Draft Order laid before Parliament under section 429(1)(a) of the Financial Services and Markets Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Threshold Conditions) Order 2013

Made - - - -	*2013*
Coming into force - -	*1st April 2013*

In accordance with section 429(1) of the Financial Services and Markets Act 2000(**a**), a draft of this Order has been laid before Parliament and approved by a resolution of each House;

The Treasury, in exercise of the powers conferred by sections 55C and 428(3) of the Financial Services and Markets Act 2000(**b**) and section 118 of the Financial Services Act 2012(**c**), make the following Order:

Citation and commencement

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

Amendments of Schedule 6 to the Act

2.—(1) In the title to Schedule 6 to the Financial Services and Markets Act 2000, in the marginal reference, for "Section 41" substitute "Section 55B".

(2) For Parts 1 and 2 of that Schedule substitute the following—

"PART 1

Introduction

1A.—(1) In this Schedule—

"assets" includes contingent assets;

(**a**) 2000 c.8. Section 429 was amended by section 49 of the Financial Services Act 2012 (c.21).

(**b**) Sections 55A to 55Z4 inserted by section 11 of the Financial Services Act 2012. By virtue of paragraph 5 of Schedule 20 to that Act, the Treasury are obliged to make an order under section 55C of the Financial Services and Markets Act 2000 which amends or replaces Parts 1 and 2 of Schedule 6 to that Act and which makes provision as to which of the conditions set out in those Parts of that Schedule are to relate to the discharge by each of the Prudential Regulation Authority and the Financial Conduct Authority of its functions.

(**c**) 2012 c.21.

"consolidated supervision" has the same meaning as in section 3M(**a**);

"consumers" has the meaning given in section 425A(**b**);

"financial crime" is to be read with section 1H(3)(**c**);

"functions", in relation to the FCA or the PRA, means functions conferred on that regulator by or under this Act;

"liabilities" includes contingent liabilities;

"relevant directives" has the same meaning as in section 3M;

"Society" means the society incorporated by Lloyd's Act 1871(**d**) by the name of Lloyd's;

"subsidiary undertaking" includes all the instances mentioned in Article 1(1) and (2) of the Seventh Company Law Directive in which an entity may be a subsidiary of an undertaking.

(2) For the purposes of this Schedule, the "non-financial resources" of a person include any systems, controls, plans or policies that the person maintains, any information that the person holds and the human resources that the person has available.

(3) In this Schedule, References to "integrity" of the UK financial system are to be read in accordance section 1D(2)(**e**).

(4) References to the failure of a person are to be read in accordance with section 2J(3) and (4)(**f**).

PART 1B

Part 4A permission: authorised persons who are not PRA-authorised persons

Introduction

2A. If the person concerned ("A") carries on, or is seeking to carry on, regulated activities which do not consist of or include a PRA-regulated activity, the threshold conditions that are relevant to the discharge by the FCA of its functions in relation to A are the conditions set out in paragraphs 2B to 2F.

Location of offices

2B.—(1) Unless sub-paragraph (3) or (4)(a) applies, if A is a body corporate incorporated in the United Kingdom—

(a) A's head office, and

(b) if A has a registered office, that office,

must be in the United Kingdom.

(2) If A is not a body corporate but A's head office is in the United Kingdom, A must carry on business in the United Kingdom.

(3) If—

(a) A is seeking to carry on, or is carrying on, a regulated activity which is any of the investment services and activities,

(b) A is a body corporate with no registered office, and

(**a**) Inserted by section 6 of the Financial Services Act 2012.
(**b**) Inserted by section 24 of and Schedule 2 to the Financial Services Act 2010 (c.28).
(**c**) Inserted by section 6 of the Financial Services Act 2012.
(**d**) 34 Vict c xxi.
(**e**) Inserted by section 6 of the Financial Services Act 2012.
(**f**) Inserted by section 6 of the Financial Services Act 2012.

(c) A's head office is in the United Kingdom,

A must carry on business in the United Kingdom.

(4) If A is seeking to carry on, or is carrying on, an insurance mediation activity—

(a) where A is a body corporate incorporated in the United Kingdom, A's registered office, or if A has no registered office, A's head office, must be in the United Kingdom;

(b) where A is an individual, A is to be treated for the purposes of sub-paragraph (2) as having a head office in the United Kingdom if A is resident in the United Kingdom.

