
STATUTORY INSTRUMENTS

2001 No. 544

The Financial Services and Markets Act
2000 (Regulated Activities) Order 2001

PART II

SPECIFIED ACTIVITIES

[^{F1}CHAPTER 6A

CREDIT BROKING

Textual Amendments

- F1** Pt. II Ch. 6A, 6B inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), 4

The activity

Credit broking

36A.—(1) Each of the following is a specified kind of activity—

- (a) effecting an introduction of an individual or relevant recipient of credit who wishes to enter into a credit agreement to a person (“P”) with a view to P entering into by way of business as lender a regulated credit agreement (or an agreement which would be a regulated credit agreement but for any of the relevant provisions);
- (b) effecting an introduction of an individual or relevant recipient of credit who wishes to enter into a consumer hire agreement to a person (“P”) with a view to P entering into by way of business as owner a regulated consumer hire agreement or an agreement which would be a regulated consumer hire agreement but for article 60O (exempt agreements: exemptions relating to the nature of the agreement) or 60Q (exempt agreements: exemptions relating to the nature of the hirer);
- (c) effecting an introduction of an individual or relevant recipient of credit who wishes to enter into a credit agreement or consumer hire agreement (as the case may be) to a person who carries on an activity of the kind specified in sub-paragraph (a) or (b) by way of business;
- (d) presenting or offering an agreement which would (if entered into) be a regulated credit agreement (or an agreement which would be a regulated credit agreement but for any of the relevant provisions);
- (e) assisting an individual or relevant recipient of credit by undertaking preparatory work with a view to that person entering into a regulated credit agreement (or an agreement which would be a regulated credit agreement but for any of the relevant provisions);

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- (f) entering into a regulated credit agreement (or an agreement which would be a regulated credit agreement but for any of the relevant provisions) on behalf of a lender.
- (2) Paragraph (1) does not apply in so far as the activity is an activity of the kind specified by article 36H (operating an electronic system in relation to lending).
- (3) For the purposes of paragraph (1) it is immaterial whether the credit agreement or consumer hire agreement is subject to the law of a country outside the United Kingdom.
- (4) For the purposes of this article, the “relevant provisions” are the following provisions—
- (a) article 60C (exempt agreements: exemptions relating to the nature of the agreement);
 - (b) article 60D (exempt agreements: exemptions relating to the purchase of land for non-residential purposes);
 - (c) article 60E (exempt agreements: exemptions relating to the nature of the lender)^{F2}, except for paragraph (5) of that article];
 - (d) article 60G (exempt agreements: exemptions relating to the total charge for credit);
 - (e) article 60H (exempt agreements: exemptions relating to the nature of the borrower).

Textual Amendments

F2 Words in art. 36A(4)(c) inserted (27.6.2014) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2014 \(S.I. 2014/1448\)](#), arts. 1(2), 2

Exclusions

Introducing by individuals in the course of canvassing off trade premises

36B.—(1) There are excluded from article 36A activities carried on by an individual by canvassing off trade premises—

- (a) a restricted-use credit agreement used to finance a transaction between the lender or a member of the lender’s group and the borrower whether forming part of that agreement or not, or
- (b) a regulated consumer hire agreement.

(2) But paragraph (1) does not apply if A carries on any other activity of a kind specified by article 36A(1)(a) to (c).

(3) A canvasses a restricted-use credit agreement or a regulated consumer hire agreement off trade premises for the purposes of this article if—

- (a) A solicits the entry of an individual or relevant recipient of credit (“B”) into such an agreement by making oral representations to B during a visit by A to any place (not excluded by paragraph (4)) where B is, and
- (b) that visit is made by A for the purpose of making such oral representations.

(4) A place is excluded from paragraph (3) if it is a place where a business is carried on (whether on a permanent or temporary basis) by—

- (a) the lender or owner,
- (b) the supplier under the restricted-use credit agreement,
- (c) A,
- (d) a person who employs A or has appointed A as an agent, or
- (e) B.

Activities for which no fee is paid

36C.—(1) There are excluded from sub-paragraphs (d), (e) and (f) of article 36A(1) activities carried on by a person for which that person does not receive a fee.

(2) For the purposes of this article, “fee” includes pecuniary consideration or any other form of financial consideration.

Transaction to which the broker is a party

36D. There are excluded from article 36A activities in relation to a regulated credit agreement (or an agreement which would be a regulated credit agreement but for the exclusions in articles 60C to 60H) or a regulated consumer hire agreement (or an agreement which would be a regulated consumer hire agreement but for the exclusions in articles 60O to 60Q) into which the person carrying on the activity enters or is to enter as lender or owner.

