
STATUTORY INSTRUMENTS

2013 No. 1881

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013

PART 4

Amendments of secondary legislation made under the Act

The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009

19. In the Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 ^{M1}, after article 6 (specific exemptions in respect of friendly societies), insert—

“Specific exemptions in respect of consumer credit

6A.—(1) This article provides exemptions from the obligations in sections 178 and 191D of the Act ^{M2} in relation to a person (“A”) who decides to acquire, increase, reduce or cease to have control over a UK authorised person (“B”) who—

- (a) carries on regulated activities which are relevant credit activities, and
- (b) does not carry on any other regulated activities.

(2) Where A decides to acquire or increase control over B, A is exempt from the obligation imposed by section 178 unless giving effect to the decision would result in A beginning to be in the position of holding—

- (a) 33% or more of the shares in B or in a parent undertaking of B (“P”),
- (b) 33% or more of the voting power in B or P, or
- (c) shares or voting power in B or P as a result of which A is able to exercise significant influence over the management of B.

(3) Where A decides to reduce or cease to have control over B, A is exempt from the obligation imposed by section 191D unless giving effect to the decision would result in A ceasing to be in the position of holding—

- (a) 33% or more of the shares in B or in a parent undertaking of B (“P”),
- (b) 33% or more of the voting power in B or P, or
- (c) shares or voting power in B or P as a result of which A is able to exercise significant influence over the management of B.

(4) For the purposes of this article, each of the following is a “relevant credit activity”—

- (a) an activity of the kind specified by article 36A of the Regulated Activities Order (credit broking) when carried on in the case specified in paragraph (6), (7) or (8),
- (b) an activity of the kind specified by article 39D of that Order (debt adjusting) when carried on—

- (i) in the case specified in paragraph (6), by a person who also carries on an activity of the kind specified by sub-paragraph (a),
 - (ii) by a person who also carries on an activity of the kind specified by sub-paragraph (d) or (e), or
 - (iii) by a not-for-profit body,
 - (c) an activity of the kind specified by article 39E of that Order (debt-counselling) when carried on—
 - (i) in the case specified in paragraph (6), by a person who also carries on an activity of the kind specified by sub-paragraph (a),
 - (ii) by a person who also carries on an activity of the kind specified by sub-paragraph (d) or (e), or
 - (iii) by a not-for-profit body,
 - (d) an activity of the kind specified by article 60B of that Order (regulated credit agreements) if—
 - (i) it is carried on by a supplier,
 - (ii) no charge (by way of interest or otherwise) is payable by the borrower in connection with the provision of credit under the regulated credit agreement, and
 - (iii) the regulated credit agreement is not a hire-purchase agreement or a conditional sale agreement,
 - (e) an activity of the kind specified by article 60N of that Order (regulated consumer hire agreements),
 - (f) an activity of the kind specified by article 89A of that Order (providing credit information services) where carried on by a person who also carries on an activity of the kind specified by any of sub-paragraphs (a) to (e), or
 - (g) an activity of the kind specified by article 64 of that Order (agreeing to carry on specified activities) so far as relevant to any activity of the kind specified by sub-paragraphs (a) to (f).
- (5) But an activity is not a relevant credit activity for the purposes of—
- (a) sub-paragraphs (a) to (e) of paragraph (4), and
 - (b) sub-paragraph (g) of that paragraph so far as it relates to activities of the kind specified by any of those sub-paragraphs,
- if it relates to an agreement under which the obligation of the borrower to repay is secured, or is to be secured, by a legal mortgage on land.
- (6) The case specified in this paragraph is where a supplier (other than a domestic premises supplier) carries on the activity for the purposes of, or in connection with, the sale of goods or supply of services by the supplier to a customer (who need not be the borrower under the credit agreement or the hirer under the consumer hire agreement).
- (7) The case specified in this paragraph is where the activity relates to a green deal plan.
- (8) The case specified in this paragraph is where activity relates to a consumer hire agreement where the good being hired is a vehicle.
- (9) For the purposes of this regulation—
- “borrower” includes—
- (a) any person providing a guarantee or indemnity under an agreement, and

- (b) a person to whom the rights and duties of the borrower under an agreement or a person falling within sub-paragraph (a) have passed by assignment or operation of law;

“conditional sale agreement” has the meaning given by article 60L of the Regulated Activities Order;

“customer” means a person to whom a supplier sells goods or supplies services or agrees to do so;

“domestic premises supplier” means a supplier who sells goods or supplies services to customers who are individuals while physically present in the dwelling of the customer or in consequence of an agreement concluded whilst the supplier was physically present in the dwelling of the customer (though a supplier who does so on an occasional basis is not to be treated as a “domestic premises supplier”);

“green deal plan” has the meaning given by section 1 of the Energy Act 2011 ^{M3};

“hire-purchase agreement” has the meaning given by the Regulated Activities Order;

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income and any capital it expends for charitable or public purposes, and

- (b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes);

“Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

“regulated credit agreement” has the meaning given by the Regulated Activities Order;

“supplier” means a person whose main business is to sell goods or supply services and not to carry on a regulated activity, other than an activity of the kind specified by article 60N of the Regulated Activities Order (regulated consumer hire agreements).”.

Marginal Citations

M1 [S.I. 2009/774](#).

M2 [Sections 178 to 191G](#) were substituted by [S.I. 2009/534](#) and amended by the Financial Services Act 2012, section 26.

M3 [2011 c.16](#).

Changes to legislation:

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, Section 19 is up to date with all changes known to be in force on or before 02 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)