
STATUTORY INSTRUMENTS

2001 No. 544

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

PART II

SPECIFIED ACTIVITIES

CHAPTER XII

ADVISING ON INVESTMENTS

The activity

Advising on investments

- 53.** Advising a person is a specified kind of activity if the advice is—
- (a) given to the person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and
 - (b) advice on the merits of his doing any of the following (whether as principal or agent)—
 - (i) buying, selling, subscribing for or underwriting a particular investment which is a security or a [^{F1}relevant investment], or
 - (ii) exercising any right conferred by such an investment to buy, sell, subscribe for or underwrite such an investment.

Textual Amendments

- F1** Words in art. 53(b)(i) substituted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **9(1)**

[^{F2}Advising on regulated mortgage contracts

- 53A.—**(1) Advising a person is a specified kind of activity if the advice—
- (a) is given to the person in his capacity as a borrower or potential borrower; and
 - (b) is advice on the merits of his doing any of the following—
 - (i) entering into a particular regulated mortgage contract, or
 - (ii) varying the terms of a regulated mortgage contract entered into by him after the coming into force of article 61 in such a way as to vary his obligations under that contract.
- (2) In this article, “borrower” has the meaning given by article 61(3)(a)(i).]

Status: Point in time view as at 08/11/2013.

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Textual Amendments

F2 Art. 53A inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **13**

[^{F3} Advising on regulated home reversion plans

53B. Advising a person is a specified kind of activity if the advice—

- (a) is given to the person in his capacity as—
 - (i) a reversion seller or potential reversion seller, or
 - (ii) a plan provider or potential plan provider; and
- (b) is advice on the merits of his doing either of the following—
 - (i) entering into a particular regulated home reversion plan, or
 - (ii) varying the terms of a regulated home reversion plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.]

Textual Amendments

F3 Arts. 53B, 53C inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **13**

[^{F3} Advising on regulated home purchase plans

53C. Advising a person is a specified kind of activity if the advice—

- (a) is given to the person in his capacity as a home purchaser or potential home purchaser; and
- (b) is advice on the merits of his doing either of the following—
 - (i) entering into a particular regulated home purchase plan, or
 - (ii) varying the terms of a regulated home purchase plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.]

Textual Amendments

F3 Arts. 53B, 53C inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **13**

[^{F4} Advising on regulated sale and rent back agreements

53D. Advising a person is a specified kind of activity if the advice—

- (a) is given to the person (“A”) in A’s capacity as—
 - (i) an agreement seller or potential agreement seller, or
 - (ii) an agreement provider or potential agreement provider; and
- (b) is advice on the merits of A doing either of the following—
 - (i) entering into a particular regulated sale and rent back agreement; or

- (ii) varying the terms of a regulated sale and rent back agreement entered into on or after 1st July 2009 by A as agreement seller or agreement provider, in such a way so as to vary A's obligations under that agreement.]

Textual Amendments

- F4** Art. 53D inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **13**

Exclusions

Advice given in newspapers etc.

54.—(1) There is excluded from [^{F5}articles 53, 53A, 53B [^{F6}, 53C and 53D]] the giving of advice in writing or other legible form if the advice is contained in a newspaper, journal, magazine, or other periodical publication, or is given by way of a service comprising regularly updated news or information, if the principal purpose of the publication or service, taken as a whole and including any advertisements or other promotional material contained in it, is neither—

- (a) that of giving advice of a kind mentioned in article 53 [^{F7}, 53A, 53B [^{F8}, 53C or 53D,] as the case may be]; nor
- [^{F9}(b) that of leading or enabling persons—
- (i) to buy, sell, subscribe for or underwrite securities or [^{F10}relevant investments], or (as the case may be),
 - (ii) to enter as borrower into regulated mortgage contracts, or vary the terms of regulated mortgage contracts entered into by them as borrower[^{F11};
 - (iii) to enter as reversion seller or plan provider into regulated home reversion plans, or vary the terms of regulated home reversion plans entered into by them as reversion seller or plan provider,
 - (iv) to enter as home purchaser into regulated home purchase plans, or vary the terms of regulated home purchase plans entered into by them as home purchaser[^{F12};
 - (v) to enter as agreement seller or agreement provider into regulated sale and rent back agreements, or vary the terms of regulated sale and rent back agreements entered into by them as agreement seller or agreement provider].]

(2) There is also excluded from [^{F13}articles 53, 53A, 53B [^{F14}, 53C and 53D]] the giving of advice in any service consisting of the broadcast or transmission of television or radio programmes, if the principal purpose of the service, taken as a whole and including any advertisements or other promotional material contained in it, is neither of those mentioned in paragraph (1)(a) and (b).

(3) [^{F15}The FCA] may, on the application of the proprietor of any such publication or service as is mentioned in paragraph (1) or (2), certify that it is of the nature described in that paragraph, and may revoke any such certificate if it considers that it is no longer justified.

(4) A certificate given under paragraph (3) and not revoked is conclusive evidence of the matters certified.

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Textual Amendments

- F5** Words in art. 54(1) substituted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **14(a)(i)**
- F6** Words in art. 54(1) substituted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **14(a)**
- F7** Words in art. 54(1)(a) substituted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **14(a)(ii)**
- F8** Words in art. 54(1)(a) substituted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **14(b)**
- F9** Art. 54(1)(b) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **14(4)**
- F10** Words in art. 54(1)(b) substituted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **9(2)**
- F11** Art. 54(1)(b)(iii)(iv) inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **14(a)(iii)**
- F12** Art. 54(1)(b)(v) inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **14(c)**
- F13** Words in art. 54(2) substituted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **14(b)**
- F14** Words in art. 54(2) substituted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **