

## SCHEDULE 1

Article 4

### PART I

#### *Controlled Activities*

##### **Accepting deposits**

1. Accepting deposits is a controlled activity if—

- (a) money received by way of deposit is lent to others; or
- (b) any other activity of the person accepting the deposit is financed wholly, or to a material extent, out of the capital of or interest on money received by way of deposit,

and the person accepting the deposit holds himself out as accepting deposits on a day to day basis.

##### **Effecting or carrying out contracts of insurance**

2.—(1) Effecting a contract of insurance as principal is a controlled activity.

(2) Carrying out a contract of insurance as principal is a controlled activity.

(3) There is excluded from sub-paragraph (1) or (2) the effecting or carrying out of a contract of insurance of the kind described in article 12 of the Regulated Activities Order by a person who does not otherwise carry on an activity falling within those sub-paragraphs.

##### **Dealing in securities and contractually based investments**

3.—(1) Buying, selling, subscribing for or underwriting securities<sup>[F1]</sup>, structured deposits] or contractually based investments (other than investments of the kind specified by paragraph 25, or paragraph 27 so far as relevant to that paragraph) as principal or agent is a controlled activity.

(2) A person does not carry on the activity in sub-paragraph (1) by accepting an instrument creating or acknowledging indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation or assurance which he has made, granted or provided.

(3) The reference in sub-paragraph (2) to a person accepting an instrument includes a reference to a person becoming a party to an instrument otherwise than as a debtor or a surety.

##### **Textual Amendments**

**F1** Words in Sch. 1 para. 3(1) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(a)**

##### **Arranging deals in investments**

4.—(1) Making arrangements for another person (whether as principal or agent) to buy, sell, subscribe for or underwrite a particular investment which is—

(a) a security;

[<sup>F2</sup>(aa) a structured deposit;]

(b) a contractually based investment; or

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(c) an investment of the kind specified by paragraph 24, or paragraph 27 so far as relevant to that paragraph,  
is a controlled activity.

(2) Making arrangements with a view to a person who participates in the arrangements buying, selling, subscribing for or underwriting investments falling within sub-paragraph (1)(a), [<sup>F3</sup>(aa),] (b) or (c) (whether as principal or agent) is a controlled activity.

(3) A person does not carry on an activity falling within paragraph (2) merely by providing means by which one party to a transaction (or potential transaction) is able to communicate with other such parties.

#### Textual Amendments

- F2** Sch. 1 para. 4(1)(aa) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(b)(i)**
- F3** Word in Sch. 1 para. 4(2) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(b)(ii)**

#### [<sup>F4</sup>Operating a multilateral trading facility

**4A.** Operating a multilateral trading facility on which MiFID instruments are traded is a controlled activity.]

#### Textual Amendments

- F4** Sch. 1 para. 4A inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(2)(a)**

#### [<sup>F5</sup>Operating an organised trading facility

**4AA.** Operating an organised trading facility on which non-equity MiFID instruments are traded is a controlled activity.]

#### Textual Amendments

- F5** Sch. 1 para. 4AA inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(c)**

#### Credit broking

**4B.—**(1) Each of the following is a controlled activity—

- (a) effecting an introduction of an individual or relevant recipient of credit to a person who enters into as lender relevant credit agreements [<sup>F6</sup>(other than credit agreements which are exempt agreements under the relevant provisions)] by way of business;

- [<sup>F7</sup>(b) effecting an introduction of an individual or relevant recipient of credit to a person who, by way of business, enters into as owner regulated consumer hire agreements or agreements which would be regulated consumer hire agreements but for article 60O (exempt agreements: exemptions relating to nature of agreement) or article 60Q (exempt agreements: exemptions relating to the nature of the hirer) of the Regulated Activities Order;]
- (c) effecting an introduction of an individual or relevant recipient of credit to a person who carries on an activity of the kind specified in paragraph (a) or (b) by way of business;
- (d) presenting or offering an agreement which would (if entered into) be a relevant credit agreement [<sup>F8</sup>(other than a credit agreement which is an exempt agreement under the relevant provisions)] to an individual or relevant recipient of credit;
- (e) assisting an individual or relevant recipient of credit by undertaking preparatory work in respect of a relevant credit agreement [<sup>F9</sup>(other than a credit agreement which is an exempt agreement under the relevant provisions)];
- (f) entering into a relevant credit agreement [<sup>F10</sup>(other than a credit agreement which is an exempt agreement under the relevant provisions)] on behalf of a lender.

[<sup>F11</sup>(1A) But an activity is not a controlled activity falling within sub-paragraph (1) to the extent that it is a controlled activity falling within paragraph 10A (arranging qualifying credit etc.).]

[<sup>F12</sup>(2) For the purposes of paragraph (1)—

- (a) “relevant provisions” are article 60E(5) (exempt agreements: exemptions relating to the nature of the lender) and article 60F(exempt agreements: exemptions relating to number of repayments to be made) of the Regulated Activities Order;
- (b) it is immaterial whether the relevant credit agreement or the consumer hire agreement is subject to the law of a country other than the United Kingdom.]

#### Textual Amendments

- F6** Words in Sch. 1 para. 4B(1)(a) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(a)**
- F7** Sch. 1 para. 4B(1)(b) substituted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(b)**
- F8** Words in Sch. 1 para. 4B(1)(d) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(c)**
- F9** Words in Sch. 1 para. 4B(1)(e) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(c)**
- F10** Words in Sch. 1 para. 4B(1)(f) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(c)**
- F11** Sch. 1 para. 4B(1A) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(a)**
- F12** Sch. 1 para. 4B(2) substituted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(d)**

#### [<sup>F13</sup>Operating an electronic system in relation to lending

**4C.**—(1) Where the [<sup>F14</sup>conditions in sub-paragraphs (2), (2A) and (2C) are] satisfied, operating an electronic system which enables the operator (“A”) to facilitate persons (“B” and “C”) becoming the lender and borrower under a paragraph 4C agreement is a controlled activity.

**Status:** Point in time view as at 03/01/2018.

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(2) The condition [<sup>F15</sup>in this sub-paragraph] is that the system operated by A is capable of determining which agreements should be made available to each of B and C (whether in accordance with general instructions provided to A by B or C or otherwise).

[<sup>F16</sup>(2A) The condition in this sub-paragraph is that A, or another person (“X”) acting under an arrangement with A or at A’s direction, undertakes to—

- (a) receive payments in respect of [<sup>F17</sup>either interest or capital or both] due under the agreement from C, and
- (b) make payments in respect of [<sup>F18</sup>either interest or capital or both] due under the agreement to B.

(2B) For the purposes of sub-paragraph (2A)—

- (a) an agreement by A to appoint X to perform the activities in that paragraph is to be treated as an undertaking by A within the meaning of that sub-paragraph;
- (b) it is immaterial that—
  - (i) payments may be subject to conditions;
  - (ii) A, or X, may be entitled to retain a portion or the entirety of any payment received from C.

(2C) The condition in this sub-paragraph is that A, or another person (“X”) acting under an arrangement with A or at A’s direction, undertakes to perform, or A undertakes to appoint or direct another person to perform, either or both of the following—

- (a) to take steps to procure the payment of a debt under the agreement;
- (b) to exercise or enforce rights under the agreement on behalf of B.]

