

## [<sup>F1</sup>SCHEDULE 3

### ARTICLE 2 OF THE MARKETS IN FINANCIAL INSTRUMENTS DIRECTIVE

#### Textual Amendments

- F1** Sch. 3 substituted (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), **30**

#### “Article 2

#### Exemptions

1. This Directive shall not apply to:
  - (a) insurance undertakings as defined in Article 1 of Directive [73/239/EEC](#) or assurance undertakings as defined in Article 1 of Directive [2002/83/EC](#) or undertakings carrying on the reinsurance and retrocession activities referred to in Directive [64/225/EEC](#);
  - (b) persons which provide investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;
  - (c) persons providing an investment service where that service is provided in an incidental manner in the course of a professional activity and that activity is regulated by legal or regulatory provisions or a code of ethics governing the profession which do not exclude the provision of that service;
  - (d) persons who do not provide any investment services or activities other than dealing on own account unless they are market makers or deal on own account outside a regulated market or an MTF on an organised, frequent and systematic basis by providing a system accessible to third parties in order to engage in dealings with them;
  - (e) persons which provide investment services consisting exclusively in the administration of employee-participation schemes;
  - (f) persons which provide investment services which only involve both administration of employee-participation schemes and the provision of investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;
  - (g) the members of the European System of Central Banks and other national bodies performing similar functions and other public bodies charged with or intervening in the management of the public debt;
  - (h) collective investment undertakings and pension funds whether coordinated at Community level or not and the depositaries and managers of such undertakings;
  - (i) persons dealing on own account in financial instruments, or providing investment services in commodity derivatives or derivative contracts included in Annex I, Section C10 to the clients of their main business, provided this is an ancillary activity to their main business, when considered on a group basis, and that main business is not the provision of investment services within the meaning of this Directive or banking services under Directive [2000/12/EC](#);
  - (j) persons providing investment advice in the course of providing another professional activity not covered by this Directive provided that the provision of such advice is not specifically remunerated;
  - (k) persons whose main business consists of dealing on own account in commodities and/or commodity derivatives. This exception shall not apply where the persons that deal on

**Status:** Point in time view as at 01/04/2007.

**Changes to legislation:** The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, "Article 2 is up to date with all changes known to be in force on or before 04 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)

own account in commodities and/or commodity derivatives are part of a group the main business of which is the provision of other investment services within the meaning of this Directive or banking services under Directive 2000/12/EC;

- (l) firms which provide investment services and/or perform investment activities consisting exclusively in dealing on own account on markets in financial futures or options or other derivatives and on cash markets for the sole purpose of hedging positions on derivatives markets or which deal for the accounts of other members of those markets or make prices for them and which are guaranteed by clearing members of the same markets, where responsibility for ensuring the performance of contracts entered into by such firms is assumed by clearing members of the same markets;
- (m) associations set up by Danish and Finnish pensions funds with the sole aim of managing the assets of pension funds that are members of those associations;
- (n) 'agenti di cambio' whose activities and functions are governed by Article 201 of Italian Legislative Decree No 58 of 24 February 1998.

2. The rights conferred by this Directive shall not extend to the provision of services as counterparty in transactions carried out by public bodies dealing with public debt or by members of the European System of Central Banks performing their tasks as provided for by the Treaty and the Statute of the European System of Central Banks and of the European Central Bank or performing equivalent functions under national provisions.

3. In order to take account of developments on financial markets, and to ensure the uniform application of this Directive, the Commission, acting in accordance with the procedure referred to in Article 64(2), may, in respect of exemptions (c), (i) and (k) define the criteria for determining when an activity is to be considered as ancillary to the main business on a group level as well as for determining when an activity is provided in an incidental manner.”]

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