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STATUTORY INSTRUMENTS

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**2001 No. 1201**

**FINANCIAL SERVICES AND MARKETS**

The Financial Services and Markets  
Act 2000 (Exemption) Order 2001

Made - - - - 26th March 2001  
In accordance with  
Coming into force - - article 1

Whereas this Order is the first Order to be made, or to contain provisions made, under section 38 of the Financial Services and Markets Act 2000<sup>M1</sup>;

And whereas a draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 429(3) and (5) of that Act;

Now, therefore, the Treasury, in exercise of the powers conferred on them by sections 38 and 428(3) of that Act, hereby make the following Order:

**Marginal Citations**

M1 2000 c. 8.

**Citation and commencement** U.K.

1. This Order may be cited as the Financial Services and Markets Act 2000 (Exemption) Order 2001 and comes into force on the day on which section 19 of the Act comes into force.

**Interpretation** U.K.

2. In this Order—

“the Act” means the Financial Services and Markets Act 2000;

“charity”—

(a) in relation to Scotland, means a [<sup>F1</sup>body entered in the Scottish Charity Register]; and

(b) otherwise, has the meaning given by section 96(1) of the Charities Act 1993 <sup>M2</sup> or by section 35 of the Charities Act (Northern Ireland) 1964 <sup>M3</sup>;

[<sup>F2</sup>“credit institution” has the meaning given by the Regulated Activities Order;]

“deposit” has the meaning given by the Regulated Activities Order;

*Status: Point in time view as at 01/12/2008.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001. (See end of Document for details)*

“industrial and provident society” has the meaning given by section 417(1) of the Act but does not include a credit union within the meaning of the Credit Unions Act 1979 <sup>M4</sup> or the Credit Unions (Northern Ireland) Order 1985 <sup>M5</sup>;

[<sup>F2</sup>“investment firm” has the meaning given by the Regulated Activities Order;]

“local authority” means—

- (a) in England and Wales, a local authority within the meaning of the Local Government Act 1972 <sup>M6</sup>, the Greater London Authority, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973 <sup>M7</sup>; and
- (c) in Northern Ireland, a district council within the meaning of the Local Government Act (Northern Ireland) 1972 <sup>M8</sup>;

[<sup>F3</sup>“non-qualifying contract of insurance” means a contract of insurance (within the meaning of the Regulated Activities Order) which is not a qualifying contract of insurance (within the meaning of that Order);]

“the Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 <sup>M9</sup>.

#### Textual Amendments

- F1** Words in art. 2 substituted (1.4.2006) by [The Charities and Trustee Investment \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2006 \(S.I. 2006/242\)](#), art. 1(3), **Sch. para. 11**
- F2** Words in art. 2 inserted (1.11.2007) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2007 \(S.I. 2007/125\)](#), arts. 1, 3
- F3** Words in art. 2 inserted (14.1.2005) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1675\)](#), arts. 1(3), **2(2)**

#### Marginal Citations

- M2** 1993 c. 10.
- M3** 1964 c. 33 (N.I.).
- M4** 1979 c. 34; amended by the [Deregulation \(Credit Unions\) Order 1996 \(S.I. 1996/1189\)](#).
- M5** [S.I. 1985/1205 \(N.I. 12\)](#); relevant amendments are made by paragraphs 28 and 29 of Schedule 21 to the [Friendly Societies Act 1992 \(c. 40\)](#), and by [S.I. 1997/2984 \(N.I. 22\)](#).
- M6** 1972 c. 70; the definition of “local authority” in section 270 has been repealed in part by Schedule 17 to the [Local Government Act 1985 \(c. 51\)](#), and amended by section 1(5) of the [Local Government \(Wales\) Act 1994 \(c. 19\)](#).
- M7** 1973 c. 65; the definition of “local authority” in section 235 was substituted by paragraph 92(66) of Schedule 13 to the [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#).
- M8** 1972 c. 9 (N.I.).
- M9** [S.I. 2001/544](#).

### Persons exempt in respect of any regulated activity other than insurance business **U.K.**

3. Each of the persons listed in Part I of the Schedule is exempt from the general prohibition in respect of any regulated activity other than an activity of the kind specified by article 10 of the Regulated Activities Order (effecting and carrying out contracts of insurance).

## Persons exempt in respect of accepting deposits **U.K.**

4. Subject to the limitations, if any, expressed in relation to him, each of the persons listed in Part II of the Schedule is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 5 of the Regulated Activities Order (accepting deposits).

## Persons exempt in respect of particular regulated activities **U.K.**

5.—(1) Subject to the limitation, if any, expressed in relation to him, each of the persons listed in Part III of the Schedule is exempt from the general prohibition in respect of any regulated activity of the kind specified by any of the following provisions of the Regulated Activities Order, or article 64 of that Order (agreeing to carry on specified kinds of activity) so far as relevant to any such activity—

- (a) article 14 (dealing in investments as principal);
- (b) article 21 (dealing in investments as agent);
- (c) article 25 (arranging deals in investments);
- [<sup>F4</sup>(ca) article 25D (operating a multilateral trading facility);]
- (d) article 37 (managing investments);
- [<sup>F5</sup>(da) article 39A (assisting in the administration and performance of a contract of insurance);]
- (e) article 40 (safeguarding and administering investments);
- (f) article 45 (sending dematerialised instructions);
- (g) article 51 (establishing etc. a collective investment scheme);
- (h) article 52 (establishing etc. a <sup>F6</sup>... pension scheme);
- (i) article 53 (advising on investments).

