

## SCHEDULE 1

Article 4

### PART I

#### *Controlled Activities*

##### **Accepting deposits**

1. Accepting deposits is a controlled activity if—

- (a) money received by way of deposit is lent to others; or
- (b) any other activity of the person accepting the deposit is financed wholly, or to a material extent, out of the capital of or interest on money received by way of deposit,

and the person accepting the deposit holds himself out as accepting deposits on a day to day basis.

##### **Effecting or carrying out contracts of insurance**

2.—(1) Effecting a contract of insurance as principal is a controlled activity.

(2) Carrying out a contract of insurance as principal is a controlled activity.

(3) There is excluded from sub-paragraph (1) or (2) the effecting or carrying out of a contract of insurance of the kind described in article 12 of the Regulated Activities Order by a person who does not otherwise carry on an activity falling within those sub-paragraphs.

##### **Dealing in securities <sup>F1</sup>, qualifying cryptoassets] and contractually based investments**

3.—(1) Buying, selling, subscribing for or underwriting securities <sup>F2</sup>, structured deposits<sup>F3</sup>, qualifying cryptoassets] or contractually based investments <sup>F4</sup>... as principal or agent is a controlled activity.

(2) A person does not carry on the activity in sub-paragraph (1) by accepting an instrument creating or acknowledging indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation or assurance which he has made, granted or provided.

(3) The reference in sub-paragraph (2) to a person accepting an instrument includes a reference to a person becoming a party to an instrument otherwise than as a debtor or a surety.

##### **Textual Amendments**

- F1** Words in [Sch. 1 para. 3](#) heading inserted (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), arts. 1(2), [8\(a\)\(i\)](#) (with art. 11)
- F2** Words in [Sch. 1 para. 3\(1\)](#) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), [Sch. para. 9\(10\)\(a\)](#)
- F3** Words in [Sch. 1 Pt. 1 para. 3\(1\)](#) inserted (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), arts. 1(2), [8\(a\)\(ii\)](#) (with art. 11)

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

**F4** Words in [Sch. 1 para. 3\(1\)](#) omitted (28.1.2021 for specified purposes, 30.7.2022 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2021 \(S.I. 2021/90\)](#), arts. 1(2)(3), **5(2)**

### Arranging deals in investments

**4.—(1)** Making arrangements for another person (whether as principal or agent) to buy, sell, subscribe for or underwrite a particular investment which is—

(a) a security;

[<sup>F5</sup>(aa) a structured deposit;]

[<sup>F6</sup>(ab) a qualifying cryptoasset;]

(b) a contractually based investment; or

(c) an investment of the kind specified by paragraph 24, or paragraph 27 so far as relevant to that paragraph,

is a controlled activity.

(2) Making arrangements with a view to a person who participates in the arrangements buying, selling, subscribing for or underwriting investments falling within sub-paragraph (1)(a), [<sup>F7</sup>(aa)], [<sup>F8</sup>(ab)], (b) or (c) (whether as principal or agent) is a controlled activity.

(3) A person does not carry on an activity falling within paragraph (2) merely by providing means by which one party to a transaction (or potential transaction) is able to communicate with other such parties.

#### Textual Amendments

**F5** Sch. 1 para. 4(1)(aa) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(b)(i)**

**F6** Sch. 1 para. 4(1)(ab) inserted (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), arts. 1(2), **8(b)(i)** (with art. 11)

**F7** Word in Sch. 1 para. 4(2) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(b)(ii)**

**F8** Word in [Sch. 1 para. 4\(2\)](#) inserted (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), arts. 1(2), **8(b)(ii)** (with art. 11)

### [<sup>F9</sup>Operating a multilateral trading facility

**4A.** Operating a multilateral trading facility on which MiFID instruments are traded is a controlled activity.]

#### Textual Amendments

**F9** Sch. 1 para. 4A inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(2)(a)**

## **[<sup>F10</sup>Operating an organised trading facility**

**4AA.** Operating an organised trading facility on which non-equity MiFID instruments are traded is a controlled activity.]

### **Textual Amendments**

**F10** Sch. 1 para. 4AA inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(c)**

## **Credit broking**

**4B.—**(1) Each of the following is a controlled activity—

- (a) effecting an introduction of an individual or relevant recipient of credit to a person who enters into as lender relevant credit agreements [<sup>F11</sup>(other than credit agreements which are exempt agreements under the relevant provisions)] by way of business;
- [<sup>F12</sup>(b) effecting an introduction of an individual or relevant recipient of credit to a person who, by way of business, enters into as owner regulated consumer hire agreements or agreements which would be regulated consumer hire agreements but for article 60O (exempt agreements: exemptions relating to nature of agreement) or article 60Q (exempt agreements: exemptions relating to the nature of the hirer) of the Regulated Activities Order;]
- (c) effecting an introduction of an individual or relevant recipient of credit to a person who carries on an activity of the kind specified in paragraph (a) or (b) by way of business;
- (d) presenting or offering an agreement which would (if entered into) be a relevant credit agreement [<sup>F13</sup>(other than a credit agreement which is an exempt agreement under the relevant provisions)] to an individual or relevant recipient of credit;
- (e) assisting an individual or relevant recipient of credit by undertaking preparatory work in respect of a relevant credit agreement [<sup>F14</sup>(other than a credit agreement which is an exempt agreement under the relevant provisions)];
- (f) entering into a relevant credit agreement [<sup>F15</sup>(other than a credit agreement which is an exempt agreement under the relevant provisions)] on behalf of a lender.

[<sup>F16</sup>(1A) But an activity is not a controlled activity falling within sub-paragraph (1) to the extent that it is a controlled activity falling within paragraph 10A (arranging qualifying credit etc.).]

[<sup>F17</sup>(2) For the purposes of paragraph (1)—

- (a) “relevant provisions” are article 60E(5) (exempt agreements: exemptions relating to the nature of the lender) and article 60F(exempt agreements: exemptions relating to number of repayments to be made) of the Regulated Activities Order;
- (b) it is immaterial whether the relevant credit agreement or the consumer hire agreement is subject to the law of a country other than the United Kingdom.]

### **Textual Amendments**

**F11** Words in Sch. 1 para. 4B(1)(a) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(a)**

**F12** Sch. 1 para. 4B(1)(b) substituted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(b)**

- F13** Words in Sch. 1 para. 4B(1)(d) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(c)**
- F14** Words in Sch. 1 para. 4B(1)(e) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(c)**
- F15** Words in Sch. 1 para. 4B(1)(f) inserted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(c)**
- F16** Sch. 1 para. 4B(1A) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(a)**
- F17** Sch. 1 para. 4B(2) substituted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **4(4)(d)**

### **[<sup>F18</sup>Operating an electronic system in relation to lending**

**4C.**—(1) Where the [<sup>F19</sup>conditions in sub-paragraphs (2), (2A) and (2C) are] satisfied, operating an electronic system which enables the operator (“A”) to facilitate persons (“B” and “C”) becoming the lender and borrower under a paragraph 4C agreement is a controlled activity.

(2) The condition [<sup>F20</sup>in this sub-paragraph] is that the system operated by A is capable of determining which agreements should be made available to each of B and C (whether in accordance with general instructions provided to A by B or C or otherwise).

[  
<sup>F21</sup>(2A) The condition in this sub-paragraph is that A, or another person (“X”) acting under an arrangement with A or at A’s direction, undertakes to—

- (a) receive payments in respect of [<sup>F22</sup>either interest or capital or both] due under the agreement from C, and
- (b) make payments in respect of [<sup>F23</sup>either interest or capital or both] due under the agreement to B.

(2B) For the purposes of sub-paragraph (2A)—

- (a) an agreement by A to appoint X to perform the activities in that paragraph is to be treated as an undertaking by A within the meaning of that sub-paragraph;
- (b) it is immaterial that—
  - (i) payments may be subject to conditions;
  - (ii) A, or X, may be entitled to retain a portion or the entirety of any payment received from C.

(2C) The condition in this sub-paragraph is that A, or another person (“X”) acting under an arrangement with A or at A’s direction, undertakes to perform, or A undertakes to appoint or direct another person to perform, either or both of the following—

- (a) to take steps to procure the payment of a debt under the agreement;
- (b) to exercise or enforce rights under the agreement on behalf of B.]

[  
<sup>F24</sup>(2D) Where A carries on the activity specified by sub-paragraph (1), it is a controlled activity for A to operate an electronic system where—

- (a) that system enables A to facilitate a person (“B”) assuming the rights of the lender under a paragraph 4C agreement by assignment or operation of law, and
- (b) the conditions in sub-paragraphs (2), (2A) and (2C) are satisfied where C is the borrower under the agreement in paragraph (a).]

(3) The following are controlled activities if carried on by A in the course of, or in connection with, the carrying on by A of the activity specified by [F25 sub-paragraph] (1) [F26 or (2D)]—

- (a) presenting or offering paragraph 4C agreements to [F27 either B or C] with a view to B becoming the lender under the paragraph 4C agreement [F28 or] C becoming the borrower under the paragraph 4C agreement,
- (b) furnishing information relevant to the financial standing of a person (“Y”) with a view to assisting in the determination as to whether another person should—
  - (i) enter into, as the lender, a paragraph 4C agreement with Y, or
  - (ii) assume the rights of the lender under a paragraph 4C agreement under which Y is the borrower,
- (c) taking steps to procure the payment of a debt due under a paragraph 4C agreement,
- (d) [F29 taking steps to perform duties, or exercise or enforce] rights under a paragraph 4C agreement on behalf of the lender,
- (e) [F30 taking steps with a view to] ascertaining whether a credit information agency (within the meaning given by article 89A(6)) holds information relevant to the financial standing of an individual or relevant person,
- (f) [F31 taking steps with a view to] ascertaining the contents of such information,
- (g) [F32 taking steps with a view to] securing the correction of, the omission of anything from, or the making of any other kind of modification of, such information, F33 ...
- (h) [F34 taking steps with a view to] securing that a credit information agency which holds such information—
  - (i) stops holding the information, or
  - (ii) does not provide it to any other person [F35, or
- (i) giving advice in relation to the taking of any of the steps in sub-paragraphs (e) to (h)]

[F36 (4) A “paragraph 4C agreement” is an agreement by which one person provides another person with credit and in relation to which—

- (a) the condition in sub-paragraph (4A) is satisfied, and
- (b) the condition in either sub-paragraph (5) or (6) is satisfied, or was satisfied at the time the agreement was entered into.

(4A) The condition in this sub-paragraph is that A does not provide credit, assume the rights (by assignment or operation of law) of a person who provided credit, or receive credit under the agreement.]

(5) The condition in this [F37 sub-paragraph] is that the lender is an individual or relevant person.

(6) The condition in this [F38 sub-paragraph] is that the borrower is an individual or relevant person and—

- (a) the lender provides the borrower with credit less than or equal to £25,000, or
- (b) the agreement is not entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower.

(7) Paragraphs (5) and (6) of article 60C of the Regulated Activities Order (exempt agreements: exemptions relating to nature of agreement) apply for the purposes of paragraph (6)(b).

(8) It is immaterial for the purposes of this paragraph whether the lender is carrying on a regulated activity.

