
EXPLANATORY NOTE

(This note is not part of the Order)

This Order concerns certain exemptions relating to the regulation of investment services for the purposes of the Financial Services and Markets Act 2000.

Article 2 amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (“the Order”). References to Commission Delegated Regulation (EU) 2017/592 are omitted from article 3 meaning that the criteria within that Regulation for establishing when an activity is ancillary, for the purposes of the exemption from the definition of “investment firm”, no longer apply. Article 72J (which enables firms seeking to rely on the ancillary activities exemption to carry on their business without obtaining authorisation if there is no data available to enable them to perform the test establishing when an activity is ancillary) is omitted. Part 1 of Schedule 3 is amended to remove the requirement to notify the Financial Conduct Authority (“the FCA”) where a person makes use of the exemption from the definition of “investment firm” on the basis that an activity is ancillary to that person’s main business. Reporting arrangements are retained.

Article 3 amends the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701). Regulation 30 is amended to remove the requirement to notify the FCA, which mirrors the requirement removed from Schedule 3 to the Order. Reporting arrangements are retained. Regulation 47 is amended to reflect the omission of the notification requirement. Regulation 47 is also amended to reflect its applicability in relation to the reporting arrangements under Schedule 3 to the Order.

A de minimis impact assessment of the effect of this instrument is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.