

2013 No. 113 (C. 6)

FINANCIAL SERVICES AND MARKETS

**The Financial Services Act 2012 (Commencement No. 1) Order
2013**

Made - - - - *23rd January 2013*

The Treasury, in exercise of the powers conferred by section 122(3) and (4) of the Financial Services Act 2012^(a), make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Financial Services Act 2012 (Commencement No. 1) Order 2013.

(2) In this Order—

“the Act” means the Financial Services Act 2012;

“the 1998 Act” means the Bank of England Act 1998^(b);

“the 2000 Act” means the Financial Services and Markets Act 2000^(c).

Appointed days for the coming into force of certain provisions of the Act

2.—(1) 24th January 2013 is the day appointed for the coming into force of—

- (a) the provisions of the Act listed in Part 1 of the Schedule for all purposes;
- (b) the provisions of the Act listed in Part 2 of the Schedule, for the purposes of making orders or regulations;
- (c) the provisions of the Act listed in Part 3 of the Schedule, for the purposes specified in that Part.

(2) 19th February 2013 is the day appointed for the coming into force of the provisions of the Act listed in Part 4 of the Schedule, for the purposes of making appointments.

Stephen Crabb
Mark Lancaster

23rd January 2013

Two of the Lords Commissioners of Her Majesty's Treasury

(a) 2012 c.21.
(b) 1998 c.11.
(c) 2000 c.8.

SCHEDULE

Article 2

PART 1

Provisions of the Act coming into force on 24th January 2013 for all purposes

- Section 7 (extension of scope of regulation)
- Section 8 (orders under section 22 of FSMA 2000)
- Section 9 (designation of activities requiring prudential regulation by PRA)
- Paragraphs (d), (j) and (n) of subsection (1), and subsections (2) and (3) of section 48 (interpretation of FSMA 2000)
- Section 49 (Parliamentary control of statutory instruments)
- Sections 50 to 52 (mutual societies)
- Section 57 (interpretation of Part 3 of the Act)
- Section 64 (duty of Treasury, Bank and PRA to co-ordinate discharge of functions)
- Section 67 (interpretation of Part 4 of the Act)
- Section 83 (interpretation and supplementary provisions)
- Section 93 (interpretation of Part 7 of the Act)
- Section 94 (affirmative procedure for certain orders)
- Section 119(1) and (2) (introduction of Schedules 20 and 21 to the Act)
- Schedule 20 (transitional provisions)
- Schedule 21 (transfer schemes)

PART 2

Provisions of the Act coming into force on 24th January 2013 for the purposes of making orders or regulations

- Section 4 (financial stability strategy and Financial Policy Committee), for the purpose of inserting sections 9I(2), 9L and 9N of the 1998 Act
- Section 6 (the new Regulators) for the purpose of inserting section 1L of the 2000 Act and for the purpose of introducing paragraph 20 of Schedule 1ZA to the 2000 Act
- Section 11 (permission to carry on regulated activities) for the purpose of inserting section 55C of the 2000 Act
- Section 12 (passporting: exercise of EEA rights and Treaty rights) for the purpose of introducing paragraphs 7 and 24 of Schedule 4 to the Act
- Section 15 (further amendments relating to performance of regulated activities) for the purpose of introducing paragraph 14 of Schedule 5 to the Act
- Section 27 (powers of regulators in relation to parent undertakings)
- Section 29 and Schedule 7 (powers in relation to recognised investment exchanges and clearing houses)
- Section 30 (recognition requirements: power of FCA and Bank to make rules)

Section 33 (power to take disciplinary measures against recognised bodies)

Section 35 (sections 28 to 34 of the Act: minor and consequential amendments) for the purposes of introducing paragraphs 11, 14 and 15 of Schedule 8 to the Act

Section 37 (discipline and enforcement) for the purpose of introducing paragraphs 10, 19, 21 and 23 of Schedule 9 to the Act

Section 38 (the Financial Services Compensation Scheme) for the purpose of introducing paragraph 3 of Schedule 10 to the Act

Section 41 (information, investigations, disclosure etc.) for the purpose of introducing paragraph 8 of Schedule 12 to the Act

Section 43 (provisions about consumer protection and competition) for the purpose of inserting section 234C of the 2000 Act

Section 110 (payment to Treasury of penalties received by Bank of England)

Section 112 (evidencing and transfer of title to securities without written instrument)

Section 114(1) (further minor and consequential amendments and repeals) for the purpose of introducing paragraph 5 of Schedule 18 to the Act

PART 3

Provisions of the Act coming into force on 24th January 2013 for limited purposes