(5) "Insurance mediation activity" means any of the following activities—

(a) dealing in rights under a contract of insurance as agent;

(b) arranging deals in rights under a contract of insurance;

(c) assisting in the administration and performance of a contract of insurance;

(d) advising on buying or selling rights under a contract of insurance;

(e) agreeing to do any of the activities specified in paragraphs (a) to (d).

(6) Sub-paragraph (5) must be read with—

(a) section 22,

(b) any relevant order under that section, and

(c) Schedule 2.

Effective supervision

2C.—(1) A must be capable of being effectively supervised by the FCA having regard to all the circumstances including—

(a) the nature (including the complexity) of the regulated activities that A carries on or seeks to carry on;

(b) the complexity of any products that A provides or will provide in carrying on those activities;

(c) the way in which A's business is organised;

(d) if A is a member of a group, whether membership of the group is likely to prevent the FCA's effective supervision of A;

(e) whether A is subject to consolidated supervision required under any of the relevant directives;

(f) if A has close links with another person ("CL")—

(i) the nature of the relationship between A and CL,

(ii) whether those links are or that relationship is likely to prevent the FCA's effective supervision of A, and

(iii) if CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the FCA's effective supervision of A.

(2) A has close links with CL if—

(a) CL is a parent undertaking of A,

(b) CL is a subsidiary undertaking of A,

(c) CL is a parent undertaking of a subsidiary undertaking of A,

(d) CL is a subsidiary undertaking of a parent undertaking of A,

(e) CL owns or controls 20% or more of the voting rights or capital of A, or

(f) A owns or controls 20% or more of the voting rights or capital of CL.

Appropriate resources

2D.—(1) The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.

(2) The matters which are relevant in determining whether A has appropriate resources include—

(a) the nature and scale of the business carried on, or to be carried on, by A;

(b) the risks to the continuity of the services provided by, or to be provided by, A;

(c) A's membership of a group and any effect which that membership may have.

(3) The matters which are relevant in determining whether A has appropriate financial resources include—

(a) the provision A makes and, if A is a member of a group, which other members of the group make, in respect of liabilities;

(b) the means by which A manages and, if A is a member of a group, by which other members of the group manage, the incidence of risk in connection with A's business.

(4) The matters which are relevant in determining whether A has appropriate non-financial resources include—

(a) the skills and experience of those who manage A's affairs;

(b) whether A's non-financial resources are sufficient to enable A to comply with—

(i) requirements imposed or likely to be imposed on A by the FCA in the exercise of its functions, or

(ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.

Suitability

2E. A must be a fit and proper person having regard to all the circumstances, including—

(a) A's connection with any person;

(b) the nature (including the complexity) of the regulated activities that A carries on or seeks to carry on;

(c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;

(d) whether A has complied and is complying with requirements imposed by the FCA in the exercise of its functions, or requests made by the FCA, relating to the provision of information to the FCA and, where A has so complied or is so complying, the manner of that compliance;

(e) whether those who manage A's affairs have adequate skills and experience and have acted and may be expected to act with probity;

(f) whether A's business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner;

(g) the need to minimise the extent to which it is possible for the business carried on by A, or to be carried on by A, to be used for a purpose connected with financial crime.

Business model

2F.—(1) A's business model (that is, A's strategy for doing business) must be suitable for a person carrying on the regulated activities that A carries on or seeks to carry on.

(2) The matters which are relevant in determining whether A satisfies the condition in sub-paragraph (1) include—

(a) whether the business model is compatible with A's affairs being conducted, and continuing to be conducted, in a sound and prudent manner;

(b) the interests of consumers;

(c) the integrity of the UK financial system.

PART 1C

Part 4A permission: conditions for which FCA is responsible in relation to PRA-authorised persons

Introduction

3A. If the person concerned ("B") carries on, or is seeking to carry on, regulated activities which consist of or include a PRA-regulated activity, the threshold conditions which are relevant to the discharge by the FCA of its functions in relation to B are the conditions set out in paragraphs 3B to 3E.

Effective supervision

3B.—(1) B must be capable of being effectively supervised by the FCA having regard to all the circumstances including—

(a) the nature (including the complexity) of the regulated activities that B carries on or seeks to carry on;

(b) the complexity of any products that B provides or will provide in carrying on those activities;

(c) the way in which B's business is organised;

(d) if B is a member of a group, whether membership of the group is likely to prevent the FCA's effective supervision of B;

(e) whether B is subject to consolidated supervision required under any of the relevant directives;

(f) if B has close links with another person ("CL")—

(i) the nature of the relationship between B and CL,

(ii) whether those links are or that relationship is likely to prevent the FCA's effective supervision of B, and

(iii) if CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the FCA's effective supervision of B.

