

EXPLANATORY MEMORANDUM

THE FINANCIAL SERVICES AND MARKETS ACT 2000 (EXEMPTION) (AMENDMENT) (NO. 2) ORDER 2003

Introduction

This instrument is made in exercise of the powers conferred on the Treasury by sections 38 and 428(3) of the Financial Services and Markets Act 2000 (“FSMA”). As one effect of this Order is to remove an exemption provided by a previous order under section 38 of FSMA, a draft of the Order must be laid before Parliament and approved by a resolution of each House.

Background

This Order extends certain exemptions in the Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201) (“the Exemption Order”) so that they apply to the newly regulated activities in relation to insurance mediation and mortgages¹. The Order also provides that Partnerships UK is exempt in relation to the carrying on of regulated activities relating to investment services. Finally, the Order removes the exemption of the Treasury Taskforce.

Policy objectives

This Order is part of a wider package of legislation that provides a framework for the regulation of general insurance mediation and mortgages.

Timetable for implementation

Article 1 provides that this Order will come into force on the same day as the new activities become regulated. Therefore the Order will come into force in relation to mortgages on 31 October 2004 and in relation to other contracts of insurance on 14 January 2005.

Exemptions

The Order includes the regulated activity of assisting in the administration and performance of a contract of insurance as an activity for which those persons listed in Part III of the Schedule to the Exemption Order are exempt.

¹ See The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.1) Order 2003 (in relation to mortgage mediation) and The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2003 (in relation to insurance mediation)

The Order also extends the exemptions of local authorities and certain bodies involved with the provision of social housing to include the carrying on of regulated activities relating to the arranging of, and advice in relation to, regulated mortgage contracts and activities relating to certain insurance contracts.

The Order provides that Partnerships UK is exempt in relation to the carrying on of regulated activities relating to investment services. The Order revokes the exemption of the Treasury Taskforce.

Regulatory Impact

The Chief Secretary to the Treasury is satisfied that the benefits of this Order justify the costs. A Regulatory Impact Assessment accompanies this Order.

ECHR compatibility

The Chief Secretary to the Treasury considers that, in his view, the provisions of this Order are compatible with the Convention Rights.

Applicability to Wales and Scotland

This Order applies to the whole of the UK.

Declaration

This Memorandum has been approved by the Chief Secretary to the Treasury.

Her Majesty's Treasury
4 June 2003