[<sup>F19</sup>(2D) Where A carries on the activity specified by sub-paragraph (1), it is a controlled activity for A to operate an electronic system where—

- (a) that system enables A to facilitate a person (“B”) assuming the rights of the lender under a paragraph 4C agreement by assignment or operation of law, and
- (b) the conditions in sub-paragraphs (2), (2A) and (2C) are satisfied where C is the borrower under the agreement in paragraph (a).]

(3) The following are controlled activities if carried on by A in the course of, or in connection with, the carrying on by A of the activity specified by [<sup>F20</sup>sub-paragraph] (1) [<sup>F21</sup>or (2D)]—

- (a) presenting or offering paragraph 4C agreements to [<sup>F22</sup>either B or C] with a view to B becoming the lender under the paragraph 4C agreement [<sup>F23</sup>or] C becoming the borrower under the paragraph 4C agreement,
- (b) furnishing information relevant to the financial standing of a person (“Y”) with a view to assisting in the determination as to whether another person should—
  - (i) enter into, as the lender, a paragraph 4C agreement with Y, or
  - (ii) assume the rights of the lender under a paragraph 4C agreement under which Y is the borrower,
- (c) taking steps to procure the payment of a debt due under a paragraph 4C agreement,
- (d) [<sup>F24</sup>taking steps to perform duties, or exercise or enforce] rights under a paragraph 4C agreement on behalf of the lender,

- (e) [<sup>F25</sup>taking steps with a view to] ascertaining whether a credit information agency (within the meaning given by article 89A(6)) holds information relevant to the financial standing of an individual or relevant person,
- (f) [<sup>F26</sup>taking steps with a view to] ascertaining the contents of such information,
- (g) [<sup>F27</sup>taking steps with a view to] securing the correction of, the omission of anything from, or the making of any other kind of modification of, such information, <sup>F28</sup> ...
- (h) [<sup>F29</sup>taking steps with a view to] securing that a credit information agency which holds such information—
  - (i) stops holding the information, or
  - (ii) does not provide it to any other person<sup>F30</sup>, or
- (i) giving advice in relation to the taking of any of the steps in sub-paragraphs (e) to (h)]

[<sup>F31</sup>(4) A “paragraph 4C agreement” is an agreement by which one person provides another person with credit and in relation to which—

- (a) the condition in sub-paragraph (4A) is satisfied, and
- (b) the condition in either sub-paragraph (5) or (6) is satisfied, or was satisfied at the time the agreement was entered into.

(4A) The condition in this sub-paragraph is that A does not provide credit, assume the rights (by assignment or operation of law) of a person who provided credit, or receive credit under the agreement.]

(5) The condition in this [<sup>F32</sup>sub-paragraph] is that the lender is an individual or relevant person.

(6) The condition in this [<sup>F33</sup>sub-paragraph] is that the borrower is an individual or relevant person and—

- (a) the lender provides the borrower with credit less than or equal to £25,000, or
- (b) the agreement is not entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower.

(7) Paragraphs (5) and (6) of article 60C of the Regulated Activities Order (exempt agreements: exemptions relating to nature of agreement) apply for the purposes of paragraph (6)(b).

(8) It is immaterial for the purposes of this paragraph whether the lender is carrying on a regulated activity.

[<sup>F34</sup>(9) In this paragraph—

“assignment”, in relation to Scotland, means assignation;

“borrower” means a person who receives credit under a paragraph 4C agreement or a person to whom the rights and duties of a borrower under such an agreement have passed by assignment or operation of law;

“credit” has the meaning given by article 60L of the Regulated Activities Order;

“lender” means—

- (a) a person providing credit under a paragraph 4C agreement, or
- (b) a person who by assignment or operation of law has assumed the rights of a person who provided credit under such an agreement;

“relevant person” means—

- (a) a partnership consisting of two or three persons not all of whom are bodies corporate, or
- (b) an unincorporated body of persons which does not consist entirely of bodies corporate and is not a partnership.]

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[<sup>F35</sup>(10) For the purposes of the application of section 21(9) and (10) of the Act (restrictions on financial promotion) to an activity of a kind specified by this paragraph, paragraph 26D of this Schedule (relevant credit agreements), and article 4 (definition of controlled activities and controlled investments) in so far as it relates to that paragraph, [<sup>F36</sup>have] effect as if the reference to a relevant credit agreement in paragraph 26D includes a reference to a paragraph 4C agreement.]]

### Textual Amendments

- F13** Sch. 1 paras. 4B, 4C inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), arts. 1(2)(6), **17(6)(a)**
- F14** Words in Sch. 1 para. 4C(1) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), **10(8)(b)(i)**
- F15** Words in Sch. 1 para. 4C(2) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), **10(8)(b)(ii)**
- F16** Sch. 1 paras. 4C(2A)-(2C) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), **10(8)(b)(iii)**
- F17** Words in Sch. 1 para. 4C(2A)(a) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(a)** (with Pt. 5)
- F18** Words in Sch. 1 para. 4C(2A)(b) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(a)** (with Pt. 5)
- F19** Sch. 1 para. 4C(2D) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(b)** (with Pt. 5)
- F20** Word in Sch. 1 para. 4C(3) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), **10(8)(b)(iv)**
- F21** Words in Sch. 1 para. 4C(3) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(i)** (with Pt. 5)
- F22** Words in Sch. 1 para. 4C(3)(a) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(ii)(aa)** (with Pt. 5)
- F23** Word in Sch. 1 para. 4C(3)(a) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(ii)(bb)** (with Pt. 5)
- F24** Words in Sch. 1 para. 4C(3)(d) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(iii)** (with Pt. 5)
- F25** Words in Sch. 1 para. 4C(3)(e) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(iv)** (with Pt. 5)
- F26** Words in Sch. 1 para. 4C(3)(f) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(iv)** (with Pt. 5)
- F27** Words in Sch. 1 para. 4C(3)(g) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(iv)** (with Pt. 5)
- F28** Word in Sch. 1 para. 4C(3)(g) deleted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(v)** (with Pt. 5)
- F29** Words in Sch. 1 para. 4C(3)(h) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), **6(2)(c)(iv)** (with Pt. 5)

- F30** Sch. 1 para. 4C(3)(i) and preceding word inserted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(c)(vi)** (with Pt. 5)
- F31** Sch. 1 para. 4C(4)(4A) substituted for Sch. 1 para. 4C(4) (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(d)** (with Pt. 5)
- F32** Word in Sch. 1 para. 4C(5) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(b)(vi)**
- F33** Word in Sch. 1 para. 4C(6) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(b)(vii)**
- F34** Sch. 1 para. 4C(9) substituted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(e)** (with Pt. 5)
- F35** Sch. 1 para. 4C(10) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(b)(viii)**
- F36** Word in Sch. 1 para. 4C(10) substituted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(f)** (with Pt. 5)

## Managing investments

5. Managing assets belonging to another person, in circumstances involving the exercise of discretion, is a controlled activity if—

- (a) the assets consist of or include any investment which is a security<sup>[F37]</sup>, structured deposit<sup>[F37]</sup> or a contractually based investment; or
- (b) the arrangements for their management are such that the assets may consist of or include such investments, and either the assets have at any time since 29th April 1988 done so, or the arrangements have at any time (whether before or after that date) been held out as arrangements under which the assets would do so.

