

PERIMETER GUIDANCE (MiFID SCOPE) INSTRUMENT 2007

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the power in section 157(1) (Guidance) of the Financial Services and Markets Act 2000 .

Commencement

- B. This instrument comes into force on 1 November 2007.

Amendments to the Perimeter Guidance manual (PERG)

- C. PERG is amended in accordance with the Annex to this instrument. The general guidance in PERG does not form part of the Handbook.

Citation

- D. This instrument may be cited as the Perimeter Guidance (MiFID Scope) Instrument 2007.

By order of the Board
22 March 2007

Annex

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.2.3 G ...

For the meanings of defined terms used in *PERG*, see the *Glossary*. It is essential that readers refer to these definitions. In the case of those parts of *PERG* which take the form of Q&A, however, to ensure greater accessibility of the text we have only italicised *Handbook* terms in those places where we think that it would be helpful to the majority of readers.

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2.2.4 G The rest of this chapter provides a high level guide through the questions set out in *PERG* 2.2.3G. It aims to give an overall picture but in doing so it necessarily relies on the reader referring to UK statutory provisions and European legislation to fill in the detail (which can be extensive).

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Modification of certain exclusions as a result of ~~Investment Services~~ MiFID and the Insurance Mediation Directives

2.5.3 G The application of certain of the exclusions considered in *PERG* 2.8 (Exclusions applicable to certain regulated activities) and *PERG* 2.9 (Regulated activities: exclusions applicable to certain circumstances) is modified in relation to *persons* who are subject to ~~the *Investment Services Directive*~~ *MiFID* or the *Insurance Mediation Directive*. The reasons for this and the consequences of it are explained in *PERG* 2.5.4G as respects ~~the *Investment Services Directive*~~ *MiFID*, and *PERG* 5 (Insurance mediation activities), as respects the *Insurance Mediation Directive*.

Investment services and activities

2.5.4 G It remains the Government's responsibility to ensure the proper implementation of ~~the *Investment Services Directive*~~ *MiFID*. In this *Directive*, Certain *persons* (called '*investment firms*') who are caught by the *Directive* subject to the requirements of *MiFID* must be brought within the scope of regulation under the *Act*. A core element of *MiFID* is the concept of "investment firm". An *investment firm* is any *person* whose ~~ordinary~~ regular occupation or business is involves the provision to third parties on a professional basis of one or more ~~core~~ investment services to third parties or the performance of one or more *investment activities* on a professional basis (these services are described in the extract from the *Directive* in Schedule 2 to the *Regulated Activities Order*). The *Investment Services Directive* does not apply in the circumstances described in the extract from the *Directive* in Schedule 3 to the *Regulated Activities Order*. A *person* will need to consider

~~whether he is an *investment firm* to which the *Directive* applies, having due regard to the provisions in Schedule 3 to the *Regulated Activities Order*. An *investment firm* is not subject to *MiFID* requirements if it falls within one or more of the exemptions in article 2 *MiFID*. Further information about these exemptions is contained in *PERG* 13.5. To the extent that an *investment firm* falls within one of these exemptions, it will not be a *MiFID investment firm*. Where a *firm* is not a *MiFID investment firm* because one or more of the exemptions in article 2 apply, it may still be carrying on *regulated activities* and therefore require *authorisation* unless it is an *exempt person*.~~

2.5.4A The UK has exercised the optional exemption in article 3 of *MiFID*. Further information about this exemption is contained in Q48 to 53 in *PERG* 13.5. It is a requirement of article 3 *MiFID* that the activities of firms relying on the exemption are “regulated at national level”. The investment services to which article 3 apply (namely reception and transmission of orders and investment advice in relation to either *transferable securities* or units in collective investment undertakings) correspond to *regulated activities* (see *PERG* 13 Annex 2 Tables 1 and 2).

