

SCHEDULE 1

Article 3(1)

CONTRACTS OF INSURANCE

Modifications etc. (not altering text)

- C1** Sch. 1 applied in part (1.12.2001) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) Order 2001 \(S.I. 2001/1335\)](#), **art. 25(2)**, reg. 1(2); S.I. 2001/3538, art. 2(1)
- C2** Sch. 1 applied in part (1.12.2001) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) Order 2001 \(S.I. 2001/1335\)](#), **art. 10(2)**, reg. 1(2); S.I. 2001/3538, art. 2(1)

PART I

CONTRACTS OF GENERAL INSURANCE

Accident

1. Contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the person insured or, in the case of a contract made by virtue of section 140, 140A or 140B of the Local Government Act 1972 ^{M1} (or, in Scotland, section 86(1) of the Local Government (Scotland) Act 1973 ^{M2}), a person for whose benefit the contract is made—

- (a) sustaining injury as the result of an accident or of an accident of a specified class; or
- (b) dying as a result of an accident or of an accident of a specified class; or
- (c) becoming incapacitated in consequence of disease or of disease of a specified class,

including contracts relating to industrial injury and occupational disease but excluding contracts falling within paragraph 2 of Part I of, or paragraph IV of Part II of, this Schedule.

Marginal Citations

- M1** [S.I. 1999/2725](#), amended by [S.I. 2000/1797](#).
- M2** 1972 c. 70. Section 140 was amended by the [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30\)](#), s. 39(1) and Sch. 7, Part XVI; by the [Insurance Companies Act 1982 \(c. 50\)](#), Sch. 5, para. 13; and by the [London Regional Transport Act 1984 \(c. 32\)](#), Sch. 7. Section 140A was inserted by s. 39(2) of the [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30\)](#), and amended by the [Planning \(Consequential Provisions\) Act 1990 \(c. 10\)](#), Sch. 2, para. 28, and by the [Environment Act 1995 \(c. 25\)](#), Sch. 24. Section 140B was inserted by s. 39(2) of the [Local Government \(Miscellaneous Provisions\) Act 1982](#), and amended by the [Local Government Act 1985 \(c. 51\)](#), Sch. 17, and by the [Local Government \(Wales\) Act 1994 \(c. 19\)](#), Sch. 15, para. 31.

Sickness

2. Contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of loss to the persons insured attributable to sickness or infirmity but excluding contracts falling within paragraph IV of Part II of this Schedule.

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Land vehicles

3. Contracts of insurance against loss of or damage to vehicles used on land, including motor vehicles but excluding railway rolling stock.

Railway rolling stock

4. Contract of insurance against loss of or damage to railway rolling stock.

Aircraft

5. Contracts of insurance upon aircraft or upon the machinery, tackle, furniture or equipment of aircraft.

Ships

6. Contracts of insurance upon vessels used on the sea or on inland water, or upon the machinery, tackle, furniture or equipment of such vessels.

Goods in transit

7. Contracts of insurance against loss of or damage to merchandise, baggage and all other goods in transit, irrespective of the form of transport.

Fire and natural forces

8. Contracts of insurance against loss of or damage to property (other than property to which paragraphs 3 to 7 relate) due to fire, explosion, storm, natural forces other than storm, nuclear energy or land subsidence.

Damage to property

9. Contracts of insurance against loss of or damage to property (other than property to which paragraphs 3 to 7 relate) due to hail or frost or any other event (such as theft) other than those mentioned in paragraph 8.

Motor vehicle liability

10. Contracts of insurance against damage arising out of or in connection with the use of motor vehicles on land, including third-party risks and carrier's liability.

Aircraft liability

11. Contracts of insurance against damage arising out of or in connection with the use of aircraft, including third-party risks and carrier's liability.

Liability of ships

12. Contracts of insurance against damage arising out of or in connection with the use of vessels on the sea or on inland water, including third party risks and carrier's liability.

General liability

13. Contracts of insurance against risks of the persons insured incurring liabilities to third parties, the risks in question not being risks to which paragraph 10, 11 or 12 relates.

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Credit

14. Contracts of insurance against risks of loss to the persons insured arising from the insolvency of debtors of theirs or from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due.

Suretyship

15.—(1) Contracts of insurance against the risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them.

(2) Fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, where these are—

- (a) effected or carried out by a person not carrying on a banking business;
- (b) not effected merely incidentally to some other business carried on by the person effecting them; and
- (c) effected in return for the payment of one or more premiums.

Miscellaneous financial loss

16. Contracts of insurance against any of the following risks, namely—

- (a) risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reduction of the scope of business so carried on;
- (b) risks of loss to the persons insured attributable to their incurring unforeseen expense (other than loss such as is covered by contracts falling within paragraph 18);
- (c) risks which do not fall within sub-paragraph (a) or (b) and which are not of a kind such that contracts of insurance against them fall within any other provision of this Schedule.

Legal expenses

17. Contracts of insurance against risks of loss to the persons insured attributable to their incurring legal expenses (including costs of litigation).

Assistance

18. Contracts of insurance providing either or both of the following benefits, namely—

- (a) assistance (whether in cash or in kind) for persons who get into difficulties while travelling, while away from home or while away from their permanent residence; or
- (b) assistance (whether in cash or in kind) for persons who get into difficulties otherwise than as mentioned in sub-paragraph (a).

PART II

CONTRACTS OF LONG-TERM INSURANCE

Life and annuity

I. Contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within paragraph III.

Status: Point in time view as at 21/07/2022.

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Marriage and birth

II. Contract of insurance to provide a sum on marriage [^{F1}or the formation of a civil partnership] or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.

Textual Amendments

- F1** Words in Sch. 1 Pt. II para. 2 inserted (5.12.2005) by The Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005 (S.I. 2005/2114), reg. 1, **Sch. 16 para. 1(5)**

Linked long term

III. Contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by references to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).

