
STATUTORY INSTRUMENTS

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 ^{F1} 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 ^{F2}), 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).

[^{F3}(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 [^{F4}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 [^{F5}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 [^{F6}1st April 2014].

^{F7}(3A)

(4) For the purposes of paragraphs (1) [^{F8}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.

[^{F9}(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^{F10}), 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 [F1159] (application of Act), an interim permission is to be treated as—

(a) if P was an authorised person immediately before [^{F12}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) ^{F13} 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.

[^{F14}(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 “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.

F2 Inserted by [S.I. 2010/1010](#).

F3 [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)

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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)(a)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** Inserted by [S.I. 2010/1010](#).
- F11** 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)**
- F12** 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)**
- F13** Inserted by the Consumer Credit Act 2006, section 38.
- F14** 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**

Procedure for notifying FCA

57.—(1) Notices under article 56 must—

- (a) be made in such manner as the FCA may direct; and
- (b) contain or be accompanied by such other information as the FCA may reasonably require.

(2) Different directions may be given and different requirements imposed, in relation to different applications or categories of application.

(3) At any time after receiving the notification, the FCA may require the person giving the notification to provide the FCA with such further information as it reasonably considers necessary to enable the FCA to discharge its functions.

(4) The FCA may require information to be provided in such form, or for it to be verified in such a way, as the FCA may direct.

Duration of interim permission

58.—(1) P's interim permission, in so far as it relates to a particular regulated activity or class of activity [^{F15}other than an activity to which paragraph (1A) applies] ceases to have effect—

- (a) if P applies to the appropriate regulator for Part 4A permission to carry on that activity or (as the case may be) to vary P's permission to add that activity to those to which the permission relates, before a date specified in a direction given by the FCA (" the application date "), the date on which that application is determined;
- (b) if P does not make such an application before the application date, the application date;
- (c) in any other case, 1st April 2016.

[^{F16}(1ZA) If P has obtained an interim permission by virtue of article 56(2A), 1st July 2016 is to be treated as the application date in relation to that interim permission unless the FCA specifies a different date in a direction made on or after 20th March 2016.]

[^{F17}(1A) Paragraphs (1B) and (1C) apply to an activity—

- (a) of a kind specified by article 36A [^{F18}, 39F(1), 39G(1)] or 60B of the Regulated Activities Order (regulated credit agreements) as that Order is in force before 21st March 2016; and
- (b) which, if carried on on or after 21st March 2016, would be of a kind specified by article 25A, 53A or 61 of the Regulated Activities Order by virtue of the amendments made to that Order by the Mortgage Credit Directive Order 2015 [^{F19}, the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.3) Order 2015 and the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016] .

(1B) P's interim permission ceases to have effect—

- (a) if P applies to the appropriate regulator before 21st March 2016 for Part 4A permission to carry on an activity of the kind specified by article 25A, 53A or 61 of the Regulated Activities Order or (as the case may be) to vary P's permission to add an activity of a kind specified by those articles to those to which the permission relates, on the date on which that application is determined; and
- (b) in any other case, on 21st March 2016;

(1C) P's interim permission is to be treated as an interim permission to carry on the activity from 21st March 2016 until the interim permission ceases to have effect, if—

- (a) P's interim permission continues to have effect on 21st March 2016 by virtue of paragraph (1B)(a), and
- (b) P had permission to carry on the activity immediately before 21st March 2016 by virtue of the interim permission.

(1D) If P's interim permission continues to have effect on 21st March 2016 by virtue of paragraph (1B)(a), from 21st March 2016 until the interim permission ceases to have effect the interim permission is to be treated as giving permission to carry on an activity which—

- (a) if carried on immediately before 21st March 2016, would not have been a regulated activity, and
- (b) becomes a regulated activity on 21st March 2016 by virtue of the amendments made to the Regulated Activities Order by the Mortgage Credit Directive Order 2015 [^{F20}, the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.3) Order 2015 and the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016] .

(2) [^{F21}Paragraphs (1) and (1B) to (1D) do] not affect the ability of the FCA or the PRA to vary or to cancel an interim permission under the Act.

(3) For the purposes of [^{F22}paragraphs (1)(a) and (1B)(a)] the date on which an application is determined is—

- (a) if the applicant by notice withdraws the application under section 55V(4) of the Act, the date on which the notice of withdrawal takes effect;
- (b) if the application is granted by the appropriate regulator, the date on which the written notice given under section 55V(5) of the Act takes effect;
- (c) if the appropriate regulator gives a decision notice under section 388 of the Act in relation to the application, the date on which that notice [^{F23}is given].

