Draft Order laid before Parliament under section 429(3) and (4) of and paragraph 26 of Schedule 2 to the Financial Services and Markets Act 2000 and section 116(1) and (2)(c) of the Financial Services Act 2012, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No.[XXXX]

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities etc.) (Amendment) Order 2025

Made - - - - ***

Coming into force in accordance with article 1

The Treasury make the following Order in exercise of the powers conferred by sections 21(9) and (15), 22(1) and (5) and 428(3) of, and paragraph 25 of Schedule 2 to, the Financial Services and Markets Act 2000(**a**) ("the Act") and, having had regard to the matters in section 107(7) of the Financial Services Act 2012(**b**), sections 107(6), and (8) and 115(2) of that Act, and section 37 of the Financial Services Act 2021(**c**).

In the opinion of the Treasury, one of the effects of the following Order is that an activity which is not a regulated activity (within the meaning given in section 22 of the Act) will become a regulated activity.

In accordance with section 429(3) and (4) of and paragraph 26(1) and (2) of Schedule 2(**d**) to the Act and section 116(1) and (2)(c) of the Financial Services Act 2012 a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament.

PART 1

Introduction

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities etc.) (Amendment) Order 2025.

(2) This Order comes into force on the day after the day on which this Order is made ("initial commencement date"), for the following purposes—

(**a**) 2000 c.8. Paragraph 25 of Schedule 2 was amended by section 8 of the Financial Services Act 2012 (c.21) and section 27 of the Financial Guidance and Claims Act 2018 (c.10). Section 428 was amended by section 66 of the Financial Services and Markets Act 2023 (c.29).
(**b**) 2012 c.21.
(**c**) 2021 c.22.
(**d**) Paragraph 26 of Schedule 2 was amended by section 8 of the Financial Services Act 2012.

(a) enabling the FCA—

(i) to make or approve rules;

(ii) to give guidance;

(iii) to give directions; and

(iv) to carry out any other preparatory steps in relation to the exercise of their functions by virtue of this Order;

(b) enabling the scheme operator—

(i) to make rules under Part 16 (the Ombudsman Scheme) of the 2000 Act; and

(ii) to give guidance;

(c) enabling registration for temporary permission under Part 4 of this Order;

(d) enabling applications to be made for a Part 4A permission or for a variation of a Part 4A permission in relation to any activity which becomes a regulated activity by virtue of this Order, as referred to in Part 4 of this Order.

(3) For all other purposes, this Order comes into force at the end of the period of 12 months beginning with the initial commencement date ("regulatory commencement date").

(4) This Order extends to England and Wales, Scotland and Northern Ireland.

(5) In this Order—

"the 2000 Act" means the Financial Services and Markets Act 2000;

"initial commencement date" has the meaning given by paragraph (2);

"regulatory commencement date" has the meaning given by paragraph (3);

"Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**a**).

PART 2

Amendment of primary legislation

Amendment of the CCA 1974

2.—(1) The Consumer Credit Act 1974(**b**) is amended as follows.

(2) For section 17(1)(a)(**c**) (small agreements) substitute—

"(a) a regulated consumer credit agreement for credit not exceeding £50, other than—

(i) a hire-purchase agreement,

(ii) a conditional sale agreement, or

(iii) a regulated deferred payment credit agreement; or".

(3) In section 55(**d**) (disclosure of information), in subsection (1), after "regulated agreement" insert ", other than a regulated deferred payment credit agreement,".

(4) In section 55C(**e**) (copy of draft consumer credit agreement), after subsection (5) insert—

"(6) This section does not apply to a regulated deferred payment credit agreement.".

(5) In section 60(**f**) (form and contents of agreements), in subsection (1), after "regulated agreements," insert "other than regulated deferred payment credit agreements,".