Permanent health

IV. Contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that—

- (a) are expressed to be in effect for a period of not less than five years, or until the normal retirement age for the persons concerned, or without limit of time; and
- (b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.

Tontines

V. Tontines.

Capital redemption contracts

VI. Capital redemption contracts, where effected or carried out by a person who does not carry on a banking business, and otherwise carries on a regulated activity of the kind specified by article 10(1) or (2).

Pension fund management

VII.

- (a) Pension fund management contracts, and
- (b) pension fund management contracts which are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest,

where effected or carried out by a person who does not carry on a banking business, and otherwise carries on a regulated activity of the kind specified by article 10(1) or (2).

Collective insurance etc.

VIII. Contracts of a kind referred to in [^{F2}Article 2(3)(b)(v) of the Solvency 2 Directive].

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

- F2** Words in Sch. 1 Pt. II para. 8 substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), [Sch. 2 para. 11\(5\)\(a\)](#)

Social insurance

IX. Contracts of a kind referred to in ^{F3}Article 2(3)(c) of the Solvency 2 Directive].

Textual Amendments

- F3** Words in Sch. 1 Pt. II para. 9 substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), [Sch. 2 para. 11\(5\)\(b\)](#)

^{F4}SCHEDULE 2

Article 3(1)

^{F5}Financial Instruments and Investment services and activities]

Textual Amendments

- F4** Sch. 2 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), **29**
- F5** Sch. 2 heading substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

PART 1

F6
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Textual Amendments

- F6** Sch. 2 Pt. 1 heading omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

“Financial instruments

1. Transferable securities;
2. Money-market instruments;
3. Units in collective investment undertakings;
4. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, ^{F7}[emission allowances] or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

- F7** Words in Sch. 2 Pt. 1 para. 4 inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(3)(a)**

5. Options, futures, swaps, [^{F8}forwards] and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties ([^{F9}other] than by reason of a default or other termination event);

Textual Amendments

- F8** Word in Sch. 2 Pt. 1 para. 5 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(3)(b)(i)**
- F9** Word in Sch. 2 Pt. 1 para. 5 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(3)(b)(ii)**

6. Options, futures, swaps, and any other derivative [^{F10}contract] relating to commodities that can be physically settled provided that they are traded on a [^{F11}[^{F12} UK regulated market, a UK MTF or a UK OTF (as defined by Article 2(1)(13A), (14A) and (15A) respectively of the markets in financial instruments regulation)] except for wholesale energy products [^{F13}traded on a UK OTF] that must be physically settled];

Textual Amendments

- F10** Word in Sch. 2 Pt. 1 para. 6 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(3)(c)(i)**
- F11** Words in Sch. 2 Pt. 1 para. 6 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(3)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Sch. 2 Pt. 1 para. 6 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(3)(c)(ii)**
- F13** Words in Sch. 2 Pt. 1 para. 6 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(3)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[^{F14}7. Option, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6 of this Section and not being for commercial purposes [^{F15}or wholesale energy products traded on an EU OTF (as defined by Article 2(1)(15B) of the markets in financial instruments regulation) that must be physically settled], which have the characteristics of other derivative financial instruments];

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

- F14** Sch. 2 Pt. 1 para. 7 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017](#) (S.I. 2017/488), arts. 1(2), **10(3)(d)**
- F15** Words in Sch. 2 Pt. 1 para. 7 inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **4(3)(c)** (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/710, regs. 1(2), **16(2)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

8. Derivative instruments for the transfer of credit risk;

9. Financial contracts for differences;

[
^{F16}**10.** Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on [^{F17}a UK regulated market, a UK OTF, or a UK MTF (as defined by Article 2(1)(13A), (15A) and (14A) respectively of the markets in financial instruments regulation);]

Textual Amendments

- F16** Sch. 2 Pt. 1 para. 10 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017](#) (S.I. 2017/488), arts. 1(2), **10(3)(e)**
- F17** Words in Sch. 2 Pt. 1 para. 10 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **4(3)(d)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**)

[
^{F18}**11.** Emission allowances consisting of any units recognised for compliance with the requirements of [Directive 2003/87/EC](#) (Emissions Trading Scheme) [^{F19}or allowances created under article 18 of the trading scheme order].]

Textual Amendments

- F18** Sch. 2 Pt. 1 para. 11 inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017](#) (S.I. 2017/488), arts. 1(2), **10(3)(f)**
- F19** Words in Sch. 2 Pt. 1 para. 11 inserted (22.4.2021) by [The Recognised Auction Platforms \(Amendment and Miscellaneous Provisions\) Regulations 2021](#) (S.I. 2021/494), regs. 1(2), **3(7)**)

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

[^{F20}PART 2

Articles 5 to 8, 10 and 11 of the Commission Regulation

Textual Amendments

F20 Sch. 2 Pt. 2 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(4)**

Article 5

Wholesale energy products that must be physically settled

1. For the purposes of [^{F21}paragraphs 6 and 7 of Part 1 of Schedule 2 to this Order], a wholesale energy product must be physically settled where all the following conditions are satisfied:

- (a) it contains provisions which ensure that parties to the contract have proportionate arrangements in place to be able to make or take delivery of the underlying commodity; a balancing agreement with the Transmission System Operator in the area of electricity and gas shall be considered a proportionate arrangement where the parties to the agreement have to ensure physical delivery of electricity or gas.
- (b) it establishes unconditional, unrestricted and enforceable obligations of the parties to the contract to deliver and take delivery of the underlying commodity;
- (c) it does not allow either party to replace physical delivery with cash settlement;
- (d) the obligations under the contract cannot be offset against obligations from other contracts between the parties concerned, without prejudice to the rights of the parties to the contract, to net their cash payment obligations.

