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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 3

#### Amendments of the Act etc.

#### Obligations of certain [<sup>F1</sup>persons who carry on credit broking]

**12.**—[<sup>F2</sup>(1) This article applies to a person (“P”) who is within the description in paragraph (1A) or the description in paragraph (1B).

(1A) A person is within the description in this paragraph if the person—

- (a) is not an authorised person,
- (b) carries on an activity of the kind specified by article 36A(1)(d) to (f) of the Regulated Activities Order (credit broking), and
- (c) is not exempt from the general prohibition in relation to the carrying on of that activity by virtue of section 327(1) of the Act (exemption from the general prohibition for members of a designated professional body).

(1B) A person is within the description in this paragraph if the person would be carrying on an activity of the kind specified by article 36A(1)(d) to (f) (credit broking) of the Regulated Activities Order but for article 36B(1)(a) (introducing by individuals in the course of canvassing off trade premises), 36F (activities carried on by members of the legal profession etc) or 72G (local authorities) of that Order.]

(2) P must indicate in advertising and documentation intended for borrowers or those who may become a borrower the extent of P's powers, in particular whether P works exclusively for one or more lenders or does not work for any lender.

(3) P must disclose to the borrower or any person who may become a borrower the fee, if any, payable by the borrower to P for P's services.

(4) Any fee to be paid by the borrower to P must be agreed between the borrower and P and that agreement must be recorded in writing or other durable medium before the credit agreement is entered into.

(5) P must disclose to the lender the fee, if any, payable by the borrower to P for P's services for the purpose of enabling the lender to calculate the annual percentage rate of charge in relation to the credit agreement.

(6) In this article, “borrower” and “lender” have the meanings given by Article 60L of the Regulated Activities Order.

(7) A contravention by P of a provision of this article is actionable at the suit of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duties.

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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(8) “Private person” has the meaning prescribed for the purposes of section 138D of the Act (action for damages) <sup>F3</sup>.

(9) Sections 165 (regulator's power to require information: authorised persons etc.) <sup>F4</sup> and 167 (appointment of persons to carry out general investigations) <sup>F5</sup> apply as if each reference to an authorised person (except in section 165(11) and 167(2)) included a reference to a person who falls within paragraph (1).

(10) Part 14 of the Act (disciplinary measures) applies to the requirements imposed by this article as if each reference to an authorised person included a reference to a person who, at the time of the contravention of the requirement, fell within paragraph (1).

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| <b>F1</b> | Words in <a href="#">art. 12</a> heading substituted (30.3.2014) by <a href="#">The Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) (No. 2) Order 2014 (S.I. 2014/506)</a> , arts. 1(2), <b>5(2)</b>                       |
| <b>F2</b> | <a href="#">Art. 12(1)-(1B)</a> substituted for <a href="#">art. 12(1)</a> (30.3.2014) by <a href="#">The Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) (No. 2) Order 2014 (S.I. 2014/506)</a> , arts. 1(2), <b>5(3)</b> |
| <b>F3</b> | Inserted by the Financial Services Act 2012, section 24.  |
| <b>F4</b> | Amended by the Financial Services Act 2010, Schedule 2, paragraph 15, and the Financial Services Act 2012 Schedule 12, paragraphs 1 to 9. Modified by <a href="#">S.I. 2001/3083</a> .  |
| <b>F5</b> | Amended by the Financial Services Act 2012, Schedule 12, paragraph 7(1) to (3), and <a href="#">S.I. 2007/126</a> .   |

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

- Order power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)