STATUTORY INSTRUMENTS

2015 No. 731

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2015

Made - - - -	*16th March 2015*
Coming into force - -	*6th April 2015*

In accordance with paragraph 26 of Schedule 2 to the Financial Services and Markets Act 2000(**1**), a draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament.

In the opinion of the Treasury, one of the effects of the following Order is that an activity which is not a regulated activity would become a regulated activity.

The Treasury, in exercise of the powers conferred by sections 22(1) and (5) and 428(3) of, and paragraph 25(1)(a) of Schedule 2 to, the Financial Services and Markets Act 2000(**2**), make the following Order.

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2015, and comes into force on 6th April 2015.

Amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

2.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**3**) is amended as follows.

(2) After article 53D (advising on regulated sale and rent back agreements) insert—

"**Advising on conversion or transfer of pension benefits**

53E.—(1) Advising a person ("P") is a specified kind of activity if—

(a) the advice is given to P in P's capacity as—

(**1**) 2000 c. 8. Paragraph 26 of Schedule 2 was amended by section 8(3) of the Financial Services Act 2012 (c.21).
(**2**) Section 22 and paragraph 25 of Schedule 2 were amended by sections 7(1) and 8(2) of the Financial Services Act 2012.
(**3**) S.I. 2001/544 as amended by S.I. 2003/1475, 2006/1969, 2006/2383 and 2009/1342; there are other amending instruments, but they are not relevant.

(i) a member of a pension scheme; or

(ii) a survivor of a member of a pension scheme;

(b) P has subsisting rights in respect of any safeguarded benefits; and

(c) the advice is advice on the merits of P requiring the trustee or manager of the pension scheme to—

(i) convert any of the safeguarded benefits into different benefits that are flexible benefits under the scheme;

(ii) make a transfer payment in respect of any of the safeguarded benefits with a view to acquiring a right or entitlement to flexible benefits for P under another pension scheme; or

(iii) pay a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the safeguarded benefits.

(2) In this article—

"flexible benefit" means—

(a) a money purchase benefit;

(b) a cash balance benefit; or

(c) a benefit, other than a money purchase benefit or cash balance benefit, calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made by the member or any other person in respect of the member or any other factor);

"pension scheme" has the meaning given by section 1(5) of the Pension Schemes Act 1993(**4**) or section 1(5) of the Pension Schemes (Northern Ireland) Act 1993(**5**);

"safeguarded benefits" means benefits other than—

(a) money purchase benefits; and

(b) cash balance benefits;

"subsisting right"—

(a) in relation to a member of a pension scheme, means—

(i) any right which has accrued to or in respect of the member to future benefits under the scheme; or

(ii) any entitlement to benefits under the scheme; and

(b) in relation to a survivor of a member of a pension scheme means any right to future benefits, or entitlement to benefits, which the survivor has under the scheme in respect of the member;

"survivor", in relation to a member of a pension scheme, means a person who has survived the member and has a right to future benefits, or is entitled to benefits, under the scheme in respect of the member;

"trustees or managers" means—

(a) in relation to a scheme established under a trust, the trustees; and

(b) in relation to any other scheme, the managers; and

(**4**) 1993 c. 48. Section 1(5) was inserted by section 239(1) of the Pensions Act 2004 (c. 35).
(**5**) 1993 c. 49. Section 1(5) was inserted by S.I. 2005/255 (N.I. 1).