[F39 (9) In this paragraph—

“assignment”, in relation to Scotland, means assignation;

“borrower” means a person who receives credit under a paragraph 4C agreement or a person to whom the rights and duties of a borrower under such an agreement have passed by assignment or operation of law;

“credit” has the meaning given by article 60L of the Regulated Activities Order;

“lender” means—

- (a) a person providing credit under a paragraph 4C agreement, or
- (b) a person who by assignment or operation of law has assumed the rights of a person who provided credit under such an agreement;

“relevant person” means—

- (a) a partnership consisting of two or three persons not all of whom are bodies corporate, or
- (b) an unincorporated body of persons which does not consist entirely of bodies corporate and is not a partnership.]

[  
<sup>F40</sup>(10) For the purposes of the application of section 21(9) and (10) of the Act (restrictions on financial promotion) to an activity of a kind specified by this paragraph, paragraph 26D of this Schedule (relevant credit agreements), and article 4 (definition of controlled activities and controlled investments) in so far as it relates to that paragraph, [<sup>F41</sup>have] effect as if the reference to a relevant credit agreement in paragraph 26D includes a reference to a paragraph 4C agreement.]]

#### Textual Amendments

- F18** Sch. 1 paras. 4B, 4C inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(a)**
- F19** Words in Sch. 1 para. 4C(1) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(b)(i)**
- F20** Words in Sch. 1 para. 4C(2) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(b)(ii)**
- F21** Sch. 1 paras. 4C(2A)-(2C) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(b)(iii)**
- F22** Words in Sch. 1 para. 4C(2A)(a) substituted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(a)** (with Pt. 5)
- F23** Words in Sch. 1 para. 4C(2A)(b) substituted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(a)** (with Pt. 5)
- F24** Sch. 1 para. 4C(2D) inserted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(b)** (with Pt. 5)
- F25** Word in Sch. 1 para. 4C(3) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(b)(iv)**
- F26** Words in Sch. 1 para. 4C(3) inserted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(c)(i)** (with Pt. 5)
- F27** Words in Sch. 1 para. 4C(3)(a) substituted (17.3.2016) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(a), **6(2)(c)(ii)(aa)** (with Pt. 5)

- F28** Word in Sch. 1 para. 4C(3)(a) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(ii)(bb) (with Pt. 5)
- F29** Words in Sch. 1 para. 4C(3)(d) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(iii) (with Pt. 5)
- F30** Words in Sch. 1 para. 4C(3)(e) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(iv) (with Pt. 5)
- F31** Words in Sch. 1 para. 4C(3)(f) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(iv) (with Pt. 5)
- F32** Words in Sch. 1 para. 4C(3)(g) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(iv) (with Pt. 5)
- F33** Word in Sch. 1 para. 4C(3)(g) deleted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(v) (with Pt. 5)
- F34** Words in Sch. 1 para. 4C(3)(h) inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(iv) (with Pt. 5)
- F35** Sch. 1 para. 4C(3)(i) and preceding word inserted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(c)(vi) (with Pt. 5)
- F36** Sch. 1 para. 4C(4)(4A) substituted for Sch. 1 para. 4C(4) (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(d) (with Pt. 5)
- F37** Word in Sch. 1 para. 4C(5) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 10(8)(b)(vi)
- F38** Word in Sch. 1 para. 4C(6) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 10(8)(b)(vii)
- F39** Sch. 1 para. 4C(9) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(e) (with Pt. 5)
- F40** Sch. 1 para. 4C(10) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), arts. 1(3)(4), 10(8)(b)(viii)
- F41** Word in Sch. 1 para. 4C(10) substituted (17.3.2016) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 (S.I. 2016/392), arts. 1(2)(3)(a), 6(2)(f) (with Pt. 5)

## Managing investments

5. Managing assets belonging to another person, in circumstances involving the exercise of discretion, is a controlled activity if—

- (a) the assets consist of or include any investment which is a security [<sup>F42</sup>, structured deposit]<sup>F43</sup>, a qualifying cryptoasset] or a contractually based investment; or
- (b) the arrangements for their management are such that the assets may consist of or include such investments, and either the assets have at any time since 29th April 1988 done so, or the arrangements have at any time (whether before or after that date) been held out as arrangements under which the assets would do so.

### Textual Amendments

- F42** Words in Sch. 1 para. 5(a) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488), art. 1(2), Sch. para. 9(10)(d)

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

**F43** Words in Sch. 1 para. 5(a) inserted (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) Order 2023 (S.I. 2023/612), arts. 1(2), **8(c)** (with art. 11)

### [<sup>F44</sup>Debt adjusting

**5A.**—(1) The following activities are, when carried on in relation to debts due under a relevant credit agreement, controlled activities—

- (a) negotiating with the lender, on behalf of the borrower, terms for the discharge of a debt;
- (b) taking over, in return for payments by the borrower, that person's obligation to discharge a debt;
- (c) any similar activity concerned with the liquidation of a debt.

(2) The following activities are, when carried on in relation to debts due under a consumer hire agreement, controlled activities—

- (a) negotiating with the owner, on behalf of the hirer, terms for the discharge of a debt;
- (b) taking over, in return for payments by the hirer, that person's obligation to discharge a debt;
- (c) any similar activity concerned with the liquidation of a debt.

#### Textual Amendments

**F44** Sch. 1 paras. 5A, 5B inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), arts. 1(2)(6), **17(6)(b)**

### Debt-counselling

**5B.**—(1) Advising a borrower about the liquidation of a debt due under a relevant credit agreement is a controlled activity.

(2) Advising a hirer about the liquidation of a debt due under a consumer hire agreement is a controlled activity.]

#### Textual Amendments

**F44** Sch. 1 paras. 5A, 5B inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), arts. 1(2)(6), **17(6)(b)**

### Safeguarding and administering investments

**6.**—(1) The activity consisting of both—

- (a) the safeguarding of assets belonging to another; and
- (b) the administration of those assets,

or arranging for one or more other persons to carry on that activity, is a controlled activity if either the condition in paragraph (a) or (b) of sub-paragraph (2) is met.

(2) The condition is that—

- (a) the assets consist of or include any investment which is a security or a contractually based investment; or

- (b) the arrangements for their safeguarding and administration are such that the assets may consist of or include investments of the kind mentioned in sub-paragraph (a) and either the assets have at any time since 1st June 1997 done so, or the arrangements have at any time (whether before or after that date) been held out as ones under which such investments would be safeguarded and administered.
- (3) For the purposes of this article—
- (a) it is immaterial that title to the assets safeguarded and administered is held in uncertificated form;
  - (b) it is immaterial that the assets safeguarded and administered may be transferred to another person, subject to a commitment by the person safeguarding and administering them, or arranging for their safeguarding and administration, that they will be replaced by equivalent assets at some future date or when so requested by the person to whom they belong.
- (4) For the purposes of this article, the following activities do not constitute the administration of assets—
- (a) providing information as to the number of units or the value of any assets safeguarded;
  - (b) converting currency;
  - (c) receiving documents relating to an investment solely for the purpose of onward transmission to, from or at the direction of the person to whom the investment belongs.

### **Advising on investments**

- 7.—<sup>F45</sup>(1) Advising a person is a controlled activity if the advice is—
- (a) given to the person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and
  - (b) advice on the merits of his doing any of the following (whether as principal or agent)—
    - (i) buying, selling, subscribing for or underwriting a particular investment which is a security <sup>F46</sup>, structured deposit<sup>F47</sup>, a qualifying cryptoasset<sup>F47</sup> or a contractually based investment; or
    - (ii) exercising any right conferred by such an investment to buy, sell, subscribe for or underwrite such an investment.
- <sup>F48</sup>(2) Advising a person is a controlled activity if the advice is—
- (a) given to the person in that person's capacity as a lender or potential lender under a relevant paragraph 4C agreement, or in that person's capacity as an agent for a lender or potential lender under such an agreement; and
  - (b) advice on the merits of the person doing any of the following (whether as principal or agent)—
    - (i) entering into a relevant paragraph 4C agreement as a lender or assuming the rights of a lender under such an agreement,
    - (ii) providing instructions to an operator with a view to entering into a relevant paragraph 4C agreement as a lender or to assuming the rights of a lender under such an agreement by assignment or operation of law, where the instructions involve—
      - (aa) accepting particular parameters for the terms of the agreement presented by an operator,
      - (bb) choosing between options governing the parameters of the terms of the agreement presented by an operator, or

- (cc) specifying the parameters of the terms of the agreement by other means,
  - (iii) enforcing or exercising the lender’s rights under a relevant paragraph 4C agreement,  
or
  - (iv) assigning rights under a relevant paragraph 4C agreement.
- (3) In sub-paragraph (2)—

“operator” means a person carrying on a controlled activity of the kind specified by paragraph 4C(1) or (2D), and

“relevant paragraph 4C agreement” means a paragraph 4C agreement (within the meaning of that paragraph) which has been, or is to be, entered into with the facilitation of a person carrying on a controlled activity of the kind specified by paragraph 4C(1) or (2D) not in contravention of the general prohibition.

(4) For the purposes of the application of section 21(9) and (10) of the Act (restrictions on financial promotion) to an activity of a kind specified by sub-paragraph (2), paragraph 26D of this Schedule (relevant credit agreements), and article 4 (definition of controlled activities and controlled investments) in so far as it relates to that paragraph, have effect as if the reference to a relevant credit agreement in paragraph 26D includes a reference to a paragraph 4C agreement.]

#### Textual Amendments

- F45** Sch. 1 para. 7 renumbered as Sch. 1 para. 7(1) (17.3.2016 for specified purposes, 6.4.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(d), **6(3)(a)** (with Pt. 5)
- F46** Words in Sch. 1 para. 7(1)(b)(i) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(e)**
- F47** Words in [Sch. 1 para. 7\(1\)\(b\)\(i\)](#) inserted (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), arts. 1(2), **8(d)** (with art. 11)
- F48** Sch. 1 para. 7(2)-(4) inserted (17.3.2016 for specified purposes, 6.4.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(d), **6(3)(b)** (with Pt. 5)

#### Advising on syndicate participation at Lloyd's

**8.** Advising a person to become, or continue or cease to be, a member of a particular Lloyd's syndicate is a controlled activity.

#### Providing funeral plan contracts

**9.—(1)** Entering as provider into a qualifying funeral plan contract is a controlled activity.

[<sup>F49</sup>(1A) Carrying out a qualifying funeral plan contract as provider is a controlled activity.]

(2) A “qualifying funeral plan contract” is a contract under which—

- (a) a person (“the customer”) makes one or more payments to another person (“the provider”);
- (b) the provider undertakes to provide, or to secure that another person provides, a funeral in the United Kingdom for the customer (or some other person who is living at the date when the contract is entered into) on his death; and

[<sup>F50</sup>(c) the provider is a person who carries on a regulated activity specified in article 59 of the Regulated Activities Order and includes a person who has assumed the undertaking

referred to in article 59(2)(b) of that Order as a result of the novation, assignment or transfer by operation of law of an existing qualifying funeral plan contract.]

#### Textual Amendments

- F49** Sch. 1 para. 9(1A) inserted (28.1.2021 for specified purposes, 30.7.2022 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2021 \(S.I. 2021/90\)](#), arts. 1(2)(3), **5(3)(a)**
- F50** Sch. 1 para. 9(2)(c) substituted (28.1.2021 for specified purposes, 30.7.2022 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2021 \(S.I. 2021/90\)](#), arts. 1(2)(3), **5(3)(b)**

#### Providing qualifying credit

- 10.**—(1) Providing qualifying credit is a controlled activity.
- (2) “Qualifying credit” is a credit provided pursuant to an agreement under which—
- (a) the lender is a person who carries on the regulated activity specified in article 61 of the Regulated Activities Order; and
  - (b) the obligation of the borrower to repay is secured (in whole or in part) on land.
- (3) “Credit” includes a cash loan and any other form of financial accommodation.