<i>Provision of the Act</i>	<i>Purpose</i>
<i>Section 4 (financial stability strategy and Financial Policy Committee)</i>	<i>For the purpose of inserting section 9ZA of the 1998 Act</i>
<i>Section 6 (the new Regulators)</i>	<i>For the purpose of inserting sections 1A(2), (6), 1F to 1I, 2A(1), (2), (6), 2F to 2J, 3A, 3B, 3C and 3D of the 2000 Act</i>
<i>Section 6</i>	<i>For the purpose of inserting sections 1B to 1E and 2B to 2C of the 2000 Act, in so far as they are relevant to other provisions of the Act which are in force</i>
<i>Section 6</i>	<i>For the purpose of inserting sections 3E and 3F of the 2000 Act, in so far as they relate to the preparation of memoranda</i>
<i>Section 6</i>	<i>For the purpose of inserting section 3R of the 2000 Act</i>
<i>Section 6</i>	<i>For the purpose of introducing Schedule 3 to the Act in so far as it inserts the provisions of Schedule 1ZA to the 2000 Act which relate to the preparation of a scheme under paragraph 21 of that Schedule or the making of rules</i>
<i>Section 6</i>	<i>For the purpose of inserting Schedule 1ZB to the 2000 Act (except paragraphs 2, 3 and 8)</i>
<i>Section 11 (permission to carry on regulated activities)</i>	<i>For the purpose of inserting section 55U of the 2000 Act, in so far as it relates to the giving of directions or the imposition of requirements</i>
<i>Section 12 (passporting: exercise of EEA rights and Treaty rights)</i>	<i>For the purpose of introducing paragraph 17 of Schedule 4 to the Act, in so far as it relates to the making of arrangements</i>
<i>Section 12</i>	<i>For the purpose of introducing paragraph 26(4) of Schedule 4 to the Act, in so far as it</i>

<i>Section 14 (approval for particular arrangements)</i>	<i>relates to the giving of directions or the imposition of requirements For the purpose of making arrangements under section 59B of the 2000 Act, the issue of statements of principle under section 64 of the 2000 Act and the making of rules</i>
<i>Section 15 (further amendments relating to performance of regulated activities)</i>	<i>For the purpose of introducing paragraph 4 of Schedule 5 to the Act, in so far as it relates to the giving of directions or the imposition of requirements</i>
<i>Section 15</i>	<i>For the purposes of introducing paragraphs 10 to 13, 17 and 18 of Schedule 5 to the Act, in so far as they relate to the preparation and issue of a statement of policy, a statement of principle or a code of practice</i>
<i>Section 16 (FCA to exercise functions under Part 6 of FSMA 2000)</i>	<i>For the purpose of the making of rules</i>
<i>Section 18 (listing rules: disciplinary powers in relation to sponsors)</i>	<i>For the purpose of the preparation and issue of a statement of policy under section 88C of the 2000 Act</i>
<i>Section 19 (primary information providers)</i>	<i>For the purpose of the preparation and issue of a statement of policy under section 89S of the 2000 Act and for the purpose of the making of rules</i>
<i>Section 24 (rules and guidance)</i>	<i>For the purpose of the giving of directions under section 138A of the 2000 Act, the issue of a statement of policy under section 138N of the 2000 Act, the giving of guidance under section 139A of the 2000 Act, the determination of a procedure and the issue of a statement of procedure under section 395 of the 2000 Act in relation to the procedure to be followed in relation to the giving of supervisory notices in accordance with section 137S(5) or (8)(a) of the 2000 Act and the making of rules</i>
<i>Section 27 (powers of regulators in relation to parent undertakings)</i>	<i>For the purpose of the preparation and issue of statements of policy under section 192H and 192N of the 2000 Act and the making of rules</i>
<i>Section 29 (powers in relation to recognised investment exchanges and clearing houses)</i>	<i>For the purpose of introducing Schedule 7 to the Act, in so far as it relates to the preparation of a memorandum, the making of rules or the preparation and issue of a statement of policy</i>
<i>Section 33 (power to take disciplinary measures against recognised bodies)</i>	<i>For the purpose of the preparation and issue of a statement under section 312J of the 2000 Act</i>
<i>Section 35 (sections 28 to 34 of the Act: minor and consequential amendments)</i>	<i>For the purpose of the making of rules</i>
<i>Section 37 (discipline and enforcement)</i>	<i>For the purpose of introducing paragraphs 17 and 18 of Schedule 9 to the Act, in so far as they relate to the preparation and issue of a statement of policy</i>
<i>Section 37</i>	<i>For the purpose of introducing paragraphs 34 and 35 of Schedule 9 to the Act, in so far as</i>