For the purposes of point (d), operational netting in power and gas markets shall not be considered as offsetting of obligations under a contract against obligations from other contracts.

Textual Amendments

F21 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(a)(i)** (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/710, regs. 1(2), **16(2)(b)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

2. Operational netting shall be understood as any nomination of quantities of power and gas to be fed into a gridwork upon being so required by the rules or requests of a Transmission System Operator as defined in Article 2(4) of [Directive 2009/72/EC](#) of the European Parliament and of the Council for an entity performing an equivalent function to a Transmission System Operator at the national level. Any nomination of quantities based on operational netting shall not be at the discretion of the parties to the contract.

3. For the purposes of [^{F22}paragraphs 6 and 7 of Part 1 of Schedule 2 to this Order], force majeure shall include any exceptional event or a set of circumstances which are outside the control of the parties to the contract, which the parties to the contract could not have reasonably foreseen or avoided by the exercise of appropriate and reasonable due diligence and which prevent one or both parties to the contract from fulfilling their contractual obligations.

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

F22 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in [Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(a)(ii)** (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/710, regs. 1(2), **16(2)(b)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

4. For the purposes of [^{F23}paragraphs 6 and 7 of Part 1 of Schedule 2 to this Order] bona fide inability to settle shall include any event or set of circumstances, not qualifying as force majeure as referred to in paragraph 3, which are objectively and expressly defined in the contract terms, for one or both parties to the contract, acting in good faith, not to fulfil their contractual obligations.

Textual Amendments

F23 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in [Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(a)(ii)** (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/710, regs. 1(2), **16(2)(b)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

5. The existence of force majeure or bona fide inability to settle provisions shall not prevent a contract from being considered as ‘physically settled’ for the purposes of [^{F24}paragraphs 6 and 7 of Part 1 of Schedule 2 to this Order].

Textual Amendments

F24 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in [Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(a)(ii)** (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/710, regs. 1(2), **16(2)(b)(i)**)); 2020 c. 1, **Sch. 5 para. 1(1)**

6. The existence of default clauses providing that a party is entitled to financial compensation in the case of non- or defective performance of the contract shall not prevent the contract from being considered as ‘physically settled’ within the meaning of [^{F25}paragraphs 6 and 7 of Part 1 of Schedule 2 to this Order].

Textual Amendments

F25 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in [Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(a)(ii)** (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/710, regs. 1(2), **16(2)(b)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

7. The delivery methods for the contracts being considered as ‘physically settled’ within the meaning of [^{F26}paragraphs 6 and 7 of Part 1 of Schedule 2 to this Order] shall include at least:

- (a) physical delivery of the relevant commodities themselves;
- (b) delivery of a document giving rights of an ownership nature to the relevant commodities or the relevant quantity of the commodities concerned;
- (c) other methods of bringing about the transfer of rights of an ownership nature in relation to the relevant quantity of goods without physically delivering them including notification, scheduling or nomination to the operator of an energy supply network, that entitles the recipient to the relevant quantity of the goods.

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

F26 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in [Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), [4\(4\)\(a\)\(ii\)](#) (with savings in S.I. 2019/680, [reg. 11](#) (as amended by S.I. 2019/710, regs. 1(2), [16\(2\)\(b\)\(i\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

Article 6

Energy derivative contracts relating to oil and coal and wholesale energy products

1. For the purposes of [^{F27}paragraph 6 of Part 1 of Schedule 2 to this Order], energy derivative contracts relating to oil shall be contracts with mineral oil, of any description and petroleum gases, whether in liquid or vapour form, including products, components and derivatives of oil and oil transport fuels, including those with biofuel additives, as an underlying.

Textual Amendments

F27 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [S.I. 2018/1403](#), [reg. 4\(4\)\(b\)\(i\)](#) (as substituted by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), [16\(2\)\(b\)\(ii\)](#) (as amended by [S.I. 2018/1403](#), [reg. 004\(04\)\(b\)\(i\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

2. For the purposes of [^{F28}paragraph 6 of Part 1 of Schedule 2 to this Order], energy derivative contracts relating to coal shall be contracts with coal, defined as a black or dark-brown combustible mineral substance consisting of carbonised vegetable matter, used as a fuel, as an underlying.

Textual Amendments

F28 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [S.I. 2018/1403](#), [reg. 4\(4\)\(b\)\(i\)](#) (as substituted by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), [16\(2\)\(b\)\(ii\)](#) (as amended by [S.I. 2018/1403](#), [reg. 004\(04\)\(b\)\(i\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

3. For the purposes of [^{F29}paragraphs 6 and 7 of Schedule 2 to this Order], energy derivative contracts that have the characteristics of wholesale energy products as defined in Article 2(4) of Regulation (EU) 1227/2011 of the European Parliament and Council shall be derivatives with electricity or natural gas as an underlying, in accordance with points (b) and (d) of Article 2(4) of that Regulation.

Textual Amendments

F29 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [S.I. 2018/1403](#), [reg. 4\(4\)\(b\)\(ii\)](#) (as substituted by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), [16\(2\)\(b\)\(ii\)](#) (as amended by [S.I. 2018/1403](#), [reg. 004\(04\)\(b\)\(ii\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

Article 7

Other derivative financial instruments

1. For the purposes of [^{F30}paragraph 7 of Part 1 of Schedule 2 to this Order], a contract which is not a spot contract in accordance with paragraph 2 and which is not for commercial purposes as laid down in paragraph 4 shall be considered as having the characteristics of other derivative financial instruments where it satisfies the following conditions:

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- (a) it meets one of the following criteria:
- [^{F31}(i) it is traded on a third country trading venue which is a regulated market, an MTF or an OTF (as defined by Article 2(1)(13), (14) and (15) respectively of the markets in financial instruments regulation);]
 - (ii) it is expressly stated to be traded on, or is subject to the rules of, [^{F32}a UK regulated market, a UK MTF, a UK OTF (as defined by Article 2(1)(13A), (14A) and (15A) respectively of the markets in financial instruments regulation);] or such a third country trading venue;
 - (iii) it is equivalent to a contract traded on [^{F33}a UK regulated market, a UK MTF, a UK OTF] or such a third country trading venue, with regards to the price, the lot, the delivery date and other contractual terms;
- (b) it is standardised so that the price, the lot, the delivery date and other terms are determined principally by reference to regularly published prices, standard lots or standard delivery dates.

