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INTRODUCTION

SUMMARY OF PROPOSALS

1.1 This consultation document seeks views on proposed changes to:

- The Financial Services and Markets Act (Disclosure of Confidential Information) Regulations 2001 to introduce an Information Gateway between the Financial Services Authority and the Gambling Commission; and between the Financial Services Authority and the Financial Reporting Council and its operating bodies; and
- The Pensions Act 2004 to introduce an Information Gateway between the Pensions Regulator and the Financial Reporting Council and its operating bodies.

1.2 These changes would be implemented via the introduction of secondary legislation.

1.3 The purpose of the information gateways is to enable the sharing of information between regulators for regulatory functions. While they are expected to lead to an increase in the efficiency and effectiveness of regulatory activities, the proposals are not expected to lead to significant savings and will not impose additional costs. Therefore no Regulatory Impact Assessment has been produced.

2

RESPONDING TO THE CONSULTATION

HOW TO RESPOND

2.1 The Government welcomes the views of all stakeholders on the issues raised in this document. The consultation period begins with the publication of this document, and will run for 12 weeks. Please ensure that your responses reach us by **29 August 2006**. Responses to the consultation should be sent to:

Ms. Eve Engledow
Financial Stability & Risk (Room 4/22)
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Tel.: 020 7270 4381
Fax: 020 7451 7524
Email: Eve.Engledow@hm-treasury.x.gsi.gov.uk

2.2 This document can also be found on the HM Treasury website: <http://www.hm-treasury.gov.uk>

Hard copies are available on request from Eve Engledow.

2.3 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the view of members were assembled.

CONFIDENTIALITY

2.4 All written responses will be made public on HM Treasury's website unless the author specifically requests otherwise in writing. In the case of electronic responses, general confidentiality disclaimers that often appear at the bottom of e-mails will be disregarded for the purpose of publishing responses unless an explicit request for confidentiality is made in the body of the response.

2.5 Even where confidentiality is requested, if a request for disclosure of the consultation response is made in accordance with the freedom of information legislation, and the response is not covered by one of the exemptions in the legislation, the Government will have to disclose the response in whole or in part.

2.6 Subject to paragraph 2.6, 2.7 and Annex B if you wish part (but not all) of your response to remain confidential, please supply two versions – one for publication on the website with the confidential information deleted, and another confidential version for the Financial Stability and Risk Team.

3

INFORMATION GATEWAY BETWEEN THE FSA AND THE GAMBLING COMMISSION

BACKGROUND

3.1 The Gambling Commission, a Non-Departmental Public Body, sponsored by the Department for Culture, Media and Sport, was set up under the Gambling Act 2005. It has taken over the role previously played by the Gaming Board for Great Britain in regulating casinos, bingo, gaming machines and lotteries. It operates at arm's length from government and its advice is independent.

3.2 The Gambling Commission has the ability, in collaboration with the police and other law enforcement agencies, to investigate and bring proceedings to combat illegal gambling. To do this effectively and to carry out its core functions in relation to considering operating and personal licence applications, the Gambling Commission needs to be able to access, and share, information about the companies and individuals whom it regulates with all relevant law enforcement and regulatory bodies. For these reasons it is considered essential that information gateways are established with organisations that the Gambling Commission is expected to do business with.

3.3 This Regulation makes the necessary amendment to allow information to be passed from the Financial Services Authority (FSA) to the Gambling Commission. The amendment takes in to account the fact that some information held by the FSA may not be disclosed or is subject to conditions on onward disclosure because of restrictions imposed under European Directives.

THE PROPOSAL

3.4 The draft statutory instrument covers changes to the Financial Services and Markets Act (Disclosure of Confidential Information) Regulations 2001 to introduce an Information Gateway between the Financial Services Authority and the Gambling Commission.

3.5 The purpose of the legislation is to enable the Gambling Commission to access and share information about the companies and individuals whom it regulates with the Financial Services Authority.

3.6 The amendments take in to account the fact that some information held by the FSA may not be disclosed or is subject to conditions on onward disclosure because of restrictions imposed under European Directives.

