# FINANCIAL SERVICES

# AND MARKETS ACT 2000

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## EXPLANATORY NOTES

**COMMENTARY ON SECTIONS**

**Part Xviii: Recognised Investment Exchanges and Clearing Houses**

*Chapter I: Exemption*

*Section 301: Supervision of certain contracts*

543.    This section allows the Treasury, acting jointly with the Secretary of State, to make regulations which extend the provisions of Part VII of the Companies Act 1989 (or the equivalent provision of the Northern Ireland Order), with any appropriate modifications, to certain non-investment contracts.  Part VII of the Companies Act 1989 disapplies various provisions of insolvency law for market contracts in order to protect against systemic risk in the financial markets.

544.    *Subsection (2) and (3)* set out what kind of contracts can be covered by these regulations.  There are two criteria:

  •    first, the contracts must be settled by someone who is on a list maintained by the Authority for the purposes of this section. The Treasury, under *subsection (4)*, has to approve the conditions set by the Authority for admission to this list and the arrangements for admission to and removal from the list;

  •    second, the Treasury and the Secretary of State have to be satisfied that it is appropriate for the Authority to supervise the settlement arrangements for these non-investment contracts. In coming to a view, the Treasury and Secretary of State must have regard to the extent to which the contracts are dealt in by persons supervised by the Authority.

545.    *Subsection (10)* allows the Treasury and the Secretary of State, in making regulations under this section, to apply any of the provisions of this Act to the person settling these contracts.  Without this power it would not be possible for the Authority to regulate such persons on a statutory basis, since they would be clearing non-investment contracts and so would not require authorisation or exemption.