#### Arranging qualifying credit etc.

- 10A.**—<sup>F51</sup>(1) Making arrangements—
- (a) for another person to enter as borrower into an agreement for the provision of qualifying credit; or
  - (b) for a borrower under a regulated mortgage contract <sup>F52</sup>falling within sub-paragraph (2)] to vary the terms of that contract in such a way as to vary his obligations under that contract,
- is a controlled activity.
- <sup>F53</sup>(2) A regulated mortgage contract falls within this sub-paragraph if—
- (a) the contract was entered into on or after 31st October 2004; or
  - (b) the contract—
    - (i) was entered into before 31st October 2004; and
    - (ii) was a regulated credit agreement immediately before 21st March 2016.
- (3) In this paragraph “regulated mortgage contract” has the meaning given by article 61(3) of the Regulated Activities Order.]

#### Textual Amendments

- F51** Sch. 1 para. 10A renumbered as Sch. 1 para. 10A(1) (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(4)(a)** (with Pt. 5)
- F52** Words in Sch. 1 para. 10A(1)(b) substituted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(4)(b)** (with Pt. 5)

**F53** Sch. 1 para. 10A(2)(3) inserted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(4)(c)** (with Pt. 5)

### Advising on qualifying credit etc.

**10B.**—(1) Advising a person is a controlled activity if the advice is—

- (a) given to the person in his capacity as a borrower or potential borrower; and
- (b) advice on the merits of his doing any of the following—
  - (i) entering into an agreement for the provision of qualifying credit, or
  - (ii) varying the terms of a regulated mortgage contract [<sup>F54</sup>falling within sub-paragraph (1A)] in such a way as to vary his obligations under that contract.

[<sup>F55</sup>(1A) A regulated mortgage contract falls within this sub-paragraph if—

- (a) the contract was entered into on or after 31st October 2004; or
- (b) the contract—
  - (i) was entered into before 31st October 2004; and
  - (ii) was a regulated credit agreement immediately before 21st March 2016.]

(2) In this paragraph, “borrower” and “regulated mortgage contract” have the meaning given by article 61(3) of the Regulated Activities Order.

#### Textual Amendments

**F54** Words in Sch. 1 para. 10B(1) substituted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(5)(a)** (with Pt. 5)

**F55** Sch. 1 para. 10B(1A) inserted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), arts. 1(2)(3)(c), **6(5)(b)** (with Pt. 5)

### [<sup>F56</sup>Providing relevant consumer credit

**10BA.** Entering into a relevant credit agreement [<sup>F57</sup>, other than an agreement under which qualifying credit within the meaning of paragraph 10 is provided,] as lender, or exercising or having the rights to exercise the rights of the lender under such an agreement, is a controlled activity.

#### Textual Amendments

**F56** Sch. 1 paras. 10BA, 10BB inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(c)**

**F57** Words in Sch. 1 para. 10BA inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(c)**

### [<sup>F58</sup>Advising on certain relevant consumer credit relating to land

**10BAA.** Advising a person is a controlled activity if the advice—

- (a) is given to the person in the person's capacity as a recipient of credit, or potential recipient of credit; and
- (b) consists of the provision of personal recommendations to the person in respect of one or more transactions relating to a relevant credit agreement where the person intends to use the credit to acquire or retain property rights in land or in an existing or projected building, other than an agreement under which qualifying credit within the meaning of paragraph 10 is provided.]

#### Textual Amendments

- F56** Sch. 1 paras. 10BA, 10BB inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(c)**
- F58** Sch. 1 para. 10BAA inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 12(2)** (with Pt. 4)

#### Providing consumer hire

**10BB.** Entering into a regulated consumer hire agreement<sup>F59</sup>, or an agreement that would be such an agreement but for article 60O (exempt agreements: exemptions relating to nature of agreement) or 60Q (exempt agreements: exemptions relating to nature of hirer) of the Regulated Activities Order,] as owner or exercising or having the right to exercise the rights of the owner under such an agreement is a controlled activity.]

#### Textual Amendments

- F56** Sch. 1 paras. 10BA, 10BB inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(c)**
- F59** Words in Sch. 1 para. 10BB inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(8)(d)**

#### <sup>F60</sup>Providing a regulated home reversion plan

**10C.** Entering into a regulated home reversion plan as plan provider is a controlled activity.

#### Textual Amendments

- F60** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

#### Arranging a regulated home reversion plan

**10D.** Making arrangements—

- (a) for another person to enter as reversion seller or plan provider into a regulated home reversion plan; or

- (b) for a reversion seller or a plan provider under a regulated home reversion plan, entered into on or after 6th April 2007 by him, to vary the terms of that plan in such a way as to vary his obligations under that plan,

is a controlled activity.

**Textual Amendments**

**F60** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

**Advising on a regulated home reversion plan**

**10E.** Advising a person is a controlled activity if the advice is—

- (a) given to the person in his capacity as reversion seller, potential reversion seller, plan provider or potential plan provider; and
- (b) advice on the merits of his doing either of the following—
  - (i) entering into a regulated home reversion plan, or
  - (ii) varying the terms of a regulated home reversion plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.

**Textual Amendments**

**F60** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

**Providing a regulated home purchase plan**

**10F.** Entering into a regulated home purchase plan as home purchase provider is a controlled activity.

**Textual Amendments**

**F60** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

**Arranging a regulated home purchase plan**

**10G.** Making arrangements—

- (a) for another person to enter as home purchaser into a regulated home purchase plan; or
- (b) for a home purchaser under a regulated home purchase plan, entered into on or after 6th April 2007 by him, to vary the terms of that plan in such a way as to vary his obligations under that plan,

is a controlled activity.

**Textual Amendments**

**F60** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

**Advising on a regulated home purchase plan**

**10H.** Advising a person is a controlled activity if the advice is—

- (a) given to the person in his capacity as home purchaser or potential home purchaser; and
- (b) advice on the merits of his doing either of the following—
  - (i) entering into a regulated home purchase plan, or
  - (ii) varying the terms of a regulated home purchase plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.]

**Textual Amendments**

**F60** Sch. 1 paras. 10C-10H inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(5)(a)**

**[<sup>F61</sup>Providing a regulated sale and rent back agreement**

**10I.** Entering into a regulated sale and rent back agreement as agreement provider is a controlled activity.

**Textual Amendments**

**F61** Sch. 1 paras. 10I-10K inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **30(4)(a)**

**Arranging a regulated sale and rent back agreement**

**10J.** Making arrangements—

- (a) for another person to enter as agreement seller or agreement provider into a regulated sale and rent back agreement; or
- (b) for an agreement seller or an agreement provider under a regulated sale and rent back agreement, entered into on or after 1st July 2009, to vary the terms of that plan in such a way as to vary the obligations of the agreement seller or the agreement provider under that plan,

is a controlled activity.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

#### Textual Amendments

**F61** Sch. 1 paras. 10I-10K inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009](#) (S.I. 2009/1342), arts. 1(2), **30(4)(a)**

#### Advising on a regulated sale and rent back agreement

**10K.** Advising a person (“A”) is a controlled activity if the advice is—

- (a) given to A in A’s capacity as agreement seller, potential agreement seller, agreement provider or potential agreement provider; and
- (b) advice on the merits of A doing either of the following—
  - (i) entering into a regulated sale and rent back agreement, or
  - (ii) varying the terms of a regulated sale and rent back agreement, entered into on or after 1st July 2009 by A, in such a way as to vary A’s obligations under that agreement.]

#### Textual Amendments

**F61** Sch. 1 paras. 10I-10K inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009](#) (S.I. 2009/1342), arts. 1(2), **30(4)(a)**

#### Agreeing to carry on specified kinds of activity

**11.** Agreeing to carry on any controlled activity falling within any of paragraphs 3 to <sup>F62</sup>10BB] above <sup>F63</sup>(other than paragraph 4A)] is a controlled activity.

#### Textual Amendments

**F62** Word in Sch. 1 para. 11 substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014](#) (S.I. 2014/366), arts. 1(3)(4), **10(8)(e)**

**F63** Words in Sch. 1 para. 11 inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006](#) (S.I. 2006/3384), arts. 1(2), **40(2)(b)**

## <sup>F64</sup>PART 1A

### CONTROLLED CLAIMS MANAGEMENT ACTIVITY

#### Textual Amendments

**F64** Sch. 1 Pt. 1A inserted (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018](#) (S.I. 2018/1253), arts. 1(2)(3), **38**

**11A.—**(1) A claims management activity carried out in Great Britain is a controlled claims management activity.

(2) For the purposes of this paragraph, a claims management activity is one of the following activities:

- (a) seeking out persons who may have a claim, referring details of a claim or potential claim or a claimant or potential claimant to another person (including a person having the right to conduct litigation), or identifying a claim or potential claim or a claimant or potential claimant in respect of—
    - (i) a personal injury claim;
    - (ii) a financial services or financial product claim;
    - (iii) a housing disrepair claim;
    - (iv) a claim for a specified benefit;
    - (v) a criminal injury claim; or
    - (vi) an employment related claim.
  - (b) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a personal injury claim;
  - (c) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a financial services or financial product claim;
  - (d) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a housing disrepair claim;
  - (e) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a claim for a specified benefit;
  - (f) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a criminal injury claim; or
  - (g) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of an employment related claim.
- (3) In this paragraph—
- (a) “claimant” includes, in civil proceedings in Scotland, a pursuer;
  - (b) “defendant” includes, in civil proceedings in Scotland, a defender;
  - (c) “personal injury claim” means a claim for personal injury within the meaning of the Civil Procedure Rules 1998 in England and Wales and an action for damages for, or arising from, personal injuries within the meaning set out in section 8(7) of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 in Scotland;
  - (d) “financial services or financial product claim” includes a claim made under section 75 of the Consumer Credit Act 1974;
  - (e) “housing disrepair claim” means a claim under section 11 of the Landlord and Tenant Act 1985 or section 4 of the Defective Premises Act 1972 in England and Wales or an application in respect of the repairing standard under section 22 of the Housing (Scotland) Act 2006, or claims in relation to the disrepair of premises under a term of a tenancy agreement or lease or under the common law relating to nuisance or negligence but does not include claims for statutory nuisance under section 82 of the Environmental Protection Act 1990;
  - (f) “a claim for a specified benefit” means a claim for one of the following benefits—
    - (i) industrial injuries benefit, within the meaning given by section 94 of the Social Security Contributions and Benefits Act 1992;

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

- (ii) any supplement or additional allowance, or increase of benefit or allowance to which a recipient of an industrial injuries benefit may be entitled under that Act or any other Act;
  - (iii) a benefit under a scheme referred to in paragraph 2 or 4 of Schedule 8 to that Act; or
  - (iv) a benefit under the Pneumoconiosis etc. (Workers' Compensation) Act 1979.
- (g) "criminal injury claim" means a claim under the Criminal Injuries Compensation Scheme established under the Criminal Injuries Compensation Act 1995;
  - (h) "employment related claim" includes a claim in relation to wages and salaries and other employment related payments and claims in relation to wrongful or unfair dismissal, redundancy, discrimination and harassment;
  - (i) "investigating" means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim; and
  - (j) "representing" means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.
- (4) In this paragraph, a person is to be treated as carrying on a controlled claims management activity in Great Britain when the activity is carried on—
- (a) by a person who is—
    - (i) an individual who is ordinarily resident in Great Britain; or
    - (ii) a person, other than an individual, who is constituted under the law of England and Wales or Scotland; or
  - (b) in respect of a claimant or potential claimant who is—
    - (i) an individual who is ordinarily resident in Great Britain; or
    - (ii) a person, other than an individual, who is constituted under the law of England and Wales or Scotland.
- (5) For the purposes of sub-paragraph (4) a person is "ordinarily resident" in Great Britain if that person satisfies the requirements of the Statutory Residence Test as set out in Schedule 45 to the Finance Act 2013 either—
- (a) at the time of the facts giving rise to the claim or potential claim; or
  - (b) at the time when the controlled claims management activity is carried out in respect of that claimant or potential claimant.]

