
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2001 (Exemption) Order 2001 (S.I. 2001/1201) (“the principal order”) which provides for certain persons to be exempt from the general prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (c. 8) (“the Act”) on carrying on a regulated activity in the United Kingdom unless authorised under the Act. It inserts three new exemptions into the Schedule to the principal order.

New paragraph 33A of the Schedule to the principal order provides that Invest Northern Ireland established by the Industrial Development Act (Northern Ireland) 2002 (c.1 (N.I.)) is exempt in relation to the regulated activities listed in article 5(1) of the principal order (most of which relate to investment services).

New paragraph 50 of the Schedule to the principal order exempts a freight forwarder or storage firm from requiring authorisation in respect of the activities specified in articles 21, 25, 39A and 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) in circumstances where the freight forwarder or storage firm makes available to a customer rights under a policy of insurance held by the freight forwarder or storage firm in respect of loss or damage to goods consigned such that the customer has direct rights against the insurer in respect of loss or damage to those goods.

New paragraph 51 of the Schedule to the principal order exempts a person who is approved or nominated by the Financial Services Authority (“FSA”) to act as a policyholder advocate from requiring authorisation in respect of activities specified by articles 25 and 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. A policyholder advocate is appointed where an insurance firm carrying on with-profits business is seeking to make a reattribution of its inherited estate. The policyholder advocate negotiates with the firm on behalf of relevant with-profits policyholders. The FSA rules in relation to policyholder advocates, made under section 138 of the Act, can be found in the part of the FSA handbook entitled “conduct of business”.

This Order also makes a minor correction to article 40 of the Schedule to the principal order (exemption for enterprise schemes).

Regulatory impact assessments of the effect of the exemptions inserted as new paragraphs 50 and 51 of the Schedule to the principal order on the costs of business are available from the HM Treasury website or from the Financial Stability and Risk team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. Copies have been placed in the libraries of both Houses of Parliament. A full Regulatory Impact Assessment has not been produced for the exemption inserted as new paragraph 33A of the Schedule to the principal order as no impact on the private or voluntary sectors is foreseen.