### Textual Amendments

- F37** Words in Sch. 1 para. 5(a) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(d)**

## <sup>[F38]</sup>Debt adjusting

5A.—(1) The following activities are, when carried on in relation to debts due under a relevant credit agreement, controlled activities—

- (a) negotiating with the lender, on behalf of the borrower, terms for the discharge of a debt;
- (b) taking over, in return for payments by the borrower, that person's obligation to discharge a debt;
- (c) any similar activity concerned with the liquidation of a debt.

(2) The following activities are, when carried on in relation to debts due under a consumer hire agreement, controlled activities—

- (a) negotiating with the owner, on behalf of the hirer, terms for the discharge of a debt;
- (b) taking over, in return for payments by the hirer, that person's obligation to discharge a debt;

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**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

- (c) any similar activity concerned with the liquidation of a debt.

#### Textual Amendments

**F38** Sch. 1 paras. 5A, 5B inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(b)**

#### Debt-counselling

**5B.**—(1) Advising a borrower about the liquidation of a debt due under a relevant credit agreement is a controlled activity.

(2) Advising a hirer about the liquidation of a debt due under a consumer hire agreement is a controlled activity.]

#### Textual Amendments

**F38** Sch. 1 paras. 5A, 5B inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(b)**

#### Safeguarding and administering investments

**6.**—(1) The activity consisting of both—

- (a) the safeguarding of assets belonging to another; and
- (b) the administration of those assets,

or arranging for one or more other persons to carry on that activity, is a controlled activity if either the condition in paragraph (a) or (b) of sub-paragraph (2) is met.

(2) The condition is that—

- (a) the assets consist of or include any investment which is a security or a contractually based investment; or
- (b) the arrangements for their safeguarding and administration are such that the assets may consist of or include investments of the kind mentioned in sub-paragraph (a) and either the assets have at any time since 1st June 1997 done so, or the arrangements have at any time (whether before or after that date) been held out as ones under which such investments would be safeguarded and administered.

(3) For the purposes of this article—

- (a) it is immaterial that title to the assets safeguarded and administered is held in uncertificated form;
- (b) it is immaterial that the assets safeguarded and administered may be transferred to another person, subject to a commitment by the person safeguarding and administering them, or arranging for their safeguarding and administration, that they will be replaced by equivalent assets at some future date or when so requested by the person to whom they belong.

(4) For the purposes of this article, the following activities do not constitute the administration of assets—

- (a) providing information as to the number of units or the value of any assets safeguarded;



- (b) converting currency;
- (c) receiving documents relating to an investment solely for the purpose of onward transmission to, from or at the direction of the person to whom the investment belongs.

### Advising on investments

7.—<sup>[F39]</sup>(1) Advising a person is a controlled activity if the advice is—

- (a) given to the person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and
- (b) advice on the merits of his doing any of the following (whether as principal or agent)—
  - (i) buying, selling, subscribing for or underwriting a particular investment which is a security<sup>[F40]</sup>, structured deposit] or a contractually based investment; or
  - (ii) exercising any right conferred by such an investment to buy, sell, subscribe for or underwrite such an investment.

<sup>[F41]</sup>(2) Advising a person is a controlled activity if the advice is—

- (a) given to the person in that person's capacity as a lender or potential lender under a relevant paragraph 4C agreement, or in that person's capacity as an agent for a lender or potential lender under such an agreement; and
- (b) advice on the merits of the person doing any of the following (whether as principal or agent)—
  - (i) entering into a relevant paragraph 4C agreement as a lender or assuming the rights of a lender under such an agreement,
  - (ii) providing instructions to an operator with a view to entering into a relevant paragraph 4C agreement as a lender or to assuming the rights of a lender under such an agreement by assignment or operation of law, where the instructions involve—
    - (aa) accepting particular parameters for the terms of the agreement presented by an operator,
    - (bb) choosing between options governing the parameters of the terms of the agreement presented by an operator, or
    - (cc) specifying the parameters of the terms of the agreement by other means,
  - (iii) enforcing or exercising the lender's rights under a relevant paragraph 4C agreement, or
  - (iv) assigning rights under a relevant paragraph 4C agreement.

(3) In sub-paragraph (2)—

“operator” means a person carrying on a controlled activity of the kind specified by paragraph 4C(1) or (2D), and

“relevant paragraph 4C agreement” means a paragraph 4C agreement (within the meaning of that paragraph) which has been, or is to be, entered into with the facilitation of a person carrying on a controlled activity of the kind specified by paragraph 4C(1) or (2D) not in contravention of the general prohibition.

(4) For the purposes of the application of section 21(9) and (10) of the Act (restrictions on financial promotion) to an activity of a kind specified by sub-paragraph (2), paragraph 26D of this Schedule (relevant credit agreements), and article 4 (definition of controlled activities and controlled investments) in so far as it relates to that paragraph, have effect as if the reference to a relevant credit agreement in paragraph 26D includes a reference to a paragraph 4C agreement.]

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

### Textual Amendments

- F39** Sch. 1 para. 7 renumbered as Sch. 1 para. 7(1) (17.3.2016 for specified purposes, 6.4.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(d), **6(3)(a)** (with Pt. 5)
- F40** Words in Sch. 1 para. 7(1)(b)(i) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(e)**
- F41** Sch. 1 para. 7(2)-(4) inserted (17.3.2016 for specified purposes, 6.4.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(d), **6(3)(b)** (with Pt. 5)

### Advising on syndicate participation at Lloyd's

**8.** Advising a person to become, or continue or cease to be, a member of a particular Lloyd's syndicate is a controlled activity.

### Providing funeral plan contracts

- 9.—(1)** Entering as provider into a qualifying funeral plan contract is a controlled activity.
- (2) A “qualifying funeral plan contract” is a contract under which—
- a person (“the customer”) makes one or more payments to another person (“the provider”);
  - the provider undertakes to provide, or to secure that another person provides, a funeral in the United Kingdom for the customer (or some other person who is living at the date when the contract is entered into) on his death; and
  - the provider is a person who carries on the regulated activity specified in article 59 of the Regulated Activities Order.

### Providing qualifying credit

- 10.—(1)** Providing qualifying credit is a controlled activity.
- (2) “Qualifying credit” is a credit provided pursuant to an agreement under which—
- the lender is a person who carries on the regulated activity specified in article 61 of the Regulated Activities Order; and
  - the obligation of the borrower to repay is secured (in whole or in part) on land.
- (3) “Credit” includes a cash loan and any other form of financial accommodation.

### Arranging qualifying credit etc.

- 10A.—**<sup>[F42]</sup>(1) Making arrangements—
- for another person to enter as borrower into an agreement for the provision of qualifying credit; or
  - for a borrower under a regulated mortgage contract <sup>[F43]</sup>falling within sub-paragraph (2) to vary the terms of that contract in such a way as to vary his obligations under that contract,
- is a controlled activity.
- <sup>[F44]</sup>(2) A regulated mortgage contract falls within this sub-paragraph if—
- the contract was entered into on or after 31st October 2004; or

(b) the contract—

(i) was entered into before 31st October 2004; and

(ii) was a regulated credit agreement immediately before 21st March 2016.