Textual Amendments

- F30** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **4(4)(c)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F31** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **4(4)(c)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F32** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **4(4)(c)(i)(cc)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F33** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **4(4)(c)(i)(dd)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**

2. A spot contract for the purposes of paragraph 1 shall be a contract for the sale of a commodity, asset or right, under the terms of which delivery is scheduled to be made within the longer of the following periods:

- (a) 2 trading days;
- (b) the period generally accepted in the market for that commodity, asset or right as the standard delivery period.

A contract shall not be considered a spot contract where, irrespective of its explicit terms, there is an understanding between the parties to the contract that delivery of the underlying is to be postponed and not to be performed within the period referred to in paragraph 2.

3. For the purposes of [^{F34}paragraph 10 of Part 1 of Schedule 2 to this Order], a derivative contract relating to an underlying referred to in that Section or in Article 8 of this Regulation shall be considered to have the characteristics of other derivative financial instruments where one of the following conditions is satisfied:

- (a) it is settled in cash or may be settled in cash at the option of one or more of the parties, otherwise than by reason of a default or other termination event;
- (b) it is traded on a regulated market, an MTF, an OTF ^{F35}...;
- (c) the conditions laid down in paragraph 1 are satisfied in relation to that contract.

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

- F34** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(c)(ii)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F35** Words in Sch. 2 Pt. 2 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(c)(ii)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

4. A contract shall be considered to be for commercial purposes for the purposes of [F36 paragraph 7 of Part 1 of Schedule 2 to this Order], and as not having the characteristics of other derivative financial instruments for the purposes of [F37 paragraphs 7 and 10 of Part 1 of Schedule 2 to this Order], where the following conditions are both met:

- (a) it is entered into with or by an operator or administrator of an energy transmission grid, energy balancing mechanism or pipeline network,
- (b) it is necessary to keep in balance the supplies and uses of energy at a given time, including the case when the reserve capacity contracted by an electricity transmission system operator as defined in Article 2(4) of [Directive 2009/72/EC](#) is being transferred from one prequalified balancing service provider to another prequalified balancing service provider with the consent of the relevant transmission system operator.

Textual Amendments

- F36** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(c)(iii)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(c)(iii)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 8

Derivatives under [F38 paragraph 10 of Part 1 of Schedule 2]

Textual Amendments

- F38** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(d)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

In addition to derivative contracts expressly referred to in [F39 paragraph 10 of Part 1 of Schedule 2 to this Order], a derivative contract shall be subject to the provisions in [F40 that Part] where it meets the criteria set out in [F40 that Part] and in Article 7(3) of this Regulation and it relates to any of the following:

- (a) telecommunications bandwidth;
- (b) commodity storage capacity;
- (c) transmission or transportation capacity relating to commodities, whether cable, pipeline or other means with the exception of transmission rights related to electricity transmission cross zonal capacities when they are, on the primary market, entered into with or by a

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transmission system operator or any persons acting as service providers on their behalf and in order to allocate the transmission capacity;

- (d) an allowance, credit, permit, right or similar asset which is directly linked to the supply, distribution or consumption of energy derived from renewable resources, except if the contract is already with the scope of [^{F41}paragraph 4 of Part 1 of Schedule 2 to this Order];
- (e) a geological, environmental or other physical variable, except if the contract is relating to any [^{F42}emission allowances referred to in paragraph 11 of Part 1 of Schedule 2 to this Order];
- (f) any other asset or right of a fungible nature, other than a right to receive a service, that is capable of being transferred;
- (g) an index or measure related to the price or value of, or volume of transactions in any asset, right, service or obligation;
- (h) an index or measure based on actuarial statistics.

Textual Amendments

- F39** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(d)(ii)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F40** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(d)(ii)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F41** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(d)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F42** Words in Sch. 2 Pt. 2 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(d)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 10

Characteristics of other derivative contracts relating to currencies

1. For the purposes of [^{F43}paragraph 4 of Part 1 of Schedule 2 to this Order], other derivative contracts relating to a currency shall not be a financial instrument where the contract is one of the following:

- (a) a spot contract within the meaning of paragraph 2 of this Article,
- (b) a means of payment that:
 - (i) must be settled physically otherwise than by reason of a default or other termination event;
 - (ii) is entered into by at least a person which is not a financial counterparty within the meaning of Article 2(8) of Regulation (EU) No. 648/2012 of the European Parliament and of the Council;
 - (iii) is entered into in order to facilitate payment for identifiable goods, services or direct investment; and
 - (iv) is not traded on a trading venue.

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

F43 Words in Sch. 2 Pt. 2 substituted (31.12.2020) by The Markets in [Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(e)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

2. A spot contract for the purposes of paragraph 1 shall be a contract for the exchange of one currency against another currency, under the terms of which delivery is scheduled to be made within the longer of the following periods:

- (a) 2 trading days in respect of any pair of the major currencies set out in paragraph 3;
- (b) for any pair of currencies where at least one currency is not a major currency, the longer of 2 trading days or the period generally accepted in the market for that currency pair as the standard delivery period;
- (c) where the contract for the exchange of those currencies is used for the main purpose of the sale or purchase of a transferable security or a unit in a collective investment undertaking, the period generally accepted in the market for the settlement of that transferable security or a unit in a collective investment undertaking as the standard delivery period or 5 trading days, whichever is shorter.

