



Financial Services Act 1986

1986 CHAPTER 60

PART I

REGULATION OF INVESTMENT BUSINESS

CHAPTER IV

EXEMPTED PERSONS

Other exemptions

42 Lloyd's

The Society of Lloyd's and persons permitted by the Council of Lloyd's to act as underwriting agents at Lloyd's are exempted persons as respects investment business carried on in connection with or for the purpose of insurance business at Lloyd's.

43 Listed money market institutions

- (1) A person for the time being included in a list maintained by the Bank of England for the purposes of this section (" a listed institution ") is an exempted person in respect of, and of anything done for the purposes of, any transaction to which Part I or Part II of Schedule 5 to this Act applies and in respect of any arrangements made by him with a view to other persons entering into a transaction to which Part III of that Schedule applies.
- (2) The conditions imposed by the Bank of England for admission to the list referred to in this section and the arrangements made by it for a person's admission to and removal from the list shall require the approval of the Treasury; and this section shall cease to have effect if that approval is withdrawn but without prejudice to its again having effect if approval is given for fresh conditions or arrangements.

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- (3) The Bank of England shall publish the list as for the time being in force and provide a certified copy of it at the request of any person wishing to refer to it in legal proceedings.
- (4) Such a certified copy shall be evidence or, in Scotland, sufficient evidence of the contents of the list; and a copy purporting to be certified by or on behalf of the Bank shall be deemed to have been duly certified unless the contrary is shown.

44 Appointed representatives

- (1) An appointed representative is an exempted person as respects investment business carried on by him as such a representative.
- (2) For the purposes of this Act an appointed representative is a person—
 - (a) who is employed by an authorised person (his "principal") under a contract for services which—
 - (i) requires or permits him to carry on investment business to which this section applies; and
 - (ii) complies with subsections (4) and (5) below; and
 - (b) for whose activities in carrying on the whole or part of that investment business his principal has accepted responsibility in writing; and the investment business carried on by an appointed representative as such is the investment business for which his principal has accepted responsibility.
- (3) This section applies to investment business carried on by an appointed representative which consists of—
 - (a) procuring or endeavouring to procure the persons with whom he deals to enter into investment agreements With his principal or (if not prohibited by his contract) with other persons;
 - (b) giving advice to the persons with whom he deals about entering into investment agreements with his principal or (if not prohibited by his contract) with other persons; or
 - (c) giving advice as to the sale of investments issued by his principal or as to the exercise of rights conferred by an investment whether or not issued as aforesaid.
- (4) If the contract between an appointed representative and his principal does not prohibit the representative from procuring or endeavouring to procure persons to enter into investment agreements with persons other than his principal it must make provision for enabling the principal either to impose such a prohibition or to restrict the kinds of investment to which those agreements may relate or the other persons with whom they may be entered into.
- (5) If the contract between an appointed representative and his principal does not prohibit the representative from giving advice about entering into investment agreements with persons other than his principal it must make provision for enabling the principal either to impose such a prohibition or to restrict the kinds of advice which the representative may give by reference to the kinds of investment in relation to which or the persons with whom the representative may advise that investment agreements should be made.
- (6) The principal of an appointed representative shall be responsible, to the same extent as if he had expressly authorised it, for anything said or done or omitted by the

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representative in carrying on the investment business for which he has accepted responsibility.

- (7) In determining whether an authorised person has complied with—
- (a) any provision contained in or made under this Act; or
 - (b) any rules of a recognised self-regulating organisation or recognised professional body,
- anything which a person who at the material time is or was an appointed representative of the authorised person has said, done or omitted as respects investment business for which the authorised person has accepted responsibility shall be treated as having been said, done or omitted by the authorised person.
- (8) Nothing in subsection (7) above shall cause the knowledge or intentions of an appointed representative to be attributed to his principal for the purpose of determining whether the principal has committed a criminal offence unless in all the circumstances it is reasonable for them to be attributed to him.
- (9) In this Act " investment agreement" means any agreement the making or performance of which by either party constitutes an activity which falls within any paragraph of Part II of Schedule 1 to this Act or would do so apart from Parts III and IV of that Schedule.

45 Miscellaneous exemptions

- (1) Each of the following persons is an exempted person to the extent specified in relation to that person—
- (a) the President of the Family Division of the High Court when acting in the exercise of his functions under section 9 of the Administration of Estates Act 1925 ;
 - (b) the Probate Judge of the High Court of Northern Ireland when acting in the exercise of his functions under section 3 of the Administration of Estates Act (Northern Ireland) 1955;
 - (c) the Accountant General of the Supreme Court when acting in the exercise of his functions under Part VI of the Administration of Justice Act 1982 ;
 - (d) the Accountant of Court when acting in the exercise of his functions in connection with the consignment or deposit of sums of money;
 - (e) the Public Trustee when acting in the exercise of his functions under the Public Trustee Act 1906;
 - (f) the Master of the Court of Protection when acting in the exercise of his functions under Part VII of the Mental Health Act 1983 ;
 - (g) the Official Solicitor to the Supreme Court when acting as judicial trustee under the Judicial Trustees Act 1896;
 - (h) a registrar of a county court when managing funds paid into court;
 - (i) a sheriff clerk when acting in the exercise of his functions in connection with the consignment or deposit of sums of money;
 - (j) a person acting in his capacity as manager of a fund established under section 22 of the Charities Act 1960, section 25 of the Charities Act (Northern Ireland) 1964, section 11 of the Trustee Investments Act 1961 or section 42 of the Administration of Justice Act 1982;
 - (k) the Central Board of Finance of the Church of England or a Diocesan Authority within the meaning of the Church Funds Investment Measure 1958 when acting in the exercise of its functions under that Measure;

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- (1) a person acting in his capacity as an official receiver within the meaning of section 399 of the Insolvency Act 1986 or in that capacity within the meaning of any corresponding provision in force in Northern Ireland.
- (2) Where a bankruptcy order is made in respect of an authorised person or of a person whose authorisation is suspended under section 28 above or who is the subject of a direction under section 33(1)(b) above or a winding-up order is made in respect of a partnership which is such a person, the trustee in bankruptcy or liquidator acting in his capacity as such is an exempted person but—
 - (c) sections 48 to 71 below and, so far as relevant to any of those provisions, Chapter IX of this Part of this Act; and
 - (b) sections 104, 105 and 106 below,shall apply to him to the same extent as they applied to the bankrupt or partnership and, if the bankrupt or partnership was subject to the rules of a recognised self-regulating organisation or recognised professional body, he shall himself also be subject to those rules.
- (3) In the application of subsection (2) above to Scotland—
 - (a) for the reference to a bankruptcy order being made in respect of a person there shall be substituted a reference to the estate of that person being sequestrated ;
 - (b) the reference to a winding-up order in respect of a partnership is a reference to such an order made under section 72 below;
 - (c) for the reference to the trustee in bankruptcy there shall be substituted a reference to the interim trustee or permanent trustee within the meaning of the Bankruptcy (Scotland) Act 1985 ; and
 - (d) for the references to the bankrupt there shall be substituted references to the debtor.
- (4) In the application of subsection (2) above to Northern Ireland for the reference to a bankruptcy order there shall be substituted a reference to an order of adjudication of bankruptcy and the reference to a trustee in bankruptcy shall include a reference to an assignee in bankruptcy.