(3) In this paragraph “regulated mortgage contract” has the meaning given by article 61(3) of the Regulated Activities Order.]

#### Textual Amendments

- F42** Sch. 1 para. 10A renumbered as Sch. 1 para. 10A(1) (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(4)(a)** (with Pt. 5)
- F43** Words in Sch. 1 para. 10A(1)(b) substituted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(4)(b)** (with Pt. 5)
- F44** Sch. 1 para. 10A(2)(3) inserted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(4)(c)** (with Pt. 5)

#### Advising on qualifying credit etc.

**10B.**—(1) Advising a person is a controlled activity if the advice is—

(a) given to the person in his capacity as a borrower or potential borrower; and

(b) advice on the merits of his doing any of the following—

(i) entering into an agreement for the provision of qualifying credit, or

(ii) varying the terms of a regulated mortgage contract [<sup>F45</sup>falling within sub-paragraph (1A)] in such a way as to vary his obligations under that contract.

[<sup>F46</sup>(1A) A regulated mortgage contract falls within this sub-paragraph if—

(a) the contract was entered into on or after 31st October 2004; or

(b) the contract—

(i) was entered into before 31st October 2004; and

(ii) was a regulated credit agreement immediately before 21st March 2016.]

(2) In this paragraph, “borrower” and “regulated mortgage contract” have the meaning given by article 61(3) of the Regulated Activities Order.

#### Textual Amendments

- F45** Words in Sch. 1 para. 10B(1) substituted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(5)(a)** (with Pt. 5)
- F46** Sch. 1 para. 10B(1A) inserted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(5)(b)** (with Pt. 5)

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

### [<sup>F47</sup> Providing relevant consumer credit

**10BA.** Entering into a relevant credit agreement[<sup>F48</sup>, other than an agreement under which qualifying credit within the meaning of paragraph 10 is provided,] as lender, or exercising or having the rights to exercise the rights of the lender under such an agreement, is a controlled activity.

#### Textual Amendments

- F47** Sch. 1 paras. 10BA, 10BB inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(c)**
- F48** Words in Sch. 1 para. 10BA inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(c)**

### [<sup>F49</sup> Advising on certain relevant consumer credit relating to land

**10BAA.** Advising a person is a controlled activity if the advice—

- (a) is given to the person in the person's capacity as a recipient of credit, or potential recipient of credit; and
- (b) consists of the provision of personal recommendations to the person in respect of one or more transactions relating to a relevant credit agreement where the person intends to use the credit to acquire or retain property rights in land or in an existing or projected building, other than an agreement under which qualifying credit within the meaning of paragraph 10 is provided.]

#### Textual Amendments

- F47** Sch. 1 paras. 10BA, 10BB inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(c)**
- F49** Sch. 1 para. 10BAA inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 12(2)** (with Pt. 4)

### Providing consumer hire

**10BB.** Entering into a regulated consumer hire agreement[<sup>F50</sup>, or an agreement that would be such an agreement but for article 60O (exempt agreements: exemptions relating to nature of agreement) or 60Q (exempt agreements: exemptions relating to nature of hirer) of the Regulated Activities Order,] as owner or exercising or having the right to exercise the rights of the owner under such an agreement is a controlled activity.]

#### Textual Amendments

- F47** Sch. 1 paras. 10BA, 10BB inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(c)**

**F50** Words in Sch. 1 para. 10BB inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(d)**

### [<sup>F51</sup>Providing a regulated home reversion plan

**10C.** Entering into a regulated home reversion plan as plan provider is a controlled activity.

#### Textual Amendments

**F51** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

### Arranging a regulated home reversion plan

**10D.** Making arrangements—

- (a) for another person to enter as reversion seller or plan provider into a regulated home reversion plan; or
- (b) for a reversion seller or a plan provider under a regulated home reversion plan, entered into on or after 6th April 2007 by him, to vary the terms of that plan in such a way as to vary his obligations under that plan,

is a controlled activity.

#### Textual Amendments

**F51** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

### Advising on a regulated home reversion plan

**10E.** Advising a person is a controlled activity if the advice is—

- (a) given to the person in his capacity as reversion seller, potential reversion seller, plan provider or potential plan provider; and
- (b) advice on the merits of his doing either of the following—
  - (i) entering into a regulated home reversion plan, or
  - (ii) varying the terms of a regulated home reversion plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.

#### Textual Amendments

**F51** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

### Providing a regulated home purchase plan

**10F.** Entering into a regulated home purchase plan as home purchase provider is a controlled activity.

#### Textual Amendments

**F51** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

### Arranging a regulated home purchase plan

**10G.** Making arrangements—

- (a) for another person to enter as home purchaser into a regulated home purchase plan; or
- (b) for a home purchaser under a regulated home purchase plan, entered into on or after 6th April 2007 by him, to vary the terms of that plan in such a way as to vary his obligations under that plan,

is a controlled activity.

#### Textual Amendments

**F51** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

### Advising on a regulated home purchase plan

**10H.** Advising a person is a controlled activity if the advice is—

- (a) given to the person in his capacity as home purchaser or potential home purchaser; and
- (b) advice on the merits of his doing either of the following—
  - (i) entering into a regulated home purchase plan, or
  - (ii) varying the terms of a regulated home purchase plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.]

#### Textual Amendments

**F51** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

### [<sup>F52</sup> Providing a regulated sale and rent back agreement

**10I.** Entering into a regulated sale and rent back agreement as agreement provider is a controlled activity.

#### Textual Amendments

**F52** Sch. 1 paras. 10I-10K inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **30(4)(a)**

### Arranging a regulated sale and rent back agreement

#### 10J. Making arrangements—

- (a) for another person to enter as agreement seller or agreement provider into a regulated sale and rent back agreement; or
- (b) for an agreement seller or an agreement provider under a regulated sale and rent back agreement, entered into on or after 1st July 2009, to vary the terms of that plan in such a way as to vary the obligations of the agreement seller or the agreement provider under that plan,

is a controlled activity.

#### Textual Amendments

**F52** Sch. 1 paras. 10I-10K inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **30(4)(a)**

### Advising on a regulated sale and rent back agreement

#### 10K. Advising a person (“A”) is a controlled activity if the advice is—

- (a) given to A in A’s capacity as agreement seller, potential agreement seller, agreement provider or potential agreement provider; and
- (b) advice on the merits of A doing either of the following—
  - (i) entering into a regulated sale and rent back agreement, or
  - (ii) varying the terms of a regulated sale and rent back agreement, entered into on or after 1st July 2009 by A, in such a way as to vary A’s obligations under that agreement.]

#### Textual Amendments

**F52** Sch. 1 paras. 10I-10K inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **30(4)(a)**

### Agreeing to carry on specified kinds of activity

11. Agreeing to carry on any controlled activity falling within any of paragraphs 3 to <sup>F53</sup>10BB] above <sup>F54</sup>(other than paragraph 4A)] is a controlled activity.

