

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

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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*.