
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Mortgage Credit (Amendment) (EU Exit) Regulations 2019

PART 2

Amendment of the 2015 Order

Amendment of the 2015 Order

3. The 2015 Order is amended by the following regulations of this Part.

Article 2 (interpretation)

4.—(1) At the beginning of article 2(2)(a) insert “subject to paragraph (3).”.

(2) After article 2(2) insert—

“(3) In this Order the expressions set out in paragraph (4) have the same meaning as in the mortgages directive subject to the modification made in paragraph (5).

(4) The expressions are—

- (a) “ancillary service” (in Article 4(4) of the mortgages directive);
- (b) “bridging loan” (in Article 4(23) of the mortgages directive);
- (c) “contingent liability or guarantee” (in Article 4(24) of the mortgages directive);
- (d) “creditworthiness assessment” (in Article 4(17) of the mortgages directive).

(5) The modification is that each reference in the expression concerned to “credit agreement” is to be read as if there were substituted a reference to “buy-to-let mortgage contract” (as defined in this Order).”.

Article 4 (interpretation of this Part)

5.—(1) Article 4 is amended as follows.

(2) In paragraph (1)—

(a) in the definition of “buy-to-let mortgage contract” for paragraph (b)(i) substitute—

“(i) falls within section 423A(2)(b) of the Act, and”;

(b) after the definition of “decision notice” insert—

““durable medium” means any instrument which enables a consumer to store information which is addressed personally to the consumer in a way accessible for future reference for a period of time adequate for the purposes for which the information is provided and which allows the unchanged reproduction of the information stored;”;

(c) after the definition of “related person” omit “and” and insert—

““staff” means—

- (a) any individual working for a creditor or credit intermediary who—

- (i) is directly engaged in consumer buy-to-let mortgage business, or
 - (ii) has contacts with consumers in the course of consumer buy-to-let mortgage business,
 - (b) any individual working for a relevant person (see paragraph (1A)) who has contacts with consumers in the course of consumer buy-to-let mortgage business, or
 - (c) any individual directly managing or supervising any individual falling within paragraph (a) or (b);”.
- (3) After paragraph (1) insert—
- “(1A) A “relevant person” is a person who, acting on behalf of and under the full and unconditional responsibility of only one credit intermediary, carries on one or more of the activities referred to in article 5(2) to (4).”.

Article 8 (register of consumer buy-to-let mortgage firms)

6. In article 8(3)(f) for the words “specified in Commission Delegated Regulation (EU) No 1125/2014” to the end substitute “of such insurance or guarantee specified for mortgage intermediaries in the FCA’s Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries as amended from time to time”.

Article 33 (review)

7. Omit article 33(2).

Schedule 2 (references to ‘credit agreement’)

- 8.—(1) In the paragraphs of Schedule 2 set out in paragraph (2)—
- (a) for “credit agreement” in each place it occurs substitute “buy-to-let mortgage contract”;
 - (b) for “credit agreements” in each place it occurs substitute “buy-to-let mortgage contracts”.
- (2) The paragraphs of Schedule 2 are—
- (a) paragraph 4(2)(c);
 - (b) paragraph 6(1)(b) and (2)(o);
 - (c) paragraph 9(6);
 - (d) paragraph 13(5)(a);
 - (e) paragraph 21.
- (3) In paragraph 21(17)(b) of Schedule 2 for “the agreement” substitute “the contract”.

Schedule 2, paragraph 5 (general information)

9. In paragraph 5(2)(c) of Schedule 2 for “in another EEA State” substitute “outside the United Kingdom”.

Schedule 2, paragraph 12 (disclosure and verification of borrower information)

10. In paragraph 12(2)(b) of Schedule 2 for “appointed representative” substitute “relevant person”.

Schedule 2, paragraph 14 (foreign currency loans)

11. In paragraph 14 of Schedule 2(1) for sub-paragraph (2)(b) substitute—
“(b) pounds sterling.”.

Schedule 2, paragraph 21 (additional assumptions for the calculation of the annual percentage rate of charge)

12. In paragraph 21 of Schedule 2—
- (a) in sub-paragraph (17)—
 - (i) for “central bank” substitute “Bank of England”;
 - (ii) for “the EEA State where the property is located” substitute “the United Kingdom”;
 - (b) insert after sub-paragraph (17)—
 - “(18) In this paragraph “total amount of credit” has the meaning given in paragraph 9(6).”.