

Chapter 5

Non-mainstream regulated activities

5.2 Nature of non-mainstream regulated activities

Conditions for non-mainstream regulated activity

5.2.1

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A "*non-mainstream regulated activity*" is a *regulated activity* of an *authorised professional firm* in relation to which the following conditions are satisfied:

- (1) the *firm* must not receive from a *person* other than his client any pecuniary reward or other advantage, for which he does not account to his client, arising out of the carrying on of the *regulated activity*;
- (2) the manner of the provision by the *firm* of any service in the course of carrying on the *regulated activity* must be incidental to the provision by it of professional services (see ■ PROF 5.2.2 R);
- (3) the *regulated activity* must not be of a description, or relate to an investment of a description, specified in The Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001 (SI 2001/1227) or in any other order made by the Treasury under section 327(6) of the Act (see ■ PROF 2 Annex 2 GG);
- (4) there must not be in force any direction under section 328 of the Act (Directions in relation to the general prohibition) in relation to:
 - (a) a class of *person* which would have included the *firm* were it not an *authorised person*; or
 - (b) a description of *regulated activity* which includes the *regulated activity* the *firm* proposes to carry on;
- (5) the *regulated activity* must be an activity which *exempt professional firms* which are *members* of the same *designated professional body* as the *authorised professional firm* are permitted to carry on under rules made by that body as required by section 332(3) of the Act; and
- (6) the *authorised professional firm* is subject to the rules referred to in (5).

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5.2.2

R In ■ PROF 5.2.1 R (2), "professional services" means services:

- (1) which do not constitute a *regulated activity*; and
- (2) the provision of which is supervised and regulated by a *designated professional body*.