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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 II

#### SPECIFIED ACTIVITIES

##### CHAPTER I

##### GENERAL

#### **Specified activities: general**

4.—(1) The following provisions of this Part specify kinds of activity for the purposes of [F1section 22(1)] of the Act (and accordingly any activity of one of those kinds, which is carried on by way of business <sup>M1</sup>, and relates to an investment of a kind specified by any provision of Part III and applicable to that activity, is a regulated activity for the purposes of the Act).

(2) The kinds of activity specified by articles [F2[F351ZA, 51ZB, 51ZC, 51ZD, 51ZE], 52 and 63N] are also specified for the purposes of section 22(1)(b) of the Act (and accordingly any activity of one of those kinds, when carried on by way of business, is a regulated activity when carried on in relation to property of any kind).

[F4(2A) The kinds of activity specified by Part 3A are specified for the purposes of section 22(1A) (a) of the Act (and accordingly any activity of one of those kinds, when carried on by way of business, is a regulated activity).]

(3) Subject to paragraph (4), each provision specifying a kind of activity is subject to the exclusions applicable to that provision (and accordingly any reference in this Order to an activity of the kind specified by a particular provision is to be read subject to any such exclusions).

[F5(4) Where an investment firm or credit institution—

- (a) provides or performs investment services and activities on a professional basis, and
- (b) in doing so would be treated as carrying on an activity of a kind specified by a provision of this Part but for an exclusion in any of articles 15, 16, 19, 22, 23, 29, 38, 67, 68, 69, 70 and 72E,

that exclusion is to be disregarded and, accordingly, the investment firm or credit institution is to be treated as carrying on an activity of the kind specified by the provision in question.]

[F6(4A) Where a person, other than a person specified by Article 1.2 of the insurance mediation directive (the text of which is set out in Part 1 of Schedule 4)—

- (a) for remuneration, takes up or pursues insurance mediation or reinsurance mediation in relation to a risk or commitment located in an EEA State, and
- (b) in doing so would be treated as carrying on an activity of a kind specified by a provision of this Part but for an exclusion in any of articles 30, 66[F7], 67 and 72AA],

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that exclusion is to be disregarded (and accordingly that person is to be treated as carrying on an activity of the kind specified by the provision in question).]

[<sup>F8</sup>(4B) Where—

- (a) a person is a mortgage creditor or a mortgage intermediary; and
- (b) in acting as a mortgage creditor or a mortgage intermediary [<sup>F9</sup>in respect of an agreement entered into, or to be entered into, on or after 21st March 2016], that person would be treated as carrying on an activity of a kind specified by article 25A (arranging regulated mortgage contracts), 36A (credit broking), 53A (advising on regulated mortgage contracts), 53DA (advising on regulated credit agreements for the acquisition of land), 60B (regulated credit agreements) or 61 (entering into and administering regulated mortgage contracts), but for an exclusion or exemption provided for by this Order,

that exclusion or exemption is to be disregarded (and accordingly that person is to be treated as carrying on an activity of the kind specified by the provision in question) to the extent that such exclusion or exemption does not fall within Article 3(2) or (3) of the mortgages directive.]

(5) In this article—

<sup>F10</sup>  
...

[<sup>F11c</sup>“insurance mediation” has the meaning given by Article 2.3 of the insurance mediation directive, the text of which is set out in Part II of Schedule 4;]

<sup>F10</sup>  
...

[<sup>F12c</sup>“reinsurance mediation” has the meaning given by Article 2.4 of the insurance mediation directive, the text of which is set out in Part III of Schedule 4.]

### Textual Amendments

- F1** Words in art. 4(1) substituted (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 \(S.I. 2013/1881\)](#), art. 1(2)(6), **3(3)(a)**
- F2** Words in art. 4(2) substituted (13.7.2009) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2009 \(S.I. 2009/1389\)](#), arts. 1, **3**
- F3** Words in art. 4(2) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(3)**
- F4** Art. 4(2A) 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 \(S.I. 2013/1881\)](#), art. 1(2)(6), **3(3)(b)**
- F5** Art. 4(4) substituted (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), **4(a)**
- F6** Art. 4(4A) inserted (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 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **3(2)(a)**
- F7** Words in art. 4(4A)(b) substituted (22.6.2014) by [The Alternative Investment Fund Managers Order 2014 \(S.I. 2014/1292\)](#), arts. 1(3), **6** (as amended by [S.I. 2014/1313](#), arts. 1, 2(b))
- F8** Art. 4(4B) 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. 4(3)** (with Pt. 4)
- F9** Words in art. 4(4B)(b) 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 \(S.I. 2016/392\)](#), art. 1(2)(3)(c), **2(3)** (with Pt. 5)

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- F10** Words in art. 4(5) 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), [4\(b\)](#)
- F11** Words in art. 4(5) inserted (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 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), [3\(2\)\(b\)\(i\)](#)
- F12** Words in art. 4(5) inserted (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 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), [3\(2\)\(b\)\(iii\)](#)

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#### **Marginal Citations**

- M1** The Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (S.I. 2001/ ), made under section 419 of the Act, makes provision as to the circumstances in which persons are, or are not, to be regarded as carrying on activities by way of business.

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