A contract shall not be considered a spot contract where, irrespective of its explicit terms, there is an understanding between the parties to the contract that delivery of the currency is to be postponed and not to be performed within the period set out in the first subparagraph.

3. The major currencies for the purposes of paragraph 2 shall only include the US dollar, Euro, Japanese yen, Pound sterling, Australian dollar, Swiss franc, Canadian dollar, Hong Kong dollar, Swedish krona, New Zealand dollar, Singapore dollar, Norwegian krone, Mexican peso, Croatian kuna, Bulgarian lev, Czech koruna, Danish krone, Hungarian forint, Polish zloty and Romanian leu.

4. For the purposes of paragraph 2, a trading day shall mean any day of normal trading in the jurisdiction of both the currencies that are exchanged pursuant to the contract for the exchange of those currencies and in the jurisdiction of a third currency where any of the following conditions are met:

- (a) the exchange of those currencies involves converting them through that third currency for the purposes of liquidity;
- (b) the standard delivery period for the exchange of those currencies references the jurisdiction of that third currency.

Article 11

Money-market instruments

[^{F44}(1)] Money-market instruments ^{F45}... shall include treasury bills, certificates of deposits, commercial papers and other instruments with substantively equivalent features where they have the following characteristics:

- (a) they have a value that can be determined at any time;
- (b) they are not derivatives;
- (c) they have a maturity at issuance of 397 days or less.

[^{F46}(2)] For the purposes of this Article, “money market instruments” means those classes of instruments which are normally dealt with on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.]]

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

- F44** Words in Sch. 2 Pt. 2 renumbered (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(f)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F45** Words in Sch. 2 Pt. 2 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(f)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F46** Words in Sch. 2 Pt. 2 inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(4)(f)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

PART 3

SECTION A OF ANNEX I TO THE MARKETS IN FINANCIAL INSTRUMENTS DIRECTIVE

“Investment services and activities

1. Reception and transmission of orders in relation to one or more financial instruments.
2. Execution of orders on behalf of clients.
3. Dealing on own account.
4. Portfolio management.
5. Investment advice.
6. Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis.
7. Placing of financial instruments without a firm commitment basis.
8. Operation of [^{F47}an MTF].

Textual Amendments

- F47** Words in Sch. 2 Pt. 3 para. 8 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(5)(a)**

[
^{F48}9. Operation of an OTF.]”

Textual Amendments

- F48** Sch. 2 Pt. 3 para. 9 inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(5)(b)**

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

[^{F49}PART 3A

ANCILLARY SERVICES

Textual Amendments

F49 Sch. 2 Pt. 3A inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(5)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

1. Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash or collateral management and excluding providing and maintaining securities accounts at the top-tier level (“central maintenance service”) referred to in point (2) of Section A of the Annex to the Regulation (EU) No 909/2014 of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories.

2. Granting credits or loans to an investor to allow the investor to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction.

3. Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings.

4. Foreign exchange services where these are connected to the provision of investment services.

5. Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments.

6. Services relating to underwriting.

7. Investment services and activities included in Part 3 of this Schedule as well as ancillary services of the type included in this Part related to the underlying of the derivatives included in paragraphs 5, 6, 7 or 10 of Part 1 of this Schedule where these are connected to the provision of investment or ancillary services.]

[^{F50}PART 4

Article 9 of the Commission Regulation

Textual Amendments

F50 Sch. 2 Pt. 4 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **10(6)**

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Article 9

Investment advice

[^{F51}For the purposes of the list of investment services and activities in Part 3 of this Schedule, “investment advice” means the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments. For these purposes], a personal recommendation shall be considered a recommendation that is made to a person in his capacity as an investor or potential investor, or in his capacity as an agent for an investor or potential investor.

Textual Amendments

F51 Words in Sch. 2 Pt. 4 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(6)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

That recommendation shall be presented as suitable for that person, or shall be based on a consideration of the circumstances of that person, and shall constitute a recommendation to take one of the following sets of steps:

- (a) to buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular financial instrument;
- (b) to exercise or not to exercise any right conferred by a particular financial instrument to buy, sell, subscribe for, exchange, or redeem a financial instrument.

A recommendation shall not be considered a personal recommendation if it is issued exclusively to the public.]]

[^{F52}PART 5

Interpretation

Textual Amendments

F52 Sch. 2 Pt. 5 inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **4(7)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Any expression in this Schedule which is used in the markets in financial instruments regulation (as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018) has the same meaning as in the Regulation.]

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

[^{F53}SCHEDULE 3

Article 3(1)

Exemptions from the definition of “investment firm”

Textual Amendments

F53 Sch. 3 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **4(8)** (with savings in S.I. 2019/680, **reg. 11** (as amended by S.I. 2019/1233, regs. 1(3), **3** and S.I. 2019/710, regs. 1(2), **16(2)(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**