## PART II

### *Controlled Investments*

- 12. A deposit.
- 13. Rights under a contract of insurance.
- 14.—(1) Shares or stock in the share capital of—
  - (a) any body corporate (wherever incorporated);
  - (b) any unincorporated body constituted under the law of a country or territory outside the United Kingdom.
- (2) Sub-paragraph (1) includes—
  - (a) any shares of a class defined as deferred shares for the purposes of section 119 of the Building Societies Act 1986<sup>MI</sup>;

- (b) any transferable shares in a body incorporated under the law of, or any part of, the United Kingdom relating to [<sup>F65</sup>co-operative and community benefit societies,] industrial and provident societies or credit unions <sup>F66</sup> ...
- (3) But subject to sub-paragraph (2) there are excluded from sub-paragraph (1) shares or stock in the share capital of—
  - (a) an open-ended investment company;
  - (b) a building society incorporated under the law of, or any part of, the United Kingdom;
  - (c) any body incorporated under the law of, or any part of, the United Kingdom relating to [<sup>F67</sup>co-operative and community benefit societies,] industrial and provident societies or credit unions;
  - <sup>F68</sup>(d) .....

**Textual Amendments**

- F65** Words in Sch. 1 para. 14(2)(b) inserted (1.8.2014) by [The Co-operative and Community Benefit Societies and Credit Unions Act 2010 \(Consequential Amendments\) Regulations 2014 \(S.I. 2014/1815\)](#), reg. 1(2), [Sch. para. 15\(3\)](#)
- F66** Words in Sch. 1 para. 14(2)(b) 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), [176\(2\)\(a\)](#) (with reg. 162(2)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 33\(u\)](#) and 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\(1\)](#)
- F67** Words in Sch. 1 para. 14(3)(c) inserted (1.8.2014) by [The Co-operative and Community Benefit Societies and Credit Unions Act 2010 \(Consequential Amendments\) Regulations 2014 \(S.I. 2014/1815\)](#), reg. 1(2), [Sch. para. 15\(3\)](#)
- F68** Sch. 1 para. 14(3)(d) 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), [176\(2\)\(b\)](#) (with reg. 162(2)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 33\(u\)](#) and 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\(1\)](#)

**Marginal Citations**

- M1** 1986 c. 53.

**Instruments creating or acknowledging indebtedness**

- 15.**—(1) Subject to sub-paragraph (2), such of the following as do not fall within [<sup>F69</sup>paragraph <sup>F70</sup>... 16]—
- (a) debentures;
  - (b) debenture stock;
  - (c) loan stock;
  - (d) bonds;
  - (e) certificates of deposit;
  - (f) any other instrument creating or acknowledging a present or future indebtedness.
- (2) If and to the extent that they would otherwise fall within sub-paragraph (1), there are excluded from that sub-paragraph—
- (a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

- (b) a cheque or other bill of exchange, a banker's draft or a letter of credit (but not a bill of exchange accepted by a banker);
- (c) a banknote, a statement showing a balance on a current, deposit or saving account, a lease or other disposition of property, a heritable security; and
- (d) a contract of insurance.

<sup>F71</sup>(e) .....

(3) An instrument excluded from sub-paragraph (1) of paragraph 16 by paragraph 16(2)(b) is not thereby to be taken to fall within sub-paragraph (1) of this paragraph.

**Textual Amendments**

- F69** Words in Sch. 1 para. 15(1) substituted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(i)**
- F70** Words in Sch. 1 para. 15(1) omitted (16.2.2011) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2011 \(S.I. 2011/133\)](#), arts. 1(2), **3(2)(a)** (with art. 4)
- F71** Sch. 1 para. 15(2)(e) omitted (16.2.2011) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2011 \(S.I. 2011/133\)](#), arts. 1(2), **3(2)(b)** (with art. 4)

**[<sup>F72</sup>Alternative finance investment bonds**

**15A.—**(1) Rights under an alternative finance investment bond, to the extent that they do not fall within paragraph [<sup>F73</sup>15 or] 16.

(2) For the purposes of this paragraph, arrangements constitute an alternative finance investment bond if—

- (a) the arrangements provide for a person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”);
- (b) the arrangements identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”);
- (c) the arrangements specify a period at the end of which they cease to have effect (“the bond term”);
- (d) the bond-issuer undertakes under the arrangements—
  - (i) to make a repayment in respect of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond term (whether or not in instalments); and
  - (ii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“the additional payments”);
- (e) the amount of the additional payments does not exceed an amount which would, at the time at which the bond is issued, be a reasonable commercial return on a loan of the capital; and

[<sup>F74</sup>(f) the arrangements are—

- (i) a security that is admitted to the official list in accordance with Part 6 of the Act,
- (ii) a security that is admitted to an official list in the EEA (in accordance with the provisions of [Directive 2001/34/EC](#) of the European Parliament and of the Council on the admission of securities to official stock exchange listing and on information to be published on those securities) and has been so admitted since before IP completion day,
- (iii) a security that is admitted to trading on a recognised investment exchange or a UK trading venue, or

- (iv) a security that is admitted to trading on an EU trading venue and has been so admitted since before IP completion day.]
- (3) For the purposes of sub-paragraph (2)—
- (a) the bond-issuer may acquire the bond assets before or after the arrangements take effect;
  - (b) the bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer;
  - (c) the identification of the bond assets mentioned in sub-paragraph (2)(b) and the undertakings mentioned in sub-paragraph (2)(d) may (but need not) be described as, or accompanied by a document described as, a declaration of trust;
  - (d) the reference to a period in sub-paragraph (2)(c) includes any period specified to end upon the redemption of the bond by the bond-issuer;
  - (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term;
  - (f) the amount of the additional payments may be—
    - (i) fixed at the beginning of the bond term;
    - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets; or
    - (iii) determined in some other way;
  - (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in sub-paragraph (2)(e) to the amount of the additional payments is a reference to the maximum amount of the additional payments;
  - (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them; and
  - (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities.
- (4) An instrument excluded from sub-paragraph (1) of paragraph 16 by sub-paragraph (2)(b) of that paragraph is not thereby taken to fall within sub-paragraph (1) of this paragraph. ]

#### Textual Amendments

- F72** Sch. 1 para. 15A inserted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(iii)**
- F73** Words in Sch. 1 para. 15A(1) inserted (16.2.2011) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2011 \(S.I. 2011/133\)](#), arts. 1(2), **3(2)(c)** (with art. 4)
- F74** Sch. 1 para. 15A(2)(f) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(3)** (with reg. 162(2)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 33(u)(w)** and 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)**

#### Government and public securities

- 16.**—(1) Subject to sub-paragraph (2), loan stock, bonds and other instruments—
- (a) creating or acknowledging indebtedness; and
  - (b) issued by or on behalf of a government, local authority (whether in the United Kingdom or elsewhere) or international organisation.

- (2) [<sup>F75</sup>Subject to sub-paragraph (3),] there are excluded from sub-paragraph (1)—
- (a) so far as applicable, the instruments mentioned in paragraph 15(2)(a) to (d);
  - (b) any instrument creating or acknowledging indebtedness in respect of—
    - (i) money received by the Director of Savings as deposits or otherwise in connection with the business of the National Savings Bank;
    - (ii) money raised under the National Loans Act 1968 <sup>M2</sup> under the auspices of the Director of Savings or treated as so raised by virtue of section 11(3) of the National Debt Act 1972 <sup>M3</sup>.

[<sup>F76</sup>(3) Sub-paragraph (2)(a) does not exclude an instrument which meets the requirements set out in paragraphs (a) to (e) of paragraph 15A(2).]

#### Textual Amendments

**F75** Words in Sch. 1 para. 16(2) inserted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(iv)**

**F76** Sch. 1 para. 16(3) inserted (24.2.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2010 \(S.I. 2010/86\)](#), art. 1(2), **Sch. para. 9(f)(v)**

#### Marginal Citations

**M2** 1968 c. 13.

**M3** 1972 c. 65.

### Instruments giving entitlements to investments

**17.**—(1) Warrants and other instruments entitling the holder to subscribe for any investment falling within paragraph 14, 15 or 16.

(2) It is immaterial whether the investment to which the entitlement relates is in existence or identifiable.

(3) An investment falling within this paragraph shall not be regarded as falling within paragraph 21, 22 or 23.

### Certificates representing certain securities

**18.**—(1) Subject to sub-paragraph (2), certificates or other instruments which confer contractual or property rights (other than rights consisting of an investment of the kind specified by paragraph 21)—

- (a) in respect of any investment of the kind specified by any of paragraphs 14 to 17 being an investment held by a person other than the person on whom the rights are conferred by the certificate or instrument; and
- (b) the transfer of which may be effected without the consent of that person.

(2) There is excluded from sub-paragraph (1) any instrument which confers rights in respect of two or more investments issued by different persons, or in respect of two or more different investments of the kind specified by paragraph 16 and issued by the same person.

### Units in a collective investment scheme

**19.** Units in a collective investment scheme.

## **[<sup>F77</sup>Rights under a pension scheme**

- 20.**—(1) Rights under a stakeholder pension scheme.  
(2) Rights under a personal pension scheme.  
(3) "Stakeholder pension scheme" and "personal pension scheme" have the meanings given by article 72(4).]

