STATUTORY INSTRUMENTS

2015 No. 369

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2015

Made - - - -	*23rd February 2015*
Coming into force - -	*1st April 2015*

In accordance with paragraph 26(**1**) of Schedule 2 to the Financial Services and Markets Act 2000(**2**) and section 94 of the Financial Services Act 2012(**3**), a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Treasury, in exercise of the powers conferred by sections 22(1A)(**4**) and (5) and 428(3) of, and paragraph 25(**5**) of Schedule 2 to, the Financial Services and Markets Act 2000 and section 93(4) of the Financial Services Act 2012, make the following Order.

In the opinion of the Treasury, one of the effects of the following Order is that an activity which is not a regulated activity (within the meaning of the Financial Services and Markets Act 2000) will become a regulated activity and a benchmark that is not a relevant benchmark (within the meaning of section 93(4) of the Financial Services Act 2012) will become a relevant benchmark.

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2015 and comes into force on 1st April 2015.

Interpretation

2. In this Order—

"the Act" means the Financial Services and Markets Act 2000;

"administering" a specified benchmark has the meaning given in paragraph (2)(b) of article 63O(**6**) of the Regulated Activities Order (specified benchmarks);

(**1**) Paragraph 26 was substituted by the Financial Services Act 2012, section 8(1), (3).
(**2**) 2000 c.8.
(**3**) 2012 c.21.
(**4**) Section 22(1A) was inserted by the Financial Services Act 2012, section 7(1)(a).
(**5**) Paragraph 25 was amended by the Financial Services Act 2012, section 8(1), (2).
(**6**) Article 63O was inserted by the Financial Services and Markets Act 2000 (Regulated Activities (Amendment) Order 2013, SI 2013/655, arts 4, 5.

"providing information" in relation to a specified benchmark has the meaning given in paragraph (2)(a) of article 63O of the Regulated Activities Order; and

"the Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**7**).

Amendment of the Regulated Activities Order

3. For Schedule 5 to the Regulated Activities Order substitute—

"SCHEDULE 5 Article 63R

SPECIFIED BENCHMARKS

The benchmarks known by the following names are specified—

1. The London Interbank Offered Rate, also known as LIBOR;

2. ISDAFIX(**8**);

3. Sterling Overnight Index Average, also known as SONIA;

4. Repurchase Overnight Index Average, also known as RONIA;

5. WM/Reuters London 4 p.m. Closing Spot Rate;

6. London Gold Fixing(**9**);

7. LBMA Silver Price;

8. ICE Brent Index.".

Transitional provisions

4.—(1) Paragraph (2) applies to a person ("A") who, on the last working day before 1st April 2015, was an authorised person whose Part 4A permission did not include either of the activities specified in article 63O of the Regulated Activities Order in relation to a specified benchmark and—

(a) who provided information to the administrator of a benchmark, which, if provided on 1st April 2015, would be provided in relation to a specified benchmark; or

(b) who administered a benchmark that on 1st April 2015 is a specified benchmark.

(2) A is to be treated as having a Part 4A permission varied on 1stApril 2015 to carry on the activity of providing information in relation to a relevant specified benchmark or the activity of administering a relevant specified benchmark, as applicable.

(3) A Part 4A permission that is treated as having been varied under this article is to be treated as being varied by—

(a) in the case of a PRA authorised person, the PRA; or

(b) in the case of any other authorised person, the FCA.

(4) For the purposes of this article, the administrator of a benchmark is a person who is—

(a) administering the arrangements for determining the benchmark;

(b) collecting, analysing or processing information or expressions of opinion provided by third parties for the purpose of determining the benchmark; or

(**7**) S.I. 2001/544. The relevant amending instruments are S.I. 2009/1389 and S.I. 2013/655
(**8**) It is proposed that ISDAFIX will be known as ICE Swap Rate from some time in 2015.
(**9**) It is proposed that the London Gold Fixing benchmark will be known as LBMA Gold Price from some time in 2015.

(c) determining the benchmark through the application of a formula or other method of calculation to the information or expressions of opinion provided for that purpose.

Interim permission

5.—(1) Paragraph (2) applies to a person ("B") who is not an authorised person and who on the last working day before 1st April 2015 was carrying on the activities of providing information in relation to or administering a benchmark that on 1st April 2015 would be the activities of providing information in relation to or administering a specified benchmark ("S").

(2) B is to be treated as having a Part 4A permission to carry on the activity of providing information in relation to or administering S, as applicable.

(3) The Part 4A permission which B is to be treated as having is referred to in this Order as an "interim permission".

(4) B's interim permission lapses on the earliest of—

(a) the date specified in a notice of cancellation of permission given under this sub-paragraph by the FCA;

(b) the cancellation of permission by the FCA under section 55H(**10**) of the Act (variation by FCA at request of authorised person); or

(c) the exercise by the FCA of its power under section 55J(**11**) of the Act (variation or cancellation on initiative of regulator).

(5) A notice of cancellation of permission under paragraph (4)(a) may only be given by the FCA when—

(a) whether in relation to B or another person, a Part 4A permission is given or an existing Part 4A permission is varied so as to include permission to carry on the activity of providing information in relation to, or administering, S; or

(b) B fails to make an application for a Part 4A permission within 3 months beginning with 1st April 2015.

(6) A notice of cancellation of permission given to B under paragraph (4)(a) must be given—

(a) in writing; and

(b) at least 7 days in advance of the cancellation of the interim permission.

(7) For the purposes of paragraph (4)(a), section 55Z(**12**) of the Act (cancellation of Part 4A permission: procedure) does not apply.

Application of the FCA's rules etc. to persons with interim permission

6.—(1) The FCA may direct in writing that any relevant provision which would otherwise apply to a person by virtue of an interim permission is not to apply, or is to apply to that person as modified in the way specified in the direction.

(2) Where the FCA makes a rule, gives guidance or issues a statement or code which applies only to persons with an interim permission (or only to a class of such persons), the following sections of the Act do not apply to that rule, guidance, statement or code—

(a) section 63D(**13**) (statement of policy: procedure);

(**10**) Inserted by the Financial Services Act 2012, section 11(2).
(**11**) Inserted by the Financial Services Act 2012, section 11(2).
(**12**) Inserted by the Financial Services Act 2012, section 11(2).
(**13**) Inserted by the Financial Services Act 2010, section 11 and amended by the Financial Services Act 2012, Schedule 5, paragraphs 11(2)(a), (b), 11(3), 11(4)(a), (b).