

An Order made by the Treasury and laid before Parliament under paragraph 26 of Schedule 2 to the Financial Services and Markets Act 2000 (c.8) for approval by a resolution of each House of Parliament within a period of twenty-eight days beginning with the day on which the Order is made, subject to extension for periods of dissolution, prorogation or adjournment of both Houses for more than four days.

STATUTORY INSTRUMENTS

2009 No.

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities)(Amendment)[(No.)] Order 2009

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

In the opinion of the Treasury, one of the effects of the following Order is that an activity which is not a regulated activity (within the meaning of the Financial Services and Markets Act 2000(a)) will become a regulated activity;

The Treasury, in exercise of the powers conferred by sections 22(1) and (5) and 108 of, and paragraph 25 of Schedule 2 to, that Act, make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities)(Amendment)[(No.)] Order 2009 and comes into force on [].

Amendments to the Regulated Activities Order

2. The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(b) is amended as follows.

Specified activities: general

3. In paragraph (2) of article 4 (specified activities: general), for “51 and 52” substitute “51, 52 and 63J”.

Activities of reclaim funds

4. After paragraph 63I (other exclusions) insert—

(a) 2000 c.8; a relevant amendment was made by the Dormant Bank and Building Society Accounts Act 2008 (c.31) which inserts paragraph 9A of Schedule 2 to the 2000 Act.
(b) S.I. 2001/544; amended by S.I. 2003/1475 and S.I. 2006/2383; there are other amending instruments but none is relevant.

“CHAPTER 15C
ACTIVITIES OF RECLAIM FUNDS
The activities

63J Dormant account funds

- (1) The following are specified kinds of activity—
- (a) the meeting of repayment claims by a reclaim fund;
 - (b) the management of dormant account funds (including the investment of such funds) by a reclaim fund.

(2) In this article—

“account”, “dormant”, “dormant account funds”, “reclaim funds” and “repayment claims” have the same meaning as in Part 1 of the Dormant Bank and Building Society Accounts Act 2008 (transfer of balances in dormant accounts)(a);

“management of dormant account funds” means the acceptance of a transfer by a bank or building society of the balance of a dormant account or a proportion of such a balance and the management of those funds in such a way as to enable the reclaim fund to meet whatever repayment claims it is prudent to anticipate.”

Agreeing to carry on specified kinds of activity

5. In article 64, for “51 or 52” substitute “51, 52 or 63J”.

Amendments of the Financial Services and Markets Act 2000 (Control of Business Transfers)(Requirements on Applicants) Regulations 2001

6.—(1) The Financial Services and Markets Act 2000 (Control of Business Transfers)(Requirements on Applicants) Regulations 2001(b) are amended as follows—

- (a) for the heading to regulation 5 (Transfer of a banking business) substitute “Transfer of a banking business or a reclaim fund business”;
- (b) in regulation 5(1) after “banking business transfer scheme” insert “or reclaim fund business transfer scheme”;
- (c) in regulation 6(1) after “banking business transfer scheme” insert “or reclaim fund business transfer scheme”;
- (d) after paragraph (2) of regulation 6 insert—

“(2A) “reclaim fund business transfer scheme” has the meaning given by section 106A(1) of the Financial Services and Markets Act 2000(c).”

[date]

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 (Regulated Activities) Order 2001 (the “principal Order”) so as to specify as regulated activities for the purposes of the Financial Services and Markets Act 2000 (c. 8) (“FSMA”) the activities of reclaim funds in meeting repayment claims and managing dormant account money. The matters with respect to

(a) See sections 5(1), 9 and 10.

(b) S.I. 2001/3625.

(c) Section 106A(1) was inserted by paragraph 2 of Schedule 2 to the Dormant Bank and Building Society Accounts Act 2008.

which regulated activities may be specified include the activities of a reclaim fund (paragraph 9A of Schedule 2 to FSMA, inserted by the Dormant Bank and Building Society Accounts Act 2008 (c.31)).

The Dormant Bank and Building Society Accounts Act 2008 also amends Part 7 of FSMA to enable a reclaim fund to transfer its liabilities (as well as its assets) to another Financial Services Authority authorised reclaim fund with the approval of the court. Article 6 of this Order amends the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (S.I. 2001/ 3625) to apply regulation 5 and 6 (which concern the giving of notices prior to the determination of an application) to a reclaim fund's application to transfer its liabilities and assets.

A regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Correspondence and Enquiry Unit at HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.