Question: do you have any comments on the proposal to introduce an information gateway between the Gambling Commission and the Financial Services Authority?

4

INFORMATION GATEWAY BETWEEN THE FSA AND FINANCIAL REPORTING COUNCIL

BACKGROUND

4.1 The Financial Reporting Council (FRC) is the UK's independent regulator for corporate reporting and governance. Its aim is to promote confidence in corporate reporting and governance.

4.2 In April 2006, the FRC took on new responsibilities for actuarial standards and regulation (Annex A). Its functions now comprise:

- setting, monitoring and enforcing accounting and auditing standards;
- setting actuarial standards;
- statutory oversight and regulation of auditors;
- operating an independent investigation and discipline scheme for public interest cases;
- overseeing the regulatory activities of the professional accountancy and actuarial bodies;
- promoting high standards of corporate governance.

4.3 The FRC's functions are exercised principally by its operating bodies and by its Council. The FRC's operating bodies are:

- the Accounting Standards Board;
- the Auditing Practices Board;
- the Board for Actuarial Standards;
- the Professional Oversight Board;
- the Financial Reporting Review Panel; and
- the Accountancy Investigation and Discipline Board.

Further details on the work of the FRC can be found on: <http://www.frc.org.uk>

RELATIONSHIP WITH THE FSA

4.4 It is highly desirable at times for the Financial Services Authority (FSA) and FRC and/or one or more of its operating bodies to share information in cases of joint interest. The nature of the FRC's functions is such that there are inevitably areas of common interest with the FSA. There may also be occasions where the FSA holds information not directly relevant to its functions but which it thinks may be relevant to the FRC's functions. In either case, information held by FSA and which is relevant to the FRC's functions should be capable of being shared with the appropriate operating units of the FRC to maximise the efficient use of resources and consistency of approach.

There are many advantages in FSA being able to pass information to FRC for regulators, firms and consumers:

- First, it would save time and money if FSA passes on to FRC and its operating bodies any information it collects about accountancy, auditing or actuarial services as part of its functions. If FSA is not able to pass on information, work may well have to be duplicated. FRC and FSA officials may be doing exactly the same research and firms may have to spend time sending the same information to two different regulators, which of course imposes additional cost and regulatory burden;
- Second, it would reduce the risk of FRC and its operating bodies not discovering important information. It is important that FRC are made aware of any problems as soon as they come to light rather than being left to discover them independently. The sooner the FRC knows about actuarial problems, for example, the quicker it can act and work to mitigate the effects. For example the Morris review recommendations (see Annex A) are being implemented as soon as possible in response to the concerns raised in the case of Equitable life. A lack of information exchange between regulators could mean problems like Equitable are not identified early enough to prevent or mitigate them with severe consequences for policyholders. It is therefore very important that the regulators are joined up to enable them to deliver a robust and effective regime.

Safeguards have also been incorporated into regime for the protection of those required to provide information:

- It is an offence under section 352 of the Financial Services and Markets Act 2000 for a person to disclose information in contravention of the disclosure regulations¹;
- The disclosure of personal data is restricted by the Data Protection Act.
- Disclosure and use of information will also have to be consistent with article 8 of the Human Rights Act 1998 (right to respect for family and private life).

FRRP 4.5 There is an existing gateway between the FSA and the FRC's Financial Reporting Review Panel (FRRP). The FRRP contributes to confidence in corporate reporting and governance by seeking to ensure that the provision by public and large private companies of financial information and other information falling within its remit complies with relevant reporting requirements. In particular, it considers whether the annual accounts of public companies and large private companies comply with the requirements of the Companies Act 1985, including applicable accounting standards. Since April 2005, the FRRP has also been authorised by the Secretary of State for Trade and Industry to exercise functions with a view to ensuring that periodic reports of certain companies and other entities comply with the accounting requirements of the Listing Rules.

