

Status: Point in time view as at 03/07/2016.

Changes to legislation: *Proceeds of Crime Act 2002, Cross Heading: Business in the regulated sector is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 9

REGULATED SECTOR AND SUPERVISORY AUTHORITIES

[^{F1}PART 1

REGULATED SECTOR

Textual Amendments

- F1** Sch. 9 Pts. 1, 2 substituted (15.12.2007) by [The Proceeds of Crime Act 2002 \(Business in the Regulated Sector and Supervisory Authorities\) Order 2007 \(S.I. 2007/3287\)](#), arts. 1, 2

Business in the regulated sector

1. (1) A business is in the regulated sector to the extent that it consists of—
 - (a) the acceptance by a credit institution of deposits or other repayable funds from the public, or the granting by a credit institution of credits for its own account;
 - (b) the carrying on of one or more of the activities listed in points 2 to 12 [^{F2}, 14 and 15] of Annex 1 to the [^{F3}Capital Requirements Regulation] by an undertaking other than—
 - (i) a credit institution; or
 - (ii) an undertaking whose only listed activity is trading for own account in one or more of the products listed in point 7 of Annex 1 to the [^{F3}Capital Requirements Regulation] and which does not act on behalf of a customer (that is, a third party which is not a member of the same group as the undertaking);
 - (c) the carrying on of activities covered by [^{F4}the Solvency 2 Directive] by an insurance company authorised in accordance with that Directive;
 - (d) the provision of investment services or the performance of investment activities by a person (other than a person falling within Article 2 of the Markets in Financial Instruments Directive) whose regular occupation or business is the provision to other persons of an investment service or the performance of an investment activity on a professional basis;
 - (e) the marketing or other offering of units or shares by a collective investment undertaking;
 - (f) the activities of an insurance intermediary as defined in Article 2(5) of the Insurance Mediation Directive, other than a tied insurance intermediary as mentioned in Article 2(7) of that Directive, in respect of contracts of long-term insurance within the meaning given by article 3(1) of, and Part II of

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- Schedule 1 to, the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
- (g) the carrying on of any of the activities mentioned in paragraphs (b) to (f) by a branch located in an EEA State of a person referred to in those paragraphs (or of an equivalent person in any other State), wherever its head office is located;
 - (h) the activities of the National Savings Bank;
 - (i) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968 under the auspices of the Director of Savings;
 - (j) the carrying on of statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of “statutory auditor” etc) by any firm or individual who is a statutory auditor within the meaning of Part 42 of that Act (statutory auditors);
 - (k) the activities of a person appointed to act as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 (meaning of “act as insolvency practitioner”) or article 3 of the Insolvency (Northern Ireland) Order 1989;
 - (l) the provision to other persons of accountancy services by a firm or sole practitioner who by way of business provides such services to other persons;
 - (m) the provision of advice about the tax affairs of other persons by a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons;
 - (n) the participation in financial or real property transactions concerning—
 - (i) the buying and selling of real property (or, in Scotland, heritable property) or business entities;
 - (ii) the managing of client money, securities or other assets;
 - (iii) the opening or management of bank, savings or securities accounts;
 - (iv) the organisation of contributions necessary for the creation, operation or management of companies; or
 - (v) the creation, operation or management of trusts, companies or similar structures,
 by a firm or sole practitioner who by way of business provides legal or notarial services to other persons;
 - (o) the provision to other persons by way of business by a firm or sole practitioner of any of the services mentioned in sub-paragraph (4);
 - (p) the carrying on of estate agency work ^{F5}... by a firm or a sole practitioner who carries on, or whose employees carry on, such work;
 - (q) the trading in goods (including dealing as an auctioneer) whenever a transaction involves the receipt of a payment or payments in cash of at least 15,000 euros in total, whether the transaction is executed in a single operation or in several operations which appear to be linked, by a firm or sole trader who by way of business trades in goods;
 - (r) operating a casino under a casino operating licence (within the meaning given by section 65(2) of the Gambling Act 2005 (nature of licence)).
 - [^{F6}(s) the auctioning by an auction platform of two-day spot or five-day futures, within the meanings given by Article 3 of the Emission Allowance Auctioning Regulation.]

