

Chapter 5

Guidance on insurance distribution activities

5.9 The Regulated Activities: agreeing to carry on a regulated activity

5.9.1

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Under article 64 of the *Regulated Activities Order* (Agreeing to carry on specified kinds of activity), in addition to the *regulated activities* of:

- (1) *dealing in investments as agent;*
- (2) *arranging (bringing about) deals in investments;*
- (3) *making arrangements with a view to transactions in investments;*
- (4) *assisting in the administration and performance of a contract of insurance; and*
- (5) *advising on investments;*

agreeing to do any of these things is itself a *regulated activity*. In the FCA's opinion, this activity concerns the entering into of a legally binding agreement to provide the services to which the agreement relates. So, a *person* is not carrying on a *regulated activity* under article 64 merely because he makes an offer to do so.

5.9.2

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To the extent that an exclusion applies in relation to a *regulated activity*, 'agreeing' to carry on an activity within the exclusion will not be a *regulated activity*. This is the effect of article 4(3) of the *Regulated Activities Order* (Specified activities: general). So, for example, a vet can, without carrying on a *regulated activity*, enter into an agreement with an *insurance undertaking* to distribute marketing literature provided that the vet can rely on the exclusion in article 72C (Provision of information on an incidental basis) in relation to the activity of distributing the literature (see also ■ PERG 5.6.6 G and ■ PERG 5.6.9 G (Exclusion: article 72C (Provision of information on an incidental basis) or article 33B (Provision of information – contracts of insurance) in relation to the activity of distributing the literature (see also ■ PERG 5.6.4AG to ■ PERG 5.6.9G which cover exclusions for the provision of information).