
STATUTORY INSTRUMENTS

2006 No. 3384

The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment No. 3) Order 2006

PART 2

AMENDMENTS OF THE PRINCIPAL ORDER

Amendments of the principal Order

27. In article 84 (futures) after paragraph (1) insert—

“(1A) Subject to paragraph (1D), futures—

- (a) to which 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 Section C of Annex I to the markets in financial instruments directive applies.

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

- (a) to which paragraph (1) does not apply;
- (b) which relate to commodities;
- (c) which may be settled physically;
- (d) which in accordance with Article 38 of the Commission Regulation (the text of which is set out in Part 2 of Schedule 2) 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 Section C of Annex I to the markets in financial instruments directive applies.

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

- (a) to which paragraph (1) does not apply;
- (b) which may be settled physically; and
- (c) to which paragraph 10 of Section C of Annex I to the markets in financial instruments directive (read with the Commission Regulation) applies.

(1D) Paragraph (1A), (1B) and (1C) only apply to futures or forwards in relation to which—

- (a) an investment firm or credit institution is providing or performing investment services and activities on a professional basis,
- (b) a management company is providing, in accordance with Article 5(3) of the UCITS directive, the investment service specified in paragraph 4 or 5 of Section

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- A, or the ancillary service specified in paragraph 1 of Section B, of Annex I to the markets in financial instruments directive, or
- (c) a market operator is providing the investment service specified in paragraph 8 of Section A of Annex I to the markets in financial instruments directive.
- (1E) Expressions used in paragraphs (1A) to (1C) and in the markets in financial instruments directive have the same meaning as in that directive.”