STATUTORY INSTRUMENTS

2015 No. 1557

FINANCIAL SERVICES AND MARKETS

The Mortgage Credit Directive (Amendment) Order 2015

Made - - - -	*20th July 2015*
Laid before Parliament	*21st July 2015*
Coming into force in accordance with article 1	

The Treasury are a government department designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to financial services.

The Treasury make this Order in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972 and section 22(1) of the Financial Services and Markets Act 2000 [F3].

F1 S.I. 2012/1759.

F2 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and the European Union (Amendment) Act 2008 (c. 7), **Sch**edule, Part 1. By virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c. 51) legislation may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1992 (Cm 2183).

F3 2000 c. 8. Section 22(5) provides that "specified" means specified in an order made by the Treasury. Paragraph 25(1)(f) of Schedule 2 to that Act provides that an order under section 22(1) may make such consequential, transitional or supplemental provision as the Treasury consider appropriate for purposes of, or connected with, any relevant provision, and "relevant provision" is defined in sub-paragraph (3) of that paragraph to include any provision made under section 22.

Citation and commencement

1.—(1) This Order may be cited as the Mortgage Credit Directive (Amendment) Order 2015.

(2) This article and article 2 come into force on 20th September 2015.

(3) Article 3 comes into force on 21st March 2016.

Amendment of the Mortgage Credit Directive Order 2015

2.—(1) The Mortgage Credit Directive Order 2015 [F4] is amended as follows.

(2) In article 2(1) (interpretation), in the definition of "consumer credit back book mortgage contract", in sub-paragraph (a)—

(a) at the end of paragraph (ii) omit "and"; and

(b) after paragraph (ii) insert—

"(iii) would not be an exempt agreement within the meaning of article 60B(3) of the Regulated Activities Order by virtue of article 60D of that Order (exempt agreements: exemption relating to the purchase of land for non-residential purposes) if it were entered into immediately before 21st March 2016, and".

(3) In article 27 (transitional provision: person with Part 4A permission to carry on an activity in relation to a regulated mortgage contract before 21st March 2016), in paragraph (1) after "36A," insert " 53A, ".

(4) In article 31 (transitional provision: person subject to the Consumer Credit Act 1974 who chooses to adopt new rules before 21st March 2016)—

(a) in paragraph (1)(c)—

(i) for "the creditor has not" substitute " neither the creditor nor any credit-broker has "; and

(ii) for "Part 4" substitute " Part 5 ";

(b) in paragraphs (1)(d) and (2) after "creditor" insert " or any credit-broker "; and

(c) in paragraph (3) before the definition of "creditor" insert—

""credit-broker" has the meaning given in section 189(1) of the Consumer Credit Act 1974 [F5];".

(5) In Part 2 of Schedule 1 (amendments to secondary legislation), omit paragraph 3 (the Consumer Credit (Agreements) Regulations 1983).

(6) In Schedule 2 (requirements for registered consumer buy-to-let mortgage firms), for sub-paragraph (1) of paragraph 14 (foreign currency loans) substitute—

"(1) Where a borrower enters into a buy-to-let mortgage contract that is a foreign currency loan—

(a) either the borrower must have a right to convert the contract into an alternative currency if conditions specified by the creditor are met, or the creditor must put in place other arrangements to limit the exchange risk to which the borrower is exposed under the contract; and

(b) if sub-paragraph (4) applies, the creditor must give the borrower, on a regular basis, foreign currency risk warnings.".

F4 S.I. 2015/910.
F5 1974 c. 39. There are amendments to section 189(1) but none is relevant here.

Amendment of the Consumer Credit (Agreements) Regulations 1983

3. In regulation 8 of the Consumer Credit (Agreements) Regulations 1983 [F6] (application of regulations), for paragraph (1A)(b) substitute—

"(b) an agreement under which the creditor provides the debtor with credit exceeding £60,260 other than a residential renovation agreement, or".

F6 S.I. 1983/1553. Regulation 8 was amended by S.I. 2010/1010 and 1969 and 2013/1881, and was to be amended by S.I. 2015/910 until the amendment of that instrument by article 2(5) of this Order.