4.6 The FRRP can ask directors to explain apparent departures from the requirements. If it is not satisfied by the directors' explanations, it aims to persuade them to adopt a more appropriate accounting treatment. The directors may voluntarily withdraw their annual accounts or directors' reports and replace them with revised

¹ Financial Services and Markets Act (Disclosure of Confidential Information) Regulations 2001 (S.I 2001/2188)

accounts that correct the matters being queried. The FRRP may also accept alternative corrective action where appropriate. Failing voluntary correction, the FRRP can exercise its powers to secure the necessary revision of annual accounts or directors' reports through a court order. Where matters concern periodic reports that the FRRP keeps under review for compliance with the Listing Rules, the FRRP may report its findings to the FSA who then consider whether enforcement action is appropriate. Compliance of the UK financial reporting enforcement regime with relevant EU directives and other standards (for example CESR standards no. 1 and 2 on financial information) rely on close co-operation between the two authorities.

4.7 Under the existing disclosure regulations², there are two potential gateways³ through which confidential information is disclosed to the FRRP by the FSA. First, there is the self-help gateway, as set out in Part II of the Gateway Regulations. This gateway allows the FSA to disclose information for the purpose of assisting or enabling it to carry out its own functions. It does not, however, allow disclosure in contravention of any of the directive restrictions⁴. Second, there is the gateway under Part IV of the Gateway Regulations. However, the material that can be disclosed via those gateways is subject to a number of restrictions:

- The information the FSA discloses to the FRRP must not have originated from another Member State's competent authority for listing;
- Information disclosed must be to facilitate the FSA carrying out its own public functions; and
- Information disclosed must be to facilitate the operation of the FRRP as an authorised body in accordance with the Companies Act 1985.

4.8 These restrictions raise several problems largely because of the extensions of the FRRP's functions under both Companies (Audit, Investigations and Community Enterprise Act 2004 (C(AICE) Act 2004) and the Supervision of Accounts and Reports (Prescribed Body) Order 2005 (S.I 2005 No. 715). For example, the FRRP's functions now include keeping under review the periodic accounts and reports of overseas companies that have a primary listing in the UK. It is likely that the FSA will receive information from another Member State's competent authority for listing which the FRRP would want to know to perform this function. At present, unless the FSA can show giving the information to the FRRP facilitates in carrying out FSA functions it cannot be disclosed. The FRRP may struggle to get this information itself. Further the FRRP has functions under C(AICE) as well as the Companies Act. Again, at the moment, information can not be disclosed for C(AICE) functions. There are therefore clearly gaps in the information that can be disclosed for clear regulatory purposes.

FRC and its other operating bodies **4.9** In addition to the specific functions of the FRRP and AIDB, the other functions performed by the FRC and its operating bodies make it desirable for FSA to be able to pass confidential information to it in cases of legitimate interest. For example, the POB oversees the regulatory activities of the accountancy and actuarial professional bodies and exercises statutory functions in relation to the regulation of auditors. The FSA

² Financial Services and Markets Act (Disclosure of Confidential Information) Regulations 2001 (S.I 2001/2188)

³ There is a third gateway between FSA and FRRP set out in Part III of the disclosure regulations which is limited to the disclosure of confidential single market directive information and thus not relevant for the purposes of this consultation document.

⁴ Regulation 3(1)(a) of the Disclosure Regulations

already has gateways to the professional bodies in relation to their regulatory activities, and so giving the POB access to the same information will enable it to exercise its oversight and statutory functions more effectively.

4.10 Further, the AIDB is responsible for operating and administering an independent, disciplinary scheme for accountants in respect of matters raising important issues affecting the public interest in the UK. It is envisaged that the AIDB will, later this year, become responsible for operating a similar scheme in respect of the actuarial profession. Given the nature of its work, there are inevitably overlaps between it and the FSA. Currently, the AIDB's regulations allow it to disclose confidential information to the FSA. However, at present the only gateway through which the FSA may pass information to these other operating bodies is the self-help gateway set out in Part II of the disclosure regulations. It is entirely possible that the FSA will receive information which is not directly relevant to its functions but very relevant to at least one of the FRC's operating bodies. The FSA would not be able to pass on this information with the current gateway and investigations would be hindered if they were able to start at all.

4.11 In addition, view of the FRC's role as a unified independent regulator of accountancy, audit, corporate governance and actuarial work, HMT would like to ensure that any gateway operates between the FSA on the one hand, and the FRC and all of its operating bodies on the other.