(**a**) S.I. 2001/544.
(**b**) 1974 c.39.
(**c**) Section 17 was amended by S.I. 1983/1878 and S.I. 2010/1010.
(**d**) Section 55 was amended by S.I. 2010/1010.
(**e**) Section 55C was inserted by S.I. 2010/1010 and amended by S.I. 2013/1181 and 2015/910.
(**f**) Section 60 was amended by paragraph 6(23) of Schedule 25 to the Enterprise Act 2002 (c.40) and S.I. 2010/1010, 2013/1881 and 1882 and 2015/910.

(6) In section 61(**a**) (signing of agreement), after subsection (4) insert—

"(5) This section does not apply to a regulated deferred payment credit agreement.".

(7) In section 61A(**b**) (duty to supply copy of executed consumer credit agreement), after subsection (7) insert—

"(7A) This section does not apply to a regulated deferred payment credit agreement.".

(8) In section 76 (duty to give notice before taking certain action), after subsection (6) insert—

"(7) This section does not apply to a regulated deferred payment credit agreement.".

(9) In section 77(**c**) (duty to give information to debtor under fixed-sum credit agreement), in subsection (5), after "non-commercial agreement" insert "or to a regulated deferred payment credit agreement".

(10) In section 77A(**d**) (statements to be provided in relation to fixed-sum credit agreements), in subsection (8), for the words from "in relation to" to the end substitute—

"in relation to—

(a) a non-commercial agreement,

(b) a small agreement, or

(c) a regulated deferred payment credit agreement.".

(11) In section 77B(**e**) (fixed-sum credit agreement: statement of account to be provided on request), after subsection (10) insert—

"(11) This section does not apply to a regulated deferred payment credit agreement.".

(12) In section 82(**f**) (variation of agreements), in subsection (7), after "non-commercial agreement" insert "or to a regulated deferred payment credit agreement".

(13) In section 86B(**g**) (notice of sums in arrears under fixed-sum credit agreements etc.), after subsection (11) insert—

"(11A) This section does not apply to a regulated deferred payment credit agreement.".

(14) In section 86E(**h**) (notice of default sums), in subsection (8), for the words from "in relation to" to the end substitute—

"in relation to—

(a) a non-commercial agreement,

(b) a small agreement, or

(c) a regulated deferred payment credit agreement.".

(15) In section 87(**i**) (need for default notice), after subsection (5) insert—

"(6) This section does not apply to a regulated deferred payment credit agreement.".

(16) In section 97(**j**) (duty to give information), after subsection (3) insert—

"(4) This section does not apply to a regulated deferred payment credit agreement.".

(17) In section 97A(**k**) (duty to give information on partial repayment), after subsection (2) insert—

(**a**) Section 61 was amended by S.I. 2004/3236.
(**b**) Section 61A was inserted by S.I. 2010/1010 and amended by S.I. 2013/1881 and 2015/910.
(**c**) Section 77 was amended by section 27(2) of the Energy Act 2011(c.16) and S.I. 1998/997, 2008/1277 and 2014/436.
(**d**) Section 77A was inserted by section 6 of the Consumer Credit Act 2006 (c.14) and amended by section 27(3) of the Energy Act 2011 and S.I. 2008/2826, 2010/1010 and 2014/436.
(**e**) Section 77B was inserted by S.I. 2010/1010 and amended by section 27(4) of the Energy Act 2011 and S.I. 2013/1881, 2014/436 and 2015/910.
(**f**) Section 82 was amended by S.I. 2005/2967, 2008/733, 2010/1010 and 2013/1881.
(**g**) Section 86B was inserted by section 9 of the Consumer Credit Act 2006 and amended by section 28 of the Energy Act 2011 and S.I. 2008/2826 and 2014/436.
(**h**) Section 86E was inserted by section 12 of the Consumer Credit Act 2006.
(**i**) Section 87 was amended by S.I. 2010/1010.
(**j**) Section 97 was amended by S.I. 2008/1277 and 2010/1010.
(**k**) Section 97A was inserted by S.I. 2010/1010 and amended by section 29(4) of the Energy Act 2011.