2.5.5 G For persons who are *MiFID investment firms*, the activities that must be caught by the *Regulated Activities Order* are those that are caught by ~~the *Investment Services Directive-MiFID*~~. To achieve this result, some of the exclusions in the Order (that will apply to persons who are not caught by ~~the *MiFID Directive*~~) have been made unavailable to *MiFID investment firms* when they provide or perform *investment services and activities*. A “*MiFID investment firm*”, for these purposes, includes *credit institutions* to which *MiFID* applies (see *PERG* 13, Q5 and 9) and *UCITS investment firms* providing the services of *portfolio management and personal recommendations* in relation to *financial instruments* or the ancillary service of safekeeping and administration in relation to units of collective investment undertakings. The same exclusions are also unavailable to *third country investment firms* when they provide *investment services and activities*. Article 4(4) of the *Regulated Activities Order* (Specified activities: general) lists a number of exclusions that must be disregarded. These relate to the exclusions concerned with:

...

(4A) professions or businesses not involving *regulated activities* (see *PERG* 2.9.5G);

(5) sale of goods (see *PERG* 2.9.7G);

(6) groups and joint enterprises (see *PERG* 2.9.9G);

(7) sale of a *body corporate* (see *PERG* 2.9.11G); and

- (8) business angel-led enterprise capital funds (see *PERG 2.9.20G* to *PERG 2.9.22G*).

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2.6.20 G The *specified investment* category of *options* ~~is limited to~~ comprises:

- (1) *options* to acquire or dispose of *securities* or *contractually based investments*, currency and certain precious metals and *options* to acquire or dispose of such *options*. *Options* to buy or sell other types of *commodity* will only fall within this *specified investment* category if they are *options* to buy or sell *futures*, or *options* to buy or sell *contracts for differences*, which are based on other *commodities*. But *options* to buy or sell other types of *commodity* may be *contracts for differences* (see *PERG 2.6.23G*);
- (2) options to acquire or dispose of other property and falling within paragraphs 5, 6, 7 or 10 of Annex 1 to *MiFID* (see article 83(2) of the *Regulated Activities Order* and *PERG 13, Q32 to Q34* for guidance about these instruments), but only where they are options in relation to which a *MiFID investment firm* or a *third country investment firm* provides or performs *investment services and activities* on a professional basis; and
- (3) options to acquire or dispose of an option to which (2) applies. See article 83(1)(e) of the *Regulated Activities Order*.

2.6.20A G It follows therefore that options not falling within *PERG 2.6.20G(1)*, for example physically settled options on non-precious metals, such as copper options, will not be *options* unless they meet the conditions in *PERG 2.6.20G(2)*. Moreover, where the option in question is one to which *PERG 2.6.20G(2)* applies, it will be an *option* only in relation to the *investment services and activities*, or *ancillary services* where relevant, provided by that *person*. The same applies in the case of options falling within *PERG 2.6.20G(3)*, for example an option on a physically settled copper option traded on a *regulated market*.

Futures

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2.6.22A G As with *options*, there is an additional category of instruments which are *futures* only when they are the object of *investment services or activities* provided or performed by certain *persons*. These are contracts as described in *PERG 2.6.21G*:

- (1) that would not be regarded as having been entered into for investment purposes because they fail one of the tests mentioned in *PERG 2.6.22G*;

- (2) that fall within paragraphs 5, 6, 7 or 10 of Annex 1 to MiFID (see PERG 13, Q32 to Q34 for guidance about these derivatives); and
- (3) in relation to which a MiFID investment firm or a third country investment firm provides or performs investment services and activities on a professional basis.

See article 84(1A)-(1D) of the *Regulated Activities Order*.

2.6.22B G The transposition of MiFID does not have the effect of turning spot or forward foreign exchange contracts into financial instruments where such instruments satisfy the commercial purpose test in article 84(2) of the Regulated Activities Order. In our view, very few instruments are likely to fall within PERG 2.6.22AG in practice, given that this category only applies in the case of instruments not falling within PERG 2.6.22G. An example of an instrument falling within PERG 2.6.22AG could be rights under a contract for a derivative which provides for physical delivery of a commodity at a future date and which is entered into on a multilateral trading facility.

Contracts for differences

2.6.23 G The *specified investment* category of *contracts for differences* covers:

- (1) rights under contracts for differences; and
- (2) rights under other contracts whose purpose or pretended purpose is to secure a profit or avoid a loss by reference to fluctuations in certain factors; and
- (3) other derivative contracts (not within (1) or (2)) falling within paragraph 8 of Annex 1 to MiFID, that is derivative instruments for the transfer of credit risk (see PERG 13, Q30 to Q31 for guidance about these instruments), but only where a MiFID investment firm or a third country investment firm provides or performs investment services and activities on a professional basis.