The Treasury's proposals are intended to do two things:

- expand an existing limited gateway between the FSA and the FRRP (one of the FRC's operating bodies); and
- open a similar gateway between FSA and the FRC's other operating bodies.

These proposed gateways are broadly consistent with other gateways between regulatory bodies.

THE PROPOSAL

4.12 HM Treasury is of the view that the gaps in the current relationships between the FSA and the FRC and its operating bodies should be addressed as quickly as possible in the interest of achieving a more robust joined-up and efficient regulatory regime. HM Treasury proposes amending the Regulations, in order to:

- Allow for information received by the FSA from another Member State's competent authority under the Consolidated Admissions and Reporting Directive (CARD), Market Abuse Directive (MAD), Prospectus Directive and the Transparency Directive to be passed to the persons listed in the Schedules to the Regulations (including the FRC and its operating bodies), upon implementation of the Transparency Directive; and
- Allow for information to be passed to the FRC and its operating bodies to enable them to discharge the public functions provided for under the C(AICE) Act 2004.
- The proposed gateway will provide immediate benefits in relation to the specific responsibilities of three of the FRC's operating bodies – the FRRP, the AIDB and the POB – but will also provide benefits for the FRC as a unified independent regulator in relation to its overall role in promoting

confidence in corporate reporting and governance and the oversight of the regulatory activities of the accountancy and actuarial professions.

- The attached draft statutory instrument aims to achieve these objectives. We would welcome your views on these proposals in general, and on the substance and legal drafting of the draft statutory instrument itself.
- The amendments take in to account the fact that some information held by the FSA is subject to conditions on onward disclosure because of restrictions imposed under European Directives.

EXPLANATION OF REGULATIONS

4.13 These Regulations will permit the disclosure of confidential information received by the FSA under FSMA and as competent authority under the EU CARD, MAD, Insurance Directives, Prospectus Directive and the Transparency Directive and MiFID, upon implementation of the latter. The Regulations also enable confidential information to be disclosed to the bodies responsible for functions relating to the oversight of accountancy and the auditors' professions. It is anticipated that the Company Law Reform Bill, currently before Parliament, will in due course extend the C(AICE) Act 2004 to include the functions of the FRC and its operating bodies in relation to actuaries. On extension of section 16(2) of the C(AICE) Act 2004, information will be able to be used for the additional functions relating to actuaries; no subsequent amendment would be required to the FSMA (Disclosure of Confidential Information) Regulations 2001 due to the way in which the gateway is drafted.

Question: Do you have any comments on the proposal to extend the gateway between the FSA and the FRRP?

Question: Do you have any comments on the proposal to open a similar gateway between the FSA and the FRC/its other operating bodies?

INFORMATION GATEWAY BETWEEN THE PENSION REGULATOR AND THE FINANCIAL REPORTING COUNCIL

BACKGROUND

5.1 As explained in Chapter 4, in April 2006, the FRC took on new responsibilities for actuarial standards and regulation. A key characteristic of actuarial work is to characterise, measure and analyse the uncertain future. Thus, actuarial services are predominantly used in insurance and pensions. Indeed, under the Pensions Act 1995 the trustees of most defined-benefit occupational pension schemes must appoint a scheme actuary.

5.2 The FRC regime (in line with the model outlined in the Morris review) will be funded by the Actuarial Profession, insurers and pension schemes. These are those parties in relation to whom the FRC's actuarial work is relevant to a significant extent or who have a major interest in that work or as Sir Derek Morris expressed it, 'the main beneficiaries of the new regulatory framework'. In October 2005, the FRC published a consultation paper inviting views on the funding arrangements for the new regime. That consultation is now closed and the FRC has developed final funding proposals along these lines, which it has now published and is available on its website: <http://www.frc.org.uk/press/pub1045.html>

5.3 The FRC has arrangements in place with the FSA to recover its funding from insurers. To invoice the administrators, trustees or managers of pension schemes, the FRC will need to know their names and addresses and the names and addresses of the schemes as well as the size of their membership.