(2) Subject to the limitation, if any, expressed in relation to him, each of the persons listed in Part IV of the Schedule is exempt from the general prohibition in respect of any regulated activity of the kind referred to in relation to him, or an activity of the kind specified by article 64 of the Regulated Activities Order so far as relevant to any such activity.

### Textual Amendments

- F4** Art. 5(1)(ca) inserted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2007 (S.I. 2007/125), arts. 1, 4
- F5** Art. 5(1)(da) inserted (14.1.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) (No. 2) Order 2003 (S.I. 2003/1675), arts. 1(3), 2(3)
- F6** Word in art. 5(1)(h) omitted (6.4.2007) by virtue of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2006 (S.I. 2006/1969), arts. 1(3), 10

## Transitional exemption for credit unions **U.K.**

6. A credit union, within the meaning <sup>F7</sup>..., is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 5 of the Regulated Activities Order, but only until 1st July 2002.

### Textual Amendments

- F7** Words in art. 6 omitted (1.12.2001) by virtue of The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2001 (S.I. 2001/3623), arts. 1, 3

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**Status:** Point in time view as at 01/12/2008.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001. (See end of Document for details)

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*Jim Dowd*

*Greg Pope*

Two of the Lords Commissioners of Her  
Majesty's Treasury

SCHEDULE **U.K.**

Articles 3 to 5

PART I **U.K.**

PERSONS EXEMPT IN RESPECT OF ANY REGULATED  
ACTIVITY OTHER THAN INSURANCE BUSINESS

1. The Bank of England.
2. The central bank of an EEA State other than the United Kingdom.
3. The European Central Bank.
4. The European Community.
5. The European Atomic Energy Community.
6. The European Coal and Steel Community.
7. The European Investment Bank.
8. The International Bank for Reconstruction and Development.
9. The International Finance Corporation.
10. The International Monetary Fund.
11. The African Development Bank.
12. The Asian Development Bank.
13. The Caribbean Development Bank.
14. The Inter-American Development Bank.
15. The European Bank for Reconstruction and Development.
- [<sup>F8</sup>15A. Bank for International Settlements.]

**Textual Amendments**

- F8** Sch. para. 15A inserted (1.3.2003) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2003 \(S.I. 2003/47\)](#), arts. 1, 2

PART II **U.K.**

PERSONS EXEMPT IN RESPECT OF ACCEPTING DEPOSITS

16. A municipal bank, that is to say a company which was, immediately before the coming into force of this Order, exempted from the prohibition in section 3 of the Banking Act 1987<sup>M10</sup> by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act.

**Marginal Citations**

- M10** 1987 c. 22; section 3 was amended by paragraph 3 of Schedule 5 to the [Bank of England Act 1998 \(c. 11\)](#). "Municipal bank" was defined in section 103 of the Banking Act 1987, which was amended by paragraph

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22 of Schedule 3 to the [Local Government Act 1992 \(c. 19\)](#) and by paragraph 21 of Schedule 3 to the [Local Government and Rating Act 1997 \(c. 29\)](#).

**17.**

(1) Keesler Federal Credit Union, in so far as it accepts deposits from members, or dependants of members, of a visiting force of the United States of America, or from members, or dependants of members, of a civilian component of such a force.

(2) In sub-paragraph (1), "member", "dependent" and "visiting force" have the meanings given by section 12 of the Visiting Forces Act 1952 <sup>M11</sup> and "member of a civilian component" has the meaning given by section 10 of that Act.

**Marginal Citations**

**M11** [1952 c. 67](#); the definition of "visiting force" was amended by paragraph 14 of Schedule 15 to the [Criminal Justice Act 1988 \(c. 33\)](#).

**18.** A body of persons certified as a school bank by the National Savings Bank or by an authorised person who has permission to accept deposits.

**19.** A local authority.

**20.**

(1) Any body which by virtue of any enactment has power to issue a precept to a local authority in England or Wales or a requisition to a local authority in Scotland, or to the expenses of which, by virtue of any enactment, a local authority in the United Kingdom is or can be required to contribute.

(2) In sub-paragraph (1), "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

[<sup>F9</sup>**21.** The Council of Europe Development Bank.]

**Textual Amendments**

**F9** [Sch. para. 21](#) substituted (5.6.2002) by [The Financial Services and Markets Act 2000 \(Financial Promotion and Miscellaneous Amendments\) Order 2002 \(S.I. 2002/1310\)](#), arts. 1, **4(2)**

**22.** A charity, in so far as it accepts deposits—

- (a) from another charity; or
- (b) in respect of which no interest or premium is payable.

**23.** The National Children's Charities Fund in so far as—

- (a) it accepts deposits in respect of which no interest or premium is payable; and
- (b) the total value of the deposits made by any one person does not exceed £10,000.

