

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 5

OTHER AMENDMENTS OF THE ACT

Amendment of section 39

2. In section 39 (exemption of appointed representatives)—

(a) after subsection (1) insert—

“(1A) But a person is not exempt as a result of subsection (1)—

- (a) if his principal is an investment firm or a credit institution, and
- (b) so far as the business for which his principal has accepted responsibility is investment services business,

unless he is entered on the applicable register.

(1B) The “applicable register” is—

- (a) in the case of a person established in an EEA State (other than the United Kingdom) which permits investment firms authorised by the competent authority of that State to appoint tied agents, the register of tied agents maintained in that State pursuant to Article 23 of the markets in financial instruments directive;
 - (b) in the case of a person established in an EEA State which does not permit investment firms authorised as mentioned in paragraph (a) to appoint tied agents—
 - (i) if his principal has his relevant office in the United Kingdom, the record maintained by the Authority by virtue of section 347(1)(ha), and
 - (ii) if his principal is established in an EEA State (other than the United Kingdom) which permits investment firms authorised by the competent authority of the State to appoint tied agents, the register of tied agents maintained by that State pursuant to Article 23 of the markets in financial instruments directive; and
 - (c) in any other case, the record maintained by the Authority by virtue of section 347(1)(ha).”;
- (b) in subsection (4), after “this Act,” insert “ or with a provision contained in any directly applicable Community regulation made under the markets in financial instruments directive, ”;
- (c) after subsection (6) insert—
- “(7) A person carries on “investment services business” if—
- (a) the business includes providing services or carrying on activities of the kind mentioned in Article 4.1.25 of the markets in financial instruments directive, and
 - (b) as a result of providing such services or carrying on such activities he is a tied agent or would be if he were established in an EEA State.
- (8) In this section—
- “competent authority” has the meaning given in Article 4.1.22 of the markets in financial instruments directive;
- “credit institution” means—
- (a) a credit institution authorised under the banking consolidation directive, or

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- (b) an institution which would satisfy the requirements for authorisation as a credit institution under that directive if it had its relevant office in an EEA State;
“relevant office” means—
 - (a) in relation to a body corporate, its registered office or, if it has no registered office, its head office, and
 - (b) in relation to a person other than a body corporate, the person's head office.”.

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Changes and effects yet to be applied to :

- Regulations power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)