

## SCHEDULE

Articles 3 to 5

### PART I

#### 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.

### PART II

#### 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(1) by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act.

**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(2) and “member of a civilian component” has the meaning given by section 10 of that Act.

**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.

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(1) 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 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).

(2) 1952 c. 67; the definition of “visiting force” was amended by paragraph 14 of Schedule 15 to the Criminal Justice Act 1988 (c. 33).

**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.

**21.** The Council of Europe Resettlement Bank.

**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.

**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>(3)</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>(4)</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>(5)</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>(6)</sup> or article 3(1) of the Education (Student Support) (Northern Ireland) Order 1998 (Commencement and Transitional Provisions) Order (Northern Ireland) 1998<sup>(7)</sup>.

### PART III

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

**26.** The National Debt Commissioners.

**27.** Treasury Taskforce.

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(3) 1998 c. 30; see section 22 by regulations made under that section.

(4) 1980 c. 44; amended section 29 of the Teaching and Higher Education Act 1998 (c. 30).

(5) S.I.1998/1760 (N.I. 14); see article 3 and regulations made under that article.

(6) S.I. 1998/2004 (C. 46).

(7) S.I. 1998/306 (C. 14).

28. The International Development Association.
29. The English Tourist Board.
30. The Wales Tourist Board.
31. The Scottish Tourist Board.
32. The Northern Ireland Tourist Board.
33. Scottish Enterprise.
34. The Multilateral Investment Guarantee Agency.
35. A person acting as an official receiver within the meaning of section 399 of the Insolvency Act 1986<sup>(8)</sup> or article 2 of the Insolvency (Northern Ireland) Order 1989<sup>(9)</sup>.
- 36.—(1) A person who provides the trading facilities which constitute a regulated market, in so far as he carries on a regulated activity in connection with, or for the purposes of, the provision of those trading facilities.  
(2) In sub-paragraph (1), “regulated market” means a market which—
  - (a) appears on the list drawn up by an EEA State other than the United Kingdom pursuant to Article 16 of the investment services directive; and
  - (b) operates without any requirement that a person dealing on the market should have a physical presence in the EEA State from which the trading facilities are provided or on any trading floor that the market may have.
- 37.—(1) An Operator, in so far as he carries on any regulated activity for the purposes of the performance of his functions as an Operator under the Uncertificated Securities Regulations 1995<sup>(10)</sup>, 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.
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>(11)</sup>.

## PART IV

### 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

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<sup>(8)</sup> 1986 c. 45.

<sup>(9)</sup> S.I. 1989/2405 (N.I. 19); to which there are amendments not relevant to this Order.

<sup>(10)</sup> S.I. 1995/3272; amended by S.I. 1996/2827, S.I. 1997/251, S.I. 1999/506, S.I. 2000/311 and S.I. 2000/1682.

<sup>(11)</sup> 1986 c. 45. Amended by the Bankruptcy (Scotland) Act 1993 (c. 6) section 11 and by S.I. 1994/2421.

*Status: This is the original version (as it was originally made).*

- (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.

*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>(12)</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—
  - (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

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<sup>(12)</sup> S.I. 1990/224.

- (ii) the wives, husbands, widows, widowers 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>(13)</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.

### *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 or 25 of the Regulated Activities Order (dealing in investments as principal or agent or arranging deals in investments) 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 or 25 of the Regulated Activities Order (dealing in investments as principal or agent or arranging deals in investments) 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>(14)</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>(15)</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

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<sup>(13)</sup> 1989 c. 29.

<sup>(14)</sup> 1986 c. 44; see section 7A which was inserted by section 6(1) of the Gas Act 1995 (c. 45).

<sup>(15)</sup> 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).

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.

*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(**16**) or, in Northern Ireland, the meanings given by article 3(1) and article 4(1) of the Industrial Relations (Northern Ireland) Order 1992(**17**).

*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(**18**);
- (b) section 25 of the Charities Act 1993(**19**); or
- (c) section 25 of the Charities Act (Northern Ireland) 1964(**20**).

(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.

*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(**21**) 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.

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(16) 1992 c. 52.

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

(18) 1960 c. 58. Inserted by section 16 of the Charities Act 1992 (c. 41); repealed by the Charities Act 1993 (c. 10) Schedule 7.

(19) 1993 c. 10.

(20) 1964 c. 33 (N.I.).

(21) 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>(22)</sup>) of Lloyd's before 24th December 1996 is exempt from the general prohibition in respect 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.

*Local authorities*

**47.** A local authority is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 61 of the Regulated Activities Order (regulated mortgage contracts).

*Social housing*

**48.** Each of the following is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 61 of the Regulated Activities Order (regulated mortgage contracts)—

- (a) a registered social landlord within the meaning of Part I of the Housing Act 1996<sup>(23)</sup>;
- (b) a housing association registered in the register maintained by Scottish Homes under section 3 of the Housing Associations Act 1985<sup>(24)</sup>;
- (c) the Housing Corporation;
- (d) Scottish Homes.

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<sup>(22)</sup> 1982 c. 14.

<sup>(23)</sup> 1996 c. 52.

<sup>(24)</sup> 1985 c. 69. Amended by the Housing Act 1988 (c. 50) Schedule 6, paragraph 3 and by S.I. 1996/2325. Repealed in relation to England and Wales by the Housing Act 1996 (c. 52) Schedule 19.