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- [^{F7}(t) bidding directly, on behalf of clients, in auctions of emissions allowances in accordance with the Emission Allowance Auctioning Regulation.]
- (2) For the purposes of sub-paragraph (1)(a) and (b) “credit institution” means—
- (a) a credit institution as defined in [^{F8}Article 4(1)(1) of the Capital Requirements Regulation] ; or
 - (b) a branch (within the meaning of [^{F9}Article 4(1)(17) of that Regulation]) located in an EEA state of an institution falling within paragraph (a) (or of an equivalent institution in any other State) wherever its head office is located.
- (3) For the purposes of sub-paragraph (1)(n) a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.
- (4) The services referred to in sub-paragraph (1)(o) are—
- (a) forming companies or other legal persons;
 - (b) acting, or arranging for another person to act—
 - (i) as a director or secretary of a company;
 - (ii) as a partner of a partnership; or
 - (iii) in a similar position in relation to other legal persons;
 - (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
 - (d) acting, or arranging for another person to act, as—
 - (i) a trustee of an express trust or similar legal arrangement; or
 - (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.
- (5) For the purposes of sub-paragraph (4)(d) “regulated market”—
- (a) in relation to any EEA State, has the meaning given by point 14 of Article 4(1) of the Markets in Financial Instruments Directive; and
 - (b) in relation to any other State, means a regulated financial market which subjects companies whose securities are admitted to trading to disclosure obligations which are contained in international standards and are equivalent to the specified disclosure obligations.
- [^{F10}(6) For the purposes of sub-paragraph (5) “the specified disclosure obligations” means—
- (a) disclosure requirements set out in Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation);
 - (b) disclosure requirements consistent with Articles 3, 5, 7, 8, 10, 14 and 16 of [Directive 2003/71/EC](#) of the European Parliament and of the Council of 4th November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading;
 - (c) disclosure requirements consistent with Articles 4 to 6, 14, 16 to 19 and 30 of [Directive 2004/109/EC](#) of the European Parliament and of the Council of 15th December 2004 relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; or
 - (d) disclosure requirements consistent with EU legislation made under the provisions mentioned in paragraphs (a) to (c).]

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- [^{F11}(6A) For the purposes of sub-paragraph (1)(p) “estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979 (estate agency work), but for those purposes references in that section to disposing of or acquiring an interest in land are (despite anything in section 2 of that Act) to be taken to include references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest.]
- (7) For the purposes of sub-paragraph (1)(j) and (l) to (q) “firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate and a partnership or other unincorporated association.
- (8) For the purposes of sub-paragraph (1)(q) “cash” means notes, coins or travellers’ cheques in any currency.
- [^{F12}(9) For the purposes of sub-paragraph (1)(s) “auction platform” means a platform on which auctions of emissions allowances are held in accordance with the Emission Allowance Auctioning Regulation.]]

Textual Amendments

- F2** Words in Sch. 9 para. 1(1)(b) substituted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), reg. 1(2), **Sch. 4 para. 4(a)**
- F3** Words in Sch. 9 para. 1(1)(b) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 41(2)**
- F4** Words in Sch. 9 para. 1(1)(c) substituted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 23(2)**
- F5** Words in Sch. 9 para. 1(1)(p) omitted (1.10.2012) by virtue of [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) \(No.2\) Order 2012 \(S.I. 2012/2299\)](#), arts. 1, **3(a)**
- F6** Sch. 9 para. 1(1)(s) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, **3(2)(a)**
- F7** Sch. 9 para. 1(1)(t) inserted (7.7.2012) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2012 \(S.I. 2012/1534\)](#), arts. 1, **3**
- F8** Words in Sch. 9 para. 1(2)(a) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 41(3)**
- F9** Words in Sch. 9 para. 1(2)(b) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 41(4)**
- F10** Sch. 9 para. 1(6) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **14**
- F11** Sch. 9 para. 1(6A) inserted (1.10.2012) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) \(No.2\) Order 2012 \(S.I. 2012/2299\)](#), arts. 1, **3(b)**
- F12** Sch. 9 para. 1(9) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, **3(2)(b)**

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