"(3) This section does not apply to a regulated deferred payment credit agreement.".

(18) In section 98 (duty to give notice of termination (non-default cases)), after subsection (6) insert—

"(7) This section does not apply to a regulated deferred payment credit agreement.".

(19) In section 103(**a**) (termination statements), in subsection (4), after "non-commercial agreement" insert "or to a regulated deferred payment credit agreement".

(20) In section 129(**b**) (time orders), in subsection (1), after paragraph (b) insert—

"(bza) on an application made by a debtor under this paragraph after the creditor has informed the debtor of the creditor's intention—

(i) to enforce a term of a regulated deferred payment credit agreement by—

(aa) demanding earlier payment of any sum,

(bb) treating any right conferred on the debtor by the agreement as terminated, restricted or deferred, or

(ii) to terminate a regulated deferred payment credit agreement, or"

(21) In section 189(**c**) (definitions), after the definition of "regulated agreement" insert—

""regulated deferred payment credit agreement" means an agreement—

(a) which meets each of the conditions set out in article 60F(2)(a) to (d)(**d**) (exempt agreements: exemptions relating to number of repayments to be made) of the Regulated Activities Order; and

(b) to which article 60F(7A) of that Order applies;".

PART 3

Amendment of secondary legislation

Amendment of the Regulated Activities Order

3.—(1) The Regulated Activities Order is amended as follows.

(2) After article 36FA(**e**) (activities carried on by registered social landlords), insert—

"**Activities in relation to certain regulated credit agreements**

36FB.—(1) There are excluded from article 36A(**f**) activities carried on in relation to a regulated deferred payment credit agreement, unless the person carrying on the activity is a domestic premises supplier.

(2) For the purposes of paragraph (1), "domestic premises supplier" means a person ("the supplier") who—

(a) sells, offers to sell or agrees to sell goods; or

(b) offers to supply services or contracts to supply services,

to a customer who is an individual while the supplier, or the supplier's representative, is physically present at the dwelling of the individual (but see paragraph (3)).

(3) A supplier who acts as described in paragraph (2) on an occasional basis only is not a domestic premises supplier unless the supplier indicates to the public at large, or any

(**a**) Section 103 was amended by S.I. 2008/1277.
(**b**) Section 129 was amended by paragraph 17 of Schedule 6 and paragraph 5 of Schedule 7 to the Debtors (Scotland) Act 1987 (c.18) and section 16(1) of the Consumer Credit Act 2006.
(**c**) The definition of "regulated agreement" in section 189 was amended by S.I. 2013/1881.
(**d**) Article 60F was inserted by S.I. 2013/1881. Relevant amendments were made by S.I. 2014/366 and 1850 and 2015/352.
(**e**) Article 36FA was inserted by S.I. 2019/1067.
(**f**) Article 36A was inserted by S.I. 2013/1881.

section of the public, the supplier's willingness to attend (in person or through a representative) the dwelling of potential customers in order to carry on any of the activities mentioned in paragraph (2)(a) or (b).

(4) In this article—

"customer" means a person to whom a supplier—

(a) sells, offers to sell or agrees to sell goods; or

(b) offers to supply services or contracts to supply services;

"regulated deferred payment credit agreement" means an agreement—

(a) which meets each of the conditions set out in article 60F(2)(a) to (d) (exempt agreements: exemptions relating to number of repayments to be made); and

(b) to which paragraph (7A) of that article applies.".