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

### Textual Amendments

- F53** Word in Sch. 1 para. 11 substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(e)**
- F54** Words in Sch. 1 para. 11 inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(2)(b)**

## PART II

### *Controlled Investments*

- 12.** A deposit.
- 13.** Rights under a contract of insurance.
- 14.**—(1) Shares or stock in the share capital of—
- (a) any body corporate (wherever incorporated);
  - (b) any unincorporated body constituted under the law of a country or territory outside the United Kingdom.
- (2) Sub-paragraph (1) includes—
- (a) any shares of a class defined as deferred shares for the purposes of section 119 of the Building Societies Act 1986 <sup>M1</sup>;
  - (b) any transferable shares in a body incorporated under the law of, or any part of, the United Kingdom relating to [<sup>F55</sup>co-operative and community benefit societies,] industrial and provident societies or credit unions or in a body constituted under the law of another EEA State for purposes equivalent to those of such a body.
- (3) But subject to sub-paragraph (2) there are excluded from sub-paragraph (1) shares or stock in the share capital of—
- (a) an open-ended investment company;
  - (b) a building society incorporated under the law of, or any part of, the United Kingdom;
  - (c) any body incorporated under the law of, or any part of, the United Kingdom relating to [<sup>F56</sup>co-operative and community benefit societies,] industrial and provident societies or credit unions;
  - (d) any body constituted under the law of an EEA State for purposes equivalent to those of a body falling within paragraph (b) or (c).

### Textual Amendments

- F55** Words in Sch. 1 para. 14(2)(b) inserted (1.8.2014) by [The Co-operative and Community Benefit Societies and Credit Unions Act 2010 \(Consequential Amendments\) Regulations 2014 \(S.I. 2014/1815\)](#), reg. 1(2), **Sch. para. 15(3)**
- F56** Words in Sch. 1 para. 14(3)(c) inserted (1.8.2014) by [The Co-operative and Community Benefit Societies and Credit Unions Act 2010 \(Consequential Amendments\) Regulations 2014 \(S.I. 2014/1815\)](#), reg. 1(2), **Sch. para. 15(3)**



**Marginal Citations**

M1 1986 c. 53.

**Instruments creating or acknowledging indebtedness**

15.—(1) Subject to sub-paragraph (2), such of the following as do not fall within [<sup>F57</sup> paragraph <sup>F58</sup> ... 16]—

- (a) debentures;
- (b) debenture stock;
- (c) loan stock;
- (d) bonds;
- (e) certificates of deposit;
- (f) any other instrument creating or acknowledging a present or future indebtedness.

(2) If and to the extent that they would otherwise fall within sub-paragraph (1), there are excluded from that sub-paragraph—

- (a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;
- (b) a cheque or other bill of exchange, a banker's draft or a letter of credit (but not a bill of exchange accepted by a banker);
- (c) a banknote, a statement showing a balance on a current, deposit or saving account, a lease or other disposition of property, a heritable security; and
- (d) a contract of insurance.

<sup>F59</sup>(e) .....

(3) An instrument excluded from sub-paragraph (1) of paragraph 16 by paragraph 16(2)(b) is not thereby to be taken to fall within sub-paragraph (1) of this paragraph.

**Textual Amendments**

**F57** Words in Sch. 1 para. 15(1) substituted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(i)**

**F58** Words in Sch. 1 para. 15(1) omitted (16.2.2011) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2011 \(S.I. 2011/133\)](#), arts. 1(2), **3(2)(a)** (with art. 4)

**F59** Sch. 1 para. 15(2)(e) omitted (16.2.2011) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2011 \(S.I. 2011/133\)](#), arts. 1(2), **3(2)(b)** (with art. 4)

**[<sup>F60</sup> Alternative finance investment bonds**

15A.—(1) Rights under an alternative finance investment bond, to the extent that they do not fall within paragraph [<sup>F61</sup>15 or] 16.

(2) For the purposes of this paragraph, arrangements constitute an alternative finance investment bond if—

- (a) the arrangements provide for a person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”);
- (b) the arrangements identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”);

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

- (c) the arrangements specify a period at the end of which they cease to have effect (“the bond term”);
  - (d) the bond-issuer undertakes under the arrangements—
    - (i) to make a repayment in respect of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond term (whether or not in instalments); and
    - (ii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“the additional payments”);
  - (e) the amount of the additional payments does not exceed an amount which would, at the time at which the bond is issued, be a reasonable commercial return on a loan of the capital; and
  - (f) the arrangements are a security admitted to—
    - (i) an official list (in accordance with the provisions of Directive 2001/34/EC of the European Parliament and of the Council on the admission of securities to official stock exchange listing and on information to be published on those securities); or
    - (ii) trading on a regulated market (within the meaning of [F62 Article 4.1.21 of the markets in financial instruments directive]) or on a recognised investment exchange (within the meaning of section 285 of the Act).
- (3) For the purposes of sub-paragraph (2)—
- (a) the bond-issuer may acquire the bond assets before or after the arrangements take effect;
  - (b) the bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer;
  - (c) the identification of the bond assets mentioned in sub-paragraph (2)(b) and the undertakings mentioned in sub-paragraph (2)(d) may (but need not) be described as, or accompanied by a document described as, a declaration of trust;
  - (d) the reference to a period in sub-paragraph (2)(c) includes any period specified to end upon the redemption of the bond by the bond-issuer;
  - (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term;
  - (f) the amount of the additional payments may be—
    - (i) fixed at the beginning of the bond term;
    - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets; or
    - (iii) determined in some other way;
  - (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in sub-paragraph (2)(e) to the amount of the additional payments is a reference to the maximum amount of the additional payments;
  - (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them; and
  - (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities.
- (4) An instrument excluded from sub-paragraph (1) of paragraph 16 by sub-paragraph (2)(b) of that paragraph is not thereby taken to fall within sub-paragraph (1) of this paragraph. ]

#### Textual Amendments

- F60** Sch. 1 para. 15A inserted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(iii)**
- F61** Words in Sch. 1 para. 15A(1) inserted (16.2.2011) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2011 \(S.I. 2011/133\)](#), arts. 1(2), **3(2)(c)** (with art. 4)
- F62** Words in Sch. 1 para. 15A(2)(f)(ii) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(f)**

#### Government and public securities

- 16.—(1) Subject to sub-paragraph (2), loan stock, bonds and other instruments—
- (a) creating or acknowledging indebtedness; and
  - (b) issued by or on behalf of a government, local authority (whether in the United Kingdom or elsewhere) or international organisation.
- (2) [<sup>F63</sup>Subject to sub-paragraph (3),] there are excluded from sub-paragraph (1)—
- (a) so far as applicable, the instruments mentioned in paragraph 15(2)(a) to (d);
  - (b) any instrument creating or acknowledging indebtedness in respect of—
    - (i) money received by the Director of Savings as deposits or otherwise in connection with the business of the National Savings Bank;
    - (ii) money raised under the National Loans Act 1968 <sup>M2</sup> under the auspices of the Director of Savings or treated as so raised by virtue of section 11(3) of the National Debt Act 1972 <sup>M3</sup>.

[<sup>F64</sup>(3) Sub-paragraph (2)(a) does not exclude an instrument which meets the requirements set out in paragraphs (a) to (e) of paragraph 15A(2).]

