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STATUTORY INSTRUMENTS

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**2013 No. 1881**

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

**PART 8**

Transitional provisions

CHAPTER 4

Permission etc.

**Interim permission**

**56.**—(1) Unless paragraph (12) applies, on and after 1st April 2014, any relevant person (“P”) who, immediately before that date, held a standard licence under the 1974 Act<sup>M1</sup> is to be treated as having an interim permission to carry on—

- (a) if P’s licence covered the carrying on of an ancillary credit business in so far as it comprised or related to credit brokerage (within the meaning of the 1974 Act), the regulated activity specified in article 36A of the Regulated Activities Order (credit broking) and article 64 of that Order in so far as relevant to that activity;
- (b) if—
  - (i) P’s licence covered the carrying on of an ancillary credit business in so far as it comprised or related to the activity of debt-administration (within the meaning of the 1974 Act),
  - (ii) immediately before 1st April 2014, P carried on an activity which, if carried on after that date would be an activity of the kind specified by article 36H of the Regulated Activities Order (operating an electronic system in relation to lending), and
  - (iii) immediately before 1st April 2014, P did not also carry on an activity which, if carried on after that date, would be an activity of the kind specified by article 39G of that Order (debt administration),

the regulated activity specified in article 36H of the Regulated Activities Order and article 64 of that Order in so far as relevant to that activity;

- (c) if—
  - (i) P’s licence covered the carrying on of an ancillary credit business in so far as it comprised or related to the activity of debt-administration (within the meaning of the 1974 Act),
  - (ii) immediately before 1st April 2014, P carried on an activity which, if carried on after that date would be an activity of the kind specified by article 36H of the Regulated Activities Order (operating an electronic system in relation to lending), and

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(iii) immediately before that date, P also carried on an activity which, if carried on after that date, would be an activity of the kind specified by article 39G of that Order (debt administration),

the regulated activities specified in articles 36H and 39G of the Regulated Activities Order and article 64 of that Order in so far as relevant to those activities;

(d) to the extent that P's licence covers any other activities, those regulated activities which are activities which were described in the licence and article 64 of that Order in so far as relevant to those activities.

(2) On and after 1st April 2014, any relevant person (“P”) who, immediately before that date—

(a) held a standard licence under the 1974 Act,

(b) was a credit intermediary (within the meaning given by section 160A of the 1974 Act<sup>M2</sup>), but

(c) did not carry on an activity which, if carried on after 1st April 2014, would be an activity of the kind specified by article 36H of the Regulated Activities Order,

is to be treated as having an interim permission to carry on regulated activities of the kind specified by articles 36A(1)(d) to (f) of the Regulated Activities Order to the extent that P was carrying on such activities immediately before 1st April 2014 and article 64 of that Order in so far as relevant to that activity; and such interim permission may be in addition to any interim permission the person obtains by virtue of paragraph (1).

[<sup>F1</sup>(2A) On and after the relevant date, any relevant person (“P”) is to be treated as having an interim permission to carry on relevant mortgage activity.

(2B) For the purposes of paragraph (2A)—

(a) a person is a “relevant person” if—

(i) the person is a housing authority within the meaning of article 60E of the Regulated Activities Order,

(ii) the person has notified the FCA before 1st April 2016 that the person wishes to obtain an interim permission under paragraph (2A) to carry on relevant mortgage activity,

(iii) immediately before 1st April 2014 the person carried on an activity which would be relevant mortgage activity if carried on or after that date, and held a standard licence under the 1974 Act covering such activity,

(iv) immediately before 20th March 2016 the person did not hold an interim permission to carry on relevant mortgage activity, and

(v) the person did not previously obtain interim permission to carry on relevant mortgage activity under this article, or the person did obtain such an interim permission and the FCA did not cancel such permission or vary the permission by removing relevant mortgage activity from the activities to which the interim permission related, otherwise than on an application by the person;

(b) “the relevant date” means the later of—

(i) the date on which a person notifies the FCA that the person wishes to obtain an interim permission under paragraph (2A), or

(ii) 20th March 2016.

(2C) A person is to be treated as having notified the FCA that the person wishes to obtain an interim permission under paragraph (2A) to carry on relevant mortgage activity only if the notice has been given in writing and includes—

(a) the person's name and address,

- (b) the number of the person’s licence under the 1974 Act, and
- (c) confirmation that the person carries on relevant mortgage activity.

(2D) For the purposes of paragraphs (2A) to (2C), “relevant mortgage activity” means activity of the kind specified by article 60B(2) of the Regulated Activities Order (exercising, or having the right to exercise the lender’s rights and duties under a regulated credit agreement) in relation to agreements entered into before 1st April 2014 which, if entered into on or after 20th March 2016, would be exempt agreements pursuant to article 60E(5) of the Regulated Activities Order (mortgage lending by housing authorities).