~~The factors mentioned in (2) include In addition to fluctuations in the value or price of property of any description or in an index, those factors also include fluctuations or in any 'other factor designated in the contract'. This catches a wide range of factors.~~

~~All contracts in this category are cash-settled instruments (as opposed to being settled by way of delivering something other than cash). Many would be unenforceable as gaming contracts were it not for section 412 of the Act (Gaming contracts). Examples of things that count as specified investments under this category are spread bets and interest rate swaps.~~

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unenforceable as gaming contracts were it not for section 412 of the Act (Gaming contracts). Examples of instruments that count as *specified investments* under this category are *spread bets* and interest rate swaps.

...

Operating a multilateral trading facility

2.7.7D G *Guidance on the MiFID investment service of operating a multilateral trading facility is given in PERG 13, Q24. So far as the regulated activity of operating a multilateral trading facility is concerned, this does not comprise the activities of dealing in investments as agent, dealing in investments as principal, or arranging deals in investments. Where a firm carries on one or more of these activities in addition to operating a multilateral trading facility, these are separate regulated activities for which it requires permission.*

...

2.7.21 G Agreeing to carry on most *regulated activities* is itself a *regulated activity*. But this is not the case if the underlying activities to which the agreement relates are those of *accepting deposits, issuing e-money, effecting or carrying out contracts of insurance, operating a multilateral trading facility* or carrying on any of the activities that are regulated in relation to *collective investment schemes*, ...

...

2.8.4C G The exclusions referred to in *PERG 2.8.4G(1), (2), (5) and (6)(b), (c) and (d)* will not be available to *persons* who, ~~in~~ when carrying on the activity of *dealing in investments as principal*, are ~~investment firms~~ MiFID investment firms or third country investment firms (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).

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2.8.5A G The exclusions referred to in *PERG 2.8.5G(1), (2) and (3)(a), (b), (c), (d) and (j)* will not be available to *persons* who, ~~in~~ when carrying on the activity of *dealing in investments as agent*, are ~~investment firms~~ MiFID investment firms or third country investment firms (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).

...

2.8.6B G The exclusions referred to in *PERG 2.8.6AG (4) and PERG 2.8.6AG (13)(b), (c), (d), (e) and (l)* will not be available to *persons* who, ~~in~~ when carrying on an *arranging activity*, are ~~investment firms~~ MiFID investment firms or third country investment firms (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).

...

- 2.8.7 G ...
- The exclusion in article 38 of the *Regulated Activities Order* and the exclusions referred to in *PERG 2.8.7G (2)*, *PERG 2.8.7G (3)* and *PERG 2.8.7G (5)* will not be available to persons who, ~~in~~ when carrying on the activity of *managing investments*, are ~~investment firms~~ MiFID investment firms or third country investment firms (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).
- ...
- 2.8.12B G The exclusions referred to in *PERG 2.8.12AG(1)(b)* and *(2)(a), (b), (c)* and *(g)* will not be available to persons who, when carrying on the activity of *advising on investments* are *MiFID investment firms* or *third country investment firms* (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).
- ...
- 2.9.5 G ...
- The exclusion is, however, disapplied where a person is carrying on *insurance mediation* or *reinsurance mediation*. This is due to article 4(4A) of the *Regulated Activities Order*. *Guidance* on exclusions relevant to *insurance mediation activities* is in *PERG 5* (Insurance mediation activities). The exclusion is also disapplied for persons who, when carrying on the relevant regulated activity, are *MiFID investment firms* or *third country investment firms* (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).
- ...
- 2.9.8 G ... in relation to rights under a *contract of insurance* or *units* in a *collective investment scheme* (or rights to, or interests in, either). The exclusions are also disapplied for persons who, ~~in~~ when carrying on the relevant *regulated activity*, are *MiFID investment firms* or *third country investment firms* (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).
- ...
- 2.9.10 G ... *Guidance* on exclusions relevant to *insurance mediation activities* is in *PERG 5* (Insurance mediation activities). The exclusions are also disapplied for persons who, ~~in~~ when carrying on the relevant *regulated activity*, are *MiFID investment firms* or *third country investment firms* (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).
- ...
- 2.9.12 G ... The exclusions in *PERG 2.9.11G (2)*, *(3)* and *(4)* are disapplied where they concern a *contract of insurance*. *Guidance* on exclusions relevant to *insurance mediation activities* is in *PERG 5* (Guidance on insurance mediation activities). The exclusions are also disapplied for persons who, ~~in~~ when carrying on the relevant *regulated activity*, are *MiFID investment*

firms or third country investment firms (see *PERG 2.5.4G to PERG 2.5.5G* (Investment services and activities)).