PART 1

1. The following persons are excluded from the definition of “investment firm”—
 - (a) the society incorporated by Lloyd's Act 1871 ^{M3} known by the name of Lloyd's;
 - (b) an authorised person with a Part 4A permission to carry on the regulated activity of—
 - (i) effecting or carrying out contracts of insurance under article 10;
 - (ii) insurance risk transformation under article 13A;
 - (iii) managing the underwriting capacity of a Lloyd's syndicate under article 57, when carrying on those activities (and any other activities permitted by rules made by the FCA or the PRA under the Act);
 - (ba) a person which is a third country insurance or reinsurance undertaking (as defined by regulation 2(1) of the Solvency 2 Regulations 2015 ^{F54}, as those regulations have been amended under the European Union (Withdrawal) Act 2018) where the undertaking is transferring risk to a transformer vehicle, provided that the assumption of risk by that vehicle is a specified kind of activity within Article 13A of this Order;
 - (c) a person (“P”) providing investment services exclusively for P's parent undertakings, for P's subsidiaries or for other subsidiaries of P's parent undertakings;
 - (d) a person 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;
 - (e) a person dealing on own account in financial instruments other than commodity derivatives or emission allowances or derivatives thereof and not providing any other investment services or performing any other investment activities in financial instruments other than commodity derivatives or emission allowances or derivatives thereof unless such persons—
 - (i) are market makers;
 - (ii) are members of or participants in a regulated market or an MTF, on the one hand, or have direct electronic access to a trading venue, on the other hand, except for non-financial entities who execute transactions on a trading venue which are objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of those non-financial entities or their groups;
 - (iii) apply a high-frequency algorithmic trading technique; or
 - (iv) deal on own account when executing client orders;
 - (f) an operator (within the meaning of regulation 3(2) of the Greenhouse Gas Emissions Trading Scheme Regulations 2012 ^{M4}), subject to compliance obligations under those

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- Regulations who, when dealing in emission allowances, does not execute client orders and does not provide any investment services or perform any investment activities other than dealing on own account, provided that the operator does not apply a high-frequency algorithmic trading technique;
- (g) a person providing investment services consisting exclusively in the administration of employee-participation schemes;
 - (h) a person (“P”) providing investment services which only involve both the administration of employee-participation schemes and the provision of investment services exclusively for P’s parent undertakings, for P’s subsidiaries or for other subsidiaries of P’s parent undertakings;
 - (i) the Treasury, the Bank of England and other public bodies charged with or intervening in the management of the public debt in the United Kingdom or members of the European System of Central Banks;
 - (j) a collective investment undertaking, pension fund or a depositary or manager of such an undertaking or fund;
 - (k) a person (“P”)—
 - (i) dealing on own account, including a market maker, in commodity derivatives or emission allowances or derivatives thereof, excluding a person who deals on own account when executing client orders; or
 - (ii) providing investment services, other than dealing on own account, in commodity derivatives or emission allowances or derivatives thereof to the customers or suppliers of P’s main business,provided that in each case the activity in (i) or (ii), considered both individually and on an aggregate basis, is an ancillary activity to P’s main business, when considered on a group basis, and where paragraph 2 applies;
 - (l) a person who provides investment advice in the course of providing another professional activity which is not an investment service or activity provided that the provision of such advice is not specifically remunerated;
 - (m) associations set up by Danish and Finnish pension 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;
 - (o) subject to paragraph 3, transmission system operators within the meaning of Article 2(4) of Directive [2009/72/EC](#) and Article 2(4) of Directive [2009/73/EC](#) when carrying out their tasks under the law of the United Kingdom or part of the United Kingdom relied on by the United Kingdom immediately before IP completion day to implement Directive [2009/72/EC](#) or [2009/73/EC](#), under Regulation (EC) No 714/2009, under Regulation (EC) No 715/2009 or under network codes or guidelines adopted pursuant to those Regulations, any persons acting as service providers on their behalf to carry out their task under those legislative acts or under network codes or guidelines adopted pursuant to those Regulations, and any operator or administrator of an energy balancing mechanism, pipeline network or system to keep in balance the supplies and uses of energy when carrying out such tasks;
 - (p) central securities depositories as defined in point (1) of Article 2(1) of Regulation (EU) 909/2014 on the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories, except as provided for in Article 73 of that Regulation.

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

Textual Amendments

F54 S.I. 2015/575.

Marginal Citations

M3 1871 c.xxi

M4 S.I. 2012/3038.

2. This paragraph applies if—
 - (a) P's main business is not—
 - (i) the provision of investment services;
 - (ii) banking activities requiring permission under Part 4A of the Act (or banking activities which would require such permission if they were carried on in the United Kingdom); or
 - (iii) acting as a market-maker in relation to commodity derivatives;
 - (b) P does not apply a high-frequency algorithmic trading technique; and
 - (c) P notifies the FCA under regulation 47 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 that P makes use of this exemption and reports to the FCA, upon request, the basis on which P considers that P's activity under points (i) and (ii) is ancillary to P's main business.
3. The exemption in paragraph 1(p)—
 - (a) only applies to the persons engaged in the activities set out in that sub-paragraph where they perform investment activities or provide investment services relating to commodity derivatives in order to carry out those activities;
 - (b) does not apply with regard to the operation of a secondary market, including a platform for secondary trading in financial transmission rights.
4. References in this Schedule to “regulated markets”, “MTFs” and “trading venues” are to “UK regulated markets”, “UK MTFs” and “UK trading venues” within the meaning of Article 2(1)(13A), (14A) and (16A) respectively of the markets in financial instruments regulation.
5. Any expression used in this Part of this Schedule which is used in the markets in financial instruments regulation (as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018) has the same meaning as in the regulation.

PART 2

Provision of investment service in an incidental manner

6. For the purpose of the exemption in paragraph 1(d), an investment service shall be deemed to be provided in an incidental manner in the course of a professional activity where the following conditions are satisfied—
 - (a) a close and factual connection exists between the professional activity and the provision of the investment service to the same client, such that the investment service can be regarded as accessory to the main professional activity;
 - (b) the provision of investment services to the clients of the main professional activity does not aim to provide a systematic source of income to the person providing the professional activity; and

- (c) the persons providing the professional activity do not market or otherwise promote their ability to provide investment services, except where these are disclosed to clients as being accessory to the main professional activity.]