(2) B has close links with CL if—

(a) CL is a parent undertaking of B,

(b) CL is a subsidiary undertaking of B,

(c) CL is a parent undertaking of a subsidiary undertaking of B,

(d) CL is a subsidiary undertaking of a parent undertaking of B,

(e) CL owns or controls 20% or more of the voting rights or capital of B, or

(f) B owns or controls 20% or more of the voting rights or capital of CL.

Appropriate non-financial resources

3C.—(1) The non-financial resources of B must be appropriate in relation to the regulated activities that B carries on or seeks to carry on, having regard to the operational objectives of the FCA.

(2) The matters which are relevant in determining whether the condition in sub-paragraph (1) is met include—

(a) the nature and scale of the business carried on, or to be carried on, by B;

(b) the risks to the continuity of the services provided by, or to be provided by, B;

(c) B's membership of a group and any effect which that membership may have;

(d) the skills and experience of those who manage B's affairs;

(e) whether B's non-financial resources are sufficient to enable B to comply with—

(i) requirements imposed or likely to be imposed on B by the FCA in the exercise of its functions, or

(ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.

Suitability

3D.—(1) B must be a fit and proper person, having regard to the operational objectives of the FCA.

(2) The matters which are relevant in determining whether B satisfies the condition in sub-paragraph (1) include—

(a) B's connection with any person;

(b) the nature (including the complexity) of the regulated activities that B carries on or seeks to carry on;

(c) the need to ensure that B's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;

(d) whether B has complied and is complying with requirements imposed by the FCA in the exercise its functions, or requests made by the FCA, relating to the provision of information to the FCA and, where B has so complied or is so complying, the manner of that compliance;

(e) whether those who manage B's affairs have adequate skills and experience and have acted and may be expected to act with probity;

(f) the need to minimise the extent to which it is possible for the business carried on by B, or to be carried on by B, to be used for a purpose connected with financial crime.

Business model

3E. B's business model (that is, B's strategy for doing business) must be suitable for a person carrying on the regulated activities that B carries on or seeks to carry on, having regard to the FCA's operational objectives.

PART 1D

Part 4A permission: conditions for which the PRA is responsible in relation to insurers etc.

Introduction

4A.—(1) If the person concerned ("C") carries on, or is seeking to carry on, regulated activities which consist of or include a PRA-regulated activity relating to the effecting or carrying out of contracts of insurance, the threshold conditions which are relevant to the discharge by the PRA of its functions in relation to C are the conditions set out in paragraphs 4B to 4F.

(2) If the person concerned ("C") carries on, or is seeking to carry on, regulated activities which consist of or include a PRA-regulated activity relating to managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's, the conditions which are relevant to the discharge by the PRA of its functions in relation to C are the conditions set out in paragraphs 4C to 4F except for sub-paragraphs (5)(d) and (5)(e) of paragraph 4D which are not relevant for that purpose.

(3) If the person concerned ("C") carries on, or is seeking to carry on, regulated activities which consist of or include a PRA-regulated activity relating to the arranging, by the Society, of deals in contracts of insurance written at Lloyd's, the conditions which are relevant to the discharge by the PRA of its functions in relation to C are the conditions set out in paragraphs 4C to 4F, subject to sub-paragraph (4).

(4) Paragraph 4D has effect in relation to persons of the kind specified by sub-paragraph (3) as if—

(a) for paragraph (d) and (e) of sub-paragraph (5) there were substituted—

"(d) the effect that the carrying on of business by C might be expected to have on the stability of the UK financial system or on those who are or may become policyholders of members of C;

(e) the effect that the failure of C might be expected to have on the stability of the UK financial system or on those who are or may become policyholders of members of C;", and

(b) sub-paragraph (6) were omitted.

Legal status

4B. C must be—

(a) a body corporate (other than a limited liability partnership),

(b) a registered friendly society, or

(c) a member of Lloyd's.

Location of offices

4C.—(1) If C is a body corporate incorporated in the United Kingdom—

(a) C's head office, and

(b) if C has a registered office, that office,

must be in the United Kingdom.

