STATUTORY INSTRUMENTS

2015 No. 2061

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2015

Made - - - -	*17th December 2015*
Laid before Parliament	*18th December 2015*
Coming into force - -	*18th January 2016*

The Treasury, in exercise of the powers conferred by section 235(5) of the Financial Services and Markets Act 2000(**1**), make the following Order.

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2015 and comes into force on 18th January 2016.

The Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001

2. In the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001(**2**) in the Schedule, after paragraph 6 (common accounts) insert—

"**Electronic systems in relation to lending**

6A.—(1) Arrangements do not amount to a collective investment scheme in so far as they are arrangements of a kind described in one of sub-paragraphs (2) to (5).

(2) Arrangements operated by a person who carries on an activity of the kind specified by article 36H(1) of the Regulated Activities Order(**3**) (operating an electronic system in relation to lending) where—

(a) the operating of the arrangements amount to the carrying on of an activity of the kind specified by article 36H of the Regulated Activities Order,

(**1**) 2000 c. 8.
(**2**) S.I. 2001/1062. There are amending instruments, but they are not relevant.
(**3**) "The Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), as amended by S.I. 2013/1881 (there are other amendments, but none that are relevant here), and as defined in article 2 of the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001,

(b) the arrangements amount to the holding of money on behalf of a lender or borrower under a relevant article 36H agreement, or with a view to a lender entering in to such an agreement, or

(c) the purpose of the arrangements is to compensate a lender when a borrower fails to pay any sum due to that lender under a relevant article 36H agreement.

(3) Arrangements forming a necessary part of the operation of arrangements of the kind specified in sub-paragraph (2)(a).

(4) Arrangements that—

(a) are operated by a person who is—

(i) an authorised person with permission to carry on an activity of the kind specified by article 36H(1) of the Regulated Activities Order,

(ii) an appointed representative in relation to that activity,

(iii) an exempt person in relation to that activity, or

(iv) a person to whom, as a result of Part 20 of the Act, the general prohibition does not apply in relation to that activity, and

(b) would consist of arrangements of the kind specified in sub-paragraphs (2) or (3) but for the fact that the arrangements do not concern facilitating an article 36H agreement, but concern facilitating persons becoming the lender and borrower under an agreement that is not an article 36H agreement only because it does not satisfy the conditions in article 36H(5) and (6) of the Regulated Activities Order.

(5) Arrangements with the purpose of winding up the operations of a person who operates or operated arrangements of the kind specified in sub-paragraphs (2) to (4).

(6) In this paragraph—

"article 36H agreement" has the meaning given in article 36H of the Regulated Activities Order;

"borrower" means

(a) a person who receives credit under an article 36H agreement or a person to whom the rights and duties of a borrower under such an agreement have passed by assignment or operation of law, or

(b) for the purposes of sub-paragraph (4)(b), a person who receives credit under an agreement of the kind described in sub-paragraph (4)(b) or a person to whom the rights and duties of a borrower under such an agreement have passed by assignment or operation of law;

"credit" has the meaning given in article 60L of the Regulated Activities Order(**4**) (interpretation of Chapter 14A etc);

"lender" means—

(a) a person providing credit under an article 36H agreement,

(b) a person who by assignment or operation of law has assumed the rights of a person who provided credit under such an agreement, or

(c) for the purposes of sub-paragraph (4)(b), a person providing credit under an agreement of the sort described in sub-paragraph (4)(b), or a person who by assignment or operation of law has assumed the rights of a person who provided credit under such an agreement; and

(**4**) Inserted by S.I. 2013/1881. There are other amending instruments, but none are relevant here.