#### Textual Amendments

- F63** Words in Sch. 1 para. 16(2) inserted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(iv)**
- F64** Sch. 1 para. 16(3) inserted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(v)**

#### Marginal Citations

- M2** 1968 c. 13.
- M3** 1972 c. 65.

#### Instruments giving entitlements to investments

17.—(1) Warrants and other instruments entitling the holder to subscribe for any investment falling within paragraph 14, 15 or 16.

(2) It is immaterial whether the investment to which the entitlement relates is in existence or identifiable.

(3) An investment falling within this paragraph shall not be regarded as falling within paragraph 21, 22 or 23.

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

### Certificates representing certain securities

**18.**—(1) Subject to sub-paragraph (2), certificates or other instruments which confer contractual or property rights (other than rights consisting of an investment of the kind specified by paragraph 21)—

- (a) in respect of any investment of the kind specified by any of paragraphs 14 to 17 being an investment held by a person other than the person on whom the rights are conferred by the certificate or instrument; and
- (b) the transfer of which may be effected without the consent of that person.

(2) There is excluded from sub-paragraph (1) any instrument which confers rights in respect of two or more investments issued by different persons, or in respect of two or more different investments of the kind specified by paragraph 16 and issued by the same person.

### Units in a collective investment scheme

**19.** Units in a collective investment scheme.

### [<sup>F65</sup>Rights under a pension scheme

**20.**—(1) Rights under a stakeholder pension scheme.

(2) Rights under a personal pension scheme.

(3) "Stakeholder pension scheme" and "personal pension scheme" have the meanings given by article 72(4).]

#### Textual Amendments

**F65** Sch. 1 Pt. 2 para. 20 substituted (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\)](#), **arts. 1(2)(b), 12(3)**

### Options

**21.**—[<sup>F66</sup>(1)] Options to acquire or dispose of—

- (a) a security or contractually based investment (other than one of a kind specified in this paragraph);
- (b) currency of the United Kingdom or of any other country or territory;
- (c) palladium, platinum, gold or silver; <sup>F67</sup> ...
- (d) an option to acquire or dispose of an investment falling within this paragraph by virtue of sub-paragraph (a), (b) or (c)[<sup>F68</sup>;
- (e) subject to sub-paragraph (4), an option to acquire or dispose of an option to which paragraph 5, 6, 7 or 10 of Section C of Annex I to the markets in financial instruments directive [<sup>F69</sup>(read with Articles 5, 6, 7 and 8 of the Commission Regulation)] applies]

[<sup>F70</sup>(2) Subject to sub-paragraph (4), options—

- (a) to which sub-paragraph (1) does not apply;
- (b) which relate to commodities;
- (c) which may be settled physically; and
- (d) either—

- (i) to which paragraph 5 or 6 of Section C of Annex I to the markets in financial instruments directive [<sup>F71</sup>(read with Articles 5 and 6 of the Commission Regulation)] applies, or
  - (ii) which in accordance with Article [<sup>F72</sup>7] of the Commission Regulation are to be considered as having the characteristics of other derivative financial instruments and not being for commercial purposes, and to which paragraph 7 of Section C of Annex I to the markets in financial instruments directive applies.
- (3) Subject to sub-paragraph (4), options—
- (a) to which sub-paragraph (1) does not apply;
  - (b) which may be settled physically; and
  - (c) to which paragraph 10 of Section C of Annex I to the markets in financial instruments directive (read with [<sup>F73</sup>Articles 7 and 8 of] the Commission Regulation) applies.
- (4) Sub-paragraphs (1)(e), (2) and (3) only apply to options in relation to which—
- (a) an investment firm or credit institution is providing or performing investment services and activities on a professional basis,
  - (b) a management company is providing, in accordance with [<sup>F74</sup>Article 6(3)] of the UCITS directive, the investment service specified in paragraph 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive, <sup>F75</sup> ...
  - (c) a market operator is providing the investment service specified in [<sup>F76</sup>paragraph 8 or 9] of Section A of Annex I to the markets in financial instruments directive [<sup>F77</sup>, or
  - (d) an AIFM is providing, in accordance with Article 6.4 of the alternative investment fund managers directive the investment service specified in paragraph 1, 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive.]
- (5) Expressions used in sub-paragraphs (1)(e), (2) and (3) and in the markets in financial instruments directive have the same meaning as in that directive.]

#### Textual Amendments

- F66** Sch. 1 para. 21 renumbered as Sch. 1 para. 21(1) (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(a)**
- F67** Word in Sch. 1 para. 21(1)(c) omitted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(b)(i)**
- F68** Sch. 1 para. 21(1)(e) and semi-colon inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(b)(ii)**
- F69** Words in Sch. 1 para. 21(1)(e) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(i)**
- F70** Sch. 1 para. 21(2)-(5) inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(c)**
- F71** Words in Sch. 1 para. 21(2)(d)(i) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(ii)(aa)**

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

- F72** Word in Sch. 1 para. 21(2)(d)(ii) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(ii)(bb)**
- F73** Words in Sch. 1 para. 21(3)(c) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(iii)**
- F74** Words in Sch. 1 para. 21(4)(b) substituted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), reg. 1, **Sch. para. 7(3)**
- F75** Word in Sch. 1 para. 21(4)(b) omitted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. paras. 9(10)(g)(iv)(aa)**
- F76** Words in Sch. 1 para. 21(4)(c) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. paras. 9(10)(g)(iv)(bb)**
- F77** Sch. 1 para. 21(4)(d) and preceding word inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. paras. 9(10)(g)(iv)(cc)**

## Futures

**22.—**(1) Subject to sub-paragraph (2), rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed on when the contract is made.

[<sup>F78</sup>(1A) Subject to sub-paragraph (1D), futures—

- (a) to which sub-paragraph (1) does not apply;
- (b) which relate to commodities;
- (c) which may be settled physically; and
- (d) to which paragraph 5 or 6 of Section C of Annex I to the markets in financial instruments directive [<sup>F79</sup>(read with Articles 5 and 6 of the Commission Regulation)] applies.

(1B) Subject to sub-paragraph (1D), futures and forwards—

- (a) to which sub-paragraph (1) does not apply;
- (b) which relate to commodities;
- (c) which may be settled physically;
- (d) which in accordance with Article [<sup>F80</sup>7] of the Commission Regulation are to be considered as having the characteristics of other derivative financial instruments and not being for commercial purposes; and
- (e) to which paragraph 7 of Section C of Annex I to the markets in financial instruments directive applies.

(1C) Subject to sub-paragraph (1D), futures—

- (a) to which sub-paragraph (1) does not apply;
- (b) which may be settled physically; and
- (c) to which paragraph 10 of Section C of Annex I to the markets in financial instruments directive (read with [<sup>F81</sup>Articles 7 and 8 of] the Commission Regulation) applies.

[

<sup>F82</sup>(1CA) Subject to sub-paragraph (1D), any other derivative contract, relating to currencies to which paragraph 4 of Section C of Annex 1 to the markets in financial instruments directive read with Article 10 of the Commission Regulation applies.]

