This Statutory Instrument has been made in consequence of a defect in S.I. 2003/1092 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2003 No. 2174

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) (No. 2) Regulations 2003

Made - - - - -	*21st August 2003*
Laid before Parliament	*22nd August 2003*
Coming into force - -	*23rd August 2003*

The Treasury, in exercise of the powers conferred on them by sections 349(1)(b) and (2), and 417(1)(**a**) of the Financial Services and Markets Act 2000(**b**), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) (No. 2) Regulations 2003, and come into force on 23rd August 2003.

Interpretation

2. In these Regulations, "the principal regulations" means the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(**c**).

Revocation

3. The Regulations entitled "The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2003" made on 10th April 2003 and registered with the number 2003/1092 are revoked.

Amendment of the principal regulations

4. The principal regulations are amended by—

(a) inserting, after regulation 4(b)—

"(ba) for the purposes of any proceedings under Part 2, 3 or 4 of the Proceeds of Crime Act 2002(**d**) which have been, or may be initiated;";

(**a**) See the definition of "prescribed".
(**b**) 2000 c. 8.
(**c**) S.I. 2001/2188, as amended by the Enterprise Act 2002 (c. 40), section 2, S.I. 2001/3437, S.I. 2001/3624, S.I. 2001/3648, S.I. 2002/1775, S.I. 2002/693, S.I. 2003/1092 and S.I. 2003/1473.
(**d**) 2002 c. 29.

(b) adding the following entry at the end of the table in Part 1 of Schedule 1—

"

A person upon whom functions are conferred by or under Part 2, 3 or 4 of the Proceeds of Crime Act 2002	Those functions

";

(c) inserting, after regulation 12B—

"**12C.** A primary recipient of information to which this Part applies, or a person obtaining such information directly or indirectly from a primary recipient is permitted to disclose such information to any person for the purposes of any proceedings under the Proceeds of Crime Act 2002 which have been or may be initiated.";

(d) adding the following entry at the end of the table in Schedule 2—

"

A person upon whom functions are conferred by or under the Proceeds of Crime Act 2002	Those functions

";

Joan Ryan
Jim Murphy
Two of the Lords Commissioners of
Her Majesty's Treasury

21st August 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2003 (S.I. 2003/1092) ("the revoked regulations"), which amended the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188) ("the principal regulations"). The amendments to the principal regulations made by these Regulations replace, and are in substance identical to, those made by the revoked regulations. The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2003 (S.I. 2001/693) (which also amend the principal regulations) are not affected by these Regulations.

The purpose of these Regulations is to correct two errors in the revoked regulations. First, the title to the revoked regulations was identical to that of S.I. 2003/693, which amended the principal regulations earlier in the year. The term "(No. 2)" was inadvertently omitted from the title. Second, the provision numbered "12B", inserted by the revoked regulations into the principal regulations, should have been numbered "12C", as a regulation 12B had already been inserted into the principal regulations by the Electronic Commerce Directive (Financial Services and Markets) Regulations 2002 (S.I. 2002/1755).

The amendments to the principal regulations originally enacted by the revoked regulations and re-enacted with corrections by these Regulations allow for the disclosure of certain confidential information by primary recipients as defined in section 348(5) of the Financial Services and Markets Act 2000 ("FMSA")) and persons obtaining such information directly or indirectly from such recipients (hereafter collectively referred to as "primary recipients"), for the purposes of certain proceedings under the Proceeds of Crime Act 2002 ("POCA") and to persons performing certain functions under that Act.

The principal regulations define the circumstances in which primary recipients are permitted to disclose "confidential information" as defined in section 348(2) of FSMA. The amendments re-enacted by these Regulations permit those recipients to disclose such information for the purposes of confiscation proceedings under Part 2, 3 or 4 of POCA.

In addition, the amendments permit confidential information which is "single market directive information" within the meaning of the principal regulations to be disclosed by primary recipients to persons upon whom functions are conferred by or under Part 2, 3 or 4 of POCA, for the purpose of enabling or assisting those persons to perform those functions.

In relation to information which is not "single market directive information" within the meaning of the principal regulations, the amendments permit disclosure by primary recipients for the purposes of any proceedings under POCA which have, or may be initiated. The amendments also permit such information to be disclosed by primary recipients to persons upon whom any functions are conferred by or under POCA, for the purpose of enabling or assisting those persons to perform those functions.

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2003 No. 2174

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) (No. 2) Regulations 2003

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