### **Textual Amendments**

**F77** Sch. 1 Pt. 2 para. 20 substituted (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006](#) (S.I. 2006/1969), **arts. 1(2)(b), 12(3)**

## **Options**

- 21.**—[<sup>F78</sup>(1)] Options to acquire or dispose of—
- (a) a security or contractually based investment (other than one of a kind specified in this paragraph);
  - (b) currency of the United Kingdom or of any other country or territory;
  - (c) palladium, platinum, gold or silver; <sup>F79</sup> ...
  - (d) an option to acquire or dispose of an investment falling within this paragraph by virtue of sub-paragraph (a), (b) or (c)[<sup>F80</sup>;
  - (e) subject to sub-paragraph (4), an option to acquire or dispose of an option to which [<sup>F81</sup>paragraph 5, 6, 7 or 10 of Part 1 of Schedule 2 (read with Articles 5, 6, 7, and 8 of the Commission Regulation) applies]]
- [<sup>F82</sup>(2) Subject to sub-paragraph (4), options—
- (a) to which sub-paragraph (1) does not apply;
  - (b) which relate to commodities;
  - (c) which may be settled physically; and
  - (d) either—
    - (i) to which paragraph 5 or 6 of [<sup>F83</sup>Part 1 of Schedule 2][<sup>F84</sup>(read with Articles 5 and 6 of the Commission Regulation)] applies, or
    - (ii) which in accordance with Article [<sup>F85</sup>7] of the Commission Regulation are to be considered as having the characteristics of other derivative financial instruments and not being for commercial purposes, and to which paragraph 7 of [<sup>F86</sup>Part 1 of that Schedule] applies.
- (3) Subject to sub-paragraph (4), options—
- (a) to which sub-paragraph (1) does not apply;
  - (b) which may be settled physically; and
  - (c) to which paragraph 10 of [<sup>F87</sup>Part 1 of Schedule 2] (read with [<sup>F88</sup>Articles 7 and 8 of] the Commission Regulation) applies.
- (4) Sub-paragraphs (1)(e), (2) and (3) only apply to options in relation to which—
- [<sup>F89</sup>(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis;

- (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule;
- (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule;
- (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.]

<sup>F90</sup>(5) .....]

### Textual Amendments

- F78** Sch. 1 para. 21 renumbered as Sch. 1 para. 21(1) (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(a)**
- F79** Word in Sch. 1 para. 21(1)(c) omitted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(b)(i)**
- F80** Sch. 1 para. 21(1)(e) and semi-colon inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(b)(ii)**
- F81** Words in Sch. 1 para. 21(1)(e) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(4)(a)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F82** Sch. 1 para. 21(2)-(5) inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(3)(c)**
- F83** Words in Sch. 1 para. 21(2)(d)(i) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(4)(b)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F84** Words in Sch. 1 para. 21(2)(d)(i) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(ii)(aa)**
- F85** Word in Sch. 1 para. 21(2)(d)(ii) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(ii)(bb)**
- F86** Words in Sch. 1 para. 21(2)(d)(ii) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(4)(c)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F87** Words in Sch. 1 para. 21(3)(c) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(4)(d)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F88** Words in Sch. 1 para. 21(3)(c) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(g)(iii)**
- F89** Sch. 1 para. 21(4)(a)-(d) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(4)(e)** (with reg. 162(2)) (as

amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)

**F90** Sch. 1 para. 21(5) 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), 176(4)(f) (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)

## Futures

**22.**—(1) Subject to sub-paragraph (2), rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed on when the contract is made.

[<sup>F91</sup>(1A) Subject to sub-paragraph (1D), futures—

- (a) to which sub-paragraph (1) does not apply;
- (b) which relate to commodities;
- (c) which may be settled physically; and
- (d) to which paragraph 5 or 6 of [<sup>F92</sup>Part 1 of Schedule 2][<sup>F93</sup>(read with Articles 5 and 6 of the Commission Regulation)] applies.

(1B) Subject to sub-paragraph (1D), futures and forwards—

- (a) to which sub-paragraph (1) does not apply;
- (b) which relate to commodities;
- (c) which may be settled physically;
- (d) which in accordance with Article [<sup>F94</sup>7] of the Commission Regulation are to be considered as having the characteristics of other derivative financial instruments and not being for commercial purposes; and
- (e) to which paragraph 7 of [<sup>F95</sup>Part 1 of Schedule 2] applies.

(1C) Subject to sub-paragraph (1D), futures—

- (a) to which sub-paragraph (1) does not apply;
- (b) which may be settled physically; and
- (c) to which paragraph 10 of [<sup>F96</sup>Part 1 of Schedule 2] (read with [<sup>F97</sup>Articles 7 and 8 of] the Commission Regulation) applies.

[<sup>F98</sup>(1CA) Subject to sub-paragraph (1D), any other derivative contract, relating to currencies to which paragraph 4 of [<sup>F99</sup>Part 1 of Schedule 2] read with Article 10 of the Commission Regulation applies.]

(1D) Sub-paragraphs (1A), (1B)[<sup>F100</sup>, (1C) and (1CA)] only apply to futures[<sup>F101</sup>, forwards or derivative contracts] in relation to which—

- [<sup>F102</sup>(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis;
- (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule;
- (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule;

- (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.]

<sup>F103</sup>(1E) . . . . .]

(2) There are excluded from sub-paragraph (1) rights under any contract which is made for commercial and not investment purposes.

(3) For the purposes of sub-paragraph (2), in considering whether a contract is to be regarded as made for investment purposes or for commercial purposes, the indicators set out in article 84 of the Regulated Activities Order shall be applied in the same way as they are applied for the purposes of that article.

### Textual Amendments

- F91** Sch. 1 para. 22(1A)-(1E) inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment No. 3) Order 2006* (S.I. 2006/3384), arts. 1(2), **40(4)**
- F92** Words in Sch. 1 para. 22(1A)(d) substituted (31.12.2020) by *The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/632), regs. 1(3), **176(5)(a)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F93** Words in Sch. 1 para. 22(1A)(d) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(i)**
- F94** Word in Sch. 1 para. 22(1B)(d) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(ii)**
- F95** Words in Sch. 1 para. 22(1B)(e) substituted (31.12.2020) by *The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/632), regs. 1(3), **176(5)(a)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F96** Words in Sch. 1 para. 22(1C)(c) substituted (31.12.2020) by *The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/632), regs. 1(3), **176(5)(a)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F97** Words in Sch. 1 para. 22(1C)(c) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(iii)**
- F98** Sch. 1 para. 22(1CA) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(iv)**
- F99** Words in Sch. 1 para. 22(1CA) substituted (31.12.2020) by *The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/632), regs. 1(3), **176(5)(b)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F100** Words in Sch. 1 para. 22(1D) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(v)(aa)**
- F101** Words in Sch. 1 para. 22(1D) substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017* (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(h)(v)(bb)**

- F102** Sch. 1 para. 22(1D)(a)-(d) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **176(5)(c)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F103** Sch. 1 para. 22(1E) 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), **176(5)(d)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)

### Contracts for differences etc.

- 23.**—(1) Subject to sub-paragraph (2), rights under—
- (a) a contract for differences; or
  - (b) any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in—
    - (i) the value or price of property of any description;
    - (ii) an index or other factor designated for that purpose in the contract.
- (2) There are excluded from sub-paragraph (1)—
- (a) rights under a contract if the parties intend that the profit is to be secured or the loss is to be avoided by one or more of the parties taking delivery of any property to which the contract relates;
  - (b) rights under a contract under which money is received by way of deposit on terms that any interest or other return to be paid on the sum deposited will be calculated by reference to fluctuations in an index or other factor;
  - (c) rights under any contract under which—
    - (i) money is received by the Director of Savings as deposits or otherwise in connection with the business of the National Savings Bank; or
    - (ii) money is raised under the National Loans Act 1968 under the auspices of the Director of Savings or treated as so raised by virtue of section 11(3) of the National Debt Act 1972;
  - (d) rights under a qualifying contract of insurance.
- [<sup>F104</sup>(3) Subject to sub-paragraph (4), derivative instruments for the transfer of credit risk—
- (a) to which neither paragraph 21 nor sub-paragraph (1) applies; and
  - (b) to which paragraph 8 of [<sup>F105</sup>Part 1 of Schedule 2] applies.
- (4) Sub-paragraph (3) only applies to derivatives in relation to which—
- [<sup>F106</sup>(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis;
- (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule;
  - (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule;
  - (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.]

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

- [<sup>F107</sup>(4A) Subject to sub-paragraph (4B), a derivative contract of a binary or other fixed outcomes nature—
- (a) to which sub-paragraph (1) does not apply;
  - (b) which is settled in cash; and
  - (c) which is a financial instrument to which paragraph 4, 5, 6, 7 or 10 of [<sup>F108</sup>Part 1 of Schedule 2] read with Articles 5 to 8 and 10 of the Commission Regulation applies.
- (4B) Sub-paragraph (4A) only applies to derivatives in relation to which—
- [<sup>F109</sup>(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis;
  - (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule;
  - (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule;
  - (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.]
  - (e) a person is carrying on the controlled activity referred to in paragraph 4(2).]
- <sup>F110</sup>(5) .....]

**Textual Amendments**

- F104** Sch. 1 para. 23(3)-(5) inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(5)**
- F105** Words in Sch. 1 para. 23(3)(b) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(6)(a)** (with reg. 162(2)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 33(u) and 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)
- F106** Sch. 1 para. 23(4)(a)-(d) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(6)(b)** (with reg. 162(2)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 33(u) and 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)
- F107** Sch. 1 para. 23(4A)(4B) inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(i)(ii)**
- F108** Words in Sch. 1 para. 23(4A)(c) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(6)(a)** (with reg. 162(2)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 33(u) and 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)
- F109** Sch. 1 para. 23(4B)(a)-(d) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(6)(b)** (with reg. 162(2)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 33(u) and 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)
- F110** Sch. 1 para. 23(5) 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), **176(6)(c)** (with reg. 162(2)) (as

amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)

### [<sup>F111</sup>Emission allowances

**23A.**—[<sup>F112</sup>(1) Subject to sub-paragraph (2)—

- (a) emission allowances consisting of any units recognised for compliance (by an EEA State) with the requirements of the emission allowance trading directive; and
- (b) allowances created under article 18 of the Greenhouse Gas Emissions Trading Scheme Order 2020 and transferable in accordance with that order.]

(2) Sub-paragraph (1) only applies to emission allowances in relation to which—

- [<sup>F113</sup>(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis;
- (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule;
- (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule;
- (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.]]

#### Textual Amendments

**F111** Sch. 1 para. 23A inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017](#) (S.I. 2017/488), art. 1(2), **Sch. para. 9(10)(j)**

**F112** Sch. 1 para. 23A(1) substituted (22.4.2021) by [The Recognised Auction Platforms \(Amendment and Miscellaneous Provisions\) Regulations 2021](#) (S.I. 2021/494), regs. 1(2), **4**

**F113** Sch. 1 para. 23A(2)(a)-(d) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/632), regs. 1(3), **176(7)(b)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)

### Lloyd's syndicate capacity and syndicate membership

- 24.**—(1) The underwriting capacity of a Lloyd's syndicate.
- (2) A person's membership (or prospective membership) of a Lloyd's syndicate.

### Funeral plan contracts

- 25.** Rights under a qualifying funeral plan contract.

### Agreements for qualifying credit

- 26.** Rights under an agreement for qualifying credit.

**[<sup>F114</sup>Regulated home reversion plans**

**26A.** Rights under a regulated home reversion plan.

**Textual Amendments**

**F114** Sch. 1 paras. 26A, 26B inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(a)**

**Regulated home purchase plans**

**26B.** Rights under a regulated home purchase plan.]

**Textual Amendments**

**F114** Sch. 1 paras. 26A, 26B inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(a)**

**[<sup>F115</sup>Regulated sale and rent back agreement**

**26C.** Rights under a regulated sale and rent back agreement.]

**Textual Amendments**

**F115** Sch. 1 para. 26C inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **30(5)(a)**

**[<sup>F116</sup>Relevant credit agreements**

**26D.** Rights under a relevant credit agreement

**Textual Amendments**

**F116** Sch. 1 paras. 26D, 26E inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(d)**

**Consumer hire agreements**

**26E.** Rights under a consumer hire agreement]

**Textual Amendments**

**F116** Sch. 1 paras. 26D, 26E inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(d)**

[<sup>F117</sup>Qualifying cryptoasset

**26F.**—(1) Subject to sub-paragraph (3), a “qualifying cryptoasset” is any cryptoasset which is—

- (a) fungible; and
- (b) transferable.