5.4 The standards set and oversight exercised by the FRC from April 2006 will be highly relevant to pensions and the Pensions Regulator (TPR). As with the FSA (discussed in Chapter 4), it will therefore be important for TPR to have a dialogue with the FRC and, where necessary, exchange information.

THE PROPOSAL

5.5 As a body corporate established by statute, TPR can only do what statute specifically empowers it to do. Section 86(1) of the Pensions Act 2004 provides an information gateway, which empowers TPR to disclose restricted information to a person listed in Schedule 3 to the Act. The FRC and its operating bodies are not currently listed in that Schedule. Most of the information needed by the FRC from TPR for the purposes of exercising its oversight functions, as well as invoicing administrators, trustees or managers of pension schemes, is restricted information.

5.6 In the interests of achieving a more robust, joined-up and efficient regulatory regime for actuaries and to enable the FRC to more easily make arrangements to recover its funding from pension funds, HM Treasury proposes to amend Schedule 3 to the Pensions Act 2004 to enable TPR to share restricted information with the FRC about the bodies and individuals it regulates. If TPR wrongly discloses information to the FRC it is a criminal offence under the Pensions Act. Likewise if the FRC or its operating bodies wrongly pass on information received from TPR it is a criminal offence.

5.7 The attached draft order aims to achieve these objectives. We would welcome your views on these proposals in general, and on the substance and drafting of the draft statutory instrument itself.

EXPLANATION OF ORDER

5.8 The proposed Pensions Regulator (Disclosure of Restricted Information) (Amendment of Specified Persons) Order 2006 aims to achieve these objectives as follows: Article 2(2) amends the Pensions Act 2004 by adding to the table in Schedule 3 those bodies responsible for functions relating to the oversight of actuaries. The purpose of this amendment is to remove the prohibition imposed on TPR in section 82 of the Act from disclosing the restricted information those bodies need in order to exercise such functions.

Question: Do you have any comments on the proposal to introduce an information gateway between The Pension Regulator and the FRC and its operating bodies?

A

PARTIAL REGULATORY IMPACT ASSESSMENT

A.1 The introduction of Information Gateways between: The Financial Services Authority and The Gambling Commission; The Financial Services Authority and The Financial Reporting Council; and The Pension Regulator and The Financial Reporting Council are unlikely to impose any costs or savings on the public, private, charities or voluntary sector and therefore no Regulatory Impact Assessment has been produced.

B

CABINET OFFICE CONSULTATION CRITERIA

B.1 The Cabinet Office has published a Code of Practice for Written Consultations to guide Departments' activities in this area. This sets down the following criteria:

- consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy;
- be clear about what the proposals are, who may be affected, what questions are being asked, and the timescale for responses;
- ensure the consultation is clear, concise and widely accessible;
- give feedback regarding the responses received and how the consultation process influenced the policy;
- monitor the Department's effectiveness at consultation, including through the use of a designated consultation coordinator; and
- ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

B.2 If you feel that this consultation does not fulfil these criteria, please contact:

Julie Humphreys
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ
Telephone: (+44) (0) 207 270 5543
Email: Julie.Humphreys@hm-treasury.x.gsi.gov.uk



BACKGROUND TO NEW ACTUARIAL OVERSIGHT ROLE FOR THE FINANCIAL REPORTING COUNCIL

C.1 Sir Derek Morris's Review of the Actuarial Profession commissioned following the Penrose report into Equitable Life published recommendations in March 2005. In line with those recommendations, HM Treasury asked the FRC to take on new responsibilities for: setting actuarial standards, overseeing the profession's regulation of its members and monitoring of compliance with standards, and where necessary investigating breaches for cases that are in the public interest. The purpose of the new regime is to enhance the quality of actuarial reporting and to promote the integrity, competence and transparency of the actuarial profession .

