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## STATUTORY INSTRUMENTS

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# 2013 No. 1881

## The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013

### PART 3

#### Amendments of the Act etc.

##### Amendments of the Act

- 10.**—(1) The Act is amended as follows.
- (2) In section 1H (further interpretative provisions for sections 1B to 1G) <sup>M1</sup>—
- (a) omit paragraph (b) of subsection (2);
  - (b) in subsection (8), omit the definitions of “accepting” and “consumer credit business”.
- (3) In section 194 (general grounds on which power of intervention in relation to EEA firm is exercisable), omit subsections (2) to (4).
- (4) Sections 203 and 204 (powers to prohibit or restrict the carrying on of Consumer Credit Act business) <sup>M2</sup> are omitted.
- (5) Section 226A (consumer credit jurisdiction) <sup>M3</sup> is omitted.
- (6) In section 227 (voluntary jurisdiction) <sup>M4</sup>, in subsection (2)(e), omit “or the consumer credit jurisdiction”.
- (7) In section 228 (determination under the compulsory jurisdiction) <sup>M5</sup>, in subsection (1), omit “and to the consumer credit jurisdiction”.
- (8) In section 229 (awards) <sup>M6</sup>—
- (a) in subsection (1), omit “and to the consumer credit jurisdiction”;
  - (b) omit subsection (4A);
  - (c) in subsection (8)(b), omit “or (as the case may be) Part 3A of that Schedule <sup>M7</sup>”;
  - (d) for subsection (11), substitute—  
“(11) “Specified” means specified in compulsory jurisdiction rules.”;
  - (e) omit subsection (12).
- (9) In section 230 (costs) <sup>M8</sup>—
- (a) in subsection (1), omit “or the consumer credit jurisdiction”;
  - (b) in subsection (7), omit “or (as the case may be) paragraph 16D of that Schedule”.
- (10) Section 234A (funding by consumer credit licensees etc) <sup>M9</sup> is omitted.
- (11) In section 234D (reference by scheme operator or regulated person) <sup>M10</sup>, in subsection (6)(c)(i), omit “or the consumer credit jurisdiction”.

(12) In section 328 (directions in relation to the general prohibition)<sup>M11</sup>, in subsection (6)(b), after “insurance mediation directive” insert “ or Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC<sup>M12</sup> ”.

(13) In section 353 (removal of other restrictions on disclosure)<sup>M13</sup>, in subsection (1), omit paragraph (c).

(14) In section 401 (proceedings for offences)<sup>M14</sup>, omit subsection (4).

(15) In section 404E (meaning of “consumers”)<sup>M15</sup>—

(a) in subsection (2), omit paragraph (b);

(b) in subsection (6), omit the definitions of “accepting” and “consumer credit business”.

(16) In Schedule 1A to the Act (further provision about the consumer financial education body)<sup>M16</sup>—

(a) in paragraph 7(4), omit paragraph (c) (but not the “and” following it);

(b) in paragraph 8(6), omit paragraph (c);

(c) omit paragraph 10(1) and the heading immediately before it;

(d) in paragraph 10(2), for “that Act” substitute “ the Consumer Credit Act 1974 ”;

(e) omit paragraph 13.

(17) In Schedule 2 (regulated activities), in paragraph 24C<sup>M17</sup>—

(a) in sub-paragraph (1), for “regulated person” substitute “ person who is carrying on a regulated activity ”;

(b) omit sub-paragraph (2).

(18) In Schedule 3 (EEA passport rights)—

(a) in paragraph 15<sup>M18</sup>, omit sub-paragraphs (3) and (4);

(b) omit paragraph 23<sup>M19</sup>.

(19) In Schedule 6 (threshold conditions)<sup>M20</sup>—

(a) in paragraph 2C, after sub-paragraph (1), insert—

“(1A) Paragraphs (a), (b) and (e) of sub-paragraph (1) do not apply where the only regulated activities that the person concerned carries on, or seeks to carry on, are relevant credit activities.”;

(b) in paragraph 2D—

(i) in sub-paragraph (3), for “The matters” substitute “ Except in a case within sub-paragraph (3A), the matters ”;

(ii) after sub-paragraph (3) insert—

“(3A) Where the only regulated activities that A carries on, or seeks to carry on, are relevant credit activities, A has adequate financial resources if A is capable of meeting A's debts as they fall due.”;

(c) in paragraph 2F, after sub-paragraph (2) insert—

“(3) This paragraph does not apply where the only regulated activities that the person concerned carries on, or seeks to carry on, are relevant credit activities.”;

(d) after paragraph 2F insert—

### “Interpretation

**2G.—**(1) In this Part of this Schedule, each of the following is a “relevant credit activity”—

- (a) an activity of the kind specified by article 36A of the Regulated Activities Order (credit broking) when carried on in the case specified in sub-paragraph (3), (4) or (5),
- (b) an activity of the kind specified by article 39D of that Order (debt adjusting) when carried on—
  - (i) in the case specified in sub-paragraph (3), by a person who also carries on an activity of the kind specified by paragraph (a),
  - (ii) by a person who also carries on an activity of the kind specified by paragraph (d) or (e), or
  - (iii) by a not-for-profit body,
- (c) an activity of the kind specified by article 39E of that Order (debt-counselling) when carried on—
  - (i) in the case specified in sub-paragraph (3), by a person who also carries on an activity of the kind specified by paragraph (a),
  - (ii) by a person who also carries on an activity of the kind specified by paragraph (d) or (e), or
  - (iii) by a not-for-profit body,
- (d) an activity of the kind specified by article 60B of that Order (regulated credit agreements) if—
  - (i) it is carried on by a supplier,
  - (ii) no charge (by way of interest or otherwise) is payable by the borrower in connection with the provision of credit under the regulated credit agreement, and
  - (iii) the regulated credit agreement is not a hire-purchase agreement or a conditional sale agreement,
- (e) an activity of the kind specified by article 60N of that Order (regulated consumer hire agreements),
- (f) an activity of the kind specified by article 89A of that Order (providing credit information services) where carried on by a person who also carries on an activity of the kind specified by any of paragraphs (a) to (e), or
- (g) an activity of the kind specified by article 64 of that Order (agreeing to carry on specified kinds of activity) so far as relevant to any of the activities specified in paragraphs (a) to (f).

