STATUTORY INSTRUMENTS

# 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

**Overseas persons**

**72.**—(1) An overseas person does not carry on an activity of the kind specified by article 14 by—

(a) entering into a transaction as principal with or though an authorised person, or an exempt person acting in the course of a business comprising a regulated activity in relation to which he is exempt; or

(b) entering into a transaction as principal with a person in the United Kingdom, if the transaction is the result of a legitimate approach.

(2) An overseas person does not carry on an activity of the kind specified by article 21 by—

(a) entering into a transaction as agent for any person with or through an authorised person or an exempt person acting in the course of a business comprising a regulated activity in relation to which he is exempt; or

(b) entering into a transaction with another party (“X") as agent for any person (“Y"), other than with or through an authorised person or such an exempt person, unless—

(i) either X or Y is in the United Kingdom; and

(ii) the transaction is the result of an approach (other than a legitimate approach) made by or on behalf of, or to, whichever of X or Y is in the United Kingdom.

(3) There are excluded from article 25(1) arrangements made by an overseas person with an authorised person, or an exempt person acting in the course of a business comprising a regulated activity in relation to which he is exempt.

(4) There are excluded from article 25(2) arrangements made by an overseas person with a view to transactions which are, as respects transactions in the United Kingdom, confined to—

(a) transactions entered into by authorised persons as principal or agent; and

(b) transactions entered into by exempt persons, as principal or agent, in the course of business comprising regulated activities in relation to which they are exempt.

(5) There is excluded from article 53 the giving of advice by an overseas person as a result of a legitimate approach.

**[**[F1](5A) An overseas person does not carry on an activity of the kind specified by article 25A(1)(a) where each person who may be contemplating entering into a regulated mortgage contract as borrower is a non-resident individual.

(5B) There are excluded from article 25A(1)(b) arrangements made by an overseas person to vary the terms of a qualifying contract.

(5C) There are excluded from article 25A(2) arrangements made by an overseas person which are made solely with a view to non-resident individuals who participate in those arrangements entering as borrower into regulated mortgage contracts.

(5D) An overseas person does not carry on an activity of the kind specified by article 61(1) by entering into a qualifying contract.

(5E) An overseas person does not carry on an activity of the kind specified by article 61(2) where he administers a qualifying contract.

(5F) In paragraphs (5A) to (5E)—

(a) "non-resident individual" means an individual who is not normally resident in the United Kingdom; and

(b) "qualifying contract" means a regulated mortgage contract within the meaning of article 61(3)(a), the borrower or, as the case may be, each borrower under which is (or was) a non-resident individual at the time when he enters (or entered) into the contract.**]**

(6) There is excluded from article 64 any agreement made by an overseas person to carry on an activity of the kind specified by article 25(1) or (2), 37**[**[F2], 39A**]**, 40 or 45 if the agreement is the result of a legitimate approach.

(7) In this article, "legitimate approach" means—

(a) an approach made to the overseas person which has not been solicited by him in any way, or has been solicited by him in a way which does not contravene section 21 of the Act; or

(b) an approach made by or on behalf of the overseas person in a way which does not contravene that section.

**Textual Amendments**

**F1** Art. 72(5A)-(5F) inserted (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), **20**

**F2** Word in art. 72(6) inserted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003 (S.I. 2003/1476), arts. 1(3), **10(6)**

**Modifications etc. (not altering text)**

**C1** Art. 72 modified in part (31.10.2001) by The Financial Services and Markets Act 2000 (Interim Permissions) Order 2001 (S.I. 2001/3374), art. 1, **Sch. para. 12** (with Sch. para. 4)

**C2** Art. 72 modified in part (31.10.2004) by The Financial Services and Markets Act 2000 (Transitional Provisions) (Mortgages) Order 2004 (S.I. 2004/2615), art. 1(2)(b), **Sch. para. 12** (with Sch. para. 4)

**C3** Art. 72 modified in part (14.1.2005) by The Financial Services and Markets Act 2000 (Transitional Provisions) (General Insurance Intermediaries) Order 2004 (S.I. 2004/3351), art. 1(2)(b), **Sch. para. 11** (with Sch. para. 4)

**Status:**
Point in time view as at 01/07/2005. This version of this provision has been superseded.

**Changes to legislation:**
The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Section 72 is up to date with all changes known to be in force on or before 21 June 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.