(2) For the purposes of sub-paragraph (1)(b), the circumstances in which a cryptoasset is to be treated as “transferable” include where—

- (a) it confers transferable rights; or
- (b) a communication made in relation to the cryptoasset describes it as being transferable or conferring transferable rights.

(3) A cryptoasset does not fall within sub-paragraph (1) if it is—

- (a) a controlled investment falling within any of paragraphs 12 to 26E or, so far as relevant to any such investment, paragraph 27;
- (b) electronic money;
- (c) fiat currency;
- (d) digitally issued fiat currency; or
- (e) a cryptoasset that—
  - (i) cannot be transferred or sold in exchange for money or other cryptoassets, except by way of redemption with the issuer; and
  - (ii) can only be used in a limited way and meets one of the following conditions—
    - (aa) it allows the holder to acquire goods or services only from the issuer;
    - (ab) it is issued by a professional issuer and allows the holder to acquire goods or services only within a limited network of service providers which have direct commercial agreements with the issuer; or
    - (ac) it may be used only to acquire a very limited range of goods or services.

(4) In this paragraph—

“cryptoasset” means any cryptographically secured digital representation of value or contractual rights that—

- (a) can be transferred, stored or traded electronically, and
- (b) uses technology supporting the recording or storage of data (which may include distributed ledger technology);

“digitally issued fiat currency” means fiat currency issued in digital form;

“electronic money” has the meaning given by regulation 2(1) (interpretation) of the Electronic Money Regulations 2011.]

**Textual Amendments**

**F117** Sch. 1 para. 26F inserted (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), arts. 1(2), 9 (with art. 11)

## Rights to or interests in investments

27.—(1) Subject to sub-paragraphs (2) and (3), any right to or interest in anything which is specified by any other provision of this Part of this Schedule (other than [F118]paragraph 26, [F119]26A, 26B or 26C)]).

(2) Sub-paragraph (1) does not apply to interests under the trusts of an occupational pension scheme.

(2A) Sub-paragraph (1) does not apply to any right or interest acquired as a result of entering into a funeral plan contract (and for this purpose a “funeral plan contract” is a contract of a kind described in paragraph 9(2)(a) and (b)).

(3) Sub-paragraph (1) does not apply to anything which falls within any other provision of this Part of this Schedule.

### Textual Amendments

**F118** Words in Sch. 1 para. 27(1) substituted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), 35(6)(b)

**F119** Words in Sch. 1 para. 27(1) substituted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), [arts. 1\(2\)](#), 30(5)(b)

## Interpretation

28. In this Schedule—

[F120]“AIFM” has the meaning given in the Regulated Activities Order;]

[F121]“agreement provider” has the meaning given in paragraph (3) of article 63J of the Regulated Activities Order, read with paragraphs (6) and (7) of that article;

“agreement seller” has the meaning given in article 63J(3) of the Regulated Activities Order]

[F122]“borrower” has the meaning given by article 60L of the Regulated Activities Order;]

“buying” includes acquiring for valuable consideration;

[F123]“Commission Regulation” F124 ... [F124]has the meaning given in the Regulated Activities Order] ;]

[F122]“consumer hire agreement” has the meaning given by article 60N of the Regulated Activities Order;]

“contract of insurance” has the meaning given in the Regulated Activities Order;

“contractually based investment” means—

- (a) rights under a qualifying contract of insurance;
- (b) any investment of the kind specified by any of paragraphs 21, 22, 23 and 25;
- (c) any investment of the kind specified by paragraph 27 so far as relevant to an investment falling within (a) or (b);

F125 ...

[F126]“EU trading venue” has the meaning given by Article 2.1.16B of the markets in financial instruments regulation;]

[F122]“hirer” has the meaning given by article 60N of the Regulated Activities Order;]

[<sup>F127</sup>“home purchase provider” and “home purchaser” have the meanings given in article 63F(3) of the Regulated Activities Order;]

[<sup>F123</sup>“investment firm” has the meaning given in the Regulated Activities Order;  
“investment services and activities” has the meaning given in the Regulated Activities Order;]

[<sup>F122</sup>“lender” has the meaning given by article 60L of the Regulated Activities Order;]

[<sup>F123</sup>“management company” has the meaning given in the Regulated Activities Order;  
“market operator” has the meaning given in the Regulated Activities Order;

[<sup>F120</sup>“markets in financial instruments directive” means [Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (recast);]

“MiFID instrument” has the meaning given in article 25D(2) of the Regulated Activities Order;  
“multilateral trading facility” has the meaning given in the Regulated Activities Order;]

[<sup>F120</sup>“non-equity MiFID instrument” has the meaning given in article 25DA of the Regulated Activities Order;]

[<sup>F128</sup>“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 but with paragraph (b) of the definition omitted;]

[<sup>F120</sup>“organised trading facility” has the meaning given in the Regulated Activities Order;]

[<sup>F129</sup>“plan provider” has the meaning given by paragraph (3) of article 63B of the Regulated Activities Order, read with paragraphs (7) and (8) of that article;]

“property” includes currency of the United Kingdom or any other country or territory;

[<sup>F126</sup>“qualifying credit institution” has the meaning given in the Regulated Activities Order;]

“qualifying funeral plan contract” has the meaning given by paragraph 9;

[<sup>F122</sup>“regulated consumer hire agreement” has the meaning given by article 60N of the Regulated Activities Order;]

[<sup>F122</sup>“regulated credit agreement” has the meaning given by article 60B of the Regulated Activities Order;]

[<sup>F130</sup>“regulated home purchase plan” has the meaning given in article 63F(3) of the Regulated Activities Order;

“regulated home reversion plan” and “reversion seller” have the meanings given in article 63B(3) of the Regulated Activities Order;]

[<sup>F131</sup>“regulated sale and rent back agreement” has the meaning given in article 63J(3) of the Regulated Activities Order;]

<sup>F132</sup> ...

[<sup>F132</sup>“relevant credit agreement” means a credit agreement (within the meaning given by article 60B of the Regulated Activities Order) other than—

- (a) a regulated mortgage contract or a regulated home purchase plan (within the meaning of that Order); or
- (b) a buy-to-let mortgage contract as defined in article 4 of the Mortgage Credit Directive Order 2015;]

[<sup>F122</sup>“relevant recipient of credit” has the meaning given by article 60L of the Regulated Activities Order.]

“security” means a controlled investment falling within any of paragraphs 14 to 20 [<sup>F133</sup>or 23A] or, so far as relevant to any such investment, paragraph 27;

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

“selling”, in relation to any investment, includes disposing of the investment for valuable consideration, and for these purposes “disposing” includes—

- (a) in the case of an investment consisting of rights under a contract—
  - (i) surrendering, assigning or converting those rights; or
  - (ii) assuming the corresponding liabilities under the contract;
- (b) in the case of an investment consisting of rights under other arrangements, assuming the corresponding liabilities under the arrangements; and
- (c) in the case of any other investment, issuing or creating the investment or granting the rights or interests of which it consists;

“syndicate” has the meaning given in the Regulated Activities Order.

[<sup>F126</sup>“UK trading venue” has the meaning given by Article 2.1.16 of the markets in financial instruments regulation.]

### Textual Amendments

- F120** Words in Sch. 1 para. 28 inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(k)(i)**
- F121** Words in Sch. 1 para. 28 inserted (1.7.2009 for specified purposes, 30.6.2010 so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), 30(5)(c)(i)
- F122** Words in Sch. 1 para. 28 inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **17(6)(e)**
- F123** Words in Sch. 1 para. 28 inserted (1.4.2007 for specified purposes, 1.11.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment No. 3\) Order 2006 \(S.I. 2006/3384\)](#), arts. 1(2), **40(6)**
- F124** Words in Sch. 1 para. 28 substituted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(10)(k)(ii)**
- F125** Words in Sch. 1 para. 28 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), **176(8)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F126** Words in Sch. 1 para. 28 inserted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **176(8)** (with reg. 162(2)) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(u) and 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)
- F127** Words in Sch. 1 para. 28 inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(c)(i)**
- F128** Words in Sch. 1 para. 28 substituted (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\)](#), arts. 1(2)(b), 12(4)
- F129** Words in Sch. 1 para. 28 inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(c)(ii)**
- F130** Words in Sch. 1 para. 28 inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **35(6)(c)(iii)**

- F131** Words in Sch. 1 para. 28 inserted (1.7.2009 for specified purposes, 30.6.2010 so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), 30(5)(c)(ii)
- F132** Words in Sch. 1 para. 28 substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 12\(3\)](#) (with Pt. 4)
- F133** Words in Sch. 1 para. 28 inserted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), [Sch. para. 9\(10\)\(k\)\(iii\)](#)

## SCHEDULE 2

Article 10

### COUNTRIES AND TERRITORIES

1. The Bailiwick of Guernsey.
2. The Isle of Man.
3. The Commonwealth of Pennsylvania.
4. The State of Iowa.
5. The Bailiwick of Jersey.

## SCHEDULE 3

Articles 37, 41, 67, 68 and 69

### MARKETS AND EXCHANGES

#### [<sup>F134</sup>PART A1

#### Criteria for Relevant UK Markets

##### Textual Amendments

- F134** Sch. 3 Pt. A1 inserted (18.10.2021) by [The Markets in Financial Instruments, Benchmarks and Financial Promotions \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/1074\)](#), regs. 1(2), **2(8)**

The criteria for a “relevant UK market” are—

- (a) the head office of the market must be situated in the United Kingdom; and
- (b) the market must satisfy any requirements of the law of the United Kingdom as to—
  - (i) the manner in which it operates;
  - (ii) the means by which access may be had to the facilities it provides;
  - (iii) the conditions to be satisfied before an investment may be traded or dealt in by means of its facilities; and
  - (iii) the reporting and publication of transactions effected by means of its facilities.]

## PART I

### *Criteria for Relevant EEA [<sup>F135</sup>or Gibraltar] Markets*

**Textual Amendments**

**F135** Words in Sch. 3 Pt. 1 heading inserted (31.12.2020) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(2), **5(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**

The criteria are—

- (a) the head office of the market must be situated in an EEA State [<sup>F136</sup>or in Gibraltar]; and
- (b) the market must be subject to requirements in the EEA State in which its head office is situated [<sup>F137</sup>or (where its head office is situated in Gibraltar), in Gibraltar] as to—
  - (i) the manner in which it operates;
  - (ii) the means by which access may be had to the facilities it provides;
  - (iii) the conditions to be satisfied before an investment may be traded or dealt in by means of its facilities;
  - (iv) the reporting and publication of transactions effected by means of its facilities.