(1D) Sub-paragraphs (1A), (1B)<sup>F83</sup>, (1C) and (1CA)] only apply to futures<sup>F84</sup>, forwards or derivative contracts] in relation to which—

- (a) an investment firm or credit institution is providing or performing investment services and activities on a professional basis,
- (b) a management company is providing, in accordance with Article <sup>F85</sup>6(3)] of the UCITS directive, the investment service specified in paragraph 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive, <sup>F86</sup>...
- (c) a market operator is providing the investment service specified in <sup>F87</sup>paragraph 8 or 9] of Section A of Annex I to the markets in financial instruments directive<sup>F88</sup>, or
- (d) an AIFM is providing, in accordance with Article 6.4 of the alternative investment fund managers directive the investment service specified in paragraph 1, 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive.]

(1E) Expressions used in sub-paragraphs (1A) to <sup>F89</sup>(1CA)] and in the markets in financial instruments directive have the same meaning as in that directive.]

(2) There are excluded from sub-paragraph (1) rights under any contract which is made for commercial and not investment purposes.

(3) For the purposes of sub-paragraph (2), in considering whether a contract is to be regarded as made for investment purposes or for commercial purposes, the indicators set out in article 84 of the Regulated Activities Order shall be applied in the same way as they are applied for the purposes of that article.

#### Textual Amendments

- F78** Sch. 1 para. 22(1A)-(1E) inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(4)**
- F79** Words in Sch. 1 para. 22(1A)(d) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(h)(i)**
- F80** Word in Sch. 1 para. 22(1B)(d) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(h)(ii)**
- F81** Words in Sch. 1 para. 22(1C)(c) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(h)(iii)**
- F82** Sch. 1 para. 22(1CA) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(h)(iv)**
- F83** Words in Sch. 1 para. 22(1D) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(h)(v)(aa)**
- F84** Words in Sch. 1 para. 22(1D) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(h)(v)(bb)**

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

- F85** Word in Sch. 1 para. 22(1D)(b) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(v)(cc)**
- F86** Word in Sch. 1 para. 22(1D)(b) omitted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(v)(dd)**
- F87** Words in Sch. 1 para. 22(1D)(c) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(v)(ee)**
- F88** Sch. 1 para. 22(1D)(d) and word inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(v)(ff)**
- F89** Word in Sch. 1 para. 22(1E) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(vi)**

### Contracts for differences etc.

- 23.**—(1) Subject to sub-paragraph (2), rights under—
- (a) a contract for differences; or
  - (b) any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in—
    - (i) the value or price of property of any description;
    - (ii) an index or other factor designated for that purpose in the contract.
- (2) There are excluded from sub-paragraph (1)—
- (a) rights under a contract if the parties intend that the profit is to be secured or the loss is to be avoided by one or more of the parties taking delivery of any property to which the contract relates;
  - (b) rights under a contract under which money is received by way of deposit on terms that any interest or other return to be paid on the sum deposited will be calculated by reference to fluctuations in an index or other factor;
  - (c) rights under any contract under which—
    - (i) money is received by the Director of Savings as deposits or otherwise in connection with the business of the National Savings Bank; or
    - (ii) money is raised under the National Loans Act 1968 under the auspices of the Director of Savings or treated as so raised by virtue of section 11(3) of the National Debt Act 1972;
  - (d) rights under a qualifying contract of insurance.
- <sup>F90</sup>(3) Subject to sub-paragraph (4), derivative instruments for the transfer of credit risk—
- (a) to which neither paragraph 21 nor sub-paragraph (1) applies; and
  - (b) to which paragraph 8 of Section C of Annex I to the markets in financial instruments directive applies.
- <sup>F91</sup>(4) Sub-paragraph (3) only applies to derivatives in relation to which—
- (a) an investment firm or credit institution is providing or performing investment services and activities on a professional basis,



- (b) a management company is providing, in accordance with Article [F926(3)] of the UCITS directive, the investment service specified in paragraph 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive,<sup>F93</sup> ...
- (c) a market operator is providing the investment service specified in [F94paragraph 8 or 9] of Section A of Annex I to the markets in financial instruments directive[F95, or
- (d) an AIFM is providing, in accordance with Article 6.4 of the alternative investment fund managers directive the investment service specified in paragraph 1, 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive.]

[  
F91(4A) Subject to sub-paragraph (4B), a derivative contract of a binary or other fixed outcomes nature—

- (a) to which sub-paragraph (1) does not apply;
- (b) which is settled in cash; and
- (c) which is a financial instrument to which paragraph 4, 5, 6, 7 or 10 of Section C of Annex I to the markets in financial instruments directive read with Articles 5 to 8 and 10 of the Commission Regulation applies.

(4B) Sub-paragraph (4A) only applies to derivatives in relation to which—

- (a) an investment firm or credit institution is providing or performing investment services and activities on a professional basis,
- (b) a management company is providing, in accordance with Article 6.3 of the UCITS directive, the investment service specified in paragraph 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive,
- (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Section A of Annex I to the markets in financial instruments directive,
- (d) an AIFM is providing, in accordance with Article 6.4 of the alternative investment fund managers directive the investment service specified in paragraph 1, 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive, or
- (e) a person is carrying on the controlled activity referred to in paragraph 4(2).]

(5) "Derivative instruments for the transfer of credit risk" has the same meaning as in the markets in financial instruments directive.]

#### Textual Amendments

- F90** Sch. 1 para. 23(3)-(5) inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(5)**
- F91** Sch. 1 para. 23(4A)(4B) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(i)(ii)**
- F92** Word in Sch. 1 para. 23(4)(b) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(i)(i)(aa)**

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

- F93** Word in Sch. 1 para. 23(4)(b) omitted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(i)(i)(bb)**
- F94** Words in Sch. 1 para. 23(4)(c) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(i)(i)(cc)**
- F95** Sch. 1 para. 23(4)(d) and word inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(i)(i)(dd)**

### [<sup>F96</sup>Emission allowances

**23A.**—(1) Subject to sub-paragraph (2), emission allowances consisting of any units recognised for compliance with the requirements of the emission allowance trading directive.

(2) Sub-paragraph (1) only applies to emission allowances in relation to which—

- (a) an investment firm or credit institution is providing or performing investment services and activities on a professional basis;
- (b) a management company is providing, in accordance with Article 6.3 of the UCITS directive, the investment services specified in paragraph 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex 1 to the markets in financial instruments directive;
- (c) a market operator is providing an investment service specified in paragraph 8 or 9 of Section A of Annex 1 to the markets in financial instruments directive; or
- (d) an AIFM is providing, in accordance with Article 6.4 of the alternative investment fund managers directive the investment service specified in paragraph 1, 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive.]

### Textual Amendments

- F96** Sch. 1 para. 23A inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(j)**

### Lloyd's syndicate capacity and syndicate membership

**24.**—(1) The underwriting capacity of a Lloyd's syndicate.

(2) A person's membership (or prospective membership) of a Lloyd's syndicate.