(2) If C is not a body corporate but C's head office is in the United Kingdom, C must carry on business in the United Kingdom.

Business to be conducted in a prudent manner

4D.—(1) The business of C must be conducted in a prudent manner.

(2) To satisfy the condition in sub-paragraph (1), C must in particular have appropriate financial and non-financial resources.

(3) To have appropriate financial resources C must satisfy the following conditions—

(a) C's assets must be appropriate given C's liabilities, and

(b) the liquidity of C's resources must be appropriate given C's liabilities and when they fall due or may fall due.

(4) To have appropriate non-financial resources C must satisfy the following conditions—

(a) C must be willing and able to value C's assets and liabilities appropriately,

(b) C must have resources to identify, monitor, measure and take action to remove or reduce risks to the safety and soundness of C,

(c) C must have resources to identify, monitor, measure and take action to remove or reduce risks to the accuracy of C's valuation of C's assets and liabilities,

(d) the effectiveness with which C's business is managed must meet a reasonable standard of effectiveness, and

(e) C's non-financial resources must be sufficient to enable C to comply with—

(i) requirements imposed or likely to be imposed on C by the PRA in the exercise of its functions, and

(ii) any other requirement in relation to whose contravention the PRA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.

(5) The matters which are relevant in determining whether C satisfies the condition in sub-paragraph (1) or (2) include—

(a) the nature (including the complexity) of the regulated activities that C carries on or seeks to carry on;

(b) the nature and scale of the business carried on or to be carried on by C;

(c) the risks to the continuity of the services provided by, or to be provided by, C;

(d) the effect that the carrying on of the business of effecting or carrying out contracts of insurance by C might be expected to have on the stability of the UK financial system or on those who are or may become C's policyholders;

(e) the effect that C's failure or C being closed to new business might be expected to have on the stability of the UK financial system or on those who are or may become C's policyholders;

(f) C's membership of a group and any effect which that membership may have.

(6) C is "closed to new business" for the purposes of this paragraph if C has ceased to effect contracts of insurance or has substantially reduced the number of such contracts which C effects.

Suitability

4E.—(1) C must be a fit and proper person, having regard to the PRA's objectives.

(2) The matters which are relevant in determining whether C satisfies the condition in sub-paragraph (1) include—

(a) whether C has complied and is complying with requirements imposed by the PRA in the exercise of its functions, or requests made by the PRA relating to the provision of information to the PRA and, if C has so complied or is so complying, the manner of that compliance;

(b) whether those who manage C's affairs have adequate skills and experience and have acted and may be expected to act with probity.

Effective supervision

4F.—(1) C must be capable of being effectively supervised by the PRA.

(2) The matters which are relevant in determining whether C satisfies the condition in sub-paragraph (1) include—

(a) the nature (including the complexity) of the regulated activities that C carries on or seeks to carry on;

(b) the complexity of any products that C provides or will provide in carrying on those activities;

(c) the way in which C's business is organised;

(d) if C is a member of a group, whether membership of the group is likely to prevent the PRA's effective supervision of C;

(e) whether C is subject to consolidated supervision required under any of the relevant directives;

(f) if C has close links with another person ("CL")—

(i) the nature of the relationship between C and CL,

(ii) whether those links are or that relationship is likely to prevent the PRA's effective supervision of C, and

(iii) if CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the PRA's effective supervision of C.

(3) C has close links with CL if—

(a) CL is a parent undertaking of C,

(b) CL is a subsidiary undertaking of C,

(c) CL is a parent undertaking of a subsidiary undertaking of C,

(d) CL is a subsidiary undertaking of a parent undertaking of C,

(e) CL owns or controls 20% or more of the voting rights or capital of C, or

(f) C owns or controls 20% or more of the voting rights or capital of CL.

PART 1E

Part 4A permission: conditions for which the PRA is responsible in relation to other PRA-authorised persons

Introduction

5A. If the person concerned ("D") carries on, or is seeking to carry on, PRA-regulated activities which do not consist of or include a regulated activity relating to—

(a) the effecting or carrying out of contracts of insurance,

(b) managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyds, or

(c) arranging, by the Society, of deals in contracts of insurance written at Lloyd's,

the threshold conditions which are relevant to the discharge by the PRA of its functions in relation to D are the conditions set out in paragraphs 5B to 5F.