[^{F3} Activities in relation to certain agreements relating to land

36E.—(1) There are excluded from article 36A activities carried on with a view to an individual or a relevant recipient of credit entering into an investment property loan, as defined in article 61A(6) (mortgage contracts which are not regulated mortgage contracts).

(2) There are excluded from article 36A activities of a kind specified by article 25A (arranging regulated mortgage contracts) or 25C (arranging regulated home purchase plans).

(3) There are excluded from article 36A other activities not excluded by paragraph (1) or (2) which consist of effecting an introduction with a view to an individual or relevant recipient of credit entering into a relevant agreement, if the person to whom the introduction is made is an authorised person who has permission to—

- (a) enter into such an agreement as lender or home purchase provider (as the case may be), or
- (b) make an introduction to an authorised person who has permission to enter into such an agreement as lender or home purchase provider (as the case may be).

(4) In paragraph (3) “relevant agreement” means a regulated mortgage contract or a regulated home purchase plan.]

Textual Amendments

F3 Art. 36E substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), [art. 1\(5\)](#), [Sch. 1 para. 4\(7\)](#) (with Pt. 4)

[^{F4} Activities carried on by members of the legal profession etc

36F.—(1) There are excluded from article 36A (credit broking) activities carried on by—

- (a) a barrister or advocate acting in that capacity;
- (b) a solicitor (within the meaning of the Solicitors Act 1974) in the course of providing advocacy services or litigation services;
- (c) a solicitor (within the meaning of the Solicitors (Scotland) Act 1980) in the course of providing advocacy services or litigation services;
- (d) a solicitor (within the meaning of the Solicitors (Northern Ireland) Order 1976) in the course of providing advocacy services or litigation services;

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(e) a relevant person (other than a person falling within sub-paragraph (a) to (d)) in the course of providing advocacy services or litigation services.

(2) In paragraph (1)—

“advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide for the purpose of those proceedings or contemplated proceedings;

“litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to any proceedings, or contemplated proceedings, to provide for the purpose of those proceedings or contemplated proceedings;

“relevant person” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).]

Textual Amendments

F4 Art. 36F substituted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), **3(2)**

[^{F5}Activities carried on by registered social landlords

36FA.—(1) There are excluded from article 36A (credit broking) activities carried on by a registered social landlord, for which the registered social landlord does not receive a fee.

(2) The exclusion in paragraph (1) only applies to activities relating to the introduction of an individual who wishes to enter into a credit agreement, to—

- (a) a credit union;
- (b) a community benefit society;
- (c) a community interest company limited by guarantee;
- (d) a registered charity, or a subsidiary of a registered charity;
- (e) a subsidiary of a registered social landlord.

(3) For the purposes of this article, “fee” includes pecuniary consideration or any other form of financial consideration.

(4) In this article—

“community benefit society” means a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 or a registered society within the meaning of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969;

“community interest company limited by guarantee” means a community interest company limited by guarantee within the meaning of section 26 of the Companies (Audit, Investigations and Community Enterprise) Act 2004;

“credit union” means a credit union within the meaning of—

- (a) the Credit Unions Act 1979;
- (b) the Credit Unions (Northern Ireland) Order 1985;

“registered charity” means

- (a) in England and Wales, a charity registered under section 30(1) of the Charities Act 2011;

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- (b) in Scotland, a charity registered within the meaning of section 13(1) of the Charities and Trustee Investment (Scotland) Act 2005
- (c) in Northern Ireland, a charity registered under section 16(2) of the Charities Act (Northern Ireland) 2008;

“registered social landlord” means—

- (a) in England, a private registered provider within the meaning of section 80(3) of the Housing and Regeneration Act 2008;
- (b) in Wales, a registered social landlord within the meaning of Part 1 of the Housing Act 1996;
- (c) in Scotland, a registered social landlord within the meaning of the Housing (Scotland) Act 2010;
- (d) in Northern Ireland, a housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992;

“subsidiary” means a subsidiary as defined by section 1159 of the Companies Act 2006.]

Textual Amendments

- F5** Art. 36FA inserted (23.7.2019) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2019 \(S.I. 2019/1067\)](#), arts. 1(2), **2(2)**

[^{F6}Other exclusions]

36G. Article 36A is also subject to [^{F7}the exclusions in articles ^{F8}... 72G (local authorities) and 72I (registered consumer buy-to-let mortgage firms)].]

Textual Amendments

- F6** Art. 36G heading substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), art. 1(3)(4), **2(7)**
- F7** Words in art. 36G substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 4(8)** (with Pt. 4)
- F8** Words in art. 36G omitted (31.12.2020) by virtue of [The Electronic Commerce and Solvency 2 \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1361\)](#), regs. 1(2), **5(3)(c)** (as amended by S.I. 2019/1390, regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)

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