STATUTORY INSTRUMENTS

2015 No. 909

FINANCIAL SERVICES AND MARKETS

The Bank of England Act 1998 (Macro-prudential Measures) Order 2015

Made - - - -	*25th March 2015*
Coming into force - -	*6th April 2015*

In accordance with section 9N of the Bank of England Act 1998 [F1], a draft of this Order has been laid before Parliament and approved by a resolution of each House.

In accordance with section 9L(2) of the Bank of England Act 1998, the Treasury has consulted with the Financial Policy Committee of the Bank of England.

The Treasury make the following Order in exercise of the powers conferred by section 9I(2) and 9L of the Bank of England Act 1998 [F2]:

F1 1998 c.11, inserted by section 4 of the Financial Services Act 2012 (c.21).
F2 Inserted by section 4 of the Financial Services Act 2012.

Citation and Commencement

1. This Order may be cited as the Bank of England Act 1998 (Macro-prudential Measures) Order 2015 and comes into force on 6th April 2015.

Interpretation

2.—(1) In this Order—

"annual income" means the amount of the annual income (gross or net of tax and national insurance) verified by the lender when deciding to provide credit to the borrower;

"borrower" means an individual who receives credit; and includes an individual acting jointly with others, and an individual acting as a trustee who receives credit jointly with other trustees;

"cost benefit analysis" means—

(a) an analysis of the costs and benefits of any change in rules made pursuant to Part 9A **[**[F3]or section 192XA**]** of the Financial Services and Markets Act 2000 [F4] to give effect to a subsequent direction; and

(b) where the costs and benefits can reasonably be estimated and it is reasonably practicable to produce an estimate, an estimate of those costs and of those benefits;

"credit" includes a cash loan, and any other form of financial accommodation;

"debt-to-income ratio" means the ratio, calculated by the lender when deciding to enter into a relevant mortgage contract, of the borrower's total relevant debt to the borrower's annual income;

"excluded mortgage contract" means—

(a) a mortgage contract—

(i) which is offered to a particular class of borrower and not offered to the public generally;

(ii) which is offered under an enactment with a general interest purpose; and

(iii) where the terms on which the credit is provided are more favourable to the borrower than those prevailing on the market, because it meets one of the following conditions—

(aa) it is interest free;

(bb) the rate of interest is lower than that prevailing on the market at the date when the credit is provided;

(cc) the rate of interest is no higher than that prevailing on the market at the date when the credit is provided, but the other terms on which credit is provided are more favourable to the borrower;

(b) a mortgage contract where the agreement is entered into by the borrower, or by a trustee on behalf of a beneficiary, wholly or predominantly for the purpose of a business carried on, or intended to be carried on, by the borrower or beneficiary; or

(c) a remortgage;

"FCA" has the meaning given by section 1A of the Financial Services and Markets Act 2000 [F5];

"Financial Policy Committee" has the meaning given by section 9B of the 1998 Act [F6];

"lender" means a person providing credit by way of business;

"loan-to-value percentage" means, in relation to a provision of credit by a lender to a borrower, the aggregate amount of outstanding credit provided under all relevant mortgage contracts relating to the same land immediately after the last amount of credit is provided, as a percentage of the total value of the land as assessed by the lender for the purposes of deciding to provide credit to the borrower;

"mortgage" includes a charge and (in Scotland) a heritable security;

"mortgage contract " means a contract under which—

(a) the lender provides credit to the borrower;

(b) the obligation of the borrower to repay is secured by a mortgage on land whether or not in the United Kingdom; and

(c) at least 40% of that land is used, or is intended to be used, as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who is a beneficiary of the trust, or by a person who is a related person to the borrower or a related person to the individual who is the beneficiary of the trust;

"PRA" has the meaning given by section 2A of the Financial Services and Markets Act 2000 [F7];

"regulated persons" has the meaning given by section 9H(2) of the 1998 Act [F8];

"related person" means, in relation to a borrower, or in the case of credit provided to trustees, a beneficiary of the trust —

(a) that person's spouse or civil partner;

(b) a person (whether or not of the opposite sex) whose relationship with that person has substantially the same characteristics of a relationship between husband and wife or between civil partners; or

(c) that person's parent, brother, sister, child, grandparent or grandchild;

"relevant credit agreement" means—

(a) a credit agreement within the meaning of article 60B(3) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 [F9], but excluding a relevant mortgage contract and the types of agreement described in articles 60D [F10], 60F(5) [F11] and 60F(6) [F12], 60G(3) [F13] and 60G(4) [F14] of that Order; and

(b) a consumer hire agreement within the meaning of article 60N(3) [F15] of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, but excluding the type of agreement described in article 60P [F16] of that Order;

"relevant mortgage contract" means a mortgage contract other than an excluded mortgage contract;

"remortgage" means a mortgage contract under which the amount of credit provided by the lender to the borrower does not exceed that outstanding to the lender, or to a different lender, under:

(a) a previous mortgage contract; or

(b) any other type of contract under which the obligation to repay the credit is secured by a legal mortgage

which relates to the same land;

"the 1998 Act" means the Bank of England Act 1998;

"total relevant debt" means the total amount of outstanding credit provided to a borrower pursuant to—

(a) any relevant credit agreement; and

(b) any relevant mortgage contract.

(2) For the purposes of assessing the amount of credit provided under a remortgage contract, the lender may disregard a reasonable sum in respect of any of the following fees or costs—

(a) arrangement fees;

(b) professional fees and costs;

(c) redemption fees for redeeming a previous mortgage contract which relates to the same land;

(d) administration costs.

(3) Any reference to 'specified' in the first column of the table in article 3 of this Order means specified by the Financial Policy Committee in a direction made under section 9H of the 1998 Act by reference to this Order.

F3 Words in art. 2(1) inserted (21.7.2021) by The Bank of England Act 1998 (Macro-prudential Measures) (Amendment) Order 2021 (S.I. 2021/869), arts. 1(2), **3(2)**
F4 Inserted by section 24 of the Financial Services Act 2012.
F5 Inserted by section 6(1) of the Financial Services Act 2012.
F6 Inserted by section 4 of the Financial Services Act 2012.
F7 Inserted by section 6(1) of the Financial Services Act 2012.
F8 Inserted by section 4 of the Financial Services Act 2012.
F9 SI 2001/544, inserted by SI 2013/1881, articles 2 and 6.