(3) In article 60F (exempt agreements: exemptions relating to number of repayments to be made)—

(a) for paragraph (2)(e), substitute—

"(e) neither paragraph (7) nor paragraph (7A) (taken with paragraph (7B)) applies to the agreement.";

(b) after paragraph (7), insert—

"(7A) This paragraph applies to agreements entered into on or after the regulatory commencement date which are not secured on land—

(a) where—

(i) the lender and the supplier are not the same person; and

(ii) paragraph (7B) does not apply to the agreement; or

(b) made in the following way—

(i) a person ("the principal supplier") offers to supply goods or services to a consumer ("the consumer") financed by a credit agreement provided by another person ("the lender");

(ii) the lender, under a pre-existing arrangement with that principal supplier, purchases the goods or services from the principal supplier, for supply to the consumer; and

(iii) the lender is, in relation to the credit agreement with the consumer mentioned in sub-paragraph (i), also the supplier of the goods or services to that consumer.

(7B) This paragraph applies to—

(a) agreements to finance premiums under contracts of insurance;

(b) agreements where—

(i) the borrowers are employees; and

(ii) the agreements result from an arrangement between the lender or supplier and—

(aa) the borrowers' employer, or

(bb) an undertaking which is a member of the same group as the borrowers' employer;

(c) agreements to finance the provision of goods or services offered by a registered social landlord (as defined by article 36FA(4)) to—

(i) its tenants,

(ii) its leaseholders, or

(iii) persons with whom the registered social landlord has entered a shared ownership agreement within the meaning of section 83(3) of the Housing (Scotland) Act 2001(**a**).

(7C) In paragraph (7A), "regulatory commencement date" has the meaning given in article 1(3) of the Financial Services and Markets Act 2000 (Regulated Activities etc.) (Amendment) Order 2025.".

Amendment of the Financial Services (Distance Marketing) Regulations 2004

4. After regulation 6 (financial services marketed by an intermediary) of the Financial Services (Distance Marketing) Regulations 2004(**b**) insert—

"**Intermediaries in relation to certain agreements**

6A. Neither regulation 7 (information required prior to the conclusion of the contract) nor regulation 8 (written and additional information) applies to an intermediary where—

(a) the distance contract is an agreement—

(i) which meets each of the conditions set out in article 60F(2)(a) to (d) (exempt agreements: exemptions relating to number of repayments to be made) of the Regulated Activities Order; and

(ii) to which article 60F(7A) of that Order applies; and

(b) but for the operation of article 36FB (activities in relation to certain regulated credit agreements) of the Regulated Activities Order, the activity undertaken by the intermediary would be within the scope of article 36A (credit broking) of that Order.".

Amendment of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005

5. In article 15(1A) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005(**c**) (introductions), after sub-paragraph (b) insert—

"(ba) paragraph 10BA (providing relevant consumer credit) of that Schedule, in relation to an agreement—

(i) which meets each of the conditions set out in article 60F(2)(a) to (d) (exempt agreements: exemptions relating to number of repayments to be made) of the Regulated Activities Order; and

(ii) to which article 60F(7A) of that Order applies;".

PART 4

Transitional provisions

Interpretation of Part 4

6. In this Part—

"authorised person" has the meaning given by section 31(2) (authorised persons) of the 2000 Act;

(**a**) 2001 asp 10.
(**b**) S.I. 2004/2095.
(**c**) S.I. 2005/1529, amended by S.I. 2014/366.

"credit agreement" has the meaning given by article 60B(**a**) (regulated credit agreements) of the Regulated Activities Order;

"last application date" has the meaning given by article 12(3);

"Part 4A permission" has the meaning given by section 55A(5)(**b**) (application for permission) of the 2000 Act;

"the register" has the meaning given by article 9;

"registration" means registration for temporary permission on the register in accordance with article 9;

"relevant activity" means an activity which is, after the regulatory commencement date, within the scope of—

(a) article 36A (credit broking) or 60B (regulated credit agreements) of the Regulated Activities Order, and

(b) article 64 of that Order (agreeing to carry on specified kinds of activity) so far as it relates to the activities specified by those articles,

by virtue of the amendments made by this Order;

"relevant application" means an application made by a temporarily permissioned person on or before the last application date—

(a) where that person is an authorised person, under section 55H(**c**) (variation by FCA at request of authorised person) to vary that person's Part 4A permission by adding a relevant activity to the activity to which the permission relates;

(b) otherwise, under section 55A (application for permission) for permission to carry on a relevant activity;

"temporarily permissioned person" means a person with temporary permission under article 10;

"temporary permission" has the meaning given by articles 10 and 11.