### Funeral plan contracts

**25.** Rights under a qualifying funeral plan contract.

### Agreements for qualifying credit

**26.** Rights under an agreement for qualifying credit.

### [<sup>F97</sup>Regulated home reversion plans

**26A.** Rights under a regulated home reversion plan.

**Textual Amendments**

**F97** Sch. 1 paras. 26A, 26B inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(a)**

**Regulated home purchase plans**

**26B.** Rights under a regulated home purchase plan.]

**Textual Amendments**

**F97** Sch. 1 paras. 26A, 26B inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(a)**

[<sup>F98</sup>**Regulated sale and rent back agreement**

**26C.** Rights under a regulated sale and rent back agreement.]

**Textual Amendments**

**F98** Sch. 1 para. 26C inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **30(5)(a)**

[<sup>F99</sup>**Relevant credit agreements**

**26D.** Rights under a relevant credit agreement

**Textual Amendments**

**F99** Sch. 1 paras. 26D, 26E inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(d)**

**Consumer hire agreements**

**26E.** Rights under a consumer hire agreement]

**Textual Amendments**

**F99** Sch. 1 paras. 26D, 26E inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(d)**

**Status:** Point in time view as at 03/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, SCHEDULE 1. (See end of Document for details)

## Rights to or interests in investments

27.—(1) Subject to sub-paragraphs (2) and (3), any right to or interest in anything which is specified by any other provision of this Part of this Schedule (other than [F100]paragraph 26, [F101]26A, 26B or 26C)).

(2) Sub-paragraph (1) does not apply to interests under the trusts of an occupational pension scheme.

(2A) Sub-paragraph (1) does not apply to any right or interest acquired as a result of entering into a funeral plan contract (and for this purpose a “funeral plan contract” is a contract of a kind described in paragraph 9(2)(a) and (b)).

(3) Sub-paragraph (1) does not apply to anything which falls within any other provision of this Part of this Schedule.

### Textual Amendments

**F100** Words in Sch. 1 para. 27(1) substituted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), 35(6)(b)

**F101** Words in Sch. 1 para. 27(1) substituted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), [arts. 1\(2\)](#), 30(5)(b)

## Interpretation

28. In this Schedule—

[F102]“AIFM” has the meaning given in the Regulated Activities Order;]

[F103]“agreement provider” has the meaning given in paragraph (3) of article 63J of the Regulated Activities Order, read with paragraphs (6) and (7) of that article;

“agreement seller” has the meaning given in article 63J(3) of the Regulated Activities Order]

[F104]“borrower” has the meaning given by article 60L of the Regulated Activities Order;]

“buying” includes acquiring for valuable consideration;

[F105]“Commission Regulation” [F106]has the meaning given in the Regulated Activities Order;]

[F104]“consumer hire agreement” has the meaning given by article 60N of the Regulated Activities Order;]

“contract of insurance” has the meaning given in the Regulated Activities Order;

“contractually based investment” means—

(a) rights under a qualifying contract of insurance;

(b) any investment of the kind specified by any of paragraphs 21, 22, 23 and 25;

(c) any investment of the kind specified by paragraph 27 so far as relevant to an investment falling within (a) or (b);

[F105]“credit institution” has the meaning given in the Regulated Activities Order;]

[F104]“hirer” has the meaning given by article 60N of the Regulated Activities Order;]

[F107]“home purchase provider” and “home purchaser” have the meanings given in article 63F(3) of the Regulated Activities Order;]

[F105]“investment firm” has the meaning given in the Regulated Activities Order;

“investment services and activities” has the meaning given in the Regulated Activities Order;]

[<sup>F104</sup>“lender” has the meaning given by article 60L of the Regulated Activities Order;]

[<sup>F105</sup>“management company” has the meaning given in the Regulated Activities Order;

“market operator” has the meaning given in the Regulated Activities Order;

[<sup>F102</sup>“markets in financial instruments directive” means [Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (recast);]

“MiFID instrument” has the meaning given in article 25D(2) of the Regulated Activities Order;

“multilateral trading facility” has the meaning given in the Regulated Activities Order;]

[<sup>F102</sup>“non-equity MiFID instrument” has the meaning given in article 25DA of the Regulated Activities Order;]

[<sup>F108</sup>“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 but with paragraph (b) of the definition omitted;]

[<sup>F102</sup>“organised trading facility” has the meaning given in the Regulated Activities Order;]

[<sup>F109</sup>“plan provider” has the meaning given by paragraph (3) of article 63B of the Regulated Activities Order, read with paragraphs (7) and (8) of that article;]

“property” includes currency of the United Kingdom or any other country or territory;

“qualifying funeral plan contract” has the meaning given by paragraph 9;

[<sup>F104</sup>“regulated consumer hire agreement” has the meaning given by article 60N of the Regulated Activities Order;]

[<sup>F104</sup>“regulated credit agreement” has the meaning given by article 60B of the Regulated Activities Order;]

[<sup>F110</sup>“regulated home purchase plan” has the meaning given in article 63F(3) of the Regulated Activities Order;

“regulated home reversion plan” and “reversion seller” have the meanings given in article 63B(3) of the Regulated Activities Order;]

[<sup>F111</sup>“regulated sale and rent back agreement” has the meaning given in article 63J(3) of the Regulated Activities Order;]

[<sup>F112</sup>“relevant credit agreement” means a credit agreement (within the meaning given by article 60B of the Regulated Activities Order) other than—

- (a) a regulated mortgage contract or a regulated home purchase plan (within the meaning of that Order); or
- (b) a buy-to-let mortgage contract as defined in article 4 of the Mortgage Credit Directive Order 2015;]

[<sup>F104</sup>“relevant recipient of credit” has the meaning given by article 60L of the Regulated Activities Order.]

“security” means a controlled investment falling within any of paragraphs 14 to 20 [<sup>F113</sup>or 23A] or, so far as relevant to any such investment, paragraph 27;

“selling”, in relation to any investment, includes disposing of the investment for valuable consideration, and for these purposes “disposing” includes—

- (a) in the case of an investment consisting of rights under a contract—
  - (i) surrendering, assigning or converting those rights; or
  - (ii) assuming the corresponding liabilities under the contract;

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- (b) in the case of an investment consisting of rights under other arrangements, assuming the corresponding liabilities under the arrangements; and
  - (c) in the case of any other investment, issuing or creating the investment or granting the rights or interests of which it consists;
- “syndicate” has the meaning given in the Regulated Activities Order.

#### Textual Amendments

- F102** Words in Sch. 1 para. 28 inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(k)(i)**
- F103** Words in Sch. 1 para. 28 inserted (1.7.2009 for specified purposes, 30.6.2010 so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), 30(5)(c)(i)
- F104** Words in Sch. 1 para. 28 inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(e)**
- F105** Words in Sch. 1 para. 28 inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(6)**
- F106** Words in Sch. 1 para. 28 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(k)(ii)**
- F107** Words in Sch. 1 para. 28 inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(c)(i)**
- F108** Words in Sch. 1 para. 28 substituted (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\)](#), arts. 1(2)(b), 12(4)
- F109** Words in Sch. 1 para. 28 inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(c)(ii)**
- F110** Words in Sch. 1 para. 28 inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(c)(iii)**
- F111** Words in Sch. 1 para. 28 inserted (1.7.2009 for specified purposes, 30.6.2010 so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), 30(5)(c)(ii)
- F112** Words in Sch. 1 para. 28 substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 12(3)** (with Pt. 4)
- F113** Words in Sch. 1 para. 28 inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(k)(iii)**

**Status:**

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**Changes to legislation:**

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