(2E) Section 347 of the Act (the record of authorised persons etc.) does not apply in relation to a person who appears to the FCA to be an authorised person only by virtue of an interim permission obtained under paragraph (2A), but this does not prevent the FCA from maintaining a record of such persons.]

(3) On and after [<sup>F2</sup>the relevant date], any relevant person (“P”) who is a local authority is to be treated as having an interim permission to carry on regulated activities [<sup>F3</sup>of the kind specified by article 60B (regulated credit agreements)] which are activities which P was carrying on at any point in the period of one year ending on [<sup>F4</sup>1st April 2014].

<sup>F5</sup>(3A) .....

(4) For the purposes of paragraphs (1) [<sup>F6</sup>and (2)], P is a “relevant person” if P has, in the period beginning with 2nd September 2013 and ending on 31st March 2014 (including both days), notified the FCA of P’s desire to obtain interim permission under this article and paid any fee which is provided for in rules made by the FCA for this purpose.

[<sup>F7</sup>(4A) For the purposes of paragraph (3)—

- (a) P is a “relevant person” if P has, in the period beginning with 2nd September 2013 and ending on 30th September 2014 (including both days), notified the FCA of P’s desire to obtain interim permission under this article and paid any fee which is provided for in rules made by the FCA for this purpose;
- (b) “the relevant date” means the day after the later of—
  - (i) the day on which the local authority becomes a relevant person, and
  - (ii) 31st March 2014;
- (c) there is to be disregarded any activity carried on by P in the period of one year ending on 1st April 2014 in so far as it relates to an agreement secured on land.]

(5) On and after the notice date (see paragraph (7)), a relevant recent licensee (“P”) is to be treated as having an interim permission to carry on—

- (a) if P’s licence covered the carrying on of an ancillary credit business in so far as it comprised or related to credit brokerage (within the meaning of the 1974 Act), the regulated activity specified in article 36A of the Regulated Activities Order (credit broking) and article 64 of that Order in so far as relevant to that activity;
- (b) if—
  - (i) P’s licence covered the carrying on of an ancillary credit business in so far as it comprised or related to the activity of debt-administration (within the meaning of the 1974 Act),
  - (ii) immediately before 1st April 2014 P carried on an activity which, if carried on after that date would be an activity of the kind specified by article 36H of the Regulated Activities Order (operating an electronic system in relation to lending), and

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(iii) immediately before that date, P did not also carry on an activity which, if carried on after that date, would be an activity of the kind specified by article 39G of that Order (debt administration),

the regulated activity specified in article 36H of the Regulated Activities Order and article 64 of that Order in so far as relevant to that activity;

(c) if—

(i) P's licence covered the carrying on of an ancillary credit business in so far as it comprised or related to the activity of debt-administration (within the meaning of the 1974 Act),

(ii) immediately before 1st April 2014, P carried on an activity which, if carried on after that date would be an activity of the kind specified by article 36H of the Regulated Activities Order (operating an electronic system in relation to lending), and

(iii) immediately before that date, P also carries on an activity which, if carried on after that date, would be an activity of the kind specified by article 39G of that Order (debt administration),

the regulated activities specified in articles 36H and 39G of the Regulated Activities Order and article 64 of that Order in so far as relevant to those activities;

(d) to the extent that P's licence covers any other activities, those regulated activities which are activities which were described in the licence and article 64 of that Order in so far as relevant to those activities.

(6) Unless paragraph (12) applies, on and after the notice date, any relevant recent licensee (“P”) who, immediately before 1st April 2014—

(a) held a standard licence under the 1974 Act,

(b) was a credit intermediary (within the meaning given by section 160A of the 1974 Act <sup>M3</sup>), but

(c) did not carry on an activity which, if carried on after 1st April 2014, would be an activity of the kind specified by article 36H of the Regulated Activities Order,

is to be treated as having an interim permission to carry on regulated activities of the kind specified by articles 36A(1)(d) to (f) of the Regulated Activities Order and article 64 of that Order in so far as relevant to that activity, to the extent that P was carrying on such activities immediately before 1st April 2014; and such interim permission may be in addition to any interim permission the person obtains by virtue of paragraph (5).

(7) For the purposes of paragraphs (5) and (6), P is a “relevant recent licensee” if—

(a) P had been given a standard licence under the 1974 Act in the period beginning 18th March 2014 and ending on 31st March 2014 (including both days), and

(b) on a date in the period beginning on 1st April 2014 and ending on 14th April 2014 (including both days) (“the notice date”) P notified the FCA of P's desire to obtain interim permission under this article and has in that period paid any fee which is provided for in rules made by the FCA for this purpose.