C.2 In line with the recommendations of the Morris Review, the FRC has taken and is taking steps to:

- Establish an FRC Board for Actuarial Standards (BAS). The BAS will take on responsibility for the technical standards currently set by the profession from April 2006, with appropriate transitional arrangements to ensure that actuaries continue to have clear guidance on the standards with which they are required to comply. It will have a Board of senior individuals, representing the users and providers of actuarial advice. The Chairman of BAS and the FRC's Director, Actuarial Standards have already been appointed.
- Extend the remit of the FRC's Professional Oversight Board for Accountancy – now the Professional Oversight Board (POB) - to cover oversight of the actuarial profession.

Extend the remit of the FRC's Accountancy Investigation and Discipline Board (AIDB) to cover public interest matters involving actuaries.



DRAFT STATUTORY INSTRUMENT

STATUTORY INSTRUMENTS

2006 No.

PENSIONS

The Pensions Regulator (Disclosure of Restricted Information) (Amendment of Specified Persons) Order 2006

<i>Made</i> - - - -	2006
<i>Laid before Parliament</i>	2006
<i>Coming into force</i> - -	2006

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by section 86(2)(a)(i) of the Pensions Act 2004⁽⁵⁾.

In accordance with section 86(2) of that Act, he has consulted with the Pensions Regulator.

Citation and commencement

1. This Order may be cited as the Pensions Regulator (Disclosure of Restricted Information) (Amendment of Specified Persons) Order 2006, and shall come into force on [] 2006.

Amendment of the Pensions Act 2004

2.—(1) The Pensions Act 2004 is amended as follows.

(2) At the end of the table in Schedule 3 (restricted information held by the Regulator: certain permitted disclosures to facilitate exercise of functions), add—

⁽⁵⁾ 2004 c. 35.

“Any body carrying on activities concerned with any of the matters set out in section 16(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004⁽⁶⁾ (a “relevant body”), any subsidiary (within the meaning given by section 736 of the Companies Act 1985⁽⁷⁾) of a relevant body and any body established under the constitution of a relevant body or such a subsidiary.

Its functions relating to carrying on activities concerned with any of the following matters:

- (a) issuing standards to be applied in actuarial work,
- (b) issuing standards in respect of matters to be contained in reports or other communications required to be produced or made by actuaries or in accordance with standards within paragraph (a),
- (c) investigating departures from standards within paragraph (a) or (b),
- (d) taking steps to secure compliance with standards within paragraph (a) or (b),
- (e) carrying out investigations into public interest cases arising in connection with the performance of actuarial functions by members of the Institute of Actuaries or the Faculty of Actuaries in Scotland and persons who, although not members of the Institute or Faculty, are subject to the rules of one of these bodies in performing actuarial functions (“members”),
- (f) holding disciplinary hearings relating to members following the conclusion of investigations within paragraph (e),
- (g) deciding whether (and, if so, what) disciplinary action should be taken against members to whom hearings within paragraph (f) related,
- (h) supervising the exercise by the Institute or Faculty of:
 - (i) investigatory or disciplinary functions exercised by the Institute or Faculty in relation to the performance by their members of actuarial functions,
 - (ii) the setting by the Institute or Faculty of standards in relation to the performance by their members of actuarial functions, and
 - (iii) the determining by the Institute or Faculty of requirements in relation to the education and training of their members,
- (i) overseeing or directing any of the matters mentioned in paragraphs (a) to (h),

and functions relating to the funding of activities concerned with any of the matters mentioned in paragraphs (a) to (i).

Any functions in connection with any levy payable to it under section 17 of the Companies (Audit, Investigations and Community Enterprise) Act 2004.”.

Signed by authority of the Secretary of State for Work and Pensions.

⁽⁶⁾ 2004 c. 27.

⁽⁷⁾ 1985 c. 6.

Minister of State

Department for Work and Pensions

[] 2006

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Pensions Act 2004 (the “Act”) by adding further bodies to the table in Schedule 3 to the Act so as to remove the prohibition imposed on the Pensions Regulator in section 82 of the Act from disclosing restricted information (as defined in section 82(4)) to such bodies where they are exercising specified functions. The further bodies added to Schedule 3 to the Act by this Order are any bodies carrying on activities concerned with any of the matters set out in section 16(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (the “CAICE Act”) (bodies concerned with accounting standards etc), any subsidiaries of such bodies and any bodies established under the constitution of any such bodies or subsidiaries.

