
STATUTORY INSTRUMENTS

2015 No. 910

The Mortgage Credit Directive Order 2015

PART 3

Consumer buy-to-let mortgages

Interpretation of this Part

4.—(1) In this Part—

“advisory services” has the meaning given by article 6;

“annual percentage rate of charge” has the meaning given by paragraph 9(6) of Schedule 2;

“buy-to-let mortgage contract” means a contract that—

(a) at the time it is entered into—

(i) meets the conditions in paragraphs (i) to (iii) of article 61(3)(a) of the Regulated Activities Order (regulated mortgage contracts); and

(ii) provides that the land subject to the mortgage cannot at any time be occupied as a dwelling by the borrower or by a related person, and is to be occupied as a dwelling on the basis of a rental agreement; or

(b) is a regulated credit agreement within the meaning of article 60B of the Regulated Activities Order which—

(i) [F¹falls within section 423A(2)(b) of the Act, and]

(ii) provides that the land, or existing or projected building, to which it relates cannot at any time be occupied as a dwelling by the borrower or by a related person, and is to be occupied as a dwelling on the basis of a rental agreement;

“consumer” means a person acting for purposes which are outside that person's trade, business or profession;

“consumer buy-to-let mortgage business” means one or more of the following activities—

(a) acting as a creditor;

(b) acting as a credit intermediary; or

(c) providing advisory services;

“consumer buy-to-let mortgage contract” means a buy-to-let mortgage contract which is not entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower;

“consumer buy-to-let mortgage firm” means a person carrying on consumer buy-to-let mortgage business;

“credit intermediary” has the meaning given by article 5;

“creditor” means a person who, in the course of a trade, business or profession—

- (a) enters into, or promises to enter into, a consumer buy-to-let mortgage contract under which the person is to provide credit, or
- (b) administers a consumer buy-to-let mortgage contract,

and for the purposes of paragraph (b) a person administers a consumer buy-to-let mortgage contract if the person carries on the regulated activity specified by article 61(2) of the Regulated Activities Order (regulated mortgage contracts) ^{M1} in respect of the contract, or would carry on that regulated activity in respect of the contract but for the exclusion in article 72I of that Order (registered consumer buy-to-let mortgage firms) ^{M2};

“decision notice” means a notice that complies with the requirements of section 388 of the Act (decision notices) ^{M3};

[^{F2}“durable medium” means any instrument which enables a consumer to store information which is addressed personally to the consumer in a way accessible for future reference for a period of time adequate for the purposes for which the information is provided and which allows the unchanged reproduction of the information stored;]

“foreign currency loan” means a consumer buy-to-let mortgage contract where the credit is denominated in a currency other than that in which the borrower receives the income or holds the assets from which the credit is to be repaid;

“register” means the register kept by the FCA under article 8(1);

“registered consumer buy-to-let mortgage firm” means a person who is included in the register;

“related person” has the meaning set out in article 61A of the Regulated Activities Order (mortgage contracts which are not regulated mortgage contracts) ^{M4}, ^{F3} ...

[^{F4}“staff” means—

- (a) any individual working for a creditor or credit intermediary who—
 - (i) is directly engaged in consumer buy-to-let mortgage business, or
 - (ii) has contacts with consumers in the course of consumer buy-to-let mortgage business,
- (b) any individual working for a relevant person (see paragraph (1A)) who has contacts with consumers in the course of consumer buy-to-let mortgage business, or
- (c) any individual directly managing or supervising any individual falling within paragraph (a) or (b);]

“warning notice” means a notice that complies with the requirements of section 387 of the Act (warning notices) ^{M5}.

[^{F5}(1A) A “relevant person” is a person who, acting on behalf of and under the full and unconditional responsibility of only one credit intermediary, carries on one or more of the activities referred to in article 5(2) to (4).]

(2) For the purposes of this Part, if an agreement includes a declaration which—

- (a) is made by the borrower, and
- (b) includes—
 - (i) a statement that the agreement is entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower;
 - (ii) a statement that the borrower understands that the borrower will not have the benefit of the protection and remedies that would be available to the borrower under this

Order if the agreement were a consumer buy-to-let mortgage contract under this Order; and

- (iii) a statement that the borrower is aware that if the borrower is in any doubt as to the consequences of the agreement not being regulated by this Order, then the borrower should seek independent legal advice,

the agreement is to be presumed to have been entered into by the borrower wholly or predominantly for the purposes specified in sub-paragraph (b)(i), unless paragraph (3) applies.

(3) This paragraph applies if, when the agreement is entered into—

- (a) the creditor (or, if there is more than one creditor, any of the creditors), or
- (b) any person who has acted on behalf of the creditor (or, if there is more than one creditor, any of the creditors) in connection with the entering into of the agreement,

knows or has reasonable cause to suspect that the agreement is not entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower.

(4) For the purposes of this Part, a borrower is to be regarded as entering into an agreement for the purposes of a business carried on, or intended to be carried on, by the borrower if the agreement is a buy-to-let mortgage contract and—

- (a) (i) the borrower previously purchased, or is entering into the contract in order to finance the purchase by the borrower of, the land to which the agreement relates;
- (ii) at the time of the purchase the borrower intended that the land would be occupied as a dwelling on the basis of a rental agreement and would not at any time be occupied as a dwelling by the borrower or by a related person, or where the borrower has not yet purchased the land the borrower has such an intention at the time of entering into the contract; and
- (iii) where the borrower has purchased the land, since the time of the purchase the land has not at any time been occupied as a dwelling by the borrower or by a related person; or
- (b) the borrower is the owner of land, other than the land to which the agreement relates, which is—
 - (i) occupied as a dwelling on the basis of a rental agreement and is not occupied as a dwelling by the borrower or by a related person; or
 - (ii) subject to a mortgage under a buy-to-let mortgage contract.

Textual Amendments

- F1** Words in art. 4(1) substituted (31.12.2020) by [The Mortgage Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/656\)](#), regs. 1(2), **5(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 4(1) inserted (31.12.2020) by [The Mortgage Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/656\)](#), regs. 1(2), **5(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in art. 4(1) omitted (31.12.2020) by virtue of [The Mortgage Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/656\)](#), regs. 1(2), **5(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in art. 4(1) inserted (31.12.2020) by [The Mortgage Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/656\)](#), regs. 1(2), **5(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 4(1A) inserted (31.12.2020) by [The Mortgage Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/656\)](#), regs. 1(2), **5(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** Article 61(2) was amended by [S.I. 2001/3544](#).

Changes to legislation: There are currently no known outstanding effects for the The Mortgage Credit Directive Order 2015, Section 4. (See end of Document for details)

- M2** Article 72I is inserted by paragraph 4 of the Schedule to this Order.
- M3** Section 388 was amended by paragraphs 1 and 27 of Schedule 9 to the [Financial Services Act 2012 \(c. 21\)](#) and by paragraph 13 of Schedule 3 to the [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#).
- M4** Article 61A is inserted by paragraph 4 of the Schedule to this Order.
- M5** Section 387 was amended by paragraphs 1 and 26 of Schedule 9 to the Financial Services Act 2012 and paragraph 12 of Schedule 3 to the Financial Services (Banking Reform) Act 2013.

Changes to legislation:

There are currently no known outstanding effects for the The Mortgage Credit Directive Order 2015, Section 4.