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STATUTORY INSTRUMENTS

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**2001 No. 544**

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

PART II

SPECIFIED ACTIVITIES

[<sup>F1</sup>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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*Status: Point in time view as at 16/06/2014.*

*Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Chapter 6A is up to date with all changes known to be in force on or before 02 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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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);
  - (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).

### *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.

### **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 relevant recipient of credit entering into a regulated mortgage contract if the person carrying on the activity is an authorised person who has permission to—

- (a) enter into such a contract as lender, or
- (b) make an introduction to an authorised person who has permission to enter into such a contract as lender.

(2) There are excluded from article 36A activities carried on with a view to an individual or relevant recipient of credit entering into a regulated home purchase plan if the person carrying on the activity is an authorised person who has permission to—

- (a) enter into such a plan as home purchase provider, or
- (b) make arrangements for another person (“the client”) to enter into such a plan by introducing the client to an authorised person who has permission to enter into such a plan as home purchase provider.

### **Activities carried on by members of the legal profession etc.**

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

- (a) a barrister or advocate acting in that capacity;
- (b) a solicitor (within the meaning of the Solicitors Act 1974) acting in the course of contentious business (as defined in section 87(1) of that Act);
- (c) a solicitor within the meaning of the Solicitors (Scotland) Act 1980 engaging in business done in or for the purposes of proceedings before a court or before an arbitrator;
- (d) a solicitor in Northern Ireland engaging in contentious business as defined in Article 3(2) of the Solicitors (Northern Ireland) Order 1976;
- (e) a relevant person (other than a person falling within sub-paragraph (a) to (d)) acting in the course of contentious business.

(2) In sub-paragraph (e) of paragraph (1)—

“contentious business” means business done in or for the purposes of proceedings begun before a court or before an arbitrator, not being non-contentious or common form probate business (within the meaning of section 128 of the Senior Courts Act 1981);

“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).

### **[<sup>F2</sup>Other exclusions]**

**36G.** Article 36A is also subject to the exclusion in article 72A (information society services) [<sup>F3</sup>and the exclusion in article 72G (local authorities)].

**Status:** Point in time view as at 16/06/2014.

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### Textual Amendments

- F2** 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)**
- F3** Words in art. 36G 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(8)**

**Status:**

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**Changes to legislation:**

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