Direction in relation to process for registration for temporary permission

7. The FCA may by direction specify—

(a) the manner in which a desire for registration is required to be notified to the FCA;

(b) the date on or after which notification of such a desire may be given;

(c) the last date on which such a notification may be given;

(d) the amount of any fee payable under its rules in relation to registration; and

(e) such information as the FCA may reasonably require to be contained in, or supplied with, such a notification.

Process for registration for temporary permission

8.—(1) A person carrying on a relevant activity at the initial commencement date may notify the FCA of a desire for registration under this article.

(2) A notification under paragraph (1) must—

(a) be made in such manner as may be specified by the FCA under article 7(a);

(b) be made in accordance with any dates specified by the FCA under article 7(b) and (c);

(c) be accompanied by any fee payable to the FCA specified by the FCA under article 7(d);

(d) be accompanied by such information as the FCA has specified under article 7(e).

(**a**) Article 60B was inserted by S.I. 2013/1881, and the definition of "credit agreement" was substituted by S.I. 2014/1850.
(**b**) Section 55A was inserted by section 11(2) of the Financial Services Act 2012.
(**c**) Section 55H was inserted by section 11(2) of the Financial Services Act 2012.

(3) The FCA must confirm receipt of the notification promptly to the person who gave the notification.

(4) The FCA must determine, and inform the person who gave the notification, within a reasonable time whether the notification is complete and meets requirements set out in accordance with paragraph (2).

(5) If the FCA determines that the notification is not complete or does not meet requirements set out in accordance with paragraph (2), the FCA may—

(a) request that the person who gave the notification provide further information; and

(b) set such a period for the provision of further information requested under sub-paragraph (a) as the FCA considers appropriate.

(6) The FCA may at any time—

(a) request that the person who gave the notification provide further information relating to the notification; and

(b) set such a period for the provision of further information requested under sub-paragraph (a) as the FCA considers appropriate.

(7) The person who gave the notification must notify the FCA promptly of any material changes affecting the notification.

Registration for temporary permission

9.—(1) Where a person gives a notification of a desire for registration in accordance with article 8, the FCA must enter that person onto a register of persons with temporary permission maintained by it ("the register").

(2) The FCA must—

(a) publish the register on its official website and make it available for public inspection, and

(b) update the register on a regular basis.

Temporary permission

10.—(1) A person entered onto the register in accordance with article 9 for a relevant activity has temporary permission to carry on the relevant activity.

(2) Subject to this article and article 11, temporary permission for a relevant activity has effect as if it were a Part 4A permission to carry on that relevant activity on or after the regulatory commencement date.

(3) Temporary permission for an individual temporarily permissioned person ceases to have effect as follows—

(a) subject to sub-paragraph (e), where that person makes a relevant application on or before the last application date, and the FCA decides to grant the application, on the day stated in its written notice under section 55V(5)(**a**) as the date from which the permission granted under that notice has effect;

(b) subject to sub-paragraph (e), where that person makes a relevant application on or before the last application date, and the FCA decides to give or vary a Part 4A permission under section 55X(4)(a), (b), (c), (d) (ea) or (eb)(**b**) (determination of applications: warning notices and decision notices), on the day on which the FCA gives the decision notice under section 55X;

(**a**) Section 55V was inserted by section 11(2) of the Financial Services Act 2012. Subsection (5) was amended by paragraph 8 of Schedule 5 to the Financial Services and Markets Act 2023 (c.29).

(**b**) Section 55X was inserted by section 11(2) of the Financial Services Act 2012. Subsection (4) was amended by paragraph 9 of Schedule 5 to the Financial Services and Markets Act 2023.

