
STATUTORY INSTRUMENTS

2014 No. 506

The Financial Services and Markets Act 2000 (Consumer Credit) (Miscellaneous Provisions) (No. 2) Order 2014

The Financial Services and Markets Act 2000 (Exemption) Order 2001

2.—(1) Part 4 (persons exempt in respect of particular regulated activities) of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001⁽¹⁾ is amended as follows.

(2) In paragraph 44 (charities)⁽²⁾, insert before sub-paragraph (1)—

“(A1) A charity is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 36H of the Regulated Activities Order (operating an electronic system in relation to lending)⁽³⁾ which it carries on in relation to an article 36H agreement (within the meaning given in article 36H(4) of the Regulated Activities Order) under or in connection with which the only amount payable to the lender is the amount of credit provided.”.

(3) After paragraph 54⁽⁴⁾, insert—

“Persons exercising, or having the right to exercise, the rights of the person who provided credit under a regulated credit agreement

55.—(1) A person within the description in sub-paragraph (3) (“P”) is exempt from the general prohibition in respect of any activity of the kind specified by article 60B(2) of the Regulated Activities Order (regulated credit agreements)⁽⁵⁾ carried on in relation to a qualifying agreement provided that the conditions in sub-paragraphs (4) and (5) are satisfied in respect of the agreement.

(2) Where P is exempt from the general prohibition in respect of any activity of the kind specified by article 60B(2) of the Regulated Activities Order by virtue of sub-paragraph (1), P is also exempt from the general prohibition in respect of any activity of the kind specified by article 39E(1) (debt-counselling) or 39F(1) (debt-collecting) of the Regulated Activities Order carried on in relation to the qualifying agreement in an exempt period.

(3) P is within the description in this sub-paragraph if P—

- (a) is not the original lender;
- (b) does not grant, is not required to grant, and does not promise to grant credit under the qualifying agreement or any other regulated credit agreement; and

(1) S.I. 2001/1201.

(2) Amended by S.I.2013/1773.

(3) “The Regulated Activities Order” is defined by article 1(2) of S.I. 2001/1201 as meaning the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544). Article 36H inserted by S.I. 2013/1881 and amended by S.I. 2014/366.

(4) Inserted by S.I. 2013/1881.

(5) Articles 39E, 39F, 39G, 39H, 60B and 60N inserted into S.I. 2001/544 by S.I. 2013/1881.

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- (c) does not undertake any activity of the kind specified in article 39D(1) (debt adjusting), 39E(1) or 39F(1) of the Regulated Activities Order, or which would be so specified but for article 39H(1) of that Order, except in an exempt period.
- (4) The condition in this sub-paragraph is that—
- (a) P has entered into a servicing arrangement in relation to the qualifying agreement; or
 - (b) an exempt period has not expired.
- (5) The condition in this sub-paragraph is that—
- (a) P has arranged for the servicer to comply with the provisions listed in sub-paragraph (6); and
 - (b) where P (and not the servicer acting on behalf of P) varies the qualifying agreement, P complies with the provisions listed in sub-paragraph (6).
- (6) The provisions are—
- (a) any provision of, or made under, the Act applicable to authorised persons that relates to the exercise of the right of the lender under a regulated credit agreement to vary terms and conditions of the agreement (including, in particular, the right to vary the rate of interest, charges, or other amount due to the lender under the agreement); and
 - (b) the requirements of, or made under, section 82 of the Consumer Credit Act 1974 (variation of agreements)(6).
- (7) For the purposes of this paragraph, there are excluded from articles 39E(1) and 39F(1) of the Regulated Activities Order activities carried on by P under or for the purposes of a servicing arrangement.
- (8) In this paragraph—
- “an exempt period” is the period of thirty days beginning on the day after the day on which a servicing arrangement came to an end;
- “the original lender” means the person who provided credit under the qualifying agreement;
- “a qualifying agreement” means a regulated credit agreement under which P exercises, or has the right to exercise, the rights of the original lender;
- “regulated credit agreement” has the meaning given in article 60B of the Regulated Activities Order;
- “the servicer” means the person with whom P enters into a servicing arrangement, where that person is an authorised person(7) with permission to carry on an activity of the kind specified in article 39F, 39G (debt administration) or 60B of the Regulated Activities Order;
- “a servicing arrangement” means an arrangement between P and the servicer for the servicer to exercise on P’s behalf P’s rights under a qualifying agreement other than the right to transfer, assign or otherwise dispose of those rights.

