
DRAFT STATUTORY INSTRUMENTS

2015 No.

**The Financial Services and Markets Act
2000 (Miscellaneous Provisions) Order 2015**

**Amendment of the Financial Services and Markets Act 2000 (Regulated Activities Order)
2001**

3.—(1) The Financial Services and Markets Act 2000 (Regulated Activities Order) 2001⁽¹⁾ is amended as follows.

(2) For article 36F (activities carried on by members of the legal profession etc)⁽²⁾ substitute—

“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⁽³⁾) in the course of providing advocacy services or litigation services;
- (c) a solicitor (within the meaning of the Solicitors (Scotland) Act 1980⁽⁴⁾) in the course of providing advocacy services or litigation services;
- (d) a solicitor (within the meaning of the Solicitors (Northern Ireland) Order 1976⁽⁵⁾) in the course of providing advocacy services or litigation services;
- (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⁽⁶⁾, 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).”

(3) For article 39K (activities carried on by members of the legal profession etc)⁽⁷⁾ substitute—

(1) [S.I. 2001/544](#).

(2) Articles 36A to 36G were inserted by [S.I. 2013/1881](#).

(3) [1974 c. 47](#).

(4) [1980 c. 46](#).

(5) [S.I. 1976/582 \(N.I. 12\)](#).

(6) [2007 c. 29](#).

(7) Articles 39D to 39M were inserted by [S.I. 2013/1881](#).

“Activities carried on by members of the legal profession etc

39K.—(1) There are excluded from articles 39D, 39E, 39F and 39G 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;
- (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).”

(4) In article 60B(3) (regulated credit agreements)(8) for the definition of “exempt agreement” substitute—

““exempt agreement” means a credit agreement which is an exempt agreement under articles 60C to 60H, but where only part of a credit agreement falls within a provision of articles 60C to 60H, only that part is an exempt agreement under those articles;”

(5) In article 60F (exempt agreements: exemptions relating to number of repayments to be made) for paragraph (8) substitute—

“(8) In this article, “payment” means any payment which comprises or includes—

- (a) the repayment of capital, or
- (b) the payment of interest or any other charge which forms part of the total charge for credit.”

(6) In article 60L (interpretation of Chapter 14A etc) at the end add—

“(10) For the purposes of this Chapter, where a provision specifies an amount of credit, running-account credit shall be taken not to exceed the amount specified in that provision (“the specified amount”) if—

- (a) the credit limit does not exceed the specified amount; or
- (b) the credit limit exceeds the specified amount, or there is no credit limit, and—
 - (i) the borrower is not enabled to draw at any one time an amount which, so far as it represents credit, exceeds the specified amount; or

(8) Articles 60B to 60M were inserted by [S.I. 2013/1881](#).

- (ii) the agreement provides that, if the debit balance rises above a given amount (not exceeding the specified amount), the rate of the total charge for credit increases or any other condition favouring the lender or the lender's associate comes into operation; or
- (iii) at the time the agreement is made it is probable, having regard to the terms of the agreement and any other relevant considerations, that the debit balance will not at any time rise above the specified amount.

(11) For the purposes of this Chapter, an item entering into the total charge for credit is not to be treated as credit even though time is allowed for its payment.”

(7) For article 89C (activities carried on by members of the legal profession etc)(9) substitute—

“Activities carried on by members of the legal profession, etc

89C.—(1) There are excluded from articles 89A and 89B 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;
- (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).”