Legal status

5B. If D carries on or is seeking to carry on a regulated activity which consists of or includes accepting deposits or issuing electronic money, D must be—

(a) a body corporate, or

(b) a partnership.

Location of offices

5C.—(1) If D is a body corporate incorporated in the United Kingdom—

(a) D's head office, and

(b) if D has a registered office, that office,

must be in the United Kingdom.

(2) If D is not a body corporate but D's head office is in the United Kingdom, D must carry on business in the United Kingdom.

Business to be conducted in a prudent manner

5D.—(1) The business of D must be conducted in a prudent manner.

(2) To satisfy the condition in sub-paragraph (1), D must in particular have appropriate financial and non-financial resources.

(3) To have appropriate financial resources D must satisfy the following conditions—

(a) D's assets must be appropriate given D's liabilities, and

(b) the liquidity of D's resources must be appropriate given D's liabilities and when they fall due or may fall due.

(4) To have appropriate non-financial resources D must satisfy the following conditions—

(a) D must be willing and able to value D's assets and liabilities appropriately,

(b) D must have resources to identify, monitor, measure and take action to remove or reduce risks to the safety and soundness of D,

(c) D must have resources to identify, monitor, measure and take action to remove or reduce risks to the accuracy of D's valuation of D's assets and liabilities,

(d) the effectiveness with which D's business is managed must meet a reasonable standard of effectiveness, and

(e) D's non-financial resources must be sufficient to enable D to comply with—

(i) requirements imposed or likely to be imposed on D by the PRA in the exercise of its functions, and

(ii) any other requirement in relation to whose contravention the PRA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.

(5) The matters which are relevant in determining whether D satisfies the condition in sub-paragraph (1) or (2) include—

(a) the nature (including the complexity) of the regulated activities that D carries on or seeks to carry on;

(b) the nature and scale of the business carried on or to be carried on by D;

(c) the risks to the continuity of the services provided or to be provided by D;

(d) the effect that the carrying on of the business carried on or to be carried on by D might be expected to have on the stability of the UK financial system;

(e) the effect that D's failure might be expected to have on the stability of the UK financial system;

(f) D's membership of a group and any effect which that membership may have.

Suitability

5E.—(1) D must be a fit and proper person, having regard to the PRA's objectives.

(2) The matters which are relevant in determining whether D satisfies the condition in sub-paragraph (1) include—

(a) whether D has complied and is complying with requirements imposed by the PRA in the exercise of its functions, or requests made by the PRA relating to the provision of information to the PRA and, if D has so complied or is so complying, the manner of that compliance;

(b) whether those who manage D's affairs have adequate skills and experience and have acted and may be expected to act with probity.

Effective supervision

5F.—(1) D must be capable of being effectively supervised by the PRA.

(2) The matters which are relevant in determining whether D satisfies the condition in sub-paragraph (1) include—

(a) the nature (including the complexity) of the regulated activities that D carries on or seeks to carry on;

(b) the complexity of any products that D provides or will provide in carrying on those activities;

(c) the way in which D's business is organised;

(d) if D is a member of a group, whether membership of the group is likely to prevent the PRA's effective supervision of D;

(e) whether D is subject to consolidated supervision required under any of the relevant directives;

(f) if D has close links with another person ("CL")—

(i) the nature of the relationship between D and CL,

(ii) whether those links are or that relationship is likely to prevent the PRA's effective supervision of D, and

(iii) if CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the PRA's effective supervision of D.

(3) D has close links with CL if—

(a) CL is a parent undertaking of D,

(b) CL is a subsidiary undertaking of D,

(c) CL is a parent undertaking of a subsidiary undertaking of D,

(d) CL is a subsidiary undertaking of a parent undertaking of D,

(e) CL owns or controls 20% or more of the voting rights or capital of D, or

(f) D owns or controls 20% or more of the voting rights or capital of CL.

PART 1F

Authorisation under Schedule 3

6A.—(1) In relation to an EEA firm qualifying for authorisation under Schedule 3 which carries on PRA-regulated activities which consist of or include a regulated activity relating to the effecting or carrying out of contracts of insurance—

(a) the conditions in paragraphs 3B to 3E apply so far as relevant to the discharge by the FCA of its relevant functions, and

(b) the conditions in paragraphs 4B, 4D, 4E and 4F apply so far as relevant to the discharge by the PRA of its relevant functions.

