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## STATUTORY INSTRUMENTS

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# 2001 No. 544

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

### [<sup>F1</sup>PART 3A

#### SPECIFIED ACTIVITIES IN RELATION TO INFORMATION

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##### Textual Amendments

- F1** Pt. 3A 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), **8(2)**

#### *The activities*

##### **Providing credit information services**

**89A.**—(1) Taking any of the steps in paragraph (3) on behalf of an individual or relevant recipient of credit is a specified kind of activity.

(2) Giving advice to an individual or relevant recipient of credit in relation to the taking of any of the steps specified in paragraph (3) is a specified kind of activity.

(3) Subject to paragraph (4), the steps specified in this paragraph are steps taken with a view to—

- (a) ascertaining whether a credit information agency holds information relevant to the financial standing of an individual or relevant recipient of credit;
- (b) ascertaining the contents of such information;
- (c) securing the correction of, the omission of anything from, or the making of any other kind of modification of, such information;
- (d) securing that a credit information agency which holds such information—
  - (i) stops holding the information, or
  - (ii) does not provide it to any other person.

(4) Steps taken by a credit information agency in relation to information held by that agency are not steps specified in paragraph (3).

(5) Paragraphs (1) and (2) do not apply to an activity of the kind specified by article 36H (operating an electronic system in relation to lending).

(6) “Credit information agency” means a person who carries on by way of business an activity of the kind specified by any of the following—

- (a) article 36A (credit broking);
- (b) article 39D (debt adjusting);
- (c) article 39E (debt-counselling);

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- (d) article 39F (debt-collecting);
- (e) article 39G (debt administration);
- (f) article 60B (regulated credit agreements) disregarding the effect of article 60F;
- (g) article 60N (regulated consumer hire agreements) disregarding the effect of article 60P;
- (h) article 89B (providing credit references).

### Providing credit references

**89B.**—(1) Furnishing of persons with information relevant to the financial standing of individuals or relevant recipients of credit is a specified kind of activity if the person has collected the information for that purpose.

(2) There are excluded from paragraph (1) activities carried on in the course of a business which does not primarily consist of activities of the kind specified by paragraph (1).

(3) Paragraph (1) does not apply to an activity of the kind specified by article 36H (operating an electronic system in relation to lending).

### Exclusions

### [<sup>F2</sup>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).]

### Textual Amendments

**F2** Art. 89C substituted (24.3.2015) by [The Financial Services and Markets Act 2000 \(Miscellaneous Provisions\) Order 2015 \(S.I. 2015/853\)](#), arts. 1(2), 3(7)

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[<sup>F3</sup>Other exclusions]

**89D.—**[

<sup>F4</sup>(1)] Articles 89A and 89B are subject to the exclusion in article 72A (information society services).

[

<sup>F5</sup>(2) Article 89A is also subject to the exclusions in articles 72G (local authorities) and 72H (insolvency practitioners).]

**Textual Amendments**

- F3** Art. 89D 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(44)**
- F4** Art. 89D(1): art. 89D renumbered as art. 89D(1) (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(45)(a)**
- F5** Art. 89D(2) 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(45)(b)**

*Supplemental*

**Meaning of “consumer” etc.**

**89E.—**(1) For the purposes of sections 1G, 404E and 425A of the Act (meaning of “consumer”)

- (a) an individual or a relevant recipient of credit who is, may be, has been or may have been the subject of the information referred to in article 89A, and
- (b) an individual or a relevant recipient of credit who is, may be, has been or may have been the subject of information furnished in the course of a person carrying on an activity of the kind specified by article 89B, [<sup>F6</sup>or article 64 (agreeing to carry on specified kinds of activity) in so far as that article relates to article 89B,]

is to be treated as a “consumer”.

(2) For the purposes of section 328(8) of the Act (meaning of “clients”)—

- (a) an individual or a relevant recipient of credit who is, may be, has been or may have been the subject of the information referred to in article 89A, and
- (b) an individual or a relevant recipient of credit who is, may be, has been or may have been the subject of information furnished in the course of a person carrying on an activity of the kind specified by article 89B, [<sup>F7</sup>or article 64 (agreeing to carry on specified kinds of activity) in so far as that article relates to article 89B,]

is to be treated as a “client”.]

**Textual Amendments**

- F6** Words in art. 89E(1)(b) 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(46)**

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**F7** Words in art. 89E(2)(b) 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(46)**

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