Draft Order laid before Parliament under section 235(5) of the Banking Act 2009, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2011 No.

FINANCIAL SERVICES AND MARKETS

The Investment Bank (Amendment of Definition) Order 2011

Made - - - - ***

Coming into force in accordance with article 1

The Treasury make the following Order in exercise of the powers conferred by section 232(6) of the Banking Act 2009(**a**).

A draft of this Order has been laid before and approved by resolution of each House of Parliament in accordance with section 235(5) of that Act.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Investment Bank (Amendment of Definition) Order 2011 and comes into force on the day after the day on which it is made.

(2) In this Order, "the Act" means the Banking Act 2009.

Meaning of "client assets"

2.—(1) For the purposes of sections 232 to 236 of the Act, "client assets"—

(a) includes money, but

(b) does not include anything which an institution holds for the purposes of carrying on an insurance mediation activity unless—

(i) the activity arises in the course of carrying on an investment activity, or

(ii) the institution has elected, in relation to the thing, to comply with rules that would apply in relation to it if the activity were not an insurance mediation activity.

(2) In this article, the definitions in section 232(5B) of the Act, (inserted by article 3(2)), apply.

Amendments consequential on article 2

3.—(1) Section 232 of the Act (definition of "investment bank") is amended as follows.

(2) After subsection (5) insert—

"(5A) In subsection (4), "assets"—

(a) includes money, but

(**a**) 2009 c.1.

(b) does not include anything which an institution holds for the purposes of carrying on an insurance mediation activity unless—

(i) the activity arises in the course of carrying on an investment activity, or

(ii) the institution has elected, in relation to the thing, to comply with rules that would apply in relation to it if the activity were not an insurance mediation activity.

(5B) In this section—

"rules" means general rules (within the meaning of the Financial Services and Markets Act 2000(**a**)) made by virtue of section 139(1) of that Act;

"insurance mediation activity" has the meaning given by paragraph 2(5) of Schedule 6 to that Act (read as mentioned in paragraph 2(6)(**b**) of that Schedule); and

"investment activity" means—

(a) anything that falls within the definition of "investment services and activities" in section 417(1)(**c**) of that Act; or

(b) anything that is "designated investment business" within the meaning of the Financial Services Authority Handbook.".

Name
Name

[Date] Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) 2000 c. 8.
(**b**) Paragraphs 5 and 6 of Schedule 6 were inserted by S.I. 2003/1476.
(**c**) The definition of "investment services and activities" was inserted into section 417 by S.I. 2007/126.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 232 of the Banking Act 2009 (c.1) to provide that the term "assets" (in the context of the meaning of "client assets") includes money, but does not include anything held by an institution for the purposes of carrying on insurance mediation activity, unless that activity arises in the course of carrying on an investment activity, or if the institution has elected to hold those assets in accordance with rules made by virtue of section 139 of the Financial Services and Markets Act 2000 (c. 8) which apply to the protection of assets in the course of an investment activity that is a non-insurance mediation activity.

An impact assessment on the effect of this Order and on the introduction of the new special administration regime for investment banks (to which the definition of "client assets" in section 232 will apply) has been prepared and may be obtained from the Financial Regulatory Strategy team, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ. It is also available on HM Treasury's website (www.hm-treasury.gov.uk) and on www.legislation.gov.uk.

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