
STATUTORY INSTRUMENTS

2014 No. 2080

**The Financial Services and Markets Act 2000
(Excluded Activities and Prohibitions) Order 2014**

PART 2

EXCLUDED ACTIVITIES AND EXCEPTIONS

Excluded activities: general exceptions

6.—(1) A ring-fenced body does not carry on an excluded activity by entering into a transaction with another person (including a structured finance vehicle) if the sole or main purpose for which the ring-fenced body entered into the transaction, either by itself or in combination with other transactions, is that of limiting the extent to which—

- (a) the ring-fenced body,
- (b) any subsidiary undertaking of the ring-fenced body,
- [^{F1}(ba) another ring-fenced body within the same group as the ring-fenced body,
- (bb) a related undertaking within the same group as the ring-fenced body,]
- (c) any sponsored structured finance vehicle of the ring-fenced body,
- (d) any conduit vehicle of the ring-fenced body, or
- (e) any combination of the undertakings referred to in sub-paragraphs (a), (b), [^{F2}(ba), (bb),] (c) and (d),

will be adversely affected by any of the factors specified in paragraph (2).

- (2) The factors specified in this paragraph are—
 - (a) changes in interest rates, exchange rates or commodity prices;
 - (b) changes in any index of retail prices or of residential or commercial property prices;
 - (c) changes in any index of the price of shares;
 - (d) default risk;
 - (e) liquidity risk.
- (3) A ring-fenced body does not carry on an excluded activity by—
 - (a) buying, selling or subscribing for investments which are liquid assets for the purpose of managing its liquidity, or
 - (b) buying or subscribing for investments to provide collateral in connection with a transaction falling within paragraph (1), or selling investments acquired for that purpose.
- (4) A ring-fenced body does not carry on an excluded activity by—
 - (a) acquiring shares, debentures or instruments giving an entitlement to shares or debentures from an issuer where—
 - (i) the shares, debentures or instruments concerned are issued by the issuer, and

- (ii) the consideration for the acquisition is the release by the ring-fenced body or by a subsidiary undertaking of the ring-fenced body of part or all of a debt owed by the issuer or by another undertaking within the same group as that issuer to the ring-fenced body or the subsidiary undertaking of the ring-fenced body;
 - (b) dealing in—
 - (i) debentures or instruments giving an entitlement to shares or debentures issued by the ring-fenced body or by a subsidiary of the ring-fenced body, or
 - (ii) debentures issued by a parent undertaking ^{M1} of the ring-fenced body;
 - (c) acquiring a debenture where—
 - (i) the debenture is acquired from the issuer, and
 - (ii) the debenture relates to any loan, credit, guarantee or other similar financial accommodation made by the ring-fenced body or a subsidiary undertaking of the ring-fenced body to the issuer or to an undertaking in the same group as the issuer;
 - (d) acquiring shares in a company—
 - (i) which is, or following such acquisition becomes, a subsidiary undertaking of the ring-fenced body, or
 - (ii) in which the ring-fenced body has, or following the acquisition will have, a participating interest ^{M2}.
 - [^{F3}(e) acquiring shares in—
 - (i) the operator of an inter-bank payment system ^{F4}...where ownership of such shares is a condition of participation in the inter-bank payment system operated by that operator;
 - (ii) a company whose principal business is the provision of electronically transmitted secure financial messaging services; ^{F5}...
 - (iii) a recognised clearing house^{F6}... or a third country central counterparty where ownership of such shares is a condition of membership of any such body; [^{F7} or
 - (iv) a recognised CSD, an EEA CSD or a third country CSD where ownership of such shares is a condition of membership of any such body;]
 - (f) dealing in investments as principal in order to comply with an obligation imposed upon it by a recognised clearing house ^{F8}... pursuant to Article 37 of Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.]
- (5) A ring-fenced body does not carry on an excluded activity by selling shares, debentures or instruments giving an entitlement to shares or debentures acquired or held by the ring-fenced body in accordance with paragraph (4)(a), [^{F9}(b), (d), (e) or (f)].
- (6) A ring-fenced body does not carry on an excluded activity by—
- (a) taking or granting a security interest over investments, or realising a security interest held over investments (including selling the investment over which the security is held), or
 - (b) entering into a title transfer collateral arrangement in relation to investments, acquiring equivalent investments in accordance with the arrangement or enforcing the arrangement (including by selling the investments which are subject to that arrangement).
- [^{F10}(7) A ring-fenced body does not carry on an excluded activity by dealing in investments as principal when acting as trustee for or on behalf of any individual, minor, charity or CIO.]

Textual Amendments

- F1** Art. 6(1)(ba)(bb) inserted (1.12.2016) by [The Financial Services and Markets Act 2000 \(Ring-fenced Bodies, Core Activities, Excluded Activities and Prohibitions\) \(Amendment\) Order 2016](#) (S.I. 2016/1032), arts. 1(2), 3(4)(a)(i)
- F2** Words in art. 6(1)(e) inserted (1.12.2016) by [The Financial Services and Markets Act 2000 \(Ring-fenced Bodies, Core Activities, Excluded Activities and Prohibitions\) \(Amendment\) Order 2016](#) (S.I. 2016/1032), arts. 1(2), 3(4)(a)(ii)
- F3** Art. 6(4)(e)(f) inserted (1.12.2016) by [The Financial Services and Markets Act 2000 \(Ring-fenced Bodies, Core Activities, Excluded Activities and Prohibitions\) \(Amendment\) Order 2016](#) (S.I. 2016/1032), arts. 1(2), 3(4)(b)
- F4** Words in art. 6(4)(e) omitted (30.11.2017) by virtue of [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017](#) (S.I. 2017/1167), arts. 1(2), **5(3)**
- F5** Word in art. 6(4)(e)(ii) omitted (28.11.2017) by virtue of [The Central Securities Depositories Regulations 2017](#) (S.I. 2017/1064), reg. 1, **Sch. para. 41(4)(a)** (with regs. 7(4), 9(1))
- F6** Words in art. 6(4)(e)(iii) 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), **192(4)(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))
- F7** Art. 6(4)(e)(iv) and preceding word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017](#) (S.I. 2017/1064), reg. 1, **Sch. para. 41(4)(b)** (with regs. 7(4), 9(1))
- F8** Words in art. 6(4)(f) 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), **192(4)(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))
- F9** Words in art. 6(5) substituted (1.12.2016) by [The Financial Services and Markets Act 2000 \(Ring-fenced Bodies, Core Activities, Excluded Activities and Prohibitions\) \(Amendment\) Order 2016](#) (S.I. 2016/1032), arts. 1(2), 3(4)(c)
- F10** Art. 6(7) inserted (1.12.2016) by [The Financial Services and Markets Act 2000 \(Ring-fenced Bodies, Core Activities, Excluded Activities and Prohibitions\) \(Amendment\) Order 2016](#) (S.I. 2016/1032), arts. 1(2), 3(4)(d)

Commencement Information

- I1** Art. 6 in force at 1.1.2019, see [art. 1\(3\)](#)

Marginal Citations

- M1** Defined in section 420 of the Act. Section 420(1) was amended by [S.I. 2008/948](#).
- M2** Defined in section 421A of the Act. Section 421A was inserted by [S.I. 2008/948](#).

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014, Section 6.