**24.** An industrial and provident society, in so far as it accepts deposits in the form of withdrawable share capital.

[<sup>F10</sup>**24A.** A credit union, within the meaning of the Credit Unions (Northern Ireland) Order 1985.]

#### Textual Amendments

**F10** Sch. para. 24A inserted (1.12.2001) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2001 (S.I. 2001/3623), arts. 1, 4

#### 25.

(1) The Student Loans Company Limited, in so far as it accepts deposits from the Secretary of State or the Scottish Ministers in connection with, or for the purposes of, enabling eligible students to receive loans.

(2) In sub-paragraph (1), "eligible student" means—

- (a) any person who is an eligible student pursuant to regulations made under Part II of the Teaching and Higher Education Act 1998 <sup>M12</sup>;
- (b) any person to whom, or in respect of whom, loans may be paid under section 73(f) of the Education (Scotland) Act 1980 <sup>M13</sup>;
- (c) any person who is an eligible student pursuant to regulations made under article 3 of the Education (Student Support) (Northern Ireland) Order 1998 <sup>M14</sup>; or
- (d) any person who is in receipt of or who is eligible to receive a loan of the kind mentioned in article 3(1) of the Teaching and Higher Education Act 1998 (Commencement No. 2 and Transitional Provisions) Order 1998 <sup>M15</sup> or article 3(1) of the Education (Student Support) (Northern Ireland) Order 1998 (Commencement and Transitional Provisions) Order (Northern Ireland) 1998 <sup>M16</sup>.

#### Marginal Citations

**M12** 1998 c. 30; see [section 22](#) by regulations made under that section.

**M13** 1980 c. 44; amended section 29 of the [Teaching and Higher Education Act 1998 \(c. 30\)](#).

**M14** S.I. 1998/1760 (N.I. 14); see [article 3](#) and regulations made under that article.

**M15** S.I. 1998/2004 (C. 46).

**M16** S.I. 1998/306 (C. 14).

## PART III **U.K.**

### PERSONS EXEMPT IN RESPECT OF ANY REGULATED ACTIVITY MENTIONED IN ARTICLE 5(1)

26. The National Debt Commissioners.

[<sup>F11</sup>27. Partnerships UK.]

#### Textual Amendments

**F11** Sch. para. 27 substituted (13.7.2003) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) (No. 2) Order 2003 (S.I. 2003/1675), arts. 1(2), **2(4)(a)**

28. The International Development Association.

29. The English Tourist Board.

30. <sup>F12</sup>....

**Status:** Point in time view as at 01/12/2008.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001. (See end of Document for details)

**Textual Amendments**

**F12** Words in Sch. Pt. 3 omitted (23.11.2005) by virtue of The Wales Tourist Board (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3225), art. 1(1), **Sch. 2 Pt. 2 para. 4** (with art. 3(1))

[<sup>F13</sup>**31.** VisitScotland.]

**Textual Amendments**

**F13** Words in Sch. para. 31 substituted (1.4.2007) by Tourist Boards (Scotland) Act 2006 (asp 15), s. 5(1), **sch. 2 para. 10**; S.S.I. 2007/47, **art. 2**

**32.** The Northern Ireland Tourist Board.

**33.** Scottish Enterprise.

[<sup>F14</sup>**33A.** Invest Northern Ireland.]

**Textual Amendments**

**F14** Sch. para. 33A inserted (20.7.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2007 (S.I. 2007/1821), arts. 1(2), **2(2)**

**34.** The Multilateral Investment Guarantee Agency.

[<sup>F15</sup>**34A.** The Board of the Pension Protection Fund.]

**Textual Amendments**

**F15** Sch. para. 34A inserted (6.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(a), **2(1)**

[<sup>F16</sup>**34B.** Capital for Enterprise Limited, in so far as in carrying on any regulated activity it provides services only to the Crown.]

**Textual Amendments**

**F16** Sch. para. 34B inserted (1.4.2008) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2008 (S.I. 2008/682), arts. 1, **2(2)**

**35.** A person acting as an official receiver within the meaning of section 399 of the Insolvency Act 1986 <sup>M17</sup> or article 2 of the Insolvency (Northern Ireland) Order 1989 <sup>M18</sup>.

**Marginal Citations**

**M17** 1986 c. 45.

**M18** S.I. 1989/2405 (N.I. 19); to which there are amendments not relevant to this Order.

<sup>F17</sup>**36.** . . . . .



**Textual Amendments**

**F17** Sch. para. 36 revoked (1.11.2007) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2007 \(S.I. 2007/125\)](#), arts. 1, 5

**37.**

[<sup>F18</sup>(1) An Operator, in so far he carries on—

- (a) any regulated activity for the purposes of the performance of his functions as an Operator under the Uncertificated Securities Regulations 1995; or
- (b) any other regulated activity for the purposes of operating a computer-based system and procedures which—
  - (i) enable title to investments to be evidenced and transferred without a written instrument; or
  - (ii) facilitate matters supplementary or incidental to those specified in sub-paragraph (i), other than a regulated activity in respect of which a recognised clearing house is exempt from the general prohibition by virtue of section 285(3) of the Act.]

(2) In sub-paragraph (1), "Operator" means a person approved as such by the Treasury under the Uncertificated Securities Regulations 1995.