(2) In relation to an EEA firm qualifying for authorisation under Schedule 3 which carries on PRA-regulated activities which do not consist of or include a regulated activity relating to the effecting or carrying out of contracts of insurance—

(a) the conditions in paragraphs 3B to 3E apply so far as relevant to the discharge by the FCA of its relevant functions, and

(b) the conditions in paragraphs 5B, 5D, 5E and 5F apply so far as relevant to the discharge by the PRA of its relevant functions.

(3) In relation to an EEA firm qualifying for authorisation under Schedule 3 which carries on regulated activities which do not consist of or include a PRA-regulated activity, the conditions in paragraphs 2C, 2D, 2E and 2F apply so far as relevant to the discharge by the FCA of its relevant functions.

(4) In this paragraph, "relevant functions", in relation to the FCA or the PRA, means functions of that regulator in relation to—

(a) an application for permission under Part 4A, or

(b) the exercise by that regulator of its own-initiative requirement power or own-initiative variation power in relation to a Part 4A permission.

PART 1G

Authorisation under Schedule 4

7A.—(1) In relation to a person who qualifies for authorisation under Schedule 4 who carries on PRA-regulated activities which consist of or include a regulated activity relating to the effecting or carrying out of contracts of insurance—

(a) the conditions in paragraphs 3B to 3E apply so far as relevant to the discharge by the FCA of its relevant functions, and

(b) the conditions in paragraphs 4B, 4D, 4E and 4F apply so far as relevant to the discharge by the PRA of its relevant functions.

(2) In relation to a person who qualifies for authorisation under Schedule 4 who carries on PRA-regulated activities which do not consist of or include a regulated activity relating to the effecting or carrying out of contracts of insurance—

(a) the conditions in paragraphs 3B to 3E apply so far as relevant to the discharge by the FCA of its relevant functions, and

(b) the conditions in paragraphs 5B, 5D, 5E and 5F apply so far as relevant to the discharge by the PRA of its relevant functions.

(3) In relation to a person who qualifies for authorisation under Schedule 4 who carries on regulated activities which do not consist of or include a PRA-regulated activity, the conditions in paragraphs 2C, 2D, 2E and 2F apply so far as relevant to the discharge by the FCA of its relevant functions.

(4) In this paragraph, "relevant functions", in relation to the FCA or the PRA, means functions of that regulator in relation to—

(a) an application for an additional permission, or

(b) the exercise by that regulator of its own-initiative requirement power or own-initiative variation power in relation to an additional permission.".

Name
Two of the Lords Commissioners of Her Majesty's Treasury

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the threshold conditions set out in Schedule 6 to the Financial Services and Markets Act 2000 (c.8) ("the 2000 Act"). In giving or varying permission under Part 4A of that Act or imposing or varying a requirement or giving consent under that Part, the Financial Conduct Authority ("FCA") or Prudential Regulation Authority ("PRA") must ensure that the person concerned will satisfy, and continue to satisfy the relevant threshold conditions for which that regulator is responsible. Part 4A of the 2000 Act was inserted by the Financial Services Act 2012 (c.21) and replaces Part 4 of the 2000 Act. The functions of the FCA and PRA are set out in the 2000 Act, as amended by the Financial Services Act 2012.

Part 1B of Schedule 6, as inserted by this Order, sets out the conditions for which the FCA is responsible where the person concerned carries on, or is seeking to carry on, regulated activities which do not consist of or include a PRA-regulated activity.

Part 1C of Schedule 6, as inserted by this Order, sets out the conditions for which the FCA is responsible where the person concerned carries on, or is seeking to carry on, a PRA-regulated activity.

Part 1D of Schedule 6, as inserted by this Order, sets out the conditions for which the PRA is responsible where the person concerned carries on, or is seeking to carry on, a PRA-regulated activity relating to the effecting or carrying out of contracts of insurance or in connection with Lloyd's.

Part 1E of Schedule 6, as inserted by this Order, sets out the conditions for which the PRA is responsible where the person concerned carries on any other PRA-regulated activity.

Part 1F of Schedule 6, as inserted by this Order, sets out the conditions for which the FCA and PRA are responsible where the person concerned qualifies for authorisation under Schedule 3 to the Act (EEA passporting rights).

Part 1G of Schedule 6, as inserted by this Order, sets out the conditions for which the FCA and PRA are responsible where the person concerned qualifies for authorisation under Schedule 4 to the Act (Treaty rights).

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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