

Interim Permitted Persons Instrument 2001

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) article 12(1) of the Financial Services and Markets Act 2000 (Interim Permissions) Order 2001, SI No. 2001/3374 (“the Interim Permissions Order”);
 - (2) sections 138 (General rule-making power), 145 (Financial promotion rules), 149 (Evidential provisions) and 156 (General supplementary powers) of the Financial Services and Markets Act 2000 (the “Act”); and
 - (3) section 157(1) (Guidance) of the Act.
- B. Article 12(2) of the Interim Permissions Order is relevant to the exercise of the powers set out in paragraph A(2) and A(3) above because it provides that section 155 (Consultation) does not apply to the rules and guidance set out in this Instrument.
- C. The provisions listed above relevant to making rules are specified for the purposes of section 153(2) of the Act (Rule-making instruments).

Commencement

- D. This instrument comes into force:
- (1) to the extent it relates to a specific part of the Handbook: when that part comes into force or immediately, whichever is the later; and
 - (2) otherwise: when section 19 of the Act (The general prohibition) comes into force.

Citation

- E. This instrument may be cited as the Interim Permitted Persons Instrument 2001.
- F. The Annex to this instrument may be cited as Directions, rules and guidance for Interim Permitted Persons, or IPPS.

By order of the Board

15 November 2001

Annex: Directions, rules and guidance for Interim Permitted Persons (IPPS)

1. Handbook and other requirements for Interim Permitted Persons

1.1 Application and purpose

1.1.1 R *IPPS* applies to *interim permitted persons*.

1.1.2 G The purpose of *IPPS* is:

- (1) to make *rules* relating to the disclosure of their regulated status by *interim permitted persons*;
- (2) to direct, in accordance with article 12(1) of the *Interim Permissions Order*, that certain provisions of the *Handbook* that would otherwise apply to *interim permitted persons*:
 - (a) are not to apply; or
 - (b) are to apply to them as modified in the way specified in *IPPS*; and
- (3) to give ancillary *guidance* to *interim permitted persons* as to the application of the *Handbook* to them.

1.2 Disclosure of interim permitted person status

1.2.1 G The purpose of *IPPS* 1.2 is to prevent *clients* being misled about the extent to which the *FSA* has approved a *firm's* affairs.

REFERRING TO APPROVAL BY FSA – ALL INTERIM PERMITTED PERSONS

1.2.2 D The *FSA* directs that *GEN* 1.2 (Referring to approval by the *FSA*) is not to apply to an *interim permitted person*.

1.2.3 G Instead, *IPPS* 1.2.4 R makes provision for *interim permitted persons* about referring to approval by the *FSA* or *authorisation* for the purposes of the *Act*.

1.2.4 R

- (1) Unless required to do so under the *regulatory system*, an *interim permitted person* must ensure that neither it nor anyone acting on its behalf claims, in a public statement or to a client, expressly or by implication, that its affairs, or any aspect of them, have the approval of the *FSA* or that it is an *authorised person* for the purposes of the *Act*.
- (2) Paragraph (1) does not apply to statements by or on behalf of an *interim authorised person* that explain, in a way that is fair, clear and not misleading, that:
 - (a) the *firm* is an *interim authorised person*;
 - (b) the *firm* has *interim permission* to carry on a specific activity;
 - (c) an *authorisation order* has been made in relation to an *AUT* or *ICVC*;
 - (d) a *recognised scheme* has that status;

- (e) the *firm's approved persons* are deemed to be approved by the *FSA* for the purposes of section 59 of the *Act* (Approval for particular arrangements) pending determination of the *firm's* application for *authorisation*;
 - (f) the *firm* has been given express written approval by the *FSA* in respect of a specific aspect of the *firm's* affairs.
- (3) Paragraph (1) does not apply to statements by or on behalf of an *interim permitted person* who is not an *interim authorised person* that explain, in a way that is fair, clear and not misleading, that:
- (a) the *firm* is an *authorised person*;
 - (b) as appropriate:
 - (i) the *firm* has *permission* to carry on a specific activity; or
 - (ii) the *firm* has *interim permission* to carry on a specific activity;
 - (c) an *authorisation order* has been made in relation to an *AUT* or *ICVC*;
 - (d) a *recognised scheme* has that status;
 - (e) as appropriate:
 - (i) one or more of the *firm's approved persons* has been approved by the *FSA* for the purposes of section 59 of the *Act* (Approval for particular arrangements); and/or
 - (ii) one or more of the *firm's approved persons* is deemed to be approved by the *FSA* for the purposes of section 59 of the *Act* (Approval for particular arrangements) pending determination of the *firm's* application for *permission*;
 - (f) the *firm* has been given express written approval by the *FSA* in respect of a specific aspect of the *firm's* affairs.
- (4) Paragraph (1) applies with respect to the carrying on of both *regulated activities* and *unregulated activities*.