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2.9.15 G This group of exclusions applies, in specified circumstances, to the *regulated activities* of: ...

(3B) operating a multilateral trading facility;

...

2.9.16 G ...Where a *person* does not have a permanent place of business in the *United Kingdom*, he will not, in any event, need to rely on these exclusions unless what he does is regarded as carried on in the *United Kingdom* (see *PERG 2.4*). Nor will a *person* be able to rely on the exclusions in *PERG 2.9.15G* (1) to (4) if when carrying on the relevant *regulated activity* it is a *MiFID investment firm* and its *Home State* is the *United Kingdom*.

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2.9.21A The exclusions for business angel-led enterprise capital funds are also disappplied for *persons* who, ~~in~~ when carrying on the relevant *regulated activity*, are *MiFID investment firms* or *third country investment firms* (see *PERG 2.5.4G* (Investment services and activities)).

...

...

PERG 2 Ann 2G

2 Table

Table 1: Regulated Activities [see note 1 to Table 1]

...	
Designated investment business [see notes 1A and 1B to Table 1]	
...	(in relation to (d) to (g) and (h) to (1) <i>security</i> [expanded in Table 3]; or <i>contractually based investment</i> [expanded in Table 3].
...	...
<u>(ga) operating a multilateral trading facility (article 25D) [see note 2A]</u>	<u><i>securities</i> or <i>contractually based investments</i> which are <i>financial instruments</i> (see <i>PERG 13 Annex 2 G Table 2</i> and note 2A to Table 1).</u>
...	

3 Table

Notes to Table 1:
Note 1:
In addition to the <i>regulated activities</i> in Table 1, article 64 of the <i>Regulated Activities Order</i> specifies that <i>agreeing to carry on a regulated activity</i> is itself a <i>regulated activity</i> in certain cases. This applies in relation to all the <i>regulated activities</i> listed in Table 1 apart from:
...
<ul style="list-style-type: none"> • <i>effecting and carrying out contracts of insurance</i> (article 10); • <i>operating a multilateral trading facility</i> (article 25D)
...

Note 2A:
<u>PERG 13 Ann 2 Table 2 contains a map indicating which <i>securities</i> and <i>contractually based investments</i> correspond to <i>financial instruments</i>. A firm's <i>permission</i> should comprise each of the categories of <i>security</i> and <i>contractually based investment</i> in relation to which it carries on the activity of <i>operating a multilateral trading facility</i>.</u>
...

Advice in publications and broadcasts and MiFID

7.3.2A G Advice about *financial instruments* in a newspaper, journal, magazine, publication, internet communication or radio or television broadcast should not normally be a *personal recommendation* under *MiFID* (see *PERG 13, Q18 to Q21*).

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8.31.3A G The exclusion in article 67 will not apply to a *person* who is *advising on investments* when he does so as a *MiFID investment firm* or a *third country investment firm* (see *PERG 2.5.4G to 2.5.5G (Investment services and activities)*).

...

8.33.7 G The exclusion in article 29 will not apply to a *person* who is carrying on an *arranging* activity when he does so as a *MiFID investment firm* or a *third country investment firm* (see *PERG 2.5.4G to 2.5.5G (Investment services and activities)*).

...

8.36.3 G Table Controlled activities

...	
4.	Arranging deals in investments
<u>4A</u>	<u>Operating a multilateral trading facility</u>
...	

...

10.1 Background

Q1. ...

...

