date on which the shares in question ceased to be relevant shares;
 - (iv) to the extent that the property to which that participant is entitled comprises debentures other than relevant debentures, the participant is entitled to withdraw it at any time after the end of the period of six months beginning with the date on which the debentures in question ceased to be relevant debentures; and
 - (v) to the extent that the property comprises cash which the operator has agreed (conditionally or unconditionally) to invest in shares or debentures, the participant is entitled to withdraw it at any time; and
- (d) the arrangements would meet the conditions described in paragraph 1(c) were it not for the fact that the operator is entitled to exercise all or any of the rights conferred by shares or debentures included in the property to which the arrangements relate.

(2) In sub-paragraph (1)—

“complying fund” means arrangements which provide that—

- (a) the operator will, so far as is practicable, make investments each of which, subject to each participant’s individual circumstances, qualifies for relief by virtue of Part 5B of the 2007 Act^(a); and
- (b) the minimum contribution to the arrangements which each participant must make is not less than £2,000;

“debentures” has the same meaning as in section 257L(4) of the 2007 Act (definition of qualifying debt investments)^(b), and debentures are to be regarded as relevant debentures if and so long as they are debentures in respect of which—

- (a) no claim for relief made in accordance with Chapter 6 of Part 5B of the 2007 Act has been disallowed; and
- (b) no assessment has been made pursuant to section 257S of the 2007 Act withdrawing or reducing relief on the ground that the requirements of Chapter 4 of Part 5B of the 2007 are not met; and

“shares” means investments of the kind specified by article 76 of the Regulated Activities Order (shares etc.)^(c), and shares are to be regarded as relevant shares if and so long as they are shares in respect of which—

(a) Part 5B of the 2007 Act was inserted by paragraph 1 of Schedule 11 to the Finance Act 2014 (c. 26). Part 5B consists of Chapters 1 to 9 and sections 257J to 257TE.
 (b) Subsection (6) of section 257L provides that for the purposes of subsection (4) “debenture” includes any instrument creating or acknowledging indebtedness.
 (c) S.I. 2001/544. Article 76 was amended by S.I. 2011/2687 and 2014/1815.

- (a) no claim for relief made in accordance with Chapter 6 of Part 5B of the 2007 Act has been disallowed; and
- (b) no assessment has been made pursuant to section 257S of the 2007 Act withdrawing or reducing relief on the ground that the requirements of Chapter 4 of Part 5B of the 2007 are not met.”.

*Mark Lancaster
Gavin Barwell*

17th March 2015

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001 (S.I. 2001/1062) (“the 2001 Order”). The 2001 Order sets out categories of arrangement which do not amount to collective investment schemes for the purposes of Part 17 of the Financial Services and Markets Act 2000 (c. 8) and therefore are not subject to the restrictions on promotion in section 238 of that Act.

Article 2(3) corrects a drafting error in paragraph 2 of the Schedule to the 2001 Order.

Article 2(4) inserts a new paragraph 2A into the Schedule to the 2001 Order so that a fund which invests in shares or debentures which qualify for social investment tax relief under Part 5B of the Income Tax Act 2007 (c. 3) and which complies with the other requirements of the paragraph does not amount to a collective investment scheme.

An impact assessment has not been produced for this instrument as no significant impact on the costs of business or the voluntary sector is foreseen.

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