The functions specified for this purpose are those relating to such bodies’ investigatory, disciplinary, supervisory, oversight, direction, standard-setting and enforcement activities in connection with actuarial bodies, their members and actuarial work, the funding of such activities, and functions in connection with any levy payable under section 17 of the CAICE Act.

STATUTORY INSTRUMENTS

2006 No. xxxx

FINANCIAL SERVICES AND MARKETS**The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2006**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>		
<i>Regulations 1 and 2(1), (3) and (4)</i>		***
<i>Regulation 2(2)</i>	<i>20th January 2007</i>	

The Treasury make the following Regulations in exercise of the powers conferred on them by sections 349(1) and (2) and 417(1)(8) of the Financial Services and Markets Act 2000(9):

Citation and commencement

3.—(1) These Regulations may be cited as the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2006.

(2) Regulations 1 and 2(1), (3) and (4) come into force on [...] and regulation 2(2) comes into force on 20th January 2007.

Amendment of the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

4.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(10) are amended as follows.

(2) In regulation 11 (application of this part), omit paragraph (c).

(3) At the end of the table in Part 1 of Schedule 1(11) (disclosure of information whether or not subject to directive restrictions), add—

“A body appointed by an order under section 14(1) of the Companies (Audit, Investigations and Community Enterprise) Act 2004(12)	Its functions under section 14(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004
Any body carrying on activities concerned with any of the matters set out in section 16(2) of the Companies (Audit, Investigations and	(a) Its functions as such (b) Its supervisory functions in relation to the exercise by an actuary

(8) See the definition of ‘prescribed’.

(9) 2000 c. 8.

(10) S.I. 2001/2188.

(11) Relevant amending instruments are S.I. 2001/3437, 2001/3624, 2003/2174 and 2003/2817.

(12) 2004 c.27.

Community Enterprise) Act 2004 (a “relevant body”)	of his professional duties, including conduct of disciplinary proceedings and determining whether to institute or terminate such proceedings
Any subsidiary (within the meaning given by section 736 of the Companies Act 1985 ⁽¹³⁾) of a relevant body and any body established under the constitution of a relevant body or such a subsidiary	Its supervisory functions in relation to the exercise by an actuary of his professional duties, including conduct of disciplinary proceedings and determining whether to institute or terminate such proceedings”.

(4) At the end of the table in Schedule 2⁽¹⁴⁾ (disclosure of confidential information not subject to directive restrictions), add—

“The Gambling Commission	Its functions as such”.
--------------------------	-------------------------

Name 1

Name 2

XX

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (‘the Regulations’) as follows.

Article 107 of Directive 2001/34/EC of the European Parliament and of the Council of 28th May 2001 (OJ No L 184, 6.7.01, p 1) was amended by Article 27(2) of Directive 2003/71/EC of the European Parliament and of the Council of 4th November 2003 (OJ No L 345, 31.12.03, p 64) and Article 32(7) of Directive 2004/109/EC of the European Parliament and of the Council of 15th December 2004 (OJ No L 390, 31.12.04, p 38). Regulation 2(2) amends the provision implementing Article 107 to take into account those amendments.

Regulation 2(3) adds further bodies and functions relating to them to the table in Part 1 of Schedule 1 (disclosure of confidential information whether or not subject to directive restrictions). This table lists the persons who may disclose, or to whom may be disclosed, confidential information within the meaning of section 348 of the Financial Services and Markets Act 2000 (c. 8) where this information is subject to restrictions on disclosure in specified EC Directives relating to financial services. The table also lists the functions in respect of which such information may be disclosed.

Regulation 2(4) adds a further body and functions relating to it to the table in Schedule 2 (disclosure of confidential information not subject to directive restrictions). This table lists the persons who may disclose, or to whom may be disclosed, confidential information where this information is not subject to restrictions on disclosure in specified EC Directives relating to financial services. The table also lists the functions in respect of which such information may be disclosed.

⁽¹³⁾ 1985 c.6.

⁽¹⁴⁾ Relevant amending instruments are S.I. 2001/3624 and 2003/2174.