**Textual Amendments**

**F136** Words in Sch. 3 Pt. 1 inserted (31.12.2020) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(2), **5(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

**F137** Words in Sch. 3 Pt. 1 inserted (31.12.2020) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(2), **5(c)**; 2020 c. 1, **Sch. 5 para. 1(1)**

**Textual Amendments**

**F136** Words in Sch. 3 Pt. 1 inserted (31.12.2020) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(2), **5(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

**F137** Words in Sch. 3 Pt. 1 inserted (31.12.2020) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(2), **5(c)**; 2020 c. 1, **Sch. 5 para. 1(1)**

## <sup>F138</sup>Part 2

### *Certain Investment Exchanges Operating Relevant EEA Markets*

**Textual Amendments**

**F138** Sch. 3 Pt. 2 omitted (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), **Sch. para. 9(11)**

## PART III

### *Certain Non-EEA Investment Exchanges Operating Relevant Markets*

America Stock Exchange.  
Australian Stock Exchange.  
Basler Effektenbourse.  
Boston Stock Exchange.  
Bourse de Geneve.  
Buenos Aires Stock Exchange.  
Canadian Venture Exchange.  
Chicago Board Options Exchange.  
Chicago Stock Exchange.  
Effektenborsenverein Zurich.  
Fukuoka Stock Exchange.  
Hiroshima Stock Exchange.  
Iceland Stock Exchange.  
Johannesburg Stock Exchange.  
Korean Stock Exchange.  
Kuala Lumpur Stock Exchange  
Kyoto Stock Exchange.  
Midwest Stock Exchange.  
Montreal Stock Exchange.  
Nagoya Stock Exchange.  
NASDAQ.  
National Stock Exchange.  
New York Stock Exchange.  
New Zealand Stock Exchange Limited.  
Niigata Stock Exchange.  
Osaka Stock Exchange.  
Oslo Stock Exchange  
Pacific Stock Exchange.  
Philadelphia Stock Exchange.  
Sapporo Stock Exchange.  
Singapore Stock Exchange.  
Stock Exchange of Hong Kong Limited.  
Stock Exchange of Thailand.  
Tokyo Stock Exchange.  
Toronto Stock Exchange.

## **PART IV**

### *Other Relevant Markets*

American Commodity Exchange.  
Australian Financial Futures Market.  
Chicago Board of Trade.  
Chicago Mercantile Exchange.  
Chicago Rice and Cotton Exchange.  
Commodity Exchange Inc.  
Eurex US.  
Eurex Zurich.  
International Securities Market Association.  
International Petroleum Exchange.  
Kansas City Board of Trade.  
London Metal Exchange.  
Minneapolis Grain Exchange.  
New York Board of Trade.  
New York Futures Exchange.  
New York Mercantile Exchange.  
New Zealand Futures Exchange.  
Pacific Commodity Exchange.  
Philadelphia Board of Trade.  
Singapore International Monetary Exchange.  
Sydney Futures Exchange.  
Toronto Futures Exchange.

#### SCHEDULE 4

Articles 63 and 64

### TAKEOVERS OF RELEVANT UNLISTED COMPANIES

## **PART I**

### *Requirements Relating to the Offer*

1. The terms of the offer must be recommended by all the directors of the company other than any director who is—
  - (a) the person by whom, or on whose behalf, an offer is made (“offeror”); or
  - (b) a director of the offeror.
- 2.—(1) This paragraph applies to an offer for debentures or for non-equity share capital.

(2) Where, at the date of the offer, shares carrying 50 per cent or less of the voting rights attributable to the equity share capital are held by or on behalf of the offeror, the offer must include or be accompanied by an offer made by the offeror for the rest of the shares comprised in the equity share capital.

(1)

This paragraph applies to an offer for shares comprised in the equity share capital.

(2) Where, at the date of the offer, shares which carry 50 per cent or less of the categories of voting rights described in sub-paragraph (3) are held by or on behalf of the offeror, it must be a condition of the offer that sufficient shares will be acquired or agreed to be acquired by the offeror pursuant to or during the offer so as to result in shares carrying more than 50 per cent of one or both categories of relevant voting rights being held by him or on his behalf.

(3) The categories of voting rights mentioned in sub-paragraph (2) are—

- (a) voting rights exercisable in general meetings of the company;
- (b) voting rights attributable to the equity share capital.

4.—(1) Subject to sub-paragraph (2), the offer must be open for acceptance by every recipient for the period of at least 21 days beginning with the day after the day on which the invitation or inducement in question was first communicated to recipients of the offer.

(2) Sub-paragraph (1) does not apply if the offer is totally withdrawn and all persons are released from any obligation incurred under it.

5. The acquisition of the shares or debentures to which the offer relates must not be conditional upon the recipients approving, or consenting, to any payment or other benefit being made or given to any director or former director of the company in connection with, or as compensation or consideration for—

- (a) his ceasing to be a director;
- (b) his ceasing to hold any office held in conjunction with any directorship; or
- (c) in the case of a former director, his ceasing to hold any office which he held in conjunction with his former directorship and which he continued to hold after ceasing to be a director.

6. The consideration for the shares or debentures must be—

- (a) cash; or
- (b) in the case of an offeror which is a body corporate other than an open-ended investment company, either cash or shares in, or debentures of, the body corporate or any combination of such cash, shares or debentures.

## PART II

### *Accompanying Material*

7. An indication of the identity of the offeror and, if the offer is being made on behalf of another person, the identity of that person.

8. An indication of the fact that the terms of the offer are recommended by all directors of the company other than (if that is the case) any director who is the offeror or a director of the offeror.

9. An indication to the effect that any person who is in any doubt about the invitation or inducement should consult a person authorised under the Act.

10. An indication that, except insofar as the offer may be totally withdrawn and all persons released from any obligation incurred under it, the offer is open for acceptance by every recipient

for the period of at least 21 days beginning with the day after the day on which the invitation or inducement in question was first communicated to recipients of the offer.

**11.** An indication of the date on which the invitation or inducement was first communicated to the recipients of the offer.

**12.** An indication that the acquisition of the shares or debentures to which the offer relates is not conditional upon the recipients approving, or consenting, to any payment or other benefit being made or given to any director or former director of the company in connection with, or as compensation or consideration for—

- (a) his ceasing to be a director;
- (b) his ceasing to hold any office held in conjunction with any directorship; or
- (c) in the case of a former director, his ceasing to hold any office which he held in conjunction with his former directorship and which he continued to hold after ceasing to be a director.

**13.** An indication of the place where additional material listed in Part III may be inspected.

**14.** The audited accounts of the company in respect of the latest accounting reference period for which the period for laying and delivering accounts under [<sup>F139</sup>the 2006 Act] has passed or, if accounts in respect of a later accounting reference period have been delivered under the relevant legislation, as shown in those accounts and not the earlier accounts.

#### Textual Amendments

**F139** Words in [Sch. 4 para. 14](#) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(9)(a)**

**15.** Advice to the directors of the company on the financial implications of the offer which is given by a competent person who is independent of and who has no substantial financial interest in the company or the offeror, being advice which gives the opinion of that person in relation to the offer.

**16.** An indication by the directors of the company, acting as a board, of the following matters—

- (a) whether or not there has been any material change in the financial position or prospects of the company since the end of the latest accounting reference period in respect of which audited accounts have been delivered to the relevant registrar of companies under the relevant legislation;
- (b) if there has been any such change, the particulars of it;
- (c) any interests, in percentage terms, which any of them have in the shares in or debentures of the company<sup>F140</sup> ...;
- (d) any interests, in percentage terms, which any of them have in the shares in or debentures of any offeror which is a body corporate<sup>F141</sup> ...

#### Textual Amendments

**F140** Words in [Sch. 4 para. 16\(c\)](#) omitted (12.5.2011) by virtue of [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(9)(b)(i)**

**F141** Words in [Sch. 4 para. 16\(d\)](#) omitted (12.5.2011) by virtue of [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(9)(b)(ii)**

17. An indication of any material interest which any director has in any contract entered into by the offeror and in any contract entered into by any member of any group of which the offeror is a member.

18. An indication as to whether or not each director intends to accept the offer in respect of his own beneficial holdings in the company.

19. In the case of an offeror which is a body corporate and the shares in or debentures of which are to be the consideration or any part of the consideration for the offer, an indication by the directors of the offeror that the information concerning the offeror and those shares or debentures contained in the document is correct.

20. If the offeror is making the offer on behalf of another person—

- (a) an indication by the offeror as to whether or not he has taken any steps to ascertain whether that person will be in a position to implement the offer;
- (b) if he has taken any such steps, an indication by him as to what those steps are; and
- (c) the offeror's opinion as to whether that person will be in a position to implement the offer.

21. An indication that each of the following—

- (a) each of the directors of the company;
- (b) the offeror; and
- (c) if the offeror is a body corporate, each of the directors of the offeror;

is responsible for the information required by Part I and this Part of this Schedule insofar as it relates to themselves or their respective bodies corporate and that, to the best of their knowledge and belief (having taken all reasonable care to ensure that such is the case) the information is in accordance with the facts and that no material fact has been omitted.

22. The particulars of—

- (a) all shares in or debentures of the company; and
- (b) all investments falling within paragraph 17, 19 or 21 of Schedule 1 so far as relating to shares in or debentures of the company;

which are held by or on behalf of the offeror or each offeror, if there is more than one, or if none are so held an appropriate negative statement.

23. An indication as to whether or not the offer is conditional upon acceptance in respect of a minimum number of shares or debentures being received and, if the offer is so conditional, what the minimum number is.

24. Where the offer is conditional upon acceptances, an indication of the date which is the latest date on which it can become unconditional.

25. If the offer is, or has become, unconditional an indication of the fact that it will remain open until further notice and that at least 14 days' notice will be given before it is closed.

26. An indication as to whether or not, if circumstances arise in which an offeror is able compulsorily to acquire shares of any dissenting minority under <sup>F142</sup>Chapter 3 of Part 28 of the Companies Act 2006 (c.46)], that offeror intends to so acquire those shares.

#### Textual Amendments

**F142** Words in Sch. 4 para. 26 substituted (6.4.2007) by The Companies Act 2006 (Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/1093), art. 1(3), Sch. 3 para. 10

**27.** If shares or debentures are to be acquired for cash, an indication of the period within which the payment will be made.

**28.—(1)** Subject to sub-paragraph (2), if the consideration or any part of the consideration for the shares or debentures to be acquired is shares in or debentures of an offeror—

- (a) an indication of the nature and particulars of the offeror's business, its financial and trading prospects and its place of incorporation;
- (b) the following information, in respect of any offeror which is a body corporate and in respect of the company, for the period of five years immediately preceding the date on which the invitation or inducement in question was first communicated to recipients of the offer—
  - (i) turnover,
  - (ii) profit on ordinary activities before and after tax,
  - (iii) extraordinary items,
  - (iv) profits and loss, and
  - (v) the rate per cent of any dividends paid, adjusted as appropriate to take account of relevant changes over the period and the total amount absorbed thereby.

(2) In the case of a body corporate—

- (a) which was incorporated during the period of five years immediately preceding the date on which the invitation or inducement in question was first communicated to recipients of the offer; or
- (b) which has, at any time during that period, been exempt from the provisions of [F143Part 15 of the 2006 Act] relating to the audit of accounts by virtue of [F144section 477 or 480] of that Act<sup>F145</sup> ...;

the information described in sub-paragraph (1) with respect to that body corporate need be included only in relation to the period since its incorporation or since it last ceased to be exempt from those provisions of [F146Part 15 of the 2006 Act].

