

2013 No. 165

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000 (Prescribed
Financial Institutions) Order 2013**

<i>Made</i>	- - - -	<i>29th January 2013</i>
<i>Laid before Parliament</i>		<i>30th January 2013</i>
<i>Coming into force</i>	- -	<i>1st April 2013</i>

The Treasury, in exercise of the powers conferred by sections 192B(4) and 428(3) of, and paragraph 17 of Schedule 17A to, the Financial Services and Markets Act 2000 (a), make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Prescribed Financial Institutions) Order 2013 and comes into force on 1st April 2013.

(2) In this Order—

“the Act” means the Financial Services and Markets Act 2000;

“credit institution” has the meaning given by Article 4 of the banking consolidation directive;

“financial holding company” means a financial institution which is not a mixed financial holding company, the subsidiary undertakings of which are either exclusively or mainly credit institutions, investment firms or financial institutions and which has at least one subsidiary undertaking which is a credit institution or investment firm;

“financial institution”, in the definition of “financial holding company”, means an undertaking other than a credit institution, the principal activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12 and 15 of Annex I to the banking consolidation directive;

“insurance holding company” means an undertaking which is not a mixed financial holding company the main business of which is to acquire and hold participating interests in subsidiary undertakings which are exclusively or mainly insurance undertakings, reinsurance undertakings, third-country insurance undertakings or third-country reinsurance undertakings, and which has at least one subsidiary undertaking which is an insurance undertaking or a reinsurance undertaking;

“insurance undertaking” means an undertaking which has received authorisation as an insurance undertaking in accordance with the first non-life insurance directive or the life assurance consolidation directive;

(a) 2000 c.8. Section 192B was inserted by section 27 of the Financial Services Act 2012 (c.21). Schedule 17A was inserted by Schedule 7 to that Act.

“mixed financial holding company” means an undertaking which is not a credit institution, an insurance undertaking or an investment firm, which has at least one subsidiary undertaking which is a credit institution, an insurance undertaking or an investment firm and which, together with its subsidiary undertakings, constitutes a financial conglomerate (within the meaning given by Article 2.14 of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate^(a)) (disregarding any decision taken under Article 3(3) of that Directive);

“reinsurance undertaking” means an undertaking which has received authorisation in accordance with the reinsurance directive;

“third-country insurance undertaking” means an undertaking which would require authorisation in accordance with the first non-life insurance directive or the life assurance consolidation directive if it had its head office in the EEA;

“third-country reinsurance undertaking” means an undertaking which would require authorisation in accordance with the reinsurance directive if it had its head office in the EEA.

Prescribed financial institutions

2.—(1) All financial institutions are prescribed for the purposes of section 192B(4) of the Act, in so far as it applies—

- (a) to parent undertakings of a recognised UK investment exchange (within the meaning of section 192B(5) of the Act), and
- (b) for the purposes of Part 12A of the Act as that Part is applied in relation to the Bank of England by paragraph 17 of Schedule 17A to the Act (further provision in relation to exercise of Part 18 functions by Bank of England).

(2) Financial institutions of the following kinds are prescribed for the purposes of section 192B(4) of the Act in so far as it applies to parent undertakings of a qualifying authorised person—

- (a) an insurance holding company;
- (b) a financial holding company;
- (c) a mixed financial holding company.

29th January 2013

Mark Lancaster
Desmond Swayne
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) OJ L 035, 11.2.2003, p.1.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes kinds of financial institution for the purposes of Part 12A of the Financial Services and Markets Act 2000 (c.8) (powers exercisable in relation to parent undertakings) (“Part 12A”). The powers conferred by that Part may only be exercised in relation to parent undertakings of certain authorised persons, recognised investment exchanges or recognised clearing houses if the parent undertaking is a financial institution of a prescribed kind.

In relation to the parent undertakings of authorised persons, the Order prescribes those financial institutions which are within the scope of consolidated (or supplementary) supervision by virtue of EU law and which are primarily financial in nature: insurance holding companies; financial holding companies; and mixed financial holding companies. These terms, and related definitions, are defined in article 1. The definition of “financial institution” in article 1 applies only for the purposes of the definition of “financial holding company”; it does not apply for the purposes of Part 12A.

This Order also prescribes all financial institutions for the purposes of Part 12A in so far as that Part applies to the parent undertakings of recognised investment exchanges or to the Bank of England in the exercise of its functions in relation to recognised clearing houses.

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 www.hm-treasury.gov.uk and is published alongside the Order on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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