

2002 No.

FINANCIAL SERVICES AND MARKETS
ELECTRONIC COMMUNICATIONS

**The Financial Services and Markets Act 2000 (Regulated
Activities) (Amendment) (Electronic Commerce Directive)
Order 2002**

<i>Made</i> - - - -	2002
<i>Laid before Parliament</i>	2002
<i>Coming into force</i> - -	2002

The Treasury, in exercise of the powers conferred on them by sections 22(1) and (5), [426 and 428(3)] of the Financial Services and Markets Act 2000(a), hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (Electronic Commerce Directive) Order 2002, and comes into force on [2002].

Amendment of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

2.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(b) (“the Regulated Activities Order”) is amended by inserting, after article 72-

“Information society services

72A. —(1) There is excluded from this Part any activity consisting of the provision of an information society service from an EEA State other than the United Kingdom.

(2) The exclusion in paragraph (1) does not apply to the effecting or carrying out of a contract of insurance as principal, where that activity falls within the scope of any of the insurance directives.”.

3.—(1) The Regulated Activities Order is also amended as follows.

(2) After article 9, insert-

“Other exclusions

(a) 2000 c. 8.
(b) S.I. 2001/544.

9A. Article 5 is also subject to the exclusion in article 72A (information society services).”.

(3) In article 20, for “and 72 (overseas persons), substitute, “, 72 (overseas persons) and 72A (information society services)”.

(4) In article 24, for “and 72 (overseas persons)”, substitute “, 72 (overseas persons) and 72A (information society services)”.

(5) In article 36, for “and 72 (overseas persons)”, substitute “, 72 (overseas persons) and 72A (information society services)”.

(6) In article 39, for “and 69 (groups and joint enterprises)”, substitute “, 69 (groups and joint enterprises) and 72A (information society services)”.

(7) In article 44, for “and 71 (employee share schemes)”, substitute “, 71 (employee share schemes) and 72A (information society services)”.

(8) In article 50, for “and 69 (groups and joint enterprises)”, substitute “, 69 (groups and joint enterprises) and 72A (information society services)”.

(9) After article 51, insert-

“Other exclusions

51A. Article 51 is also subject to the exclusion in article 72A (information society services).”.

(11) After article 52, insert-

“Other exclusions

52A. Article 52 is also subject to the exclusion in article 72A (information society services).”.

(12) In article 55, for “and 72 (overseas persons)”, substitute “, 72 (overseas persons) and 72A (information society services).”.

(13) After article 58, insert-

“Exclusion

58A. Articles 56 to 58 are subject to the exclusion in article 72A (information society services).”.

(14) After article 60, insert-

“Other exclusions

60A. Article 59 is also subject to the exclusion in article 72A (information society services).”.

(15) After article 63, insert-

“Other exclusions

63A. Article 61 is also subject to the exclusion in article 72A (information society services).”.

(16) For article 65, and the cross-heading before it, substitute-

“Exclusions

Exclusions

65. Article 64 is subject to the exclusions in articles 72 (overseas persons) and 72A (information society services).”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (“the Regulated Activities Order”), to take account of the European Parliament and Council Directive of 8 June 2000 on certain legal aspects of information society services (No. 2000/31/EC; O.J. L178/1, 17 July 2000) (“the Directive”).

This Order should be read with the Financial Services and Markets Act 2000 (Electronic Commerce Directive) Regulations 2002 (S.I. 2002/[]) and the Financial Services and Markets Act (Financial Promotion)(Amendment)(Electronic Commerce Directive) Order 2002 (S.I. 2002/[]), which make additional provisions in connection with the Directive. The Order should also be read with the Electronic Commerce (EC Directive) Regulations 2002 (S.I. 2002/[]), which make general provisions giving effect to the Directive.

Under Article 3.2 of the Directive, Member States are prohibited from restricting, for reasons falling within the “co-ordinated field” (as defined in Article 2(h) of the Directive), the freedom to provide “information society services” (as defined in Article 2(a)) from other Member States.

This Order amends the Regulated Activities Order to create a general exclusion from the definition of “regulated activity” for activities consisting of the provision of information society services by persons in other member states, or from places of establishment in other Member States. The exclusion does not extend to the effecting or carrying out of a contract of insurance as principal, where that activity falls within the scope of any of the insurance directives (as defined in section 425 of, and Schedule 3 to, the Financial Services and Markets Act 2000 (c. 8)).