#### Textual Amendments

**F143** Words in Sch. 4 para. 28(2)(b) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), 26(9)(c)(i)(aa)

**F144** Words in Sch. 4 para. 28(2)(b) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), 26(9)(c)(i)(bb)

**F145** Words in Sch. 4 para. 28(2)(b) omitted (12.5.2011) by virtue of The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), 26(9)(c)(i)(cc)

**F146** Words in Sch. 4 para. 28(2) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), 26(9)(c)(ii)

**29.** Particulars of the first dividend in which any such shares or debentures will participate and of the rights attaching to them (including in the case of debentures, rights as to interest) and of any restrictions on their transfer.

**30.** An indication of the effect of the acceptance on the capital and income position of the holder of the shares in or debentures of the company.

**31.** Particulars of all material contracts (not being contracts which were entered into in the ordinary course of business) which were entered into by each of the company and the offeror during

the period of two years immediately preceding the date on which the invitation or inducement in question was first communicated to recipients of the offer.

**32.** Particulars of the terms on which shares in or debentures of the company acquired in pursuance of the offer will be transferred and any restrictions on their transfer.

**33.** An indication as to whether or not it is proposed, in connection with the offer, that any payment or other benefit be made or given to any director or former director of the company in connection with, or as compensation or consideration for—

- (a) his ceasing to be a director;
- (b) his ceasing to hold any office held in conjunction with any directorship; or
- (c) in the case of a former director, his ceasing to hold any office which he held in conjunction with his former directorship and which he continued to hold after ceasing to be a director;

and, if such payments or benefits are proposed, details of each one.

**34.** An indication as to whether or not there exists any agreement or arrangement between—

- (a) the offeror or any person with whom the offeror has an agreement of the kind described in <sup>F147</sup>section 824 of the 2006 Act]; and
- (b) any director or shareholder of the company or any person who has been such a director or shareholder;

at any time during the period of twelve months immediately preceding the date on which the invitation or inducement in question was first communicated to recipients of the offer, being an agreement or arrangement which is connected with or dependent on the offer and, if there is any such agreement or arrangement, particulars of it.

#### **Textual Amendments**

**F147** Words in Sch. 4 para. 34(a) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), arts. 1(2), **26(9)(d)**

**35.** An indication whether or not the offeror has reason to believe that there has been any material change in the financial position or prospects of the company since the end of the accounting reference period to which the accounts referred to in paragraph 14 relate, and if the offeror has reason to believe that there has been such a change, the particulars of it.

**36.** An indication as to whether or not there is any agreement or arrangement whereby any shares or debentures acquired by the offeror in pursuance of the offer will or may be transferred to any other person, together with the names of the parties to any such agreement or arrangement and particulars of all shares and debentures in the company held by such persons.

**37.** Particulars of any dealings—

- (a) in the shares in or debentures of the company; and
- (b) if the offeror is a body corporate, in the shares in or debentures of the offeror;

which took place during the period of twelve months immediately preceding the date on which the invitation or inducement in question was first communicated to recipients of the offer and which were entered into by every person who was a director of either the company or the offeror during that period; and, if there have been no such dealings, an indication to that effect.

**38.** In a case in which the offeror is a body corporate which is required to deliver accounts under <sup>F148</sup>the 2006 Act], particulars of the assets and liabilities as shown in its audited accounts in respect of the latest accounting reference period for which the period for laying and delivering accounts

under the relevant legislation has passed or, if accounts in respect of a later accounting reference period have been delivered under the relevant legislation, as shown in those accounts and not the earlier accounts.

#### Textual Amendments

**F148** Words in [Sch. 4 para. 38](#) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(9)(e)**

**39.** Where valuations of assets are given in connection with the offer, the basis on which the valuation was made and the names and addresses of the persons who valued them and particulars of any relevant qualifications.

**40.** If any profit forecast is given in connection with the offer, an indication of the assumptions on which the forecast is based.

## PART III

### *Additional Material Available for Inspection*

**41.** The memorandum and articles of association of the company.

**42.** If the offeror is a body corporate, the memorandum and articles of association of the offeror or, if there is no such memorandum and articles, any instrument constituting or defining the constitution of the offeror and, in either case, if the relevant document is not written in English, a certified translation in English.

**43.** In the case of a company that does not fall within paragraph 45—

- (a) the audited accounts of the company in respect of the last two accounting reference periods for which the laying and delivering of accounts under [<sup>F149</sup>the 2006 Act] has passed; and
- (b) if accounts have been delivered to the relevant registrar of companies, in respect of a later accounting reference period, a copy of those accounts.

#### Textual Amendments

**F149** Words in [Sch. 4 para. 43](#) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(10)(a)**

**44.** In the case of an offeror which is required to deliver accounts to the registrar of companies and which does not fall within paragraph 45—

- (a) the audited accounts of the offeror in respect of the last two accounting reference periods for which the laying and delivering of accounts under [<sup>F150</sup>the 2006 Act] has passed; and
- (b) if accounts have been delivered to the relevant registrar of companies in respect of a later accounting reference period, a copy of those accounts.

#### Textual Amendments

**F150** Words in [Sch. 4 para. 44](#) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(10)(b)**

**45.** In the case of a company or an offeror—

- (a) which was incorporated during the period of three years immediately preceding the date on which the invitation or inducement in question was first communicated to recipients of the offer; or
- (b) which has, at any time during that period, been exempt from the provisions of [<sup>F151</sup>Part 15 of the 2006 Act] relating to the audit of accounts by virtue of [<sup>F152</sup>section 477 or 480] of that Act <sup>F153</sup> ...;

the information described in whichever is relevant of paragraph 43 or 44 with respect to that body corporate need be included only in relation to the period since its incorporation or since it last ceased to be exempt from those provisions of [<sup>F154</sup>Part 15 of the 2006 Act].

#### Textual Amendments

- F151** Words in Sch. 4 para. 45(b) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), 26(10)(c)(i)(aa)
- F152** Words in Sch. 4 para. 45(b) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), 26(10)(c)(i)(bb)
- F153** Words in Sch. 4 para. 45(b) omitted (12.5.2011) by virtue of [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(10)(c)(i)(cc)**
- F154** Words in Sch. 4 para. 45 substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(10)(c)(ii)**

**46.** All existing contracts of service entered into for a period of more than one year between the company and any of its directors and, if the offeror is a body corporate, between the offeror and any of its directors.

**47.** Any report, letter, valuation or other document any part of which is exhibited or referred to in the information required to be made available by Part II and this Part of this Schedule.

**48.** If the offer document contains any statement purporting to have been made by an expert, that expert's written consent to the inclusion of that statement.

**49.** All material contracts (if any) of the company and of the offeror (not, in either case, being contracts which were entered into in the ordinary course of business) which were entered into during the period of two years immediately preceding the date on which the invitation or inducement in question was first communicated to recipients of the offer.

## SCHEDULE 5

Articles 48 and 50A

### STATEMENTS FOR [<sup>F155</sup>HIGH NET WORTH INDIVIDUALS] AND SELF-CERTIFIED SOPHISTICATED INVESTORS

#### Textual Amendments

- F155** Words in Sch. 5 heading substituted (31.1.2024) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1411\)](#), arts. 1(2), **9(2)**

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

## PART I

### STATEMENT FOR <sup>F156</sup> ... HIGH NET WORTH INDIVIDUALS

#### Textual Amendments

**F156** Word in Sch. 5 Pt. 1 heading omitted (31.1.2024) by virtue of The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) (No. 2) Order 2023 (S.I. 2023/1411), arts. 1(2), **9(3)**

<sup>F157</sup>**1.** The statement to be completed and signed for the purposes of article 48(2) (definition of high net worth individual) must be in the following form and contain the following information—

### HIGH NET WORTH INDIVIDUAL INVESTOR STATEMENT

If you meet **condition A or B below**, you may choose to be classified as a high net worth individual for the purposes of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005.

In the last financial year, did you have:

A) An annual **income of £100,000 or more**? Income does NOT include any one-off pension withdrawals.

- No  
 Yes

If yes, please specify your income (as defined above) to the nearest £10,000 in the last financial year [£\_\_\_\_\_]

AND/OR

B) **Net assets of £250,000 or more**? Net assets do NOT include: your home (primary residence), any loan secured on it or any equity released from it; your pension (or any pension withdrawals) or any rights under insurance contracts. Net assets are total assets minus any debts you owe.

- No  
 Yes

If yes, please specify your net assets (as defined above) to the nearest £100,000 in the last financial year [£\_\_\_\_\_]

OR

C) None of these apply to me.

- Yes

I declare that I have answered yes to A and/or B, and wish to be treated as a high net worth individual.

I understand that this means:

- a) I can receive financial promotions where the contents may not comply with rules made by the Financial Conduct Authority (FCA);
- b) I can expect **no protection** from the FCA, the Financial Ombudsman Service or the Financial Services Compensation Scheme.

I am aware that it is open to me to seek advice from someone who specialises in advising on investments.

**I accept that I could lose all of the money I invest.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

#### Textual Amendments

**F157** Words in [Sch. 5 Pt. 1](#) substituted (27.3.2024) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment and Transitional Provision\) Order 2024 \(S.I. 2024/301\)](#), art. 1(2), [Sch. 3](#) (with art. 5(3)(5))

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

## **PART II**

### **STATEMENT FOR SELF-CERTIFIED SOPHISTICATED INVESTORS**

<sup>F158</sup>**2.** The statement to be completed and signed for the purposes of article 50A(1) (definition of self-certified sophisticated investor) must be in the following form and contain the following information—

## SELF-CERTIFIED SOPH

If you meet **condition A, B, C or D below**, you are a sophisticated investor for the purposes of the (Financial Services and Markets Act 2000 (Financial Promotion) Order 2005).

Have you:

A) Worked in a professional capacity in the private or public sector, in large and medium enterprises, in the last two years

No

Yes

If yes, what is/was the name of the business?

B) Been the director of a company with an annual turnover of at least £1 million

No

Yes

If yes, what is/was the name of the company?

(or international equivalent)? [ \_\_\_\_\_ ]

C) Made two or more investments in an unlisted company

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

### Textual Amendments

**F158** Words in Sch. 5 Pt. 2 substituted (27.3.2024) by The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment and Transitional Provision) Order 2024 (S.I. 2024/301), art. 1(2), Sch. 4 (with art. 5(4)(5))

## SCHEDULE 6

Article 74

### REVOCATION

<i>Order</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Financial Services and Markets Act 2000 (Financial Promotion) Order 2001	S.I. 2001/1335	The whole Order
The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) Order 2001	S.I. 2001/2633	The whole Order
The Financial Services and Markets Act 2000 (Miscellaneous Provisions) Order 2001	S.I. 2001/3650	Article 4 and 5
The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment No. 2) Order 2001	S.I. 2001/3800	The whole Order
The Financial Services and Markets Act 2000 (Financial Promotion and Miscellaneous Amendments) Order 2002	S.I. 2002/1310	Article 2
The Financial Services and Markets Act 2000 (Commencement of Mortgage Regulation) (Amendment) Order 2002	S.I. 2002/1777	Article 4
The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) (Electronic Communications Directive) Order 2002	S.I. 2002/2157	The whole Order
The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) Order 2003	S.I. 2003/1676	The whole Order

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005. (See end of Document for details)

The Financial Services and  
Markets Act 2000 (Financial  
Promotion and Promotion  
of Collective Investment  
Schemes) (Miscellaneous  
Amendments) Order 2005

S.I. 2005/270

Article 2 and Schedule 1

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**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005.