(c) subject to sub-paragraph (e), where that person makes a relevant application on or before the last application date, and the FCA decides to refuse the application under section 55X(4)(f), then—

(i) permission in respect of article 36A or 60B(1) of the Regulated Activities Order and article 64 of that Order so far as it relates to the activities specified by those articles ceases to have effect on the day on which the FCA gives the decision notice refusing the application under section 55X;

(ii) permission in respect of article 60B(2) of the Regulated Activities Order and article 64 of that Order so far as it relates to the activity specified by that article continues until whichever is the earliest of—

(aa) the end of a period of 2 years beginning with the day referred to in paragraph (i);

(bb) where that person gives written notice to the FCA that they no longer want to have a temporary permission under this paragraph, the day after the date on which the notice is given; or

(cc) the day on which that person has recovered all sums due to them under any credit agreement covered by the temporary permission or otherwise discharged them;

(d) subject to sub-paragraph (e), where that person makes a relevant application on or before the last application date, and they withdraw their application by written notice under section 55V(4) (determination of applications), then—

(i) permission in respect of article 36A or 60B(1) of the Regulated Activities Order and article 64 of that Order so far as it relates to the activities specified by those articles ceases to have effect on the day after the date on which that person gives notice of withdrawal of the application under section 55V(4);

(ii) permission in respect of article 60B(2) of the Regulated Activities Order and article 64 of that Order so far as it relates to the activity specified by that article continues until whichever is the earliest of—

(aa) the end of a period of 2 years beginning with the day referred to in paragraph (i);

(bb) where that person gives written notice to the FCA that they no longer want to have a temporary permission under this paragraph, the day after the date on which the notice is given; or

(cc) the day on which that person has recovered all sums due to them under any credit agreement covered by the temporary permission or otherwise discharged them;

(e) where, after that person gives written notice to the FCA that they no longer want to have temporary permission in relation to a relevant activity, then the day after the date on which the notice is given;

(f) where a temporarily permissioned person does not make a relevant application before the last application date, then on the day after the last application date.

(4) Paragraphs (5) and (6) apply where—

(a) a person's temporary permission ceases to have effect by virtue of paragraph (3) or the exercise of the FCA of the powers conferred on it by the 2000 Act to cancel a Part 4A permission; and

(b) that person consequently ceases, on the day on which that person's temporary permission ceases ("the cessation date"), to be a person with a Part 4A permission to carry on the relevant activity.

(5) Paragraph (6) applies in relation to—

(a) any act or omission by the person referred to in paragraph (4) during the period of temporary permission which occurred before the cessation date; or

(b) the contravention by that person of any requirement imposed on that person under section 55L(**a**) (imposition of requirements by FCA) or 404F(7)(**b**) (a requirement to establish and operate a scheme which is similar to a consumer redress scheme) which—

(i) is in effect immediately before the cessation date; and

(ii) continues to have effect in accordance with paragraph (7).

(6) Part 11 (information gathering and investigations), Part 14 (disciplinary measures) and section 384 (power of the FCA to require restitution) are to be read as if a reference to an authorised person included a reference to the person referred to in paragraph (4).

(7) Any requirement referred to in paragraph (5)(b)—

(a) continues to have effect after the cessation date until such time as it is cancelled by the FCA; and

(b) must be cancelled by the FCA when it is satisfied that it is no longer necessary for that requirement to continue to have effect.

(8) In this article, a reference to a numbered section or Part is a reference to the section or Part so numbered in the 2000 Act.

Application of the 2000 Act to persons with temporary permission

11.—(1) This article applies to a person who has temporary permission to carry on a relevant activity in relation to relevant activities carried on under that temporary permission.

(2) The temporary permission of that person does not have effect as a Part 4A permission for the purposes of—

(a) section 38(2)(**c**) (exemption orders);

(b) section 39(1C)(a)(**d**) (exemption of appointed representatives);

(c) section 55A(3) (application for permission);

(d) section 59(**e**) (approval for particular arrangements);

(e) section 63E(**f**) (certification of employees by authorised persons).