(8) Interim permission which a person (“A”) is treated as having under this article does not permit A to canvass off trade premises borrower-lender-supplier agreements (within the meaning given by article 60L of the Regulated Activities Order) or regulated consumer hire agreements (within the meaning of article 60N of that Order) except to the extent that A's licence under the 1974 Act, immediately before 1st April 2014, specifically provided that A's licence covered that activity; and the reference to canvassing off trade premises is to be read with article 36B of that Order.

(9) Subject to article [<sup>F8</sup>59] (application of Act), an interim permission is to be treated as—

- (a) if P was an authorised person immediately before [<sup>F9</sup>1st April 2014], a variation of permission,
  - (b) in any other case, a Part 4A permission.
- (10) If P was, immediately before 1st April 2014, subject to a requirement imposed by the OFT under section 33A of the 1974 Act (power of OFT to impose requirements on licensees) <sup>M4</sup> and P obtains interim permission under this article, that requirement is to be treated as a requirement imposed by the FCA under section 55L of the Act (subject to any necessary modifications).
- (11) For the purpose of paragraphs (1) and (5), it is the effect of the licence that matters, not how the activities for which a licence is given are described.
- (12) This paragraph applies if—
- (a) P has, before 1st April 2014, notified the FCA that P does not wish to obtain interim permission under this article, or
  - (b) the FCA has, before 1st April 2014, notified P in writing, that in the FCA's opinion, P is not carrying on the activities which are described in P's licence.
- [<sup>F10</sup>(13) Paragraph (15) applies where, before 1st April 2014, the OFT—
- (a) had given a notice to P under section 32A(2) of the 1974 Act (suspension of a standard licence) that it is suspending P's licence, but
  - (b) had not determined under section 34ZA of that Act (representations to OFT: suspension under section 32A) whether or not to confirm such a decision.
- (14) Paragraph (15) also applies where, before 1st April 2014—
- (a) the OFT had—
    - (i) given a notice to P under section 32A(2) of the 1974 Act that it is suspending P's licence, and
    - (ii) confirmed under section 34ZA of that Act its determination under section 32A of that Act, and
  - (b) either—
    - (i) P had, submitted a notice of appeal to the First-tier Tribunal under section 41 of the 1974 Act (appeals to First-tier Tribunal under Part 3) with respect to that suspension and the appeal had not been determined, or
    - (ii) P had not submitted such a notice of appeal, but the specified period in respect of an appeal against the suspension had not expired.
- (15) For the purposes of this article—
- (a) P is to be treated as holding a licence under the 1974 Act immediately before 1st April 2014, and
  - (b) section 32A of that Act (power to suspend licence) is to be treated as if subsection (5) did not apply at that time.
- (16) In this article, “specified period” has the meaning given in section 41 of the 1974 Act.]

**F1** [Art. 56\(2A\)-\(2E\)](#) inserted (17.3.2016 for specified purposes, 20.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), art. 1(2)(3)(b), **7(2)** (with Pt. 5)

**F2** Words in art. 56(3) substituted (27.6.2014) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Transitional Provisions\) \(No. 3\) Order 2014 \(S.I. 2014/1446\)](#), arts. 1(2), **2(2)(a)**

**F3** Words in art. 56(3) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), art. 1(3)(4), **19(2)(a)**

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- F4** Words in art. 56(3) substituted (27.6.2014) by The Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) (No. 3) Order 2014 (S.I. 2014/1446), arts. 1(2), **2(2)(b)**
- F5** Art. 56(3A) omitted (27.6.2014) by virtue of The Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) (No. 3) Order 2014 (S.I. 2014/1446), arts. 1(2), **2(3)**
- F6** Words in art. 56(4) substituted (27.6.2014) by The Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) (No. 3) Order 2014 (S.I. 2014/1446), arts. 1(2), **2(4)**
- F7** Art. 56(4A) inserted (27.6.2014) by The Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) (No. 3) Order 2014 (S.I. 2014/1446), arts. 1(2), **2(5)**
- F8** Word in art. 56(9) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), art. 1(3)(4), **19(2)(c)(i)**
- F9** Words in art. 56(9)(a) substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366), art. 1(3)(4), **19(2)(c)(ii)**
- F10** Art. 56(13)-(16) inserted (1.4.2014) by The Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) Order 2014 (S.I. 2014/376), arts. 1, **10**

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#### **Marginal Citations**

- M1** “Standard licence” is defined in section 189 of the 1974 Act. By virtue of section 32A(5) of that Act, a licensee under a suspended licence is to be treated, in respect of the period of suspension, as if the licence had not been issued.
- M2** Inserted by [S.I. 2010/1010](#).
- M3** Inserted by [S.I. 2010/1010](#).
- M4** Inserted by the Consumer Credit Act 2006, section 38.

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**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](#)