REQUIRED DISCLOSURES – INTERIM AUTHORISED PERSONS ONLY

- 1.2.5 R An *interim authorised person* who, in order to comply or to provide evidence of compliance with a provision (including a provision mentioned in *IPPS* 1.2.7 G) of the *Handbook*, discloses that he is authorised or regulated by the *FSA*, must also disclose that he is authorised or regulated on an interim basis only.
- 1.2.6 E (1) An *interim authorised person* should, in the circumstances mentioned in *IPPS* 1.2.5 R, disclose that he is “interim authorised under the Financial Services and Markets Act 2000” or “interim regulated by the Financial Services Authority” or “regulated by the Financial Services Authority as an interim authorised person” or use words to that effect.
- (2) Compliance with (1) may be relied on as tending to establish compliance with *IPPS* 1.2.5 R.
- (3) Contravention of (1) may be relied on as tending to establish contravention of *IPPS* 1.2.5 R.

- 1.2.7 G Table Non-exhaustive list of provisions about status disclosure

This table belongs to *IPPS* 1.2.5 R

Provision	Topic
COB 3.9.7 R (1)	Direct offer financial promotions
COB 4.2.10 R)Terms of business
COB 4.2.15 E (2))
COB 5.5.3 R (3))Private customer designated investment business
COB 5.5.5 E 1(d))
COB 5.5.5 E 2(d))
COB 10.6.2 R)Content of Scheme documents
COB 10.6.8E (1))

1.3 Application of Handbook to interim permitted persons

INTERIM PERMITTED PERSONS OTHER THAN INTERIM AUTHORISED PERSONS

- 1.3.1 G The *Handbook* applies to *interim permitted persons* who are not *interim authorised persons*, as set out in *IPPS*. Any *regulated activity* covered by their *interim permission* is *regulated activity* for the purposes of the *Handbook*.

INTERIM AUTHORISED PERSONS

- 1.3.2 G The *Interim Permissions Order* provides broadly that *interim authorised persons* are to be treated, unless otherwise provided, as *authorised persons* for the purposes of the *Act* and any provision made under the *Act* (see paragraph 5 of the Schedule to the *Interim Permissions Order*). As a result, the *Handbook* applies to *interim authorised persons* and any *regulated activity* in respect of which they are seeking *permission* is *regulated activity* for the purposes of the *Handbook*.

ALL INTERIM PERMITTED PERSONS

- 1.3.3 G The parts of the *Handbook* and their applicability to *interim permitted persons* are listed in *IPPS* 1.3.7 G. *Interim permitted persons* should read applicable parts of the *Handbook* to find out what the detailed regulatory requirements for them are. They should bear in mind that under *IPPS* 1.3.4 D they will, broadly speaking, for the purposes of working out which parts of the *Handbook* apply to them, be in the same regulatory category (including prudential category and sub-category) that they are expected to be in upon grant of their application. See *SUP* App 1 for an explanation of the prudential categories and sub-categories.
- 1.3.4 D The *FSA* directs that any special application or disapplication provisions in the *Handbook* are to apply to *interim permitted persons* as nearly as possible as if the application for *permission* which gives rise to the *interim permission* has been granted in the terms applied for, including as if the *requirements* and *limitations* applied for (or otherwise required to give effect to the terms of the application) have already been included in that *permission*.
- 1.3.5 G Where *FSA* has given an *interim permitted person* a *waiver* from a provision of the *Handbook*, the terms of that *waiver* are to be taken into account in determining the provisions of the *Handbook* that apply to that *interim permitted person*.
- 1.3.6 G The effect of the above is that, for example, an *interim authorised person* who has applied to be *authorised* as an *energy market participant* will be bound by the provisions of the *Handbook* to the extent that they are applicable to an *energy market participant* as described in *EMPS* (taking into account, in applying *EMPS*, any *waiver* granted by *FSA* in the exercise of its powers under section 148 of the *Act* (Modification or waiver of rules)).

