
STATUTORY INSTRUMENTS

2001 No. 2639

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Own-initiative Power) (Overseas Regulators) Regulations 2001

Made - - - - 19th July 2001
Laid before Parliament 20th July 2001
Coming into force in accordance with regulation 1

The Treasury, in exercise of the powers conferred upon them by sections 47(1) and (3), 417(1)(1) and 428(3) of the Financial Services and Markets Act 2000(2) (“the Act”), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the The Financial Services and Markets Act 2000 Own-initiative Power) (Overseas Regulators) Regulations 2001 and come into force on the day on which section 19 of the Act comes into force.

Overseas regulators

2.—(1) The kind of regulator to which paragraph (2) applies is prescribed for the purposes of section 47(1)(b) of the Act.

(2) This paragraph applies to a regulator who exercises—

- (a) a function corresponding to any function of the Authority under the Act;
- (b) a function corresponding to any function exercised by the competent authority under Part VI of the Act (official listing);
- (c) a function corresponding to any function exercised by the Secretary of State under the Companies Act 1985(3); or
- (d) a function in connection with—
 - (i) the investigation of conduct of the kind prohibited by Part V of the Criminal Justice Act 1993(4) (insider dealing); or

(1) See the definition of “prescribed”.
(2) 2000 c. 8.
(3) 1985 c. 6.
(4) 1993 c. 36.

- (ii) the enforcement of rules (whether or not having the force of law) relating to such conduct.

Duty to consider Community obligation

3.—(1) The kinds of regulator to which paragraph (2) applies are prescribed for the purposes of section 47(3)(b) of the Act.

(2) This paragraph applies to—

- (a) any host state regulator (within the meaning of Schedule 3 to the Act); and
- (b) the supervisory authority in Switzerland (within the meaning of the Agreement between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance, signed at Luxembourg on 10th October 1989 (“the Agreement”)(**5**)).

(3) The following kinds of provisions are prescribed for the purposes of section 47(3)(c) of the Act—

- (a) in the case of a regulator to whom paragraph (2)(a) applies—
 - (i) any provision of Community legislation; and
 - (ii) any rule of law in force in an EEA State for purposes connected with the implementation of any such provision;
- (b) in the case of a regulator to whom paragraph (2)(b) applies—
 - (i) any provision of the Agreement; and
 - (ii) any rule of law in force in Switzerland for purposes connected with the implementation of any such provision.

19th July 2001

Tony McNulty
Graham Stringer
Two of the Lords Commissioners of Her
Majesty’s Treasury

(5) Annexed to Council Decision [91/370/EEC](#), O.J. No. L205, 27.7.91, p. 2.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the kind of overseas regulator at whose request, or for the purposes of assisting whom, the Financial Services Authority (“the Authority”) may exercise its own-initiative power to vary or to cancel a permission granted under Part IV of the Financial Services and Markets Act 2000 (c. 8).

Where an overseas regulator who is the competent authority in an EEA State in which a UK firm is exercising its EEA rights makes a request to the Authority to exercise its own-initiative power pursuant to any provision of Community legislation (or rules of law in force for purposes connected with the implementation of those provisions), the Authority must consider whether the exercise of its own-initiative power is necessary in order to comply with a Community obligation. Similarly, where the supervisory authority in Switzerland makes a request pursuant to any provision of the Agreement between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance, signed at Luxembourg on 10th October 1989 (or rules of law designed to implement those provisions), the Authority must consider whether exercise of its own-initiative power is necessary in order to comply with a Community obligation.

These Regulations implement in part Community obligations which require the Authority to take measures at the request of competent authorities and other relevant authorities, in particular Article 40 of Council Directive 92/49/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L228, 11.8.92, p.1); Article 40 of Council Directive 92/96/EEC on the coordination of laws, regulations and administrative provisions relating to direct life assurance (OJ L360, 9.12.92, p. 1); Council Directive 91/371/EEC on the implementation of the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance (OJ L205, 27.7.91, p. 48) (which requires Member States to amend national provisions to comply with that Agreement); Article 19 of Council Directive 93/22/EEC on investment services in the securities field (OJ L141, 11.6.93, p. 27); and Article 22 of the European Parliament and Council Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions (OJ L126, 26.5.2000, p. 1).