

Chapter 5

Guidance on insurance distribution activities

5.14 Exemptions

Professionals

- 5.14.1** G *Professional firms* (broadly firms of solicitors, accountants and actuaries) may carry on *insurance distribution activities* in the course of their professional activities. *Exempt professional firms* carrying on *insurance distribution activities* may continue to be able to use the *Part XX exemption* to avoid any need for *authorisation*. ■ PROF 2 (Status of exempt professional firm) contains *guidance* on the *Part XX exemption*. They will, however, need to be shown on the *Financial Services Register* as carrying on *insurance distribution activities*, in order to benefit from this exemption. The task of registration is the responsibility of the *designated professional bodies* who will need to inform the *FCA* both of member firms carrying on *insurance distribution activities* and individuals within firms' management responsible for these activities.
- 5.14.2** G *Professional firms* with practices that involve acting for claimants in litigation against *insurance undertakings* are likely to be carrying on the *regulated activity of assisting in the administration and performance of a contract of insurance*. *Exempt professional firms* whose practices contain a material element of such activity should consider whether they can continue to take advantage of the *Part XX exemption* to avoid any need for *authorisation*, having regard to the relevant provisions of the *Act*, in particular section 327 (Exemption from the general prohibition) and the *guidance* in ■ PROF 2.1.14 G (Exempt regulated activities).
- 5.14.3** G *Professional firms* should be aware of the disapplication of the exclusions for trustees (article 66) and activities carried on in the course of a profession or non-investment business (article 67) outlined in ■ PERG 5.11.7 G (Exclusions disappplied in connection with insurance distribution) where their activities would amount to *insurance distribution*. Where they do not, they will still be able to rely upon article 67. Otherwise, the *Non-Exempt Activities Order* imposes limitations on the extent to which *professional firms* can give advice to individuals. In particular, a *professional firm* cannot make a recommendation to a private client to buy a life policy, unless it is endorsing a corresponding recommendation given to the *client*. The recommendation it endorses must be one given by an *authorised person* permitted to advise on *life policies*, or an *exempt person* for these purposes. No such restrictions apply, however, in relation to *contracts of insurance* other than *life policies*.
- 5.14.4** G As indicated in ■ PERG 5.6.8 G, the article 72C exclusion (Provision of information on an incidental basis) is potentially available to unauthorised *professional firms* including *exempt professional firms*. This may be relevant

to *professional firms* arranging *contracts of insurance* for *clients* on an individual basis.

Other exemptions

5.14.5

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In addition to certain named *persons* exempted by the *Exemption Order* from the need to obtain *authorisation*, the following bodies are exempt in relation to *insurance distribution activities* that do not relate to *life policies*:

- (1) [deleted]
- (2) registered social landlords in England and Wales within the meaning of Part I of the Housing Act 1996 but not their subsidiaries;
- (3) registered social landlords in Scotland within the meaning of the Housing (Scotland) Act 2001 but not their subsidiaries;
- (4) the Office of Tenants and Social Landlords (known as the Tenant Services Authority);
- (4A) the Homes and Communities Agency;
- (5) Scottish Homes; and
- (6) The Northern Ireland Housing Executive.