The Q&As complement the general *guidance* on regulated activities in Chapter 2 of our Perimeter Guidance Manual ('*PERG*'), the general guidance on insurance mediation activities in Chapter 5 of *PERG* (*PERG* 5), the guidance about the scope of the *Markets in Financial Instruments Directive* in Chapter 13 of *PERG* (*PERG* 13) and the relevant legislation. In addition, Chapter 12 of *PERG* (*PERG* 12) has further guidance about the regulated activities relating to the operation and sale of personal pension schemes that came into force on 6 April 2007.

...

10.4 ...

Q32. What are the exclusions that might apply to me as a pensions administration service provider?

One or more of the following exclusions might be available to you depending on the nature and scope of the services you provide:

- *dealing in investments as agent and arranging with or through an authorised person* (articles 22 and 29 of the *Regulated Activities Order*);
- *dealing in investments as agent, arranging and advising on investments* as a necessary part of providing other non-regulated services (article 67 of the *Regulated Activities Order*); and
- services provided to a member of your *group* (article 69 of the *Regulated Activities Order*).

But none of these exclusions will apply to you if, in carrying on the relevant regulated activity, you are an investment firm and do not benefit from any of the

exemptions under *MiFID* (see Chapter 13 of *PERG*, including Q42).

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10.4A The application of EU Directives

Q41A. Are pension scheme trustees and administration service providers likely to be subject to authorisation under the Markets in Financial Instruments Investment Services Directive or subject to the Capital Adequacy Directive?

This is possible, but in many instances it is likely that pension scheme trustees and service providers will either not be carrying on an investment service for the purposes of, or otherwise be exempt under article 2.21 of, the Markets in Financial Instruments Investment Services Directive. The following table expands on this in broad terms.

As for the re-cast Capital Adequacy Directive, this will only apply to persons who are MiFID ISD investment firms or BCD credit institutions.

Detailed guidance on the scope of MiFID and the re-cast Capital Adequacy Directive is in PERG 13.

Activity	Potential <u>MiFID ISD investment activity or service</u> ?	Potential application of <u>MiFID ISD</u> or of a <u>MiFID ISD article 2.21</u> exemption?
Dealing in scheme assets as trustee	<p>Dealing in investments for own account</p> <p><u>Execution of orders on behalf of clients</u></p>	<p><u>MiFID ISD</u> will not apply provided the trustees are either not acting by way of business or otherwise are not holding themselves out as persons who provide a dealing service to third parties. This is because the trustees would not be regarded as providing an investment service to third parties on a professional basis</p> <p>Where the pension scheme is a collective investment undertaking <u>In any event, the trustee should be exempt under article 2.21 (h) as <u>manager or depositary (or both) of the scheme a pension fund</u></u></p>
Issuing rights under a	None – the rights are not <u>MiFID ISD investments</u>	<u>MiFID ISD</u> does not apply

<p>stakeholder or personal pension scheme to members</p>	<p><u>financial instruments</u></p>	
<p>Pension scheme service provider:</p> <p>a. dealing in scheme assets as agent for the trustees</p> <p>b. arranging deals in scheme assets <u>as agent for the trustees</u></p> <p><u>c. arranging for persons to join the scheme or to switch or dispose of, or to acquire further, rights under the scheme</u></p>	<p>a. Executing orders other than for own account <u>Execution of orders on behalf of clients</u></p> <p>b. Receiving and transmitting orders</p> <p>c. <u>None – the rights are not MiFID financial instruments and neither are any rights to or interests in financial instruments that the scheme member may acquire under the scheme</u></p>	<p>MiFID ISD will potentially apply where the investments are MiFID ISD financial instruments (such as shares, debt securities or units)</p> <p>However, many pension schemes will be employee participation schemes, the administration of which is exempt under article 2.21 (de)</p> <p>Where the service provider is providing services exclusively for the benefit of a corporate trustee who is a member of its group, the exemption in article 2.21 (b) should apply. <u>And article 2.1(f) will provide for the exclusions in 2.1(b) and 2.1(e) to be combined where the service provider is both administering an employee participation scheme and providing services to a trustee who is a group member</u></p> <p>Where the activity is receiving and transmitting orders <u>and the service provider is authorised</u>, the <u>optional intermediaries exemption in article 2.1 (g) 3 of MiFID</u> may apply</p> <p>Where the pension scheme is a collective investment undertaking, the scheme administrator may <u>If the service provider is acting as the operator of a stakeholder or personal pension scheme (for example, as the scheme administrator), he should be exempt under article 2.2 1 (h) as manager of the scheme a pension fund</u></p>
<p>Managing the assets of the scheme</p>	<p>Investment management</p>	<p>MiFID ISD will not apply to trustees provided they are either not acting by way of business or otherwise are not holding themselves out as, or additionally remunerated for, providing investment management services. This is because the</p>