(2) But an activity is not a relevant credit activity for the purposes of—

- (a) paragraph (a) to (e) of sub-paragraph (1), and
- (b) paragraph (g) of that sub-paragraph so far as it relates to activities of the kind specified by any of those paragraphs,

if it relates to an agreement under which the obligation of the borrower to repay is secured, or is to be secured, by a legal mortgage on land.

(3) The case specified in this sub-paragraph is where a supplier (other than a domestic premises supplier) carries on the activity for the purposes of, or in connection with, the

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**Changes to legislation:** *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, Section 10 is up to date with all changes known to be in force on or before 12 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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sale of goods or supply of services by the supplier to a customer (who need not be the borrower under the credit agreement or the hirer under the consumer hire agreement).

(4) The case specified in this sub-paragraph is where the activity relates to a green deal plan.

(5) The case specified in this sub-paragraph is where the activity relates to a consumer hire agreement where the goods being hired is a vehicle.

(6) For the purposes of this paragraph—

“borrower” includes—

- (a) any person providing a guarantee or indemnity under an agreement, and
- (b) a person to whom the rights and duties of the borrower under an agreement or a person falling within paragraph (a) have passed by assignment or operation of law;

“conditional sale agreement” has the meaning given by article 60L of the Regulated Activities Order;

“customer” means a person to whom a supplier sells goods or supplies services or agrees to do so;

“domestic premises supplier” means a supplier who sells goods or supplies services to customers who are individuals while physically present in the dwelling of the customer or in consequence of an agreement concluded whilst the supplier was physically present in the dwelling of the customer (though a supplier who does so on an occasional basis is not to be treated as a “domestic premises supplier”);

“green deal plan” has the meaning given by section 1 of the Energy Act 2011 <sup>M21</sup>;

“hire-purchase agreement” has the meaning given by the Regulated Activities Order;

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income and any capital it expends for charitable or public purposes, and
- (b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes);

“Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

“regulated credit agreement” has the meaning given by the Regulated Activities Order;

“supplier” means a person whose main business is to sell goods or supply services and not to carry on a regulated activity, other than an activity of the kind specified by article 60N of the Regulated Activities Order (regulated consumer hire agreements).”.

(20) Schedule 16 (prohibitions and restrictions imposed by the Office of Fair Trading) <sup>M22</sup> is omitted.

(21) In Schedule 17 (the ombudsman scheme) <sup>M23</sup>—

- (a) in paragraph 3(4), omit “, the function of making consumer credit rules, the function of making determinations under section 234A(1)”;
- (b) in paragraph 7(2), omit “, functions in relation to its consumer credit jurisdiction”;
- (c) in paragraph 9(3), omit “, consumer credit”;
- (d) in paragraph 10(1), omit “or to the consumer credit jurisdiction”;

- (e) in paragraph 11, omit “or to the consumer credit jurisdiction”;
- (f) omit Part 3A.

#### Marginal Citations

- M1** Inserted by the Financial Services Act 2012, section 6.
- M2** Section 203 was amended by the [Enterprise Act 2002 \(c.40\)](#), [Schedule 25](#), paragraph 40(1) and (7), the [Consumer Credit Act 2006 \(c.14\)](#), [section 33](#), and S.I. 2000/2952. Section 204 was amended by the Enterprise Act 2002, Schedule 25, paragraph 40(1) and (8).
- M3** Inserted by the Consumer Credit Act 2006, section 59.
- M4** Amended by the Consumer Credit Act 2006, section 61.
- M5** Amended by the Consumer Credit Act 2006, section 61.
- M6** Amended by the Consumer Credit Act 2006, section 61.
- M7** Inserted by the Consumer Credit Act 2006, Schedule 2.
- M8** Amended by the Consumer Credit Act 2006, section 61.
- M9** Inserted by the Consumer Credit Act 2006, section 60.
- M10** Inserted by the Financial Services Act 2012, section 43.
- M11** Amended by [S.I. 2003/1473](#).
- M12** OJ L 133/66 22.5.2008 p.1.
- M13** Amended by the Consumer Credit Act 2006, section 61.
- M14** Amended by the Enterprise Act 2002, Schedule 25, paragraph 40(1) and (17).
- M15** Inserted by of the Financial Services Act 2010, section 14.
- M16** Inserted by the Financial Services Act 2010, Schedule 1.
- M17** Inserted by the Financial Services Act 2012, section 7.
- M18** Amended by the Enterprise Act 2002, Schedule 25, paragraph 40(1) and (19)(a), and the Consumer Credit Act 2006, section 33.
- M19** Amended by the Enterprise Act 2002, Schedule 25, paragraph 40(1) and (19)(b), the Consumer Credit Act 2006, section 33, and the Financial Services Act 2012, Schedule 4, paragraphs 1 and 15.
- M20** Amended by S.I 2013/555.
- M21** [2011 c.16](#).
- M22** Amended by the Enterprise Act 2002, Schedule 25, paragraphs 40(1) and (21).
- M23** Amended by section 59 of the Consumer Credit Act 2006.

**Changes to legislation:**

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, Section 10 is up to date with all changes known to be in force on or before 12 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)