Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 ISBN 978-0-11-110837-6*

Draft Order laid before Parliament under paragraph 26 of Schedule 2 to the Financial Services and Markets Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013

Made - - - -	***
Coming into force - -	*2nd April 2013*

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(**1**)) will become a regulated activity.

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

In accordance with paragraph 26 of Schedule 2 to that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

GENERAL

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 and comes into force on 2nd April 2013.

Interpretation

2. In this Order—

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

(**1**) 2000 c.8 as amended, most recently by the Financial Services Act 2012 (c. 21). Section 6 inserts sections 1G and 1H, section 11 inserts sections 55A, 55E, 55F, 55H, 55J, 55L and 55Z, section 24 inserts sections 138I and 139D and section 6 and Schedule 3 insert Schedule 1ZA.

(**2**) Section 22(1A) is inserted by section 7 of the Financial Services Act 2012.

"the FCA" means the Financial Conduct Authority;

"the PRA" means the Prudential Regulation Authority; and

"the Principal Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**3**).

PART 2

AMENDMENTS OF PRIMARY LEGISLATION

Amendments of the Financial Services and Markets Act 2000

3.—(1) The Act is amended as follows.

(2) In section 1G (meaning of "consumer"), in subsection (1)—

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

(b) at the end of paragraph (d) insert—

", or

(e) have rights, interests or obligations that are affected by the level of a regulated benchmark".

(3) In section 1H (further interpretative provisions for sections 1B to 1G), after subsection (7) insert—

"(7A) "Regulated benchmark" means a benchmark, as defined in section 22(6), in relation to which any provision made under section 22(1A)(b) has effect".

(4) In section 425A(**4**) (consumers: regulated activities etc carried on by authorised persons)—

(a) at the end of subsection (2)(a), omit "or";

(b) at the end of subsection (2)(b), after "services" insert—

"; or

(c) whose rights, interests or obligations are affected by the level of a regulated benchmark"; and

(c) in subsection (7), after the definition of "credit institution", insert—

""regulated benchmark" means a benchmark, as defined in section 22(6), in relation to which any provision made under section 22(1A)(b) has effect.".

PART 3

AMENDMENTS OF THE PRINCIPAL ORDER

Amendment of the Principal Order

4. The Principal Order is amended as follows.

(**3**) S.I. 2001/544 as amended by S.I. 2009/1389; there are other amending instruments but none are relevant.
(**4**) Inserted by sections 24(1) and (2) of and Schedule 2, Part 1, paragraphs 1 and 32 to the Financial Services Act 2010 (c. 28).

Specified benchmarks

5. After article 63N(**5**) insert—

"CHAPTER 15E

SPECIFIED BENCHMARKS

The activities

Specified benchmarks

63O.—(1) The following are specified kinds of activity—

(a) providing information in relation to a specified benchmark;

(b) administering a specified benchmark.

(2) In this Chapter—

(a) "providing information" in relation to a specified benchmark means providing any information or expression of opinion that is—

(i) provided to, or for the purpose of passing to, a person who has permission to carry on the activity specified in paragraph (1)(b) in relation to that specified benchmark;

(ii) required in connection with the determination of the specified benchmark; and

(iii) provided for the purpose of determining the specified benchmark;

(b) "administering" a specified benchmark means—

(i) administering the arrangements for determining a specified benchmark;

(ii) collecting, analysing or processing information or expressions of opinion provided for the purpose of determining a specified benchmark;

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

Publicly available factual data and subscription services

63P. A person does not carry on an activity of the kind specified by article 63O(1)(a) in relation to a specified benchmark where the information provided—

(a) consists solely of factual data obtained from a publicly available source; or

(b) is—

(i) compiled by a subscription service for purposes other than in connection with the determination of a specified benchmark;

(ii) provided to a person who has permission to carry on an activity of the kind specified by article 63O(1)(b) and who is a subscriber to the service; and

(iii) provided to such a person only in that person's capacity as a subscriber.

(**5**) Inserted by S.I. 2009/1389.