
STATUTORY INSTRUMENTS

2014 No. 208

The Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) Order 2014

The Financial Services (Distance Marketing) Regulations 2004

3.—(1) The Financial Services (Distance Marketing) Regulations 2004⁽¹⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “business” insert—

““the CMA” means the Competition and Markets Authority;”;

(b) omit the definition of “the OFT”;

(c) after the definition of “regulated consume credit agreement”, insert—

““the relevant regulator” means—

(a) in relation to a specified contract (within the meaning given in regulation 17) or any alleged breach concerning such a contract, the Authority; and

(b) in relation to any other contract or any alleged breach concerning such a contract, the CMA;”.

(3) In regulation 17 (enforcement authorities)—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for “, the Authority is an enforcement authority” substitute—
“—

(i) the Authority, and

(ii) where the contract is a consumer credit contract—

(aa) in Great Britain, every local weights and measures authority, and

(bb) in Northern Ireland, the Department of Enterprise, Trade and Investment,

is an enforcement authority”;

(ii) in sub-paragraph (b), for “OFT” substitute “CMA”;

(iii) in sub-paragraph (c)(i), for “OFT” substitute “CMA”;

(b) in paragraph (2)—

(i) in sub-paragraph (a), at the end, insert “or an activity which would constitute a regulated activity carried on by the supplier but for any of articles 60C to 60H of the Regulated Activities Order⁽²⁾”;

(1) [S.I. 2004/2095](#); amended by [S.I. 2013/472](#), [S.I. 2011/99](#) and [S.I. 2013/1881](#). There are other amending instruments but none is relevant

(2) Regulation 2 of [S.I. 2004/2095](#) defines “the Regulated Activities Order” as meaning the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, [S.I. 2001/544](#); articles 60C to 60H of that Order inserted by [S.I. 2013/1881](#); article 9C inserted by [S.I. 2002/682](#) and amended by [S.I. 2006/3221](#) and [S.I. 2013/472](#).

- (ii) in sub-paragraph (c), omit “or a supplier to whom the Authority has given a certificate under article 9C of the Regulated Activities Order (persons certified as small issuers etc)”;
- (c) after paragraph (2), insert—
 - “(2A) For the purposes of paragraph (1) and regulation 22(6), a “consumer credit contract” means a contract the making or performance of which constitutes or is part of a regulated activity of the kind specified by a provision of the Regulated Activities Order listed in paragraph (2B) carried on by the supplier.
 - (2B) 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).”.
- (4) In regulation 18 (consideration of complaints)—
 - (a) in paragraph (1)(b), for “has notified the OFT that it agrees” substitute “has agreed, by notifying that authority or the relevant regulator,”;
 - (b) in paragraph (2), for “the OFT” substitute “another enforcement authority or the relevant regulator”.
- (5) In regulation 19(2) (injunctions to secure compliance)—
 - (a) for “OFT”, in each place, substitute “relevant regulator”;
 - (b) omit “or the Authority”.
- (6) In the heading to regulation 20 (notification of undertakings and orders to the OFT), for “OFT” substitute “relevant regulator”.
- (7) In regulation 20—
 - (a) for “OFT”, in each place, substitute “relevant regulator”;
 - (b) omit “and the Authority”.
- (8) In regulation 21 (publication, information and advice)—
 - (a) in paragraph (1), for “OFT” substitute “relevant regulator”;
 - (b) in paragraphs (2) and (3), for “OFT and the Authority” substitute “relevant regulator”.
- (9) In regulation 22(6) (offences)—
 - (a) after sub-paragraph (a), insert—
 - “(aa) in Great Britain, every local weights and measures authority and, in Northern Ireland, the Department of Enterprise, Trade and Investment may institute

proceedings for an offence under these Regulations which relates to a consumer credit contract;”;

(b) in sub-paragraph (b), for “OFT” substitute “CMA”.