(6) 1974 c.39. Section 82 amended by S.I. 2005/2967, S.I. 2008/733, S.I. 2008/2826, S.I. 2010/1010 and S.I. 2013/1881.

(7) Section 31 of the Financial Services and Markets Act 2000 (c.8) defines “authorised person” as a person who is authorised for the purposes of that Act, including a person who has permission under Part 4A of that Act to carry on one or more regulated activities; Part 4A substituted by the Financial Services Act 2012 (c.21), section 11.

Persons exercising, or having the right to exercise, the rights of the person who provided credit under a regulated consumer hire agreement

56.—(1) A person within the description in sub-paragraph (3) (“P”) is exempt from the general prohibition in respect of any activity of the kind specified by article 60N(2) of the Regulated Activities Order (regulated consumer hire agreements) carried on in relation to a qualifying agreement provided that the conditions in sub-paragraphs (4) and (5) are satisfied in respect of each such agreement.

(2) Where P is exempt from the general prohibition in respect of any activity of the kind specified by article 60N(2) of the Regulated Activities Order by virtue of sub-paragraph (1), P is also exempt from the general prohibition in respect of any activity of the kind specified by article 39E(2) (debt-counselling) or 39F(2) (debt-collecting) of the Regulated Activities Order carried on in relation to the qualifying agreement in an exempt period.

(3) P is within the description in this sub-paragraph if P—

- (a) is not the original owner; and
- (b) does not undertake any activity of the kind specified in article 39D(2) (debt adjusting), 39E(2) or 39F(2) of the Regulated Activities Order, or which would be so specified but for article 39H(2) of that Order, except in an exempt period.

(4) The condition in this sub-paragraph is that—

- (a) P has entered into a servicing arrangement in relation to the qualifying agreement; or
- (b) an exempt period has not expired.

(5) The condition in this sub-paragraph is that—

- (a) P has arranged for the servicer to comply with the provisions listed in sub-paragraph (6); and
- (b) where P (and not the servicer acting on behalf of P) varies the qualifying agreement, P complies with the provisions listed in sub-paragraph (6).

(6) The provisions are—

- (a) any provision of, or made under, the Act applicable to authorised persons that relates to the exercise of the right of the owner under a regulated consumer hire agreement to vary terms and conditions of the agreement (including, in particular, the right to vary the hire payments, other charges, or any other amount due to the owner under the agreement); and
- (b) the requirements of, or made under, section 82 of the Consumer Credit Act 1974 (variation of agreements).

(7) For the purposes of this paragraph, there are excluded from articles 39E(2) and 39F(2) of the Regulated Activities Order activities carried on by P under or for the purposes of a servicing arrangement.

(8) In this paragraph—

“an exempt period” is the period of thirty days beginning on the day after the day on which a servicing arrangement came to an end;

“the original owner” means the person who entered into the qualifying agreement as owner;

“a qualifying agreement” means a regulated consumer hire agreement under which P exercises, or has the right to exercise, the rights of the original owner;

“regulated consumer hire agreement” has the meaning given in article 60N of the Regulated Activities Order;

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“the servicer” means the person with whom P enters into a servicing arrangement, where that person is an authorised person with permission to carry on an activity of the kind specified in article 39F, 39G (debt administration) or 60N of the Regulated Activities Order;

“a servicing arrangement” means an arrangement between P and the servicer for the servicer to exercise on P’s behalf P’s rights under a qualifying agreement other than the right to transfer, assign or otherwise dispose of those rights.”.

Commencement Information

II Art. 2 in force at 1.4.2014, see [art. 1\(4\)](#)

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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. 3 Sch. 1 Pt. 2](#)
- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)