**Textual Amendments**

**F18** Sch. para. 37(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2001 \(S.I. 2001/3623\)](#), arts. 1, 5

**38.** A person acting as a judicial factor.

**39.** A person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 <sup>M19</sup>[<sup>F19</sup>or article 3 of the Insolvency (Northern Ireland) Order 1989].

**Textual Amendments**

**F19** Words in Sch. para. 39 inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2001 \(S.I. 2001/3623\)](#), arts. 1, 6

**Marginal Citations**

**M19** 1986 c. 45. Amended by the [Bankruptcy \(Scotland\) Act 1993 \(c. 6\)](#) section 11 and by [S.I. 1994/2421](#).

## PART IV **U.K.**

### PERSONS EXEMPT IN RESPECT OF PARTICULAR REGULATED ACTIVITIES

#### *Enterprise schemes*

**40.**

(1) Any body corporate which has as its principal object (or one of its principal objects)—

- (a) the promotion or encouragement of industrial or commercial activity or enterprise in the United Kingdom or in any particular area of it; or

**Status:** Point in time view as at 01/12/2008.

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- (b) the dissemination of information concerning persons engaged in such activity or enterprise or requiring capital to become so engaged;

is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 25 of the Regulated Activities Order (arranging deals in investments) so long as it does not carry on that activity for, or with the prospect of, direct or indirect pecuniary gain.

(2) For the purposes of this paragraph, such sums as may reasonably be regarded as necessary to meet the costs of carrying on the activity mentioned in sub-paragraph (1) do not constitute a pecuniary gain.

[<sup>F20</sup>(3) This paragraph does not apply where an investment firm or credit institution—

- (a) provides or performs investment services and activities on a professional basis, and  
 (b) in doing so, but for the operation of [<sup>F21</sup>sub-paragraph (1)], it would be treated as carrying on an activity of a kind specified by Part 2 of the Regulated Activities Order [<sup>F22</sup>in breach of the general prohibition].]

#### Textual Amendments

**F20** Sch. para. 40(3) inserted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2007 (S.I. 2007/125), arts. 1, **6(a)**

**F21** Words in Sch. para. 40(3)(b) substituted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2007 (S.I. 2007/1821), arts. 1(3), **2(3)(i)**

**F22** Words in Sch. para. 40(3)(b) inserted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2007 (S.I. 2007/1821), arts. 1(3), **2(3)(ii)**

#### *Employee share schemes in electricity industry shares*

#### 41.

(1) Each of the persons to whom this paragraph applies is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 or 25 of the Regulated Activities Order (dealing in investments as principal or agent or arranging deals in investments) which he carries on for the purpose of—

- (a) enabling or facilitating transactions in electricity industry shares or debentures between or for the benefit of any qualifying person; or  
 (b) the holding of electricity industry shares or debentures by or for the benefit of any qualifying person.

(2) This paragraph applies to—

- (a) The National Grid Holding plc;  
 (b) Electricity Association Limited;  
 (c) any body corporate in the same group as the person mentioned in sub-paragraph (a) or (b);  
 (d) any company listed in Schedule 1 to the Electricity Act 1989 (Nominated Companies) (England and Wales) Order 1990 <sup>M20</sup>; and  
 (e) a person holding shares in or debentures of a body corporate as trustee in pursuance of arrangements made for either of the purposes mentioned in sub-paragraph (1) by the Secretary of State, by any of the bodies mentioned in sub-paragraphs (a) to (c) or by an electricity successor company or by some or all of them.

(3) In this paragraph—

- (a) “electricity industry shares or debentures” means—

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**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001. (See end of Document for details)

- (i) any investment of the kind specified by article 76 or 77 of the Regulated Activities Order (shares or instruments creating or acknowledging indebtedness) in or of an electricity successor company;
  - (ii) any investment of the kind specified by article 79 or 80 of that Order (instruments giving entitlement to investments and certificates representing certain securities), so far as relevant to the investments mentioned in sub-paragraph (i); and
  - (iii) any investment of the kind specified by article 89 of that Order (rights to or interests in investments) so far as relevant to the investments mentioned in sub-paragraphs (i) and (ii);
- (b) “qualifying person” means—
- (i) the bona fide employees or former employees of The National Grid Holding plc, Electricity Association Limited or any other body corporate in the same group as either of them; and
  - (ii) the wives, husbands, widows, widowers [<sup>F23</sup>, civil partners, surviving civil partners,] or children (including, in Northern Ireland, adopted children) or step-children under the age of eighteen of such employees or former employees;
- (c) references to an electricity successor company include any body corporate that is in the same group and “electricity successor company” means a body corporate which is a successor company for the purposes of Part II of the Electricity Act 1989 <sup>M21</sup>;
- (d) “former employees” of a person (“the employer”) include any person who has never been employed by the employer so long as he occupied a position in relation to some other person of such a kind that it may reasonably be assumed that he would have been a former employee of the employer had the reorganisation of the electricity industry under Part II of the Electricity Act 1989 been affected before he ceased to occupy the relevant position.