<i>Section 38 (the Financial Services Compensation Scheme)</i>	<i>they relate to the determination of a procedure and the issue of a statement of the procedure For the purpose of the preparation of memoranda under section 217A of the 2000 Act and the making of rules</i>
<i>Section 39 (the financial ombudsman service)</i>	<i>For the purpose of the preparation of a memorandum under paragraph 3A of Schedule 17 to the 2000 Act and the making of rules</i>
<i>Section 40 (Lloyd's)</i>	<i>For the purpose of inserting section 314A of the 2000 Act</i>
<i>Section 41 (information, investigations, disclosure etc.)</i>	<i>For the purpose of introducing paragraphs 5 and 6 of Schedule 12 to the Act for the purpose of the making of rules</i>
<i>Section 41</i>	<i>For the purpose of introducing paragraph 9 of Schedule 12 to the Act, in so far as it relates to the preparation of a statement of policy</i>
<i>Section 42 (auditors and actuaries)</i>	<i>For the purpose of introducing paragraph 2 of Schedule 13 to the Act, in so far as it relates to the issue of a code of practice under section 339A of the 2000 Act</i>
<i>Section 42</i>	<i>For the purpose of introducing paragraph 7 of Schedule 13 to the Act, in so far as it relates to the preparation and issue of a statement of policy under section 345D of the 2000 Act</i>
<i>Section 43 (provisions about consumer protection and competition)</i>	<i>For the purpose of the power to give guidance of the kind specified by section 234G of the 2000 Act</i>
<i>Section 45 (the consumer financial education body)</i>	<i>For the purpose of the making of rules</i>
<i>Section 45</i>	<i>For the purpose of introducing paragraph 7 of Schedule 15 to the Act, in so far as it relates to the preparation of a memorandum under paragraph 6A of Schedule 1A to the 2000 Act</i>
<i>Section 65 (memorandum of understanding: crisis management)</i>	<i>For the purpose of the preparation of a memorandum</i>
<i>Section 66 (memorandum of understanding: international organisations)</i>	<i>For the purpose of the preparation of a memorandum</i>
<i>Section 80 (statements of policy)</i>	<i>For the purpose of the power to prepare and issue a statement of policy</i>
<i>Sections 84 to 87 (investigation of complaints against regulators)</i>	<i>For the purpose of making the complaints scheme</i>
<i>Section 114 (further minor and consequential amendments and repeals)</i>	<i>For the purpose of introducing paragraph 10 of Schedule 18 to the Act, in so far as it relates to the preparation and issue of a statement of policy under section 345D of the 2000 Act, as applied by section 249(2) of the 2000 Act</i>

PART 4

Provisions of the Act coming into force on 19th February 2013 for the purposes of making appointments

Section 1 (Deputy Governors)

Section 4 (financial stability strategy and Financial Policy Committee) for the purpose of inserting section 9B of the 1998 Act and introducing Schedule 2A to that Act

Section 5 (further amendments relating to Bank of England)

Section 6 (the new Regulators), for the purpose of inserting sections 1M to 1Q and sections 2L and 2M of the 2000 Act and for the purpose of introducing paragraphs 2 and 3 of Schedule 1ZA to that Act

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Financial Services Act 2012 (c.21) (“the Act”) into force. This is the first commencement order to be made under the Act.

The provisions listed in Part 1 of the Schedule to this Order are brought into force for all purposes on 24th January 2013. Those provisions confer powers on the Treasury to make subordinate legislation or contain definitions of expressions used in the Act.

The provisions listed in Part 2 of the Schedule are brought into force on 24th January 2013 for the purpose of the Treasury making orders and regulations.

The provisions in Part 3 of the Schedule are brought into force on 24th January 2013 for the specific purposes indicated in this Part of the Schedule. The provisions commenced by this Part of the Schedule include powers for the Financial Conduct Authority and Prudential Regulation Authority (“the new regulators”) to make rules and give guidance, to make codes of practice and to issue statements of policy. In particular, section 24 of the Act is commenced on 24th January 2013 for the purpose of making rules. Such rules may not come into force until the date on which section 24 is brought into force for all purposes. This does not necessarily mean that the new regulators will exercise all powers conferred by section 24 prior to the date on which section 24 and the other the provisions of Part 2 of the Act which relate to the new regulators come into force for all purposes. In particular, some of the powers conferred by section 24 cannot be exercised until other legislation is enacted. For example, rules cannot be made under section 137C of the Financial Services and Markets Act 2000 as inserted by section 24 of the Act until certain activities in relation to credit are specified by the Treasury as a “regulated activity” for the purposes of the 2000 Act.

The provisions in Part 4 of the Schedule are brought into force on 19th February 2013 for the purposes of making appointments.

This Order will have no effect on the costs of business and the voluntary sector independent of the provisions this Order brings into force. For that reason, no impact assessment has been produced for this instrument.

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STATUTORY INSTRUMENTS

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