

## STATUTORY INSTRUMENTS

# 2001 No. 544

## The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

### PART II

#### SPECIFIED ACTIVITIES

#### [<sup>F1</sup>CHAPTER 7B

#### ACTIVITIES IN RELATION TO DEBT

#### [<sup>F1</sup>Exclusions

#### Textual Amendments

- F1** Pt. II Ch. 7B inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), 5

#### Activities where person has a connection to the agreement

**39H.**—(1) There are excluded from articles 39D(1), 39E(1) and 39F(1) activities carried on by a person who is—

- (a) the lender under the agreement,
- (b) the supplier in relation to that agreement,
- (c) a person carrying on an activity of the kind specified by article 36A by way of business and who has acquired the business of the person who was the supplier in relation to the agreement, or
- (d) a person who would be carrying on an activity of the kind specified by article 36A by way of business but for the exclusion in article 36B where the agreement was made in consequence of an introduction (by that person or another person) to which article 36B applies.

[  
<sup>F2</sup>(1A) In so far as it applies to article 39F(1), the exclusion in paragraph (1)(a) does not apply to a lender under a credit agreement which is an exempt agreement by virtue of article 60C(4A).]

(2) There are excluded from articles 39D(2), 39E(2) and 39F(2) activities carried on by a person who is—

- (a) the owner under the consumer hire agreement, or
- (b) a person who would be carrying on an activity of the kind specified by article 36A by way of business but for the exclusion in article 36B where the agreement was made in

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consequence of an introduction (by that person or another person) to which article 36B applies.

(3) There is excluded from article 39G(1) steps taken under or in relation to an agreement [<sup>F3</sup>by] a person who is, in relation to that agreement, a person falling within paragraph (1)(a) to (d).

(4) There is excluded from article 39G(2) steps taken under or in relation to a consumer hire agreement [<sup>F4</sup>by] a person who is, in relation to that agreement, a person falling within paragraph (2) (a) or (b).

(5) In paragraph (1), “supplier”, in relation to an agreement, means—

- (a) a person, other than the lender, whose transaction with the borrower is, or is to be, financed by the agreement, or
- (b) a person to whom the rights and duties of a person falling within sub-paragraph (a) have been passed by assignment or operation of law.

#### Textual Amendments

- F2** Art. 39H(1A) inserted (4.5.2020) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Coronavirus\) \(Amendment\) Order 2020 \(S.I. 2020/480\)](#), arts. 1(2), **2(3)** (with art. 3)
- F3** Word in art. 39H(3) 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), **2(13)**
- F4** Word in art. 39H(4) 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), **2(13)**

#### Activities carried on by certain energy suppliers

**39I.**—(1) There are excluded from articles 39D, 39E, 39F and 39G activities carried on by a relevant energy supplier acting in that capacity in relation to debts due under a green deal plan associated with the supplier.

(2) A green deal plan is associated with a supplier if the payments under the plan are to be made to the supplier.

(3) In this article—

- (a) [<sup>F5</sup>“green deal plan” has the meaning given by section 1 of the Energy Act 2011;]
- (b) “relevant energy supplier” has the meaning given in regulations made for the purpose of section 2(9) of [<sup>F6</sup>that Act][<sup>F6</sup>the Energy Act 2011].

#### Textual Amendments

- F5** Art. 39I(3)(a) omitted (E.W.S.) (15.7.2014) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Green Deal\) \(Amendment\) Order 2014 \(S.I. 2014/1850\)](#), arts. 1(2), **4(a)** (with art. 1(3))
- F6** Words in art. 39I(3)(b) substituted (E.W.S.) (15.7.2014) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Green Deal\) \(Amendment\) Order 2014 \(S.I. 2014/1850\)](#), arts. 1(2), **4(b)** (with art. 1(3))

## Activities carried on in relation to a relevant agreement in relation to land

**39J.** There [<sup>F7</sup>is] excluded from articles 39D, 39E, 39F and 39G [<sup>F8</sup>any activity that relates] to a regulated mortgage contract or a regulated home purchase plan [<sup>F9</sup>to the extent that the activity constitutes an activity of the kind specified by a provision of Part 2 of this Order other than articles 39D, 39E, 39F and 39G, where entering into that contract as lender constitutes an activity of the kind specified by article 61 or entering into that plan as home purchase provider constitutes an activity of the kind under article 63F].

### Textual Amendments

- F7** Word in art. 39J 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), **2(14)(a)**
- F8** Words in art. 39J 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), **2(14)(b)**
- F9** Words in art. 39J 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), **2(14)(c)**

## [<sup>F10</sup>Activities carried on by members of the legal profession etc

- 39K.—**(1) There are excluded from articles 39D, 39E, 39F and 39G activities carried on by—
- a barrister or advocate acting in that capacity;
  - a solicitor (within the meaning of the Solicitors Act 1974) in the course of providing advocacy services or litigation services;
  - a solicitor (within the meaning of the Solicitors (Scotland) Act 1980) in the course of providing advocacy services or litigation services;
  - a solicitor (within the meaning of the Solicitors (Northern Ireland) Order 1976) in the course of providing advocacy services or litigation services;
  - a relevant person (other than a person falling within sub-paragraph (a) to (d)) in the course of providing advocacy services or litigation services.

- (2) In paragraph (1)—

“advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide for the purpose of those proceedings or contemplated proceedings;

“litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to any proceedings, or contemplated proceedings, to provide for the purpose of those proceedings or contemplated proceedings;

“relevant person” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).]

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### Textual Amendments

- F10** Art. 39K substituted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **3(3)**

### Activities carried on by reason of providing pensions guidance <sup>F11</sup>...

**39KA.**—(1) There are excluded from article 39E activities carried on by reason of providing pensions guidance <sup>F12</sup>....

[<sup>F13</sup>(2) For the purposes of paragraph (1), pensions guidance means—

- (a) information or guidance provided by the Money and Pensions Service in carrying out its pensions guidance function (see section 3 of the Financial Guidance and Claims Act 2018);
- (b) information or guidance provided by another person with whom arrangements under section 5(1), (2) or (3) of the Financial Guidance and Claims Act 2018 are made to carry out the Money and Pensions Service’s pensions guidance function.]

### Textual Amendments

- F11** Words in art. 39KA heading omitted (21.7.2022) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/726\)](#), arts. 1(2), **2(4)(a)**
- F12** Words in art. 39KA(1) omitted (21.7.2022) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/726\)](#), arts. 1(2), **2(4)(b)**
- F13** Art. 39KA(2) substituted (21.7.2022) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/726\)](#), arts. 1(2), **2(4)(c)**

### [<sup>F14</sup>Other exclusions]

**39L.** Articles 39D, 39E, 39F and 39G are also subject to the [<sup>F15</sup>exclusions] in <sup>F16</sup>...[<sup>F17</sup>, article 72G (local authorities) and article 72H (insolvency practitioners)].]

### Textual Amendments

- F14** Art. 39L heading 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), **2(15)**
- F15** Word in art. 39L 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), **2(16)(a)**
- F16** Words in art. 39L omitted (31.12.2020) by virtue of [The Electronic Commerce and Solvency 2 \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1361\)](#), regs. 1(2), **5(3)(e)** (as amended by S.I. 2019/1390, regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in art. 39L 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), **2(16)(b)**

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

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 Pt. 1 para. 2(c) words substituted by [S.I. 2023/548 art. 2\(5\)](#)