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## STATUTORY INSTRUMENTS

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# 2001 No. 544

## The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

### PART II

#### SPECIFIED ACTIVITIES

##### CHAPTER XVII

##### EXCLUSIONS APPLYING TO SEVERAL SPECIFIED KINDS OF ACTIVITY

#### **Trustees, nominees and personal representatives**

**66.**—(1) A person (“X”) does not carry on an activity of the kind specified by article 14 where he enters into a transaction as bare trustee or, in Scotland, as nominee for another person (“Y”) and—

- (a) X is acting on Y’s instructions; and
- (b) X does not hold himself out as providing a service of buying and selling securities or contractually based investments.

(2) Subject to paragraph (7), there are excluded from [<sup>F1</sup>articles 25(1) and (2)][<sup>F2</sup>, 25A(1) and (2), 25B(1) and (2) and 25C(1) and (2)] arrangements made by a person acting as trustee or personal representative for or with a view to a transaction which is or is to be entered into—

- (a) by that person and a fellow trustee or personal representative (acting in their capacity as such); or
- (b) by a beneficiary under the trust, will or intestacy.

(3) Subject to paragraph (7), there is excluded from article 37 any activity carried on by a person acting as trustee or personal representative, unless—

- (a) he holds himself out as providing a service comprising an activity of the kind specified by article 37; or
- (b) the assets in question are held for the purposes of an occupational pension scheme, and, by virtue of article 4 of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 <sup>M1</sup>, he is to be treated as carrying on that activity by way of business.

[<sup>F3</sup>(3A) Subject to paragraph (7), there is excluded from article 39A any activity carried on by a person acting as trustee or personal representative, unless he holds himself out as providing a service comprising an activity of the kind specified by article 39A.]

(4) Subject to paragraph (7), there is excluded from article 40 any activity carried on by a person acting as trustee or personal representative, unless he holds himself out as providing a service comprising an activity of the kind specified by article 40.

[<sup>F4</sup>(4A) There is excluded from article 40 any activity carried on by a person acting as trustee which consists of arranging for one or more other persons to safeguard and administer trust assets where—

*Status: Point in time view as at 06/11/2006. This version of this provision has been superseded.*

*Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Section 66 is up to date with all changes known to be in force on or before 02 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) that other person is a qualifying custodian; or
- (b) that safeguarding and administration is also arranged by a qualifying custodian.

In this paragraph, “qualifying custodian” has the meaning given by article 41(2).]

(5) A person does not, by sending or causing to be sent a dematerialised instruction (within the meaning of article 45), carry on an activity of the kind specified by that article if the instruction relates to an investment which that person holds as trustee or personal representative.

(6) Subject to paragraph (7), there is excluded from [<sup>F5</sup>articles 53][<sup>F6</sup>, 53A, 53B and 53C] the giving of advice by a person acting as trustee or personal representative where he gives the advice to—

- (a) a fellow trustee or personal representative for the purposes of the trust or the estate; or
- (b) a beneficiary under the trust, will or intestacy concerning his interest in the trust fund or estate.

[<sup>F7</sup>(6A) Subject to paragraph (7), a person acting as trustee or personal representative does not carry on an activity of the kind specified by article 61(1) or (2) where the borrower under the regulated mortgage contract in question is a beneficiary under the trust, will or intestacy.]

[<sup>F8</sup>(6B) Subject to paragraph (7), a person acting as trustee or personal representative does not carry on an activity of the kind specified by article 63B(1) or (2) where the reversion seller under the regulated home reversion plan in question is a beneficiary under the trust, will or intestacy.

(6C) Subject to paragraph (7), a person acting as trustee or personal representative does not carry on an activity of the kind specified by article 63F(1) or (2) where the home purchaser under the regulated home purchase plan in question is a beneficiary under the trust, will or intestacy.]

(7) Paragraphs (2), (3)[<sup>F9</sup>, (3A)], [<sup>F10</sup>(4), (6)][<sup>F11</sup>, (6A), (6B) and (6C)] do not apply if the person carrying on the activity is remunerated for what he does in addition to any remuneration he receives as trustee or personal representative, and for these purposes a person is not to be regarded as receiving additional remuneration merely because his remuneration is calculated by reference to time spent.

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| <b>F1</b> | Words in art. 66(2) substituted (31.10.2004) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475)</a> , arts. 1(3), <b>18(a)</b>  |
| <b>F2</b> | Words in art. 66(2) substituted (6.11.2006 for specified purposes) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383)</a> , arts. 1(2), <b>19(a)</b>   |
| <b>F3</b> | Art. 66(3A) inserted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003 (S.I. 2003/1476)</a> , arts. 1(3), <b>10(1)(a)</b>        |
| <b>F4</b> | Art. 66(4A) inserted (6.4.2005) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2005 (S.I. 2005/593)</a> , arts. 1, <b>2(4)</b>  |
| <b>F5</b> | Words in art. 66(6) substituted (31.10.2004) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475)</a> , arts. 1(3), <b>18(b)</b>  |
| <b>F6</b> | Words in art. 66(6) substituted (6.11.2006 for specified purposes) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383)</a> , arts. 1(2), <b>19(b)</b>   |
| <b>F7</b> | Art. 66(6A) inserted (31.10.2004) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475)</a> , arts. 1(3), <b>18(c)</b>   |
| <b>F8</b> | Art. 66(6B)(6C) inserted (6.11.2006 for specified purposes) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383)</a> , arts. 1(2), <b>19(c)</b>  |
| <b>F9</b> | Word in art. 66(7) inserted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by <a href="#">The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003 (S.I. 2003/1476)</a> , arts. 1(3), <b>10(1)(b)</b> |

*Status: Point in time view as at 06/11/2006. This version of this provision has been superseded.*

**Changes to legislation:** *The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Section 66 is up to date with all changes known to be in force on or before 02 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F10** Words in art. 66(7) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **18(d)**
- F11** Words in art. 66(7) inserted (6.11.2006 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **19(d)**

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**Marginal Citations**

- M1** S.I. 2001/ .

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