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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

##### [<sup>F1</sup>Exclusions

#### 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

#### **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,

*Status: Point in time view as at 16/06/2014.*

*Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Cross Heading: Exclusions is up to date with all changes known to be in force on or before 27 September 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)*

- (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)].]

**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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