#### Textual Amendments

**F23** Words in *Sch. para. 41* inserted (5.12.2005) by *The Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005 (S.I. 2005/2114)*, art. 1, **Sch. 16 para. 4**

#### Marginal Citations

**M20** *S.I. 1990/224*.

**M21** *1989 c. 29*.

### *Gas industry*

#### **42.**

(1) Transco plc is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 [<sup>F24</sup>, 25 or 25D] of the Regulated Activities Order (dealing in investments as principal or agent [<sup>F24</sup>, arranging deals in investments or operating a multilateral trading facility]) which it carries on—

- (a) in its capacity as a gas transporter under the Transco Licence; and
- (b) for the purposes of enabling or facilitating gas shippers to buy or sell an investment of the kind specified by article 84 or 85 of the Regulated Activities Order (futures or contracts for differences etc.).

(2) ENMO Ltd. is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 [<sup>F25</sup>, 25 or 25D] of the Regulated Activities Order (dealing in

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investments as principal or agent [<sup>F25</sup>, arranging deals in investments or operating a multilateral trading facility]) which it carries on—

- (a) in its capacity as the operator of the balancing market; and
- (b) for the purpose of enabling or facilitating Transco plc and relevant gas shippers, for the purpose of participating in the balancing market, to buy or sell investments of the kind specified by article 84 or 85 of that Order (futures or contracts for differences etc.).

(3) Transco plc and relevant gas shippers are exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14 or 21 of the Regulated Activities Order (dealing in investments as principal or agent) in so far as that activity relates to an investment of the kind specified by article 84 or 85 of that Order (futures or contracts for differences etc.) and is carried on for the purpose of participating in the balancing market.

(4) In this paragraph—

- (a) “the balancing market” means the market to regulate the delivery and off-take of gas in Transco plc’s pipeline system for the purpose of balancing the volume of gas in that system;
- (b) “gas shipper” has the same meaning as in Part I of the Gas Act 1986 <sup>M22</sup>;
- (c) “relevant gas shippers” means gas shippers who have entered into a subscription agreement with ENMO Ltd. for the purpose of participating in the balancing market;
- (d) “Transco Licence” means the licence treated as granted to Transco plc as a gas transporter under section 7 of the Gas Act 1986 <sup>M23</sup>;
- (e) the reference to enabling or facilitating includes acting pursuant to rules governing the operation of the balancing market which apply in the event of one of the participants appearing to be unable, or likely to become unable, to meet his obligations in respect of one or more contracts entered into through the balancing market.

#### Textual Amendments

**F24** Words in Sch. para. 42(1) substituted (1.11.2007) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2007 \(S.I. 2007/125\)](#), arts. 1, **6(b)(i)**

**F25** Words in Sch. para. 42(2) substituted (1.11.2007) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2007 \(S.I. 2007/125\)](#), arts. 1, **6(b)(ii)**

#### Marginal Citations

**M22** 1986 c. 44; see [section 7A](#) which was inserted by section 6(1) of the [Gas Act 1995 \(c. 45\)](#).

**M23** Substituted by the [Gas Act 1995 \(c. 45\)](#) and amended by the [Utilities Act 2000 \(c. 27\)](#) section 76 (although this amendment was not in force on the day on which this Order was laid).

### *Trade unions and employers’ associations*

#### 43.

(1) A trade union or employers’ association is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 10 of the Regulated Activities Order (effecting and carrying out contracts of insurance) which it carries on in order to provide provident benefits or strike benefits for its members.

(2) In sub-paragraph (1), “trade union” and “employers’ association” have the meanings given by section 1 and section 122(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>M24</sup> or, in Northern Ireland, the meanings given by article 3(1) and article 4(1) of the Industrial Relations (Northern Ireland) Order 1992 <sup>M25</sup>.

**Marginal Citations**

**M24** 1992 c. 52.

**M25** S.I. 1992/807 (NI 5); to which there are amendments not relevant to this Order.

*Charities*

**44.**

(1) A charity is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 51 of the Regulated Activities Order (establishing etc. a collective investment scheme) which it carries on in relation to a fund established under—

- (a) section 22A of the Charities Act 1960 <sup>M26</sup>;
- (b) section 25 of the Charities Act 1993 <sup>M27</sup>; or
- (c) section 25 of the Charities Act (Northern Ireland) 1964 <sup>M28</sup>.

(2) A charity is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 51 of the Regulated Activities Order (establishing etc. a collective investment scheme) which it carries on in relation to a pooling scheme fund established under—

- (a) section 22 of the Charities Act 1960; or
- (b) section 24 of the Charities Act 1993.

(3) In sub-paragraph (2), “pooling scheme fund” means a fund established by a common investment scheme the trusts of which provide that property is not to be transferred to the fund except by or on behalf of a charity, the charity trustees (within the meaning of section 97(1) of the Charities Act 1993) of which are the trustees appointed to manage the fund.

**Marginal Citations**

**M26** 1960 c. 58. Inserted by section 16 of the Charities Act 1992 (c. 41); repealed by the Charities Act 1993 (c. 10) Schedule 7.

**M27** 1993 c. 10.

**M28** 1964 c. 33 (N.I.).

*Schemes established under the Trustee Investments Act 1961*

**45.** A person acting in his capacity as manager or operator of a fund established under section 11 of the Trustee Investments Act 1961 <sup>M29</sup> is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 51 of the Regulated Activities Order (establishing etc. a collective investment scheme) which he carries on in relation to that fund.

