
STATUTORY INSTRUMENTS

2001 No. 544

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

PART II

SPECIFIED ACTIVITIES

[^{F1}CHAPTER 14A

REGULATED CREDIT AGREEMENTS

The activities

[^{F1}Exempt agreements: exemptions relating to the nature of the lender

60E.—(1) A credit agreement is an exempt agreement for the purposes of this Chapter in the following cases.

(2) [^{F2}Subject to article 60HA, a relevant credit agreement] relating to the purchase of land is an exempt agreement if the lender is—

- (a) specified, or of a description specified, in rules made by the FCA under paragraph (3), or
- (b) a local authority.

(3) The FCA may make rules specifying any of the following for the purpose of paragraph (2)—

- (a) an authorised person with permission to effect or carry out contracts of insurance;
- (b) a friendly society;
- (c) an organisation of employers or organisation of workers;
- (d) a charity;
- (e) an improvement company (within the meaning given by section 7 of the Improvement of Land Act 1899);
- (f) a body corporate named or specifically referred to in any public general Act;
- (g) a body corporate named or specifically referred to in, or in an order made under, a relevant housing provision;
- (h) a building society (within the meaning of the Building Societies Act 1986);
- (i) an authorised person with permission to accept deposits.

(4) Rules under paragraph (3) may—

- (a) specify a particular person or class of persons;
- (b) be limited so as to apply only to agreements or classes of agreement specified in the rules.

(5) [^{F3}Subject to article 60HA, a relevant credit agreement] is an exempt agreement if it is—

- (a) secured by a legal [^{F4}or equitable] mortgage on land,

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- (b) that land is used or is intended to be used as or in connection with a dwelling, and
 - (c) the lender is a housing authority.
- (6) A credit agreement is an exempt agreement if—
- (a) the lender is an investment firm or a ^{F5}qualifying credit institution], and
 - (b) the agreement is entered into for the purpose of allowing the borrower to carry out a transaction relating to one or more financial instruments.
- (7) In this article—

“housing authority” means—

- (a) in England and Wales, the Homes and Communities Agency, the Welsh Ministers^{F6}, a company which is a wholly-owned subsidiary of the Welsh Ministers, ^{F7}a registered social landlord within the meaning of Part 1 of the Housing Act 1996,] or a private registered provider (within the meaning of Part 2 of the Housing and Regeneration Act 2008);
- (b) in Scotland, the Scottish Ministers or a registered social landlord (within the meaning of the Housing (Scotland) Act 2010);
- (c) in Northern Ireland, the Northern Ireland Housing Executive ^{F8}or a housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992];

“relevant credit agreement relating to the purchase of land” means—

- (a) a borrower-lender-supplier agreement financing—
 - (i) the purchase of land, or
 - (ii) provision of dwellings on land,
 and secured by a legal ^{F9}or equitable] mortgage on that land,
- (b) a borrower-lender agreement secured by a legal ^{F9}or equitable] mortgage on land, or
- (c) a borrower-lender-supplier agreement financing a transaction which is a linked transaction in relation to—
 - (i) an agreement falling within sub-paragraph (a), or
 - (ii) an agreement falling within sub-paragraph (b) financing—
 - (aa) the purchase of land,
 - (bb) the provision of dwellings on land,
 and secured by a legal ^{F9}or equitable] mortgage on the land referred to in sub-paragraph (a) or the land referred to in paragraph (ii);

“relevant housing provision” means any of the following—

- (a) section 156(4) or 447(2)(a) of the Housing Act 1985,
- (b) section 156(4) of that Act as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire), or
- (c) article 154(1)(a) of the Housing (Northern Ireland) Order 1981.

[
^{F10}(7A) In paragraph (7), in the definition of “housing authority”, in paragraph (a), “wholly-owned subsidiary” has the same meaning as in section 1159 (meaning of “subsidiary” etc.) of the Companies Act 2006.

(7B) For the purpose of paragraph (7A), the Welsh Ministers are to be treated as a body corporate.]

(8) For the purposes of the definition of “relevant credit agreement relating to the purchase of land”, a transaction is, unless paragraph (9) applies, a “linked transaction” in relation to a credit agreement (“the principal agreement”) if—

- (a) it is (or will be) entered into by the borrower under the principal agreement or by a relative of the borrower,
- (b) it does not relate to the provision of security,
- (c) it does not form part of the principal agreement, and
- (d) one of the following conditions is satisfied—
 - (i) the transaction is entered into in compliance with a term of the principal agreement;
 - (ii) the principal agreement is a borrower-lender-supplier agreement and the transaction is financed, or to be financed, by the principal agreement;
 - (iii) the following conditions are met—
 - (aa) the other party is a person to whom paragraph (10) applies,
 - (bb) the other party initiated the transaction by suggesting it to the borrower or the relative of the borrower, and
 - (cc) the borrower or the relative of the borrower enters into the transaction to induce the lender to enter into the principal agreement or for another purpose related to the principal agreement or to a transaction financed or to be financed by the principal agreement.

(9) This paragraph applies if the transaction is—

- (a) a contract of insurance,
- (b) a contract which contains a guarantee of goods, or
- (c) a transaction which comprises, or is effected under—
 - (i) an agreement for the operation of an account (including any savings account) for the deposit of money, or
 - (ii) an agreement for the operation of a current account, under which the customer (“C”) may, by means of cheques or similar orders payable to C or to any other person, obtain or have the use of money held or made available by the person with whom the account is kept.

(10) The persons to whom this paragraph applies are—

- (a) the lender;
- (b) the lender’s associate;
- (c) a person who, in the negotiation of the transaction, is represented by a person who carries on an activity of the kind specified by article 36A (credit broking) by way of business who is or was also a negotiator in negotiations for the principal agreement;
- (d) a person who, at the time the transaction is initiated, knows that the principal agreement has been made or contemplates that it might be made.]

Textual Amendments

- F1** Pt. II Ch. 14A, 14B 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), 6
- F2** Words in art. 60E(2) 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(15)(a)** (with Pt. 4)

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- F3** Words in art. 60E(5) 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(15)(b)** (with Pt. 4)
- F4** Words in art. 60E(5)(a) inserted (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(26)**
- F5** Words in art. 60E(6)(a) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **139** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1212, regs. 1(3), 22(3))); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in art. 60E(7) inserted (28.7.2014) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 3\) Order 2014 \(S.I. 2014/1740\)](#), arts. 1(2), **2(a)**
- F7** Words in art. 60E(7) inserted (17.3.2016 for specified purposes, 20.3.2016 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)(b), **2(13)(a)** (with Pt. 5)
- F8** Words in art. 60E(7) inserted (17.3.2016 for specified purposes, 20.3.2016 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)(b), **2(13)(b)** (with Pt. 5)
- F9** Words in art. 60E(7) inserted (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(26)**
- F10** Art. 60E(7A)(7B) inserted (28.7.2014) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 3\) Order 2014 \(S.I. 2014/1740\)](#), arts. 1(2), **2(b)**

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