

Title: The Financial Services and Markets Act (2000) – Section 38 Exemption Order (Amendment); Norges Bank 2022.	De minimis assessment
SI No: 2022/100	Date: 07/01/2022
Other departments or agencies: N/A	Type of regulation: Domestic
Contact for enquiries: Thomas.barnes@hmtreasury.gov.uk	Date measure comes into force: 31/03/2022
Cost of Preferred (or more likely) Option No additional cost on business	Net cost EANDCB business per year No additional cost

1. What is the problem under consideration? Why is government intervention necessary? (Maximum 5 lines)

Norges Bank, the Norwegian central bank, has operated in the UK under a blanket exemption granted to European Economic Area (EEA) Central Banks under the Financial Services and Markets Act 2000 (Exemption) Order 2001 (FSMA).

Following the UK's exit from the EU, this blanket exemption was revoked by the FSMA 2000 (Amendment) (EU Exit) Regulations 2019 as a part of the Government's general policy to remove preferential treatment offered to certain EEA entities as a result of the UK's membership of the EU's single market. Norges Bank are currently operating under the Temporary

Transitional Power (TTP) applied by the Financial Conduct Authority (FCA), which expires at the end of March 2022. The TTP was applied by the FCA in order to allow time for relevant EEA firms to deal with the changes created by the United Kingdom leaving the EU. In particular, it enables relevant EEA firms and funds that were providing services into the UK when the transition period ended to continue operating temporarily. In the case of Norges Bank, they are an end investor operating in the UK market using resources from the Government Pension Fund Global (GPF). The GPF is Norway's Sovereign Wealth Fund (SWF).

HM Treasury has, in consultation with the Bank of England/ Prudential Regulation Authority (PRA), the Financial Conduct Authority (FCA) and the FCDO considered Norges Bank's suitability for an exemption as provided under section 38 FSMA, and has determined that Norges Bank are suitable for listing as an exempt person in respect of the activities specified by articles 14, 21, 25, 37, 40, 53 and 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. Without intervention, Norges Bank will no longer be able to continue its activities in the United Kingdom without authorisation. Norges Bank could apply for authorisation (through Part 4A of FSMA), however HMT does not consider Norges Bank appropriate for a Part 4A authorisation given their unique governance structure that concerns both the oversight of Norwegian Government and the Governor of the Central Bank, and their limited role in UK markets as an end investor using their own funds (rather than collecting and using the funds of customers). Norges Bank also asserts that their activities, business model and risk profile have not changed over the last few years. It is noted that HM Treasury have also not had concerns about the activities of Norges Bank when they were being

carried out under the EEA central bank exemption. Taking into account the unique nature of how Norges Bank operates, its compliance with Norwegian and EEA law and its previous exemption, HM Treasury considers it appropriate

for Norges Bank to continue to operate on its current basis under a section 38 (FSMA) exemption.

2. What are the policy objectives and the intended effects? (Maximum 5 lines)

Under Section 38 of FSMA, HM Treasury has the power to exempt persons, or persons from a specified class, from the general prohibition contained in s.19 of FSMA (i.e. the requirement to be authorised to carry out a regulated activity in the UK under FSMA Part 4A). An exempt person can carry out the activities specified in the Exemption Order without having to seek authorisation by the Regulators.

The legislation adds Norges Bank to the list of exempt persons under section 38 of FSMA for specific activities covered by Articles 14, 21, 25, 37, 40, 53 and 64 of the Regulated Activities Order. The intended effect is to exempt Norges Bank from having to seek part 4A Authorisation for certain regulated activities as defined by FSMA or, absent of such an authorisation, discontinue its activities in the UK.

3. What policy options have been considered, including any alternatives to regulation? Please justify preferred option (Maximum 5 lines)

Option 0 – do nothing: in this option, HMT takes no action to continue the existing exemption and Norges Bank will have to decide whether it wishes to continue to undertake regulated activities in the UK via a FSMA Part 4A authorisation or discontinue its UK business. Given the fact that Norges Bank has operated in the UK, without authorisation, for many years, this would, in effect, be a significant change.

Option 1 – preferred option: add Norges Bank to the list of authorised persons under Section 38 of FSMA, allowing them to continue on the basis of their current exemption.

4. Please justify why the net impacts (i.e., net costs or benefits) to business will be less than £5 million a year.

This SI will not impose any significant additional requirements or administrative burdens on UK business. This is because the exemption order is being amended to add Norges Bank to the list of exempt persons in the UK. This will maintain the status quo for Norges Bank's current UK operations.

There may be some familiarisation costs, primarily for Norges Bank, associated with this SI, however, as they pertain to a continuation of the status quo, they are likely to be addressed in a short timeframe with minimal resourcing. Outside of the SI, Norges Bank has agreed to comply with reporting and ongoing dialogue commitments with HM Treasury and the Financial Services Regulators to maintain their exemption. We do not anticipate that these requirements will put significant burden on Norges Bank who will be reporting in accordance with their current public reporting cycle.

5. Please confirm whether your measure could be subject to call-in by BRE under the following criteria. If yes, please provide a justification of why a full impact assessment is not appropriate:

a) Significant distributional impacts (such as significant transfers between different businesses or sectors)

No

b) Disproportionate burdens on small businesses

No. This SI itself does not change or create disproportionate burdens on small businesses. This is because the exemption order does not directly affect any other firms and allows for the continuation of activity on their existing basis.

c) Significant gross effects despite small net impacts No

d) Significant wider social, environmental, financial, or economic impacts No

e) Significant novel or contentious elements

No

Sign-off for de minimis assessment: SCS

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

SCS of Financial Services Group

Signed: John O'Regan (20/01/2022)

SCS of Better Regulation Unit

Signed: Linda Timson (13/01/2022).

Sign-off for de minimis assessment: Minister

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: John P Glen

Date: 24/01/2022