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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 VII

MANAGING INVESTMENTS

*The activity*

**Managing investments**

**37.** Managing assets belonging to another person, in circumstances involving the exercise of discretion, is a specified kind of activity if—

- (a) the assets consist of or include any investment which is a security [<sup>F1</sup>, structured deposit] or a contractually based investment; or
- (b) the arrangements for their management are such that the assets may consist of or include such investments, and either the assets have at any time since 29th April 1988 done so, or the arrangements have at any time (whether before or after that date) been held out as arrangements under which the assets would do so.

**Textual Amendments**

- F1** Words in [art. 37\(a\)](#) inserted (1.4.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **4(3)**

*Exclusions*

**Attorneys**

**38.**—<sup>F2</sup>(1) A person does not carry on an activity of the kind specified by article 37 if—

- (a) he is a person appointed to manage the assets in question under a power of attorney; and
- (b) all routine or day-to-day decisions, so far as relating to investments of a kind mentioned in article 37(a), are taken on behalf of that person by—
  - (i) an authorised person with permission to carry on activities of the kind specified by article 37, <sup>F3</sup>...
  - (ii) a person who is an exempt person in relation to activities of that kind [<sup>F4</sup>, or

*Status: Point in time view as at 28/11/2017.*

*Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Chapter VII is up to date with all changes known to be in force on or before 12 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)*

(iii) an overseas person.]

[<sup>F5</sup>(2) This article is subject to article 4(4).]

#### Textual Amendments

- F2** Art. 38(1): art. 38 renumbered as art. 38(1) (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), **17(a)**
- F3** Word in art. 38(b) omitted (1.12.2001) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(a), **6(a)**
- F4** Art. 38(b)(iii) and word inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(a), **6(b)**
- F5** Art. 38(2) inserted (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), **17(b)**

#### Other exclusions

**39.** Article 37 is also subject to the exclusions in articles 66 (trustees etc.), 68 (sale of goods and supply of services)<sup>[<sup>F6</sup></sup>, 69 (groups and joint enterprises)]<sup>[<sup>F7</sup></sup>, 72A (information society services)<sup>[<sup>F8</sup></sup>, 72AA (managers of UCITS and AIFs)<sup>[<sup>F9</sup></sup>, 72C (provision of information about contracts of insurance on an incidental basis) and 72H (insolvency practitioners)]].

#### Textual Amendments

- F6** Words in art. 39 substituted (21.8.2002) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2002 \(S.I. 2002/1776\)](#), arts. 1, **3(7)**
- F7** Words in art. 39 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 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **6**
- F8** Words in art. 39 substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(9)**
- F9** Words in art. 39 substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), art. 1(3)(4), **2(11)**

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