
DRAFT STATUTORY INSTRUMENTS

2015 No. [].

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000 (Relevant
Authorised Persons) Order 2015**

Made - - - - - ***

Coming into force - - - - - ***

The Treasury, in exercise of the powers conferred by section 71A(4) of the Financial Services and Markets Act 2000(a), make the following Order.

In accordance with section 71A(5) of that Act the Treasury has consulted the FCA, the PRA and such organisations as the Treasury consider to be representative of interests substantially affected by this Order.

In accordance with section 429(1)(a) of that Act(b), a draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015, and comes into force on the [] 2015.

(2) In this Order “the Act” means the Financial Services and Markets Act 2000.

Relevant authorised persons

2.—(1) For the purposes of Part 5 of the Act a non-UK institution is a relevant authorised person if it—

- (a) meets condition A or B;
- (b) has a branch in the United Kingdom; and
- (c) is not an insurer.

(2) Condition A is that the non-UK institution is a credit institution which has permission under Part 4A, schedule 3 or schedule 4 of the Act to carry on the regulated activity of accepting deposits(c).

(a) 2000 c.8; section 71A was inserted by section 33 of the Financial Services (Banking Reform) Act 2013 (c. 33).
(b) section 429(1)(a) was amended by section 136(1) and (2) of the Financial Services (Banking Reform) Act 2013 (c.33). There are other amendments to section 429(1)(a) but none are relevant to this Order.
(c) “Regulated activities” is defined in section 22 of, and Schedule 2 to, the Act. The activity of accepting deposits is specified in article 5 of SI 2001/544.

(3) Condition B is that—

- (a) the non-UK institution is an investment firm^(a);
- (b) it has permission under Part 4A, schedule 3 or schedule 4 of the Act to carry on the regulated activity of dealing in investments as principal^(b); and
- (c) when carried on by it, that activity is a PRA-regulated activity^(c).

Name

Name

Two of the Lords Commissioners of Her Majesty's Treasury

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that authorised persons falling within either of two categories of non-UK institution are ‘relevant authorised persons’ for the purposes of part 5 of the Financial Services and Markets Act 2000 (the “Act”).

Part 5 of the Act concerns approval by the Financial Conduct Authority (“FCA”) and the Prudential Regulation Authority (“PRA”) of individuals to perform specified functions in relation to financial services firms, and regulation by the PRA and the FCA of employees of financial services firms who are not pre-approved by either regulator.

If the firm is a relevant authorised person then additional measures will apply to an individual approved by either regulator to perform a specified function in relation to that firm. The approval may be granted subject to conditions. If the individual is approved to perform a function which is designated by either regulator as a “senior management function”, that individual will be deemed responsible for any regulatory contravention which occurs in a part of the firm for which they are responsible unless that individual can demonstrate that they took such steps to prevent the contravention occurring or continuing as a person in that position could reasonably be expected to.

If a firm is a relevant authorised person then it must certify that any of its staff performing functions in which they could do significant harm to the firm or its customers are fit and proper to perform those functions. Further, the FCA or the PRA can make conduct rules which apply not only to persons who are pre-approved by the regulators to perform functions in relation to that firm, but to all employees of that firm.

The first category of non-UK institution which this order specifies as relevant authorised persons is those non-UK institutions which are credit institutions that have a branch in the UK and are authorised to accept deposits in the UK.

The second category is those non-UK institutions which are investment firms that have a branch in the UK and are authorised to deal in investments as principal in the UK, provided that when dealing in investments as principal in the UK such institutions are regulated by the Prudential Regulation Authority.

A full impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ or on <http://www.gov.uk/> and is published alongside the Order on <http://www.legislation.gov.uk/>.

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- (a) “investment firm” is defined in section 424A of the Act.
 - (b) The activity of dealing in investments in principal, namely buying, selling, subscribing for or underwriting securities or contractually based investments is specified in article 14 of SI 2001/544.
 - (c) Section 22A of the Act provides that PRA-authorised activities are regulated activities which have been specified by the Treasury by order. The Treasury has specified PRA-regulated activities in SI 2013/556.