[^{F55}SCHEDULE 4

Article 4

Relevant Text of the Insurance Distribution Directive

Textual Amendments

F55 Sch. 4 substituted (1.10.2018) by [The Insurance Distribution \(Regulated Activities and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/546\)](#), arts. 1(2), 8

PART 1

Article 1.3

“This Directive shall not apply to ancillary insurance intermediaries carrying out insurance distribution activities where all the following conditions are met—

- (a) the insurance is complementary to the good or service supplied by a provider, where such insurance covers—
 - (i) the risk of breakdown, loss of, or damage to, the good or the non-use of the service supplied by that provider; or
 - (ii) damage to, or loss of, baggage and other risks linked to travel booked with that provider;
- (b) the amount of the premium paid for the insurance product does not exceed EUR 600 calculated on a *pro rata* annual basis;
- (c) by way of derogation from point (b), where the insurance is complementary to a service referred to in point (a) and the duration of that service is equal to, or less than, three months, the amount of the premium paid per person does not exceed EUR 200.”

PART 2

Article 2.1(1)

“For the purposes of this Directive “insurance distribution” means the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim, including the provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media and the compilation of an insurance product ranking list, including price and product comparison, or a discount on the price of an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract using a website or other media.”

Status: Point in time view as at 21/07/2022.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 is up to date with all changes known to be in force on or before 18 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)

PART 3

Article 2.1(2)

“For the purposes of this Directive “reinsurance distribution” means the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of reinsurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim, including when carried out by a reinsurance undertaking without the intervention of a reinsurance intermediary.”

PART 4

Article 2.1(4)

““ancillary insurance intermediary” means any natural or legal person, other than a credit institution or an investment firm as defined in points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, who, for remuneration, takes up or pursues the activity of insurance distribution on an ancillary basis, provided that all the following conditions are met—

- (a) the principal professional activity of that natural or legal person is other than insurance distribution;
- (b) the natural or legal person only distributes certain insurance products that are complementary to a good or service;
- (c) the insurance products concerned do not cover life assurance or liability risks, unless that cover complements the good or service which the intermediary provides as its principal professional activity.”

PART 5

Article 2.2

“For the purposes of points (1) and (2) of paragraph 1, the following shall not be considered to constitute insurance distribution or reinsurance distribution—

- (a) the provision of information on an incidental basis in the context of another professional activity where—
 - (i) the provider does not take any additional steps to assist in concluding or performing an insurance contract;
 - (ii) the purpose of that activity is not to assist the customer in concluding or performing a reinsurance contract;
- (b) the management of claims of an insurance undertaking or of a reinsurance undertaking on a professional basis, and loss adjusting and expert appraisal of claims;
- (c) the mere provision of data and information on potential policyholders to insurance intermediaries, reinsurance intermediaries, insurance undertakings or reinsurance undertakings where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract;
- (d) the mere provision of information about insurance or reinsurance products, an insurance intermediary, a reinsurance intermediary, an insurance undertaking or a reinsurance undertaking to potential policyholders where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract.”

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[^{F56}PART 6

Modifications of Article 1.3, 2.1(2) and (4) and 2.2

Textual Amendments

F56 Sch. 4 Pt. 6 inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **160** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3))); 2020 c. 1, Sch. 5 para. 1(1)

1. This Part has effect for the purposes of article 4(5).
2. Article 2.1(2) of the insurance distribution directive has effect—
 - (a) as if “within the meaning of the Financial Services and Markets Act 2000” were inserted after “a reinsurance undertaking”, and
 - (b) as if “within the meaning given by article 33B(4) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001” were inserted after “a reinsurance intermediary”.

3. Article 2.1(4) of the insurance distribution directive has effect as if “within the meaning of the Financial Services and Markets Act 2000” were substituted for “as defined in points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council”.

4. Article 2.2 of the insurance distribution directive has effect as if, as the end, there were inserted—

“In points (b), (c) and (d) “insurance undertaking” and “reinsurance undertaking” have the same meaning as in the Financial Services and Markets Act 2000.”]]

[^{F57}SCHEDULE 4A

Article 60LB

MEANING OF “BORROWER” IN RELATION TO GREEN DEAL CREDIT AGREEMENTS

Textual Amendments

F57 Sch. 4A inserted (E.W.S.) (15.7.2014) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Green Deal\) \(Amendment\) Order 2014 \(S.I. 2014/1850\)](#), arts. 1(2), **11** (with art. 1(3))

<i>Article of this Order</i>	<i>References to “borrower” are to be read as references to the—</i>
Article 36B	improver
Article 36H	improver
Article 36J	improver
Article 39D	current bill payer

Status: Point in time view as at 21/07/2022.

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<i>Article of this Order</i>	<i>References to “borrower” are to be read as references to the—</i>
	previous bill payer
Article 39E	current bill payer
	previous bill payer
Article 39M	current bill payer
	previous bill payer
Article 60C	improver
Article 60H	improver
Article 60L, so far as relating to definitions of “deposit” and “security”	improver
Article 60LA	improver
	first bill payer
	current bill payer
	previous bill payer
Article 60M	improver
	first bill payer
	current bill payer
	previous bill payer]

^{F58}SCHEDULE 5

Article 63R

SPECIFIED BENCHMARKS

Textual Amendments

F58 Sch. 5 revoked (1.5.2020) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2)(b), **53(e)** (with Pt. 7)

Status: Point in time view as at 21/07/2022.

