

EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES AND MARKETS ACT 2000 (SERVICE OF
NOTICES) (AMENDMENT) REGULATIONS 2005

2005 No. 274

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations will enable certain acts of the Financial Services Authority (“FSA”) of which notice must be given to have effect upon actual receipt of the notice, rather than on the day on which the notice would otherwise be deemed to be received where this is later.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative background

These Regulations are made under section 414 of the Financial Services and Markets Act 2000 (“FSMA”) and amend the Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420). They apply where the FSA give notice of certain decisions which are to have immediate effect. The Regulations provide that in such cases, instead of the notice being treated as received on a certain day in accordance with regulation 6 of the 2001 Regulations, it will be treated as received when it is in fact received if earlier.

5. Extent

These Regulations apply to all of the United Kingdom.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 This instrument is one of a number of statutory instruments to be made following the Government’s Two Year Review of FSMA. The Two Year Review of FSMA has been carried out in light of the Government’s commitment to review the impact of competition in financial services markets in response to the March 2000 Cruickshank Report on Competition in UK Banking. The Government also took this opportunity to review certain components of the FSMA framework more generally, including the scope of FSMA in some places.

7.2 The policy objectives of FSMA are to create an efficient, effective and transparent framework for financial services regulation in the UK which promotes market confidence and protects consumers. This instrument fulfils these objectives by enabling the FSA, the UK's single regulator of financial services, to operate more effectively by enabling FSA notices to have effect immediately upon receipt in certain circumstances.

7.3 Public consultation on the proposed instrument took place in February 2004. The proposals were largely supported by the six consultation respondents who expressed views on them. One respondent suggested that the proposals should be applied to certain other areas where it may be essential that immediate action is taken. The draft Regulations were amended accordingly.

7.4 The changes made by the instrument are not of major political or legal importance.

8. Impact

A Regulatory Impact Assessment has been prepared and is available on the HM Treasury website. http://www.hm-treasury.gov.uk/media/510/35/fin_ser_mark_act_gov_resp_nov04.pdf

9. Contact

Marcello Casale at HM Treasury (telephone: 020 7270 5173 or email: marcello.casale@hm-treasury.x.gsi.gov.uk) can answer any queries regarding this instrument.

HM TREASURY

FEBRUARY 2005