

## SCHEDULE 1

### PART II

#### *Controlled Investments*

#### **Options**

- 21.—<sup>F1</sup>(1) Options to acquire or dispose of—
- (a) a security or contractually based investment (other than one of a kind specified in this paragraph);
  - (b) currency of the United Kingdom or of any other country or territory;
  - (c) palladium, platinum, gold or silver; <sup>F2</sup>...
  - (d) an option to acquire or dispose of an investment falling within this paragraph by virtue of sub-paragraph (a), (b) or (c) <sup>F3</sup>;
  - (e) subject to sub-paragraph (4), an option to acquire or dispose of an option to which paragraph 5, 6, 7 or 10 of Section C of Annex I to the markets in financial instruments directive <sup>F4</sup>(read with Articles 5, 6, 7 and 8 of the Commission Regulation) applies]
- <sup>F5</sup>(2) Subject to sub-paragraph (4), options—
- (a) to which sub-paragraph (1) does not apply;
  - (b) which relate to commodities;
  - (c) which may be settled physically; and
  - (d) either—
    - (i) to which paragraph 5 or 6 of Section C of Annex I to the markets in financial instruments directive <sup>F6</sup>(read with Articles 5 and 6 of the Commission Regulation) applies, or
    - (ii) which in accordance with Article <sup>F7</sup>7] of the Commission Regulation are to be considered as having the characteristics of other derivative financial instruments and not being for commercial purposes, and to which paragraph 7 of Section C of Annex I to the markets in financial instruments directive applies.
- (3) Subject to sub-paragraph (4), options—
- (a) to which sub-paragraph (1) does not apply;
  - (b) which may be settled physically; and
  - (c) to which paragraph 10 of Section C of Annex I to the markets in financial instruments directive (read with <sup>F8</sup>Articles 7 and 8 of] the Commission Regulation) applies.
- (4) Sub-paragraphs (1)(e), (2) and (3) only apply to options in relation to which—
- (a) an investment firm or credit institution is providing or performing investment services and activities on a professional basis,
  - (b) a management company is providing, in accordance with <sup>F9</sup>Article 6(3)] of the UCITS directive, the investment service specified in paragraph 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive, <sup>F10</sup>...

*Status: Point in time view as at 03/01/2018. This version of this provision has been superseded.*  
*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, Paragraph 21. (See end of Document for details)*

- (c) a market operator is providing the investment service specified in [F11] paragraph 8 or 9] of Section A of Annex I to the markets in financial instruments directive [F12], or
- (d) an AIFM is providing, in accordance with Article 6.4 of the alternative investment fund managers directive the investment service specified in paragraph 1, 4 or 5 of Section A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive.]
- (5) Expressions used in sub-paragraphs (1)(e), (2) and (3) and in the markets in financial instruments directive have the same meaning as in that directive.]

### Textual Amendments

- F1** Sch. 1 para. 21 renumbered as Sch. 1 para. 21(1) (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), **40(3)(a)**
- F2** Word in Sch. 1 para. 21(1)(c) 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), **40(3)(b)(i)**
- F3** Sch. 1 para. 21(1)(e) and semi-colon inserted (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), **40(3)(b)(ii)**
- F4** Words in Sch. 1 para. 21(1)(e) 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 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(i)**
- F5** Sch. 1 para. 21(2)-(5) inserted (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), **40(3)(c)**
- F6** Words in Sch. 1 para. 21(2)(d)(i) 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 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(ii)(aa)**
- F7** Word in Sch. 1 para. 21(2)(d)(ii) 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 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(ii)(bb)**
- F8** Words in Sch. 1 para. 21(3)(c) 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 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(iii)**
- F9** Words in Sch. 1 para. 21(4)(b) substituted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), reg. 1, **Sch. para. 7(3)**
- F10** Word in Sch. 1 para. 21(4)(b) omitted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. paras. 9(10)(g)(iv)(aa)**
- F11** Words in Sch. 1 para. 21(4)(c) 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 \(S.I. 2017/488\)](#), art. 1(2), **Sch. paras. 9(10)(g)(iv)(bb)**
- F12** Sch. 1 para. 21(4)(d) and preceding word 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 \(S.I. 2017/488\)](#), art. 1(2), **Sch. paras. 9(10)(g)(iv)(cc)**

**Status:**

Point in time view as at 03/01/2018. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, Paragraph 21.