This table belongs to *IPPS 1.3.3 G*

	Part of Handbook	Extent of application (subject to <i>IPPS 1.3.4 D</i>)
High Level Standards	Principles for Businesses (<i>PRIN</i>)	This applies.
	Senior management arrangements, Systems and Controls (<i>SYSC</i>)	This applies.
	Threshold Conditions (<i>COND</i>)	This applies.
	Statements of Principle and Code of Practice for Approved Persons (<i>APER</i>)	<p>(1) This applies.</p> <p>(2) Article 72 of the <i>Grandfathering Order</i> provides broadly, with some exceptions, that where at <i>commencement</i> a person (E) is performing a function for a person (A) under an <i>arrangement</i> entered into by A or by a contractor of A, then if E's continued performance of that function after <i>commencement</i> would require the approval of the FSA under section 59(1) or (2) (Approval for particular arrangements) of the <i>Act</i>, then that continued performance by E of that function after <i>commencement</i> is to be taken to have been approved by the FSA for the purposes of section 59.</p> <p>(3) Article 9 of the <i>Interim Permissions Order</i> provides broadly that E's transitional approval under the <i>Grandfathering Order</i> lapses at the latest when A's <i>interim permission</i> relating to the relevant <i>regulated activity</i> lapses.</p>
	The Fit and Proper test for Approved Persons (<i>FIT</i>)	This applies. See notes (2) and (3) relating to <i>APER</i> above.
	General provisions (<i>GEN</i>)	<p>(1) <i>GEN 1.2</i> (Referring to approval by the FSA) does not apply to <i>interim permitted persons</i>: see <i>IPPS 1.2.2 D</i>. Instead, <i>IPPS 1.2.4 R</i> makes provision about <i>interim permitted persons</i> referring to approval by the FSA or <i>authorisation</i> for the purposes of the <i>Act</i>.</p> <p>(2) The remainder of <i>GEN</i> applies.</p>

	Part of Handbook	Extent of application (subject to IPPS 1.3.4 D)
Business standards	Interim Prudential sourcebooks (<i>IPRU</i>)	This applies.
	Conduct of Business sourcebook (<i>COB</i>)	<p>(1) This applies.</p> <p>(2) <i>IPPS</i> 1.2.5 R makes special provision for required status disclosures by <i>interim authorised persons</i>. See also note (1) relating to <i>GEN</i> above.</p> <p>(3) Paragraph 6 of the Schedule to the <i>Interim Permissions Order</i> provides broadly that an <i>interim authorised persons</i> is not <i>authorised</i> for the purposes of sections 21(1) (Restrictions on financial promotion) and 25(2)(a) (Contravention of section 21) unless the communication invites an agreement the making or performance of which constitutes a <i>controlled activity</i> corresponding to a <i>regulated activity</i> covered by his <i>interim permission</i>.</p>
	Market Conduct sourcebook (<i>MAR</i>)	This applies.
	Training and Competence sourcebook (<i>TC</i>)	This applies.
	Money Laundering sourcebook (<i>ML</i>)	This applies.

	Part of Handbook	Extent of application (subject to IPPS 1.3.4 D)
Regulatory processes	Authorisation manual (<i>AUTH</i>)	<p>(1) This applies.</p> <p>(2) Article 8 of the <i>Interim Permissions Order</i> provides:</p> <ul style="list-style-type: none"> (a) that after <i>commencement</i>, an <i>interim permitted person</i> cannot withdraw his application for <i>permission</i> which gives rise to his <i>interim permission</i> without the consent of the <i>FSA</i>; (b) for the duration of <i>interim permission</i>, which ends broadly when the application process is determined and appeal rights are exhausted. <p>(3) Paragraph 2 of the Schedule to the <i>Interim Permissions Order</i> provides that for the purposes of section 20 (Authorised persons acting without permission) an <i>interim permission</i> is treated as having been given to him by the <i>FSA</i> under Part IV of the <i>Act</i>.</p> <p>(4) Paragraph 3 of the Schedule to the <i>Interim Permissions Order</i> provides that an applicant's <i>interim permission</i> is to be disregarded for the purposes of sections 38(2) (Exemption orders), 40(2) (Application for permission) and 42 to 44 (Giving permission, Imposition of requirements and Variation etc. at request of authorised person) of the <i>Act</i>.</p> <p>(5) Special provision is made for <i>approved persons</i> performing <i>controlled functions</i> for <i>interim permitted persons</i>: see explanation relating to <i>APER</i> above.</p> <p>(6) <i>Interim authorised persons</i> will be identified as such on the public register maintained by the <i>FSA</i>.</p> <p>(7) The Schedule to the <i>Interim Permissions Order</i> provides broadly that <i>interim authorised persons</i>:</p> <ul style="list-style-type: none"> (a) are to be treated, unless otherwise provided, as <i>authorised persons</i> for the purposes of the <i>Act</i> (see paragraph 5); (b) may still be <i>appointed representatives</i> (and hence may be treated as exempt from the <i>general prohibition</i> as a result of section 39(1) for the purposes of section 42(3)(a)) (see paragraph 7); and (c) are not to be treated as <i>authorised persons</i>, or are not to be treated as <i>authorised persons</i> for all purposes, under the exclusions provided for in articles 22, 29 and 72 of the <i>Regulated Activities Order</i> (which relate to certain transactions and arrangements entered or made with or through authorised persons) (see paragraphs 10-12).

