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DRAFT STATUTORY INSTRUMENTS

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**2016 No.**

**The Financial Services and Markets Act 2000  
(Regulated Activities) (Amendment) Order 2016**

**PART 5**

**Transitional provisions relating to the operation  
of an electronic platform in relation to lending**

**Transitional provision: permission**

**10.**—(1) A person who, at the end of the day on which this Order is made, has permission under the Financial Services and Markets Act 2000 to carry on an activity of the kind specified by article 36H of the Regulated Activities Order (operating an electronic platform in relation to lending), is to be treated as having that permission varied with effect from the day after the day on which this Order is made to include permission to carry on activities of the kind specified by paragraph (2D) and (3) of that article.

(2) A person who, immediately before 6th April 2016, has permission under the Financial Services and Markets Act 2000 to carry on an activity of the kind specified by article 53 of the Regulated Activities Order (advising on investments), is to be treated as having that permission varied with effect from 6th April 2016 to include permission to carry on activities of the kind specified by paragraph (2) of that article (advising on article 36H agreements) where that person may lawfully carry on activities of that kind.

(3) Where a person who, immediately before 6th April 2016, had a Part 4A permission<sup>(1)</sup> that is treated as having been varied in accordance with paragraph (2), the varied permission remains subject to any limitations<sup>(2)</sup> or requirements<sup>(3)</sup> specified or imposed in relation to that permission immediately before 6th April 2016.

(4) A Part 4A permission that is treated as having been varied in accordance with paragraphs (1) or (2) is to be treated as having been varied by—

- (a) in the case of a PRA-<sup>(4)</sup>authorised person, the PRA<sup>(5)</sup>; or
- (b) in the case of any other authorised person, the FCA.

(5) Paragraphs (1) to (3) do not affect the ability of the FCA or the PRA to vary or cancel a Part 4A permission under the Act.

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- (1) “A Part 4A permission” means a permission given by the appropriate regulator under Part 4A of the Financial Services and Markets Act 2000 (see section 55A(5) of that Act).
- (2) Limitations may be imposed by the FCA pursuant to section 55E of the Financial Services and Markets Act 2000, and by the PRA pursuant to section 55F of that Act.
- (3) Requirements may be imposed by the FCA pursuant to section 55L of the Financial Services and Markets Act 2000, and by the PRA pursuant to section 55M of that Act.
- (4) “PRA-<sup>(4)</sup>authorised person” means a person authorised to carry on one or more regulated activity that is designated as a PRA-regulated activity by the Treasury pursuant to section 22A of the Financial Services and Markets Act 2000 (see section 2B(5) of that Act).
- (5) “The PRA” means the Prudential Regulation Authority (see section 2A(2) of the Financial Services and Markets Act 2000).

**Transitional provision: article 36H agreements**

**11.**—(1) This article applies to an agreement for the provision of credit (within the meaning of article 60L of the Regulated Activities Order) which is not an article 36H agreement (within the meaning of article 36H of that Order) immediately before the coming into force of article 2(5) of this Order but which would, but for paragraph (2), fall to be so treated after that date by virtue of the amendments made by article 2(5).

(2) An agreement to which this article applies is not to be treated as an article 36H agreement unless the condition in paragraph (3) is satisfied.

(3) The condition in this paragraph is that after the coming into force of article 2(5) of this Order, a person, acting in the course of carrying on an activity of the kind specified by article 36H(2D) of the Regulated Activities Order, facilitates a transfer of the rights under the agreement (by assignment or operation of law) to a lender (within the meaning of article 36H of that Order) not previously party to the agreement.

**Transitional provision: paragraph 4C agreements**

**12.**—(1) This article applies to an agreement for the provision of credit (within the meaning of article 60L of the Regulated Activities Order) which is not a paragraph 4C agreement (within the meaning of paragraph 4C of Schedule 1 to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005) immediately before the coming into force of article 6(2) of this Order but which would, but for paragraph (2), fall to be so treated after that date by virtue of the amendments made by article 6(2).

(2) An agreement to which this article applies is not to be treated as a paragraph 4C agreement, unless the condition in paragraph (3) is satisfied.

(3) The condition in this paragraph is that after the coming into force of article 6(2) of this Order, a person, acting in the course of carrying on a controlled activity of the kind specified by sub-paragraph 4C(2D) of Schedule 1 to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 facilitates a transfer of the rights under the agreement (by assignment or operation of law) to a lender (within the meaning of paragraph 4C of Schedule 1 to that Order) not previously party to the agreement.