		<p>trustees would not be regarded as providing an investment service to third parties on a professional basis</p> <p>Also, where the pension scheme is a collective investment undertaking, the scheme administrator may, and the <u>In any event, the trustees will, be exempt under article 2.2 (h) in respect of anything they do in the capacity of manager or depositary of the scheme respectively should be exempt under article 2.1 (h) as manager or depositary (or both) of a pension fund</u></p> <p><u>If a service provider is acting as the operator of a stakeholder or personal pension scheme, he should also be exempt under article 2.1(h) as manager of a pension fund</u></p> <p><u>But a service provider who is merely managing the assets of a pension fund without being the manager or depositary of the scheme will not be exempt under article 2.1(h). The manager and depositary are those persons charged with responsibility for managing the fund or safeguarding its assets and not persons to whom such functions may be delegated or outsourced</u></p>
Safeguarding and administering the scheme assets	None	Safekeeping and administration of investments is an an <u>MiFID ISD non-core ancillary</u> service
Establishing, operating or winding up a stakeholder or personal pension scheme	None	<u>MiFID ISD</u> does not apply
Advising trustees or members of	Investment advice	Investment advice is an <u>ISD non-core service</u>

<p>prospective members</p> <p>a. Pension scheme trustee advising fellow trustees or members or prospective members</p> <p>b. Pension scheme service provider advising trustees or members or prospective members</p>		<p><u>MiFID will potentially apply where the advice concerns MiFID financial instruments (such as shares, debt securities or units) and so may apply to advice given to the trustees about scheme assets. However, beneficial interests in financial instruments held under the trusts of a pension scheme will not themselves be financial instruments under MiFID. And rights under a personal pension or stakeholder pension scheme are also not financial instruments. So, advice given to scheme members or prospective members should not be investment advice under MiFID</u></p> <p><u>MiFID will not apply to trustees who are advising their fellow trustees for the purposes of the trust provided they are not additionally remunerated for providing investment advisory services</u></p> <p><u>Also, trustees will be exempt under article 2.1 (h) in respect of anything they do in the capacity of manager or depositary of a pension fund (including advising their fellow trustees)</u></p> <p><u>If a service provider is acting as the operator of a stakeholder or personal pension scheme, he should also be exempt under article 2.1(h) as manager of a pension fund if he gives advice to the trustees</u></p> <p><u>Where the service provider is providing advice to a corporate trustee who is a member of its group, the exemption in article 2.1 (b) may apply (and may be combined with the exemption for administration of an employee participation scheme under article 2.1(f) where relevant)</u></p>
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Q41B. ~~Will the implementation of the Markets in Financial Instruments Directive be likely to affect the current position of pension scheme trustees and administration service providers under the Investment Services Directive and the Capital Adequacy Directive?~~

~~This is unlikely to be the case. The position under the Markets in Financial Instruments Directive should not be materially different to the position under the Investment Services Directive (or, as a result, the Capital Adequacy Directive) as regards the usual activities of pension scheme trustees and administration service providers. The one possible exception to this concerns investment advice which will become an investment service for the first time under the Markets in Financial Instruments Directive. This will not apply to advice given to scheme members about their rights under the scheme as those rights will not be financial instruments for the purposes of the Directive. But the Directive will apply to advice in the form of a recommendation to scheme trustees or members about their buying or selling a particular financial instrument for the purposes of the scheme. Financial instruments will include shares, debt securities and units in a collective investment scheme but not life policies or deposits. This will be subject to the possible availability of an exemption in article 2.1 of the Directive.~~

~~Draft guidance on the changes in regulatory scope that will be caused by the implementation of the Markets in Financial Instruments Directive and its effect on the application of the Capital Adequacy Directive was issued as Annex 5 to Consultation Paper 06/9 (Organisation systems and controls) and will, in due course, form Chapter 13 to PERG. [deleted]~~