**Marginal Citations**

**M29** 1961 c. 62; amended by the Local Government Act 1963 (c. 33) Schedule 8; and by the Local Government Act 1985 (c.51) Schedule 17.

*Former members of Lloyd’s*

**46.** Any person who ceased to be an underwriting member (within the meaning of Lloyd’s Act 1982 <sup>M30</sup>) of Lloyd’s before 24th December 1996 is exempt from the general prohibition in respect

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**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001. (See end of Document for details)

of any regulated activity of the kind specified by article 10(2) of the Regulated Activities Order (carrying out contracts of insurance) which relates to contracts of insurance that he has underwritten at Lloyd's.

#### Marginal Citations

**M30** 1982 c. 14.

#### Local authorities

[<sup>F26</sup>47. A local authority is exempt from the general prohibition in respect of any regulated activity of the kind specified by—

- (a) article 21, 25(1) or (2), 39A or 53 of the Regulated Activities Order (dealing in investments as agent, arranging deals in investments, assisting in the administration and performance of a contract of insurance or advising on investments) which relates to a non-qualifying contract of insurance; <sup>F27</sup> ...
- (b) article 25A, 53A or 61 of that Order (arranging, advising on, entering into or administering a regulated mortgage contract) [<sup>F28</sup>;
- (c) article 25B, 53B or 63B of that Order (arranging, advising on, entering into or administering a regulated home reversion plan); or
- (d) article 25C, 53C or 63F of that Order (arranging, advising on, entering into or administering a regulated home purchase plan)].]

#### Textual Amendments

- F26** Sch. para. 47 substituted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) (No. 2) Order 2003 (S.I. 2003/1675), arts. 1(3), **2(4)(b)**
- F27** Word in Sch. para. 47(a) omitted (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), **30(a)(i)**
- F28** Sch. paras. 47(c)(d) 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), **30(a)(ii)**

#### Social housing

[<sup>F29</sup>48.—(1) A relevant housing body is exempt from the general prohibition in respect of any regulated activity of the kind specified by—

- (a) article 21, 25(1) or (2), 39A or 53 of the Regulated Activities Order (dealing in investments as agent, arranging deals in investments, assisting in the administration and performance of a contract of insurance or advising on investments) which relates to a non-qualifying contract of insurance; <sup>F30</sup> ...
- (b) article 25A, 53A or 61 of that Order (arranging, advising on, entering into or administering a regulated mortgage contract) [<sup>F31</sup>;
- (c) article 25B, 53B or 63B of that Order (arranging, advising on, entering into or administering a regulated home reversion plan); or

- (d) article 25C, 53C or 63F of that Order (arranging, advising on, entering into or administering a regulated home purchase plan)].
- (2) In this paragraph, “relevant housing body” means any of the following—
- (a) a registered social landlord within the meaning of Part I of the Housing Act 1996;
  - (b) a registered social landlord within the meaning of the Housing (Scotland) Act 2001;
  - (c) [<sup>F32</sup>The Regulator of Social Housing];  
[ the Homes and Communities Agency];
  - <sup>F33</sup>(ca)
  - (d) Scottish Homes;
  - (e) the body established under article 9 of the Housing (Northern Ireland) Order 1981 known as the Northern Ireland Housing Executive [<sup>F34</sup>;
  - (f) Communities Scotland].]

#### Textual Amendments

- F29** Sch. para. 48 substituted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1675\)](#), arts. 1(3), **2(4)(c)**
- F30** Word in Sch. para. 48(1)(a) omitted (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), **30(b)(i)**
- F31** Sch. paras. 48(1)(c)(d) 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), **30(b)(ii)**
- F32** Words in Sch. para. 48(2) substituted (E.W.) (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) \(No. 2\) Order 2008 \(S.I. 2008/2831\)](#), art. 1(2), **Sch. 2 para. 4** (with Sch. 3, Sch. 4 paras. 5, 6); S.I. 2008/3068, **art. 2(1)(b)**
- F33** Sch. para. 48(2)(ca) inserted (E.W.) (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) \(No. 2\) Order 2008 \(S.I. 2008/2831\)](#), art. 1(2), **Sch. 1 para. 11** (with Sch. 3, Sch. 4 paras. 5, 6); S.I. 2008/3068, **art. 2(1)(b)**
- F34** Sch. para. 48(2)(f) inserted (6.4.2005) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2005 \(S.I. 2005/592\)](#), arts. 1(2)(a), **2(2)**

#### <sup>F35</sup>Electricity industry

#### Textual Amendments

- F35** Sch. para. 49 and cross-heading inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2001 \(S.I. 2001/3623\)](#), arts. 1, **8**

**49.**—(1) NGC is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21, 25 [<sup>F36</sup>, 25D] or 53 of the Regulated Activities Order (dealing in investments as principal or agent, arranging deals in investments [<sup>F36</sup>, operating a multilateral trading facility] or advising on investments) which it carries on in the course of—

- (a) its participation in the Balancing and Settlement Arrangements as operator of the electricity transmission system in [<sup>F37</sup>Great Britain] under the Transmission Licence; or



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*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001. (See end of Document for details)*

(b) the acquisition by it of Balancing Services in accordance with the Electricity Act 1989 and the Transmission Licence.