(3) For the purposes of section 39 (exemption of appointed representatives), that person may be an appointed representative in relation to an activity which that person does not have temporary permission to carry on.

(4) Where that person applies to the FCA—

(a) under section 55A for permission to carry on a regulated activity which is not a relevant activity; or

(b) under section 55H to vary a Part 4A permission by adding to the activities to which the permission relates a regulated activity which is not a relevant activity,

the application may be treated by the FCA as relating also to some or all of the regulated activities for which that person has temporary permission.

(5) If the FCA treats the application as relating also to some or all of the regulated activities for which that person has a temporary permission, article 12(4) does not apply in relation to the application.

(**a**) Section 55L was inserted by section 11(2) of the Financial Services Act 2012.

(**b**) Section 404F was inserted by section 14(1) of the Financial Services Act 2010 (c.28). Subsection (7) was amended by paragraph 20 of Schedule 18 to the Financial Services Act 2012.

(**c**) Section 38(2) was amended by paragraph 4 of Schedule 18 to the Financial Services Act 2012.

(**d**) Section 39(1C) was inserted by section 10(2) of the Financial Services Act 2012.

(**e**) Section 59 was amended by section 14(1) of and paragraph 3 of Schedule 5 to, the Financial Services Act 2012, section 18 of and paragraph 1 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33), paragraph 2 of Schedule 4 to the Bank of England and Financial Services Act 2016 (c.14) and S.I. 2013/1773 and 2019/632.

(**f**) Section 63E was inserted by section 29 of the Financial Services (Banking Reform) Act 2013 and amended by paragraph 11 of Schedule 4 to the Bank of England and Financial Services Act 2016, and S.I. 2018/1253 and 2019/632.

(6) The duty imposed by section 55B(3)(**a**) (satisfaction of threshold conditions) does not apply where the FCA exercises its power in relation to that person under—

(a) section 55J (variation or cancellation on initiative of regulator);

(b) section 55H (variation by FCA at request of authorised person) to remove a regulated activity from those for which A has temporary permission;

(c) section 55L (imposition of requirements by FCA).

(7) Where, immediately before the regulatory commencement date, that person is not an authorised person, that person is not to be treated, by virtue of article 10(2), as an authorised person for the purposes of Part 12 (control of authorised persons).

(8) For the purposes of the compensation scheme established under section 213, a claim made against that person in connection with any activity which that person's temporary permission permits them to carry on is to be treated as if it were not made in connection with regulated activities carried on by that person.

(9) The activity to which that person's temporary permission permits them to carry on is to be treated as if it were not a regulated activity for the purposes of—

(a) construing the reference to the only regulated activities that a person carries on, or seeks to carry on, which is contained in paragraphs 2C(1A), 2D(3A) and 2F(3) of Schedule 6(**b**) (threshold conditions); and

(b) article 6A(1)(b) of the Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009(**c**).

(10) In this article, a reference to a numbered section, Part or Schedule is a reference to the section, Part or Schedule so numbered in the 2000 Act.

Relevant applications

12.—(1) In relation to a relevant application, the FCA, may by direction specify the date on or after which a relevant application may be made, provided that date is before the regulatory commencement date.

(2) A direction given under this article may—

(a) specify different dates for different persons or classes of person or for different descriptions of activities;

(b) impose different requirements for different circumstances or different categories of application;

(c) be amended, substituted or revoked by a further direction.

(3) The last date on which a relevant application may be made ("the last application date") is the day six months after the regulatory commencement date.

(4) Subject to article 11(5), a relevant application made before any date specified by a direction given in accordance with paragraph (1) is to be treated as if it had not been made.