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F⁵⁹SCHEDULE 6

Article 51ZA

FUNCTIONS INCLUDED IN THE ACTIVITY OF MANAGING
A UCITS: ANNEX II TO THE UCITS DIRECTIVE

Textual Amendments

F59 Sch. 6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **132(5)(b)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3)); 2020 c. 1, Sch. 5 para. 1(1)

- F⁵⁹**1.**
- F⁵⁹**2.**
- F⁵⁹**3.**

F⁶⁰SCHEDULE 7

Article 51ZC

ADDITIONAL ACTIVITIES INCLUDED IN THE ACTIVITY OF
MANAGING AN AIF LISTED IN PARAGRAPH 2 OF ANNEX I TO
THE ALTERNATIVE INVESTMENT FUND MANAGERS DIRECTIVE

Textual Amendments

F60 Schs. 6-8 inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(17)**

- (a) Administration—
- (i) legal and fund management accounting services;
 - (ii) customer inquiries;
 - (iii) valuation and pricing, including tax returns;
 - (iv) regulatory compliance monitoring;
 - (v) maintenance of unit-/shareholder register;
 - (vi) distribution of income;
 - (vii) unit/shares issues and redemptions;
 - (viii) contract settlements, including certificate dispatch;
 - (ix) record keeping;
- (b) Marketing;
- (c) Activities related to the assets of AIFs, namely services necessary to meet the fiduciary duties of the AIFM, facilities management, real estate administration activities, advice to undertakings on capital structure, industrial strategy and related matters, advice and services related to mergers and the purchase of undertakings and other services connected to the management of the AIF and the companies and other assets in which it has invested.

Status: Point in time view as at 21/07/2022.

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SCHEDULE 8

Article 51ZF

PERSONS EXCLUDED FROM REGULATED ACTIVITY OF MANAGING AN AIF

Interpretation of this Schedule

1. Any expression used in this Schedule which is used in the alternative investment fund managers directive [^{F61}, and not referred to in paragraph 1B,] has the same meaning as in that directive.

Textual Amendments

F61 Words in Sch. 8 para. 1 inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **161(2)** (with savings in [S.I. 2019/680](#), reg. 11 (as amended by [S.I. 2019/1212](#), regs. 1(3), 22(3))); 2020 c. 1, Sch. 5 para. 1(1)

[
^{F62}**1A.** For the purposes of paragraph 1, in Article 4(1)(o) of the alternative investment fund managers directive (definition of “holding company”) the reference to the Union is to be read as a reference to the United Kingdom.]

Textual Amendments

F62 Sch. 8 paras. 1A, 1B inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **161(3)** (with savings in [S.I. 2019/680](#), reg. 11 (as amended by [S.I. 2019/1212](#), regs. 1(3), 22(3))); 2020 c. 1, Sch. 5 para. 1(1)

[
^{F62}**1B.** In this Schedule—

“parent undertaking” has the meaning given by section 1162 of the Companies Act 2006 ^{M5} (read with Schedule 7 to that Act);

“subsidiary” has the meaning given to “subsidiary undertaking” by that section (read with that Schedule).]

Textual Amendments

F62 Sch. 8 paras. 1A, 1B inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **161(3)** (with savings in [S.I. 2019/680](#), reg. 11 (as amended by [S.I. 2019/1212](#), regs. 1(3), 22(3))); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M5 2006 c.46.

Persons excluded

2. A small registered UK AIFM, in respect of the AIFs managed by it by virtue of which it is entitled to be registered as a small registered UK AIFM (but not in respect of any other AIFs managed by it).

3. An AIFM in so far as it manages one or more AIFs whose only investors are—

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- (a) the AIFM,
- (b) the parent undertakings of the AIFM,
- (c) the subsidiaries of the AIFM, or
- (d) other subsidiaries of those parent undertakings,

provided that none of the investors is an AIF.

[^{F63}4. The trustees and managers of an occupational pension scheme within the meaning of section 1(1) of the Pension Schemes Act 1993^{F64}.]

Textual Amendments

- F63** Sch. 8 para. 4 substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/632), regs. 1(3), **161(4)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3)); 2020 c. 1, Sch. 5 para. 1(1))
- F64** 1993 c.48.

5. ^{F65}... The European Investment Bank, the European Investment Fund, a bilateral development bank, the World Bank, the International Monetary Fund [^{F66}or any other] supranational institution or similar international organisation, ^{F67}... in the event that such institution or organisation manages AIFs and in so far as those AIFs act in the public interest.

Textual Amendments

- F65** Words in Sch. 8 para. 5 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/632), regs. 1(3), **161(5)(a)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3)); 2020 c. 1, Sch. 5 para. 1(1))
- F66** Words in Sch. 8 para. 5 substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/632), regs. 1(3), **161(5)(b)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3)); 2020 c. 1, Sch. 5 para. 1(1))
- F67** Words in Sch. 8 para. 5 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/632), regs. 1(3), **161(5)(c)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3)); 2020 c. 1, Sch. 5 para. 1(1))

6. A national central bank.

7. A national, regional or local government or body or other institution which manages funds supporting social security and pension systems.

8. A holding company.

9. An employee participation scheme or employee savings scheme.

10. A securitisation special purpose entity.

[^{F68}11. An AIFM, the registered office of which is not in [^{F69}the United Kingdom][^{F70}, that is registered in the United Kingdom in accordance with [^{F71}Part 3 of the Alternative Investment Fund Managers Regulations 2013]].]

Status: Point in time view as at 21/07/2022.

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Textual Amendments

- F68** Sch. 8 para. 11 omitted (coming into force in accordance with reg. 1(4) of the amending S.I.) by virtue of [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013](#) (S.I. 2013/1797), **Sch. 2 para. 2**
- F69** Words in Sch. 8 para. 11 substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/632), regs. 1(3), **161(6)(a)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F70** Words in Sch. 8 para. 11 inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013](#) (S.I. 2013/1773), regs. 1, **81(3)**
- F71** Words in Sch. 8 para. 11 substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/632), regs. 1(3), **161(6)(b)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3)); 2020 c. 1, Sch. 5 para. 1(1)

Status:

Point in time view as at 21/07/2022.

Changes to legislation:

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