(2) ELEXON Clear Limited is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 [F38, 25 or 25D] of that Order which it carries on in the course of its participation in the Balancing and Settlement Arrangements as clearer for the purposes of (among other things) receiving from and paying to BSC Parties trading and reconciliation charges arising under the Balancing and Settlement Arrangements.

(3) Each BSC Party is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21, 25 [F39, 25D] or 53 of that Order which it carries on in the course of—

- (a) its participation in the Balancing and Settlement Arrangements; or
- (b) the provision by it (or, in the case of an activity of the kind specified by article 21 of that Order, its principal) of Balancing Services to NGC.

(4) ELEXON Limited is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 25 [F40 or 25D] of that Order which it carries on in the course of its participation in the Balancing and Settlement Arrangements as administrator.

(5) Each BSC Agent and each Volume Notification Agent is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 25 [F41 or 25D] of that Order which it carries on in that capacity.

F42(6) .....

(7) In this paragraph—

“Ancillary Services” means services which generators and suppliers of electricity and those making transfers of electricity across an Interconnector are required (as a condition of their connection to the transmission system in [F37Great Britain]), or have agreed, to make available to NGC for the purpose of securing the stability of the electricity transmission or any distribution system in [F37Great Britain] or any system linked to it by an Interconnector;

“Balancing and Settlement Arrangements” means—

- (a) the Balancing Mechanism; and
- (b) arrangements—
  - (i) for the determination and allocation to BSC Parties of the quantities of electricity that have been delivered to and taken off the electricity transmission system and any distribution system in [F37Great Britain]; and
  - (ii) which set, and provide for the determination and financial settlement of, BSC Parties' obligations arising by reference to the quantities referred to in subparagraph (i), including the difference between such quantities (after taking account of accepted bids and offers in the Balancing Mechanism) and the quantities of electricity contracted for sale and purchase between BSC Parties;

“Balancing Mechanism” means the arrangements pursuant to which BSC Parties may make, and NGC may accept, offers or bids to increase or decrease the quantities of electricity to be delivered to or taken off the electricity transmission system or any distribution system in [F37Great Britain] at any time or during any period so as to assist NGC in operating and balancing the electricity transmission system, and arrangements for the settlement of financial obligations arising from the acceptance of such offers and bids;

“Balancing Services” means—

- (a) offers and bids made in the Balancing Mechanism;
- (b) Ancillary Services; and



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(c) other services available to NGC which assist it in operating the electricity transmission system in accordance with the Electricity Act 1989 and the Transmission Licence;

“BSC Agents” means the persons for the time being engaged by or on behalf of ELEXON Limited for the purpose of providing services to all BSC Parties, NGC, ELEXON Limited and ELEXON Clear Limited in connection with the operation of the Balancing and Settlement Arrangements;

[<sup>F43</sup>“BSC Framework Agreement” means the agreement of that title in the form approved by the Secretary of State for the purpose of conditions of the Transmission Licence and which is dated 14 August 2000; and “conditions” for the purposes of this definition means conditions determined by the Secretary of State under powers granted by section 137(1) of the Energy Act 2004. and incorporated into existing electricity transmission licences by a scheme made by the Secretary of State pursuant to section 138 of, and Schedule 17 to, that Act;]

“BSC Parties” means those persons (other than NGC, ELEXON Limited and ELEXON Clear Limited) who have signed or acceded to (in accordance with the terms of the BSC Framework Agreement), and not withdrawn from, the BSC Framework Agreement;

“Interconnector” means the electric lines and electrical plant [<sup>F44</sup>and meters] used [<sup>F45</sup>solely] for the transfer of electricity to or from the electricity transmission system <sup>F46</sup>... in [<sup>F37</sup>Great Britain] into or out of [<sup>F37</sup>Great Britain];

“NGC” means <sup>F47</sup>... National Grid Company plc;

<sup>F48</sup> ...

“the Transmission Licence” means the licence to [<sup>F49</sup>participate in the transmission of] electricity in [<sup>F37</sup>Great Britain] granted [<sup>F50</sup>, or treated as granted,] to NGC under section 6(1) (b) of the Electricity Act 1989; and

“Volume Notification Agents” means the persons for the time being appointed and authorised under and in accordance with the Balancing and Settlement Arrangements on behalf of BSC Parties to notify to the BSC Agent designated for that purpose pursuant to the Balancing and Settlement Arrangements quantities of electricity contracted for the sale and purchase between those BSC Parties to be taken into account for the purposes of the Balancing and Settlement Arrangements.]