(4) Directions under this article may—

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- (a) relate to [^{F24}a particular person or class of person (including a class of person] identified by reference to whether they have, or have not, provided the FCA with a notification in a form specified in the direction by the FCA);
 - (b) contain different dates;
 - (c) relate to different descriptions of activities;
 - [^{F25}(ca) specify a date before which an application may not be made (“the opening date”), provided that the opening date is at least three months before the application date;]
 - (d) be amended by the FCA by further direction.
- [^{F26}(5) Subject to article 59(5) and (5A), an application made before the opening date is to be treated for the purposes of sections 55A (application for permission) and 55V (determination of applications) of the Act as if it had not been made.]
- ^{F27}[^{F28}(6) Where P’s interim permission ceases to have effect in accordance with paragraph (1) [^{F29}or (1B)]—
- (a) paragraph (6) applies in respect of an act or omission by P which occurred at a time when P had an interim permission;
 - (b) any requirement—
 - (i) imposed on P under section 55L, 55M or 404F(7) of the Act at a time when P had an interim permission, and
 - (ii) which is in effect immediately before that interim permission ceases to have effect, continues to have effect and paragraph (6) applies in respect of any contravention of that requirement.
- ^{F27}(7) If P is no longer an authorised person, P is to be treated as an authorised person for the purposes of the following provisions of the Act—
- (a) Part 11 (information gathering and investigations) and Part 14 (disciplinary measures);
 - (b) section 384 of the Act (power of FCA or PRA to require restitution).]

- F15** Words in art. 58(1) inserted (20.4.2015) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(3), **Sch. 1 para. 15(2)** (with Pt. 4)
- F16** [Art. 58\(1ZA\)](#) 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(3)(a)** (with Pt. 5)
- F17** Art. 58(1A)-(1D) inserted (20.4.2015) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(3), **Sch. 1 para. 15(3)** (with Pt. 4)
- F18** Words in art. 58(1A)(a) 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(3)(b)** (with Pt. 5)
- F19** Words in art. 58(1A)(b) 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(3)(c)** (with Pt. 5)
- F20** Words in art. 58(1D)(b) 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(3)(c)** (with Pt. 5)
- F21** Words in art. 58(2) substituted (20.4.2015) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(3), **Sch. 1 para. 15(4)** (with Pt. 4)
- F22** Words in art. 58(3) substituted (20.4.2015) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(3), **Sch. 1 para. 15(5)** (with Pt. 4)

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- F23** Words in art. 58(3)(c) substituted (21.10.2014) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Transitional Provisions\) \(No. 4\) Order 2014 \(S.I. 2014/2632\)](#), arts. 1, 2
- F24** Words in art. 58(4)(a) substituted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(4)(a)(i)**
- F25** Art. 58(4)(ca) inserted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(4)(a)(ii)**
- F26** Art. 58(5) inserted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(4)(b)**
- F27** Art. 58(6)(7): art. 58(5)(6) renumbered as art. 58(6)(7) by virtue of amendment to earlier affecting provision SI 2014/366 art. 19(3) (30.3.2014) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/506\)](#), arts. 1(2), **6(4)(b)(c)**
- F28** Art. 58(5)(6) 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(3)**
- F29** Words in art. 58(6) inserted (20.4.2015) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(3), **Sch. 1 para. 15(6)** (with Pt. 4)

Application of the Act to persons with an interim permission

59.—(1) This article applies to each person (“A”) who has an interim permission by virtue of this Order.

(2) A's interim permission is to be disregarded for the purposes of—

- (a) section 38(2) of the Act (exemption orders) ^{F30};
- (b) section 55A(3) ^{F31} of the Act (application for permission);
- (c) sections 55E and 55F of the Act (giving permission).

^{F32}(d)

(3) For the purposes of section 21(2) of the Act (restrictions on financial promotions), if A does not have permission other than an interim permission, A may only approve the content of a communication if the communication invites or induces a person to—

- (a) enter into (or offer to enter into) an agreement the making or performance of which constitutes a controlled activity which corresponds to a regulated activity for which A has interim permission; or
- (b) exercise any rights conferred by a credit agreement (within the meaning of the Regulated Activities Order) to acquire, dispose of, underwrite or convert a controlled investment which is relevant to the regulated activity for which A has interim permission to carry on.

(4) For the purposes of section 39 of the Act (appointed representatives) ^{F33}, A—

- (a) may not be a principal in relation to an activity for which A has interim permission;
- (b) may be an appointed representative in relation to an activity which A does not have interim permission to carry on.

(5) If A applies to the appropriate regulator—

- (a) under section 55A of the Act for Part 4A permission to carry on a regulated activity [^{F34}other than a regulated activity for which A has interim permission] , or

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(b) under section 55H or 55I of the Act to vary a Part 4A permission that A has otherwise than by virtue of this Order by adding a regulated activity to those which the permission relates, the application may be treated by the appropriate regulator as relating also to some or all of the regulated activities for which A has interim permission.

