
STATUTORY INSTRUMENTS

2006 No. 3384

**The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment No. 3) Order 2006**

PART 2

AMENDMENTS OF THE PRINCIPAL ORDER

Amendments of the principal Order

26. In article 83 (options)—

- (a) the existing text becomes paragraph (1);
- (b) in paragraph (1)—
 - (i) at the end of sub-paragraph (c) omit “or”; and
 - (ii) at the end of sub-paragraph (d) insert—
 - “;
 - (e) subject to 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 (the text of which is set out in Part I of Schedule 2) applies”;
- (c) after paragraph (1) insert—
 - “(2) Subject to paragraph (4), options—
 - (a) to which 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, the text of which is set out in Part 1 of Schedule 2, applies, or
 - (ii) which in accordance with Article 38 of the Commission Regulation (the text of which is set out in Part 2 of Schedule 2) 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 paragraph (4), options—
 - (a) to which 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 the Commission Regulation) applies.

- (4) 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 Article 5(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, or
 - (c) a market operator is providing the investment service specified in paragraph 8 of Section A of Annex I to the markets in financial instruments directive.
- (5) Expressions used in paragraphs (1)(e), (2) and (3) and in the markets in financial instruments directive have the same meaning as in that directive.”