### Textual Amendments

- F36** Words in Sch. para. 49(1) inserted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2007 (S.I. 2007/125), arts. 1, **6(c)(i)**
- F37** Words in Sch. para. 49 substituted (1.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(2)**
- F38** Words in Sch. para. 49(2) substituted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2007 (S.I. 2007/125), arts. 1, **6(c)(ii)**
- F39** Word in Sch. para. 49(3) inserted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2007 (S.I. 2007/125), arts. 1, **6(c)(iii)**
- F40** Words in Sch. para. 49(4) inserted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2007 (S.I. 2007/125), arts. 1, **6(c)(iv)**
- F41** Words in Sch. para. 49(5) inserted (1.11.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2007 (S.I. 2007/125), arts. 1, **6(c)(v)**
- F42** Sch. para. 49(6) omitted (1.4.2005) by virtue of The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(3)**
- F43** Words in Sch. para. 49(7) substituted (1.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(a)**

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**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001. (See end of Document for details)

- F44** Words in Sch. para. 49(7) inserted (1.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(b)(i)**
- F45** Word in Sch. para. 49(7) inserted (1.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(b)(ii)**
- F46** Words in Sch. para. 49(7) omitted (1.4.2005) by virtue of The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(b)(iii)**
- F47** Word in Sch. para. 49(7) revoked (1.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(c)**
- F48** Words in Sch. para. 49(7) omitted (1.4.2005) by virtue of The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(d)**
- F49** Words in Sch. para. 49(7) substituted (1.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(e)(i)**
- F50** Words in Sch. para. 49(7) inserted (1.4.2005) by The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2005 (S.I. 2005/592), arts. 1(2)(b), **3(4)(e)(ii)**

### *<sup>F51</sup>Freight forwarders and storage firms*

#### **Textual Amendments**

- F51** Sch. paras. 50, 51 and cross-headings inserted (20.7.2007) by The Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2007 (S.I. 2007/1821), arts. 1(2), **2(4)**

**50.**—(1) A freight forwarder or storage firm is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 21, 25, 39A or 53 of the Regulated Activities Order (dealing in investments as agent, arranging deals in investments, assisting in the administration and performance of a contract of insurance or advising on investments) in the circumstances referred to in paragraph 2.

(2) The circumstances are—

(a) where a freight forwarder (“F”)—

- (i) holds a policy of insurance which insures F in respect of loss of or damage to goods which F transports or of which F arranges the transportation, and
- (ii) makes available to a customer rights under that policy to enable the customer to claim directly against the insurer in respect of loss or damage to those goods; or

(b) where a storage firm (“S”)—

- (i) holds a policy of insurance which insures S in respect of loss of or damage to goods which S stores or for which S arranges storage, and
- (ii) makes available to a customer rights under that policy to enable the customer to claim directly against the insurer in respect of loss or damage to those goods.

(3) In this paragraph—

- (a) “freight forwarder” means a person whose principal business is arranging or carrying out the transportation of goods;
- (b) “storage firm” means a person whose principal business is storing goods or arranging storage for goods;
- (c) “customer” means a person who is not an individual who uses the service of a freight forwarder or storage firm.

### *Policyholder Advocates*

**51.**—(1) A person acting as a policyholder advocate is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 25 or 53 of the Regulated Activities Order (arranging deals in investments or advising on investments) in so far as he carries on these activities in connection with, or for the purposes of, his role as policyholder advocate.

(2) In sub-paragraph (1), “policyholder advocate” means a person who is—

- (a) appointed by an insurer (“I”) to represent the interests of policyholders in negotiations with I about I’s proposals to redefine the rights and interests in any surplus assets arising in I’s with-profits fund; and
- (b) approved or nominated by the Authority to carry out that role.

(3) In sub-paragraph (2), “with-profits fund” means a long-term insurance fund in which policyholders are eligible to participate in surplus assets of the fund.]

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for certain persons to be exempt from the general prohibition which is imposed by section 19 of the Financial Services and Markets Act 2000 (c. 8) (“the Act”). Exempt persons are not required to be authorised to carry on regulated activities. Regulated activities are activities of a kind specified by the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) which relate to an investment of a kind specified by that Order and which are carried on by way of business.

The persons listed in Part I of the Schedule to this Order are exempt from the general prohibition in respect of any regulated activity other than effecting and carrying out contracts of insurance. The list comprises certain persons who were previously exempted persons under the Banking Act 1987 (c. 22) (by way of Schedule 2 to that Act) and/or the Financial Services Act 1986 (c. 60) (by way of section 35 of that Act and the Financial Services Act 1986 (Miscellaneous Exemptions) Order 1988 (S.I. 1988/350)). The list also includes the European Central Bank.

The persons listed in Part II of the Schedule are exempt from the general prohibition in so far as they accept deposits. The list includes certain persons who were previously exempted persons under the Banking Act 1987 (by way of Schedule 2 to that Act or the Banking Act 1987 (Exempt Transactions) Regulations 1997 (S.I. 1997/817)).

The persons listed in Part III of the Schedule are exempt from the general prohibition in respect of the conduct of investment business (but not, among other activities, effecting and carrying out contracts of insurance, accepting deposits or entering into a regulated mortgage contract). The persons listed in Part IV of the Schedule are exempt from the general prohibition in respect of any regulated activity of the kind specified in that Part. The lists in Parts III and IV of the Schedule include certain persons who were previously exempted persons under the Financial Services Act 1986 (by way of section 45 of that Act or orders made under section 46 of that Act).

Article 6 of the Order contains a transitional exemption for credit unions in so far as they accept deposits. This exemption will cease to have effect on 1st July 2002.

**Status:**

Point in time view as at 01/12/2008.

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001.