
STATUTORY INSTRUMENTS

2015 No. 910

The Mortgage Credit Directive Order 2015

PART 1

Introductory Provisions

Citation and commencement

1.—(1) This Order may be cited as the Mortgage Credit Directive Order 2015.

(2) Articles 2 (interpretation) and 32 (FCA power to direct timing of applications for permission and registration) come into force on 6th April 2015.

(3) Article 3 (amendments to legislation) comes into force on 20th April 2015 in so far as it gives effect to paragraph 15 of Schedule 1 (amendments to the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013).

(4) The following provisions come into force on 21st September 2015—

- (a) article 3 in so far as it gives effect to paragraph 1(4) of Schedule 1 (amendments to section 137R of the Act); and
- (b) article 31 (transitional provision: person subject to the Consumer Credit Act 1974 who chooses to adopt new rules before 21st March 2016).

(5) The other provisions of this Order come into force—

- (a) on 20th April 2015 for the purposes of enabling the making and determination of applications for —
 - (i) a Part 4A permission, or a variation of a Part 4A permission, in relation to an activity of the kind specified by article 36A^{M1} (credit broking), 53A^{M2} (advising on regulated mortgage contracts) or 60B (regulated credit agreements) of the Regulated Activities Order, article 25A (arranging regulated mortgage contracts) or 61^{M3} (entering into and administering regulated mortgage contracts) of the Regulated Activities Order as amended by this Order, or article 53DA (advising on regulated credit agreements for the acquisition of land) of the Regulated Activities Order as inserted by this Order; or
 - (ii) entry on the register of consumer buy-to-let mortgage firms under article 8 of this Order (register of consumer buy-to-let mortgage firms);
- (b) on 21st December 2015 for the purposes of—
 - (i) enabling the appropriate regulator to treat a consent notice referred to in paragraph 13(1)(a) or a regulator's notice referred to in paragraph 14(1)(b) of Schedule 3 to the Act (as amended by this Order) given on or after that date by an EEA firm falling within paragraph 5(i) of Schedule 3 to the Act (as amended by this Order) as effective for the purposes of paragraph 13(1) or 14(1) (as the case may be)^{M4}; and
 - (ii) enabling the appropriate regulator to treat a notice of intention referred to in paragraph 19(2)^{M5} or 20(1)^{M6} of Schedule 3 to the Act (as amended by this Order) given on or after that date by a UK firm wishing to exercise an EEA right under the

mortgages directive as effective for the purposes of paragraph 19(2) or 20(1) (as the case may be); and

(c) for all other purposes, on 21st March 2016.

(6) Nothing in paragraph (5)(b) gives a person an EEA right to carry on, before 21st March 2016, any of the activities set out in sub-paragraphs (a) to (c) of Article 4(5) of the mortgages directive or to provide advisory services (as defined in Article 4(21) of that directive).

Marginal Citations

- M1** Articles 36A and 60B were inserted by S.I. 2003/1881.
- M2** Articles 25A and 53A were inserted by S.I. 2003/1475.
- M3** Article 61 was amended by S.I. 2001/3544, 2005/2114, 2006/3283 and 2010/2960.
- M4** Paragraphs 13(1) and 14(1) were previously amended by paragraph 2 of Schedule 4 to the Financial Services Act 2012 (c. 21) and by S.I. 2003/1473 and 2066, 2007/126 and 2013/1773.
- M5** Paragraph 19(2) was previously amended by paragraph 10 of Schedule 4 to the Financial Services Act 2012.
- M6** Paragraph 20(1) was previously amended by paragraph 11 of Schedule 4 to the Financial Services Act 2012 and by S.I. 2007/3253 and 2013/1773.

Interpretation

2.—(1) In this Order—

“the Act” means the Financial Services and Markets Act 2000;

“appropriate regulator” means—

- (a) in relation to a firm which is a PRA-authorised person, the PRA;
- (b) in any other case, the FCA;

“borrower” has the meaning given by article 61(3)(a)(i) of the Regulated Activities Order;

“consumer credit back book mortgage contract” means a contract which—

- (a) (i) is entered into before 21st March 2016,
- (ii) immediately before 21st March 2016 is a regulated credit agreement within the meaning of article 60B(3) of the Regulated Activities Order,^{F1}...
- (iii) [^{F2}would not be an exempt agreement within the meaning of article 60B(3) of the Regulated Activities Order by virtue of article 60D of that Order (exempt agreements: exemption relating to the purchase of land for non-residential purposes) if it were entered into immediately before 21st March 2016, and]
- (iv) ^{F3F4}...would be a regulated mortgage contract if it were entered into on or after 21st March 2016; or
- (b) (i) [^{F5}is entered into on or after 21st March 2016 in the circumstances described in article 28,
- (ii) would be a regulated credit agreement within the meaning of article 60B(3) of the Regulated Activities Order if it had been entered into immediately before 21st March 2016, and
- (iii) is a regulated mortgage contract immediately after it is entered into].

“the mortgages directive” means Directive 2014/17/EU of the European Parliament and of the Council of 4th February 2014 on credit agreements for consumers relating to residential

immovable property and amending Directives [2008/48/EC](#) and [2013/36/EU](#) and Regulation (EU) No 1093/2010 ^{M7};

“the Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ^{M8}.

(2) Unless otherwise defined—

- (a) [^{F6}subject to paragraph (3),] any expression used in this Order which is used in the mortgages directive has the same meaning as in that directive; and
- (b) any other expression used in this Order which is defined for the purposes of the Act has the meaning given by the Act.

[^{F7}(3) In this Order the expressions set out in paragraph (4) have the same meaning as in the mortgages directive subject to the modification made in paragraph (5).

(4) The expressions are—

- (a) “ancillary service” (in Article 4(4) of the mortgages directive);
- (b) “bridging loan” (in Article 4(23) of the mortgages directive);
- (c) “contingent liability or guarantee” (in Article 4(24) of the mortgages directive);
- (d) “creditworthiness assessment” (in Article 4(17) of the mortgages directive).

(5) The modification is that each reference in the expression concerned to “credit agreement” is to be read as if there were substituted a reference to “buy-to-let mortgage contract” (as defined in this Order).]

- F1** Word in art. 2(1) omitted (20.9.2015) by virtue of [The Mortgage Credit Directive \(Amendment\) Order 2015 \(S.I. 2015/1557\)](#), arts. 1(2), **2(2)(a)**
- F2** Words in art. 2(1) inserted (20.9.2015) by [The Mortgage Credit Directive \(Amendment\) Order 2015 \(S.I. 2015/1557\)](#), arts. 1(2), **2(2)(b)**
- F3** Art. 2(1): text amended (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), art. 1(2)(3)(c), **8(2)(a)(i)** (with Pt. 5)
- F4** Words in art. 2(1) omitted (17.3.2016 for specified purposes, 21.3.2016 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), art. 1(2)(3)(c), **8(2)(a)(ii)** (with Pt. 5)
- F5** Words in art. 2(1) substituted (17.3.2016 for specified purposes, 21.3.2016 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)(c), **8(2)(b)** (with Pt. 5)
- F6** Words in art. 2(2)(a) inserted (31.12.2020) by [The Mortgage Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/656\)](#), regs. 1(2), **4(1)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Art. 2(3)-(5) inserted (31.12.2020) by [The Mortgage Credit \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/656\)](#), regs. 1(2), **4(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M7 OJ L 60, 28.2.2014, p.34.

M8 S.I. 2001/544.

Changes to legislation:

There are currently no known outstanding effects for the The Mortgage Credit Directive Order 2015, PART 1.