PART 5

Review

Review

13.—(1) The Treasury must from time to time—

(a) carry out a review of the regulatory provision contained in this Order; and

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(**a**) Sections 55B and 55J were inserted by section 11(2) of the Financial Services Act 2012.
(**b**) Schedule 6 was substituted by S.I. 2013/555.
(**c**) S.I. 2009/774. Article 6A was inserted by S.I. 2013/1881.

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before the end of the period of five years beginning with the initial commencement date.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Each report must in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this article, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015(**a**) (duty to review regulatory provisions in secondary legislation) (see section 32 of that Act).

Name
Name
date Two of the Lords Commissioners of His Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for certain "buy-now-pay-later" agreements which are currently exempt agreements within article 60F(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) ("the Regulated Activities Order") to become regulated credit agreements within the meaning of article 60B(3) of that Order. These agreements are referred to as "regulated deferred payment credit agreements" in this note. As a result, the regulated activities specified for the purposes of the Financial Services and Markets Act 2000 (c.8) ("FSMA") by article 60B(1) (entering a regulated credit agreement) and (2) (exercise of lenders' rights and duties under a regulated credit agreement) of the Regulated Activities Order will include those activities as they relate to regulated deferred payment credit agreements.

Article 1 makes provision for the Order to come into force ahead of the date on which regulated deferred payment credit agreements will become regulated credit agreements for the purposes of the transitional provisions in articles 6 to 12 and to enable the Financial Conduct Authority ("FCA") and the Financial Ombudsman Service to make rules and carry out other steps prior to regulation.

Article 2 amends the Consumer Credit Act 1974 (c.39) so that provisions including sections 55 (disclosure of information), 60 (form and contents of agreements), 76 (duty to give notice before taking certain action), 86B (duty to give notice of sums in arrears under fixed-sum credit agreements), 86E (failure to give notice of sums in arrears) and 87 (need for default notice) will not apply to regulated deferred payment credit agreements, as now defined in section 189. The FCA's rule-making powers enable that authority to make rules relating to the subject matter of provisions disapplied by article 2.

Article 3 amends article 60F of the Regulated Activities Order (exemptions from classification as a regulated credit agreement relating to the number of repayments to be made) to exclude regulated deferred payment agreements. It also inserts a new article 36FB into the Regulated

(**a**) 2015 c.26.

Activities Order to provide that activities in relation to regulated deferred payment credit agreements which fall within article 36A of that Order (credit broking) will be excluded from regulation, unless the person carrying out the activity does so at the home of an individual customer.

Article 4 amends the Financial Services (Distance Marketing) Regulations 2004 (S.I. 2004/2095) to disapply the effect of regulations 7 (information required prior to the conclusion of the contract) and 8 (written and additional information) of those Regulations for intermediaries of distance contracts where they are regulated deferred payment credit agreements and are within scope of the new article 36FB exclusion.

Article 5 amends article 15 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (S.I. 2005/1529) which exempts certain sorts of introductions from the financial promotion restriction in section 21 of FSMA. The effect of the amendment is that introductions for the purposes of providing relevant consumer credit which involves a regulated deferred payment credit agreement do not fall within the article 15 exemption. As a consequence, financial promotions communicated by an unauthorised merchant who offers a third-party lender's regulated deferred payment credit agreements as a method of payment will need to be approved by a FSMA authorised person under section 21(2)(b) of FSMA.

Articles 6 to 12 contain transitional provisions and provide for a temporary permission regime to be established, to allow the activities in relation to regulated deferred payment credit agreements brought within the scope of regulation by this Order to be carried on for a limited time as if the person concerned had a Part 4A permission under FSMA. Those wishing to obtain a temporary permission must register with the FCA, and article 12 makes provision about the timing of applications for a Part 4A permission.

Article 13 requires the Treasury to review the regulatory provision contained in the Order within 5 years of the Order coming into force and thereafter at intervals not exceeding 5 years.

A full impact assessment of the effect that this Order will have on the costs of business, the voluntary sector and the public sector is available from His Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.gov.uk and is published alongside the Order on www.legislation.gov.uk.

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