[^{F35}(5A) If the appropriate regulator treats the application as relating also to some or all of the regulated activities for which A has interim permission, article 58(5) does not apply in relation to the application.]

(6) When the FCA or PRA—

- (a) exercises its power under section 55J of the Act (variation or cancellation on initiative of regulator) in relation to A,
- (b) exercises its power under section 55H (in the case of the FCA) or section 55I of the Act (in the case of the PRA) (variation at request of authorised person) to remove a regulated activity from those for which A has interim permission, or
- (c) exercises its power under section 55L of the Act (in the case of the FCA) or section 55M of the Act (in the case of the PRA) (imposition of requirements by the regulator) in relation to A,

section 55B(3) of the Act (satisfaction of threshold conditions) does not require the regulator to ensure that A will satisfy, and continue to satisfy, in relation to the regulated activities for which A has an interim permission, the threshold conditions for which that regulator is responsible.

(7) A is not to be regarded as an authorised person for the purposes of Part 12 of the Act (control over authorised person) unless A has permission otherwise than by virtue of an interim permission.

(8) Subsection (3)(a) of section 213 (compensation scheme) ^{F36} does not apply to a person who is a relevant person (within the meaning of that section) only by virtue of having an interim permission.

[^{F37}(9) A's interim permission is to be disregarded for the purposes of determining whether section 327(1) of the Act disapplies the general prohibition.

(10) A regulated activity for which a person has interim permission is to be disregarded for the purposes of section 327(5) and (7) of the Act (exemption from the general prohibition).

(11) For the purposes of section 332 of the Act (rules in relation to persons to whom the general prohibition does not apply)—

- (a) A's interim permission is to be disregarded for the purposes of subsection (3)(a);
- (b) the regulated activities carried on under A's interim permission are to be disregarded for the purposes of subsection 332(3)(b) and (4).]

F30 Amended by the Financial Services Act 2012, Schedule 18.

F31 Sections 55A to 55Z4 were inserted by the Financial Services Act 2012, section 9.

F32 Art. 59(2)(d) omitted (1.4.2014) by virtue of [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Transitional Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/835\)](#), arts. 1, **2(2)**

F33 Amended by the Financial Services Act 2012, section 10 and Schedule 18, and [S.I. 2007/126](#).

F34 Words in art. 59(5)(a) inserted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(5)(b)**

F35 Art. 59(5A) inserted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(5)(c)**

F36 Amended by the [Banking Act 2009 \(c.1\)](#), **section 170**, the Financial Services Act 2012, Schedule 10, paragraphs 1 and 3, and [S.I. 2011/1613](#)

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F37 Art. 59(9)-(11) inserted (1.4.2014) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Transitional Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/835\)](#), arts. 1, **2(3)**

[^{F38}Application of article 72B of the Regulated Activities Order to persons with an interim permission

59A.—(1) For the purposes of the definition of “provider” in article 72B (activities carried on by a provider of relevant goods or services) of the Regulated Activities Order, any regulated activity of the kind specified by a provision of the Regulated Activities Order listed in paragraph (2) for which a person has interim permission are to be ignored.

(2) The provisions are—

- (a) article 36A (credit broking);
- (b) article 36H (operating an electronic system in relation to lending);
- (c) article 39D (debt adjusting);
- (d) article 39E (debt-counselling);
- (e) article 39F (debt-collecting);
- (f) article 39G (debt administration);
- (g) article 60B (regulated credit agreements);
- (h) article 60N (regulated consumer hire agreements);
- (i) article 89A (providing credit information services);
- (j) article 89B (providing credit references);
- (k) article 64 (agreeing to carry on specified kinds of activity) in so far as it relates to an activity of the kind specified by a provision listed in sub-paragraphs (a) to (j).]

F38 [Art. 59A](#) inserted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(6)**

Grandfathered permission for certain debt-counsellors

60.—(1) On and after 1st April 2014, a not-for-profit body which, immediately before 1st April 2014, was covered by a group licence under the 1974 Act to carry on the activity of debt-counselling (within the meaning of the 1974 Act) is to be treated for all purposes as having Part 4A permission to carry on regulated activities of the kind specified by 39D (debt adjusting), articles 39E (debt-counselling) and 89A (providing credit information services) of the Regulated Activities Order and article 64 of that Order in so far as relevant to those activities, to the extent that those regulated activities are activities which are described in the licence.

(2) In this article, a “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).

(3) For the purposes of this article, it is the effect of the group licence that matters, not how the activities for which a licence is given are described.

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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](#)