
EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies kinds of activities and investments for the purposes of the Financial Services and Markets Act 2000 (“the Act”). When an activity of a specified kind is carried on by way of business in relation to an investment of a specified kind, it is a “regulated activity” for the purposes of the Act. The Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (S.I.2001/1177) makes provision as to the circumstances in which a person is, or is not, to be regarded as carrying on a regulated activity by way of business. Section 19 of the Act prohibits person who are not authorised or exempt from carrying on any regulated activity in the United Kingdom. Contravention of that prohibition is a criminal offence.

Part I of this Order makes provision for the citation, commencement and interpretation of the Order.

Part II specifies types of activities. Those activities are accepting deposits; effecting and carrying out contracts of insurance; dealing in investments as principal, or as agent; arranging deals in investments; managing investments; safeguarding and administering investments; sending dematerialised instructions; establishing etc. a collective investment scheme, or a stakeholder pension scheme; advising on investments; certain activities in relation to Lloyd's; entering into funeral plan contracts, or regulated mortgage contracts; and agreeing to carry on certain of the above activities.

Part II also sets out the exclusions (if any) applicable to each kind of specified activity.

Part III of the Order specifies the kinds of investment which are relevant for determining whether a person is carrying on a regulated activity for the purposes of the Act.

Part IV makes consequential amendments to the Consumer Credit Act 1974, and subordinate legislation under that Act, so as to exclude from its scope those categories of mortgage contract which are specified under this Order and which will therefore be regulated under the Act.

Schedule 1 to the Order lists the classes of insurance contract which are relevant to the scope of the activity specified by article 10.

Schedules 2 and 3 set out the text of certain provisions of Council Directive No.93/22/EEC on investment services in the securities field which are relevant to the applicability of the exclusions contained in the Order (see article 4).