STATUTORY INSTRUMENTS

2015 No. 1863

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 3) Order 2015

Made - - - - 4th November 2015

Coming into force in accordance with article 1

In the opinion of the Treasury, one of the effects of this Order is that an activity which is not a regulated activity, within the meaning of the Financial Services and Markets Act 2000(**1**), will become a regulated activity.

A draft of this Order has been laid before and approved by a resolution of each House of Parliament in accordance with paragraph 26(2) of Schedule 2 to the Financial Services and Markets Act 2000(**2**).

The Treasury make this Order in exercise of the powers conferred on them by section 22(1) and (5) of the Financial Services and Markets Act 2000.

Citation and commencement

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 3) Order 2015.

(2) The following provisions come into force on the day after the day on which this Order is made—

(a) this article; and

(b) article 2, for the purposes of enabling the making and determination of applications for a permission, or for variation of a permission, to be given under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activities)(**3**).

(3) Paragraphs (1) and (2) of article 2 come into force for all other purposes on 1st January 2016.

(4) Paragraphs (3) to (5) of article 2 come into force for all other purposes immediately after the commencement in full of paragraph 4 of Schedule 1 to the Mortgage Credit Directive Order 2015(**4**) (amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001) on 21st March 2016.

(**1**) 2000 c. 8.
(**2**) Paragraph 26 of Schedule 2 was substituted by section 8 of the Financial Services Act 2012 (c. 21).
(**3**) Part 4A was substituted by section 11 of the Financial Services Act 2012.
(**4**) S.I. 2015/910. There are amendments to the Order but none is relevant here.

Amendment of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

2.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**5**) is amended as follows.

(2) In article 60C (exempt agreements: exemption relating to the nature of the agreement) for paragraph (2) substitute—

"(2) A credit agreement is an exempt agreement if—

(a) by entering into the agreement as lender, a person is or was carrying on an activity of a kind specified by article 61(1) (entering into regulated mortgage contracts); or

(b) by entering into the agreement as home purchase provider, a person is or was carrying on an activity of a kind specified by article 63F(1) (entering into regulated home purchase plans).".

(3) In article 60C(2) (as substituted by paragraph (2) of this article)—

(a) omit "or" after sub-paragraph (a); and

(b) after sub-paragraph (b) insert—

"; or

(c) in the case of an agreement entered into before 31st October 2004, by administering the agreement on 21st March 2016 a person is carrying on an activity of a kind specified by article 61(2) (administering regulated mortgage contracts).".

(4) In article 61 (regulated mortgage contracts), in paragraph (2) for ", where the contract was entered into by way of business after the coming into force of this article" substitute—

"where—

(a) the contract was entered into by way of business on or after 31st October 2004; or

(b) the contract—

(i) was entered into by way of business before 31st October 2004, and

(ii) was a regulated credit agreement immediately before 21st March 2016.".

(5) In article 61A (mortgage contracts which are not regulated mortgage contracts)—

(a) in paragraph (1)—

(i) omit "or" after sub-paragraph (d); and

(ii) after sub-paragraph (e) insert—

"; or

(f) an exempt equitable mortgage bridging loan;"; and

(b) in paragraph (6) after the definition of "exempt consumer buy-to-let mortgage contract" insert—

""exempt equitable mortgage bridging loan" is a contract that—

(a) is a bridging loan;

(b) is secured by an equitable mortgage on land; and

(c) is an exempt agreement within the meaning of article 60B(3) (regulated credit agreements) by virtue of article 60E(2) (exempt agreements: exemptions relating to the nature of the lender).".

(**5**) S.I. 2001/544. Article 60C was inserted by S.I. 2013/1881 and amended by S.I. 2014/366 and 1850. Article 61 was amended by S.I. 2001/3544, 2005/2114, 2006/2383, 2010/2960 and 2015/910. Article 61A was inserted by S.I. 2015/910.