	Part of Handbook	Extent of application (subject to IPPS 1.3.4 D)
	Supervision manual (<i>SUP</i>)	This applies. See also note (2) to <i>APER</i> above which is relevant to <i>SUP</i> and notes (2), (4) and (7)(b) to <i>AUTH</i> above which are relevant to <i>SUP</i> 6, <i>SUP</i> 7 and <i>SUP</i> 12.
	Enforcement manual (<i>ENF</i>)	This applies.
	Decision making manual (<i>DEC</i>)	This applies. See also note (2) to <i>AUTH</i> above.
Redress	Dispute resolution: Complaints sourcebook (<i>DISP</i>)	This applies.
	Compensation sourcebook (<i>COMP</i>)	This applies.
	Complaints against the FSA (<i>COAF</i>)	This applies.
Specialist sourcebooks	Collective Investment Schemes sourcebook (<i>CIS</i>)	(1) This applies. (2) However, the Schedule to the <i>Interim Permissions Order</i> provides broadly that <i>interim authorised persons</i> : (a) are not to be treated as <i>authorised persons</i> for the purposes of Chapter II (Restrictions on promotion) of Part XVII (Collective Investment Schemes) of the <i>Act</i> (see paragraph 8 of the Schedule); and (b) are not to be treated as <i>authorised persons</i> for the purposes of subsections (8) and (9) of section 272 (individually recognised overseas schemes) of the <i>Act</i> (see paragraph 9 of the Schedule).
	Professional firms sourcebook (<i>PROF</i>)	These apply.
	Lloyd's sourcebook (<i>LLD</i>)	
	Recognised Investment Exchange and Recognised Clearing House sourcebook (<i>REC</i>)	
Special guides	Special guide for Service companies (<i>SERV</i>)	This applies.
	Special guide for Energy Market Participants (<i>EMPS</i>)	This applies.
	Special guide for small Friendly societies (<i>FREN</i>)	This applies.
	Special guide for Oil Market Participants (<i>OMPS</i>)	This applies.

	Part of Handbook	Extent of application (subject to IPPS 1.3.4 D)
Schedules	Summary schedules	These apply.
	1. Record keeping requirements	
	2. Notification requirements	
	3. Fees and other required payments	
	4. Powers exercised in making the Handbook	
	5. Rights of action for damages	
	6. Rules that can be waived	
	7. Releases	
Glossary of definitions		This applies.
Index		This applies (when available).

2. Interpretation

2.1 GEN and Glossary apply

2.1.1 The General provisions (*GEN*) of the *Handbook* and the *Glossary* made under the Act apply in the interpretation of *IPPS*.

2.1.2 The terms in *IPPS* 2.1.3 are also defined for the purposes of *IPPS*.

2.1.3 Table Terms defined for the purposes of *IPPS*

This table belongs to *IPPS* 2.1.2 .

Definition	Definition text
<i>Grandfathering Order</i>	the Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001, SI No. 2001/2636.
<i>interim authorised person</i>	an <i>interim permitted person</i> who is an <i>authorised person</i> only because he has an <i>interim permission</i> .
<i>interim permission</i>	a <i>Part IV permission</i> conferred by article 6 or 7(2) of the <i>Interim Permissions Order</i> .
<i>Interim Permissions Order</i>	the Financial Services and Markets Act 2000 (Interim Permissions) Order 2001, SI No. 2001/3374.
<i>interim permitted person</i>	a <i>person</i> who has an <i>interim permission</i> .
<i>IPPS</i>	Directions, rules and guidance for Interim Permitted Persons forming the Annex to the Interim Permitted Persons Instrument 2001.