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STATUTORY INSTRUMENTS

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**2001 No. 544**

The Financial Services and Markets Act  
2000 (Regulated Activities) Order 2001

PART III **U.K.**

SPECIFIED INVESTMENTS

**Contracts for differences etc.** **U.K.**

- 85.**—(1) Subject to 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; or
    - (ii) an index or other factor designated for that purpose in the contract.
- (2) There are excluded from 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>F1</sup>(3) Subject to paragraph (4), derivative instruments for the transfer of credit risk—
- (a) to which neither article 83 nor paragraph (1) applies; and
  - (b) to which paragraph 8 of Section C of Annex I to the markets in financial instruments directive applies.
- (4) 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 5(3) of the UCITS directive, the investment service specified in paragraph 4 or 5 of Section A, or the ancillary

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*Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Section 85 is up to date with all changes known to be in force on or before 19 August 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)*

service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive, or

(c) a market operator is providing the investment service specified in paragraph 8 of Section A of Annex I to the markets in financial instruments directive.

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

#### **Textual Amendments**

**F1** Art. 85(3)-(5) inserted (1.4.2007 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **28**

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