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STATUTORY INSTRUMENTS

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**2011 No. 133**

**FINANCIAL SERVICES AND MARKETS**

**The Financial Services and Markets Act 2000  
(Regulated Activities) (Amendment) Order 2011**

<i>Made</i>	- - - -	<i>25th January 2011</i>
<i>Laid before Parliament</i>		<i>26th January 2011</i>
<i>Coming into force</i>	- -	<i>16th February 2011</i>

The Treasury make the following Order in exercise of the powers conferred on them by sections 22(1) and (5), 426, 427 and 428(3) of, and paragraph 25 of Schedule 2 to, the Financial Services and Markets Act 2000<sup>(1)</sup>:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2011.

(2) This Order comes into force on 16th February 2011.

(3) In this Order—

“the Principal Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001<sup>(2)</sup>; and

“the Financial Promotion Order” means the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005<sup>(3)</sup>.

**Amendment of the Principal Order**

2.—(1) The Principal Order is amended as follows.

(2) In article 77 (instruments creating or acknowledging indebtedness)—

(a) in paragraph (1) omit “77A or”;

(b) in paragraph (2) omit sub-paragraph (e).

(3) In article 77A (alternative finance investment bonds) in paragraph (1) after “article” insert “77 or”.

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<sup>(1)</sup> 2000 c.8.

<sup>(2)</sup> S.I. 2001/544, amended by S.I. 2010/86; there are other amending instruments but none are relevant.

<sup>(3)</sup> S.I. 2005/1529, amended by S.I. 2010/86; there are other amending instruments but none are relevant.

### **Amendment of the Financial Promotion Order**

**3.**—(1) The Financial Promotion Order is amended as follows.

(2) In Part 2 of Schedule 1—

- (a) in paragraph 15(1) omit “15A or”;
- (b) in paragraph 15(2) omit sub-paragraph (e);
- (c) in paragraph 15A(1) after “paragraph” insert “15 or”.

### **Application of amendments**

**4.** The instruments to which the amendments made by this Order apply from its commencement include existing instruments which fall within—

- (a) article 77 or 77A of the Principal Order; or
- (b) paragraph 15 or 15A of Schedule 1 to the Financial Promotion Order,

in each case as amended by this Order.

25th January 2011

*Angela Watkinson*  
*James Duddridge*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order reverses certain changes to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#)) (“the Principal Order”) made by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2010 ([S.I. 2010/86](#)) (“the Amending Order”). These changes had unintended effects.

Article 2(2) of this Order amends article 77 of the Principal Order by removing the reference to article 77A, inserted by the Amending Order, which currently makes article 77 subject to article 77A. Article 2(2) also revokes article 77(2)(e) of the Principal Order, also inserted by the Amending Order. The amendments made by the Amending Order had the effect of removing certain instruments from within article 77. These amendments have created uncertainty on the classification of the instruments concerned in the Principal Order. This also impacts on their treatment under other legislation.

Article 2(3) amends article 77A of the Principal Order to ensure that article 77 is considered first when classifying instruments under either of these articles so that article 77A becomes a residual category.

Article 3 makes consequential amendments to paragraphs 15 and 15A of Schedule 1 to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 ([S.I. 2005/1529](#)) (“the Financial Promotion Order”) (which paragraphs contain provisions identical to articles 77 and 77A).

Article 4 provides that, from the date this Order comes into force, the instruments falling within article 77 or 77A of the Principal Order or paragraph 15 or 15A of Schedule 1 to the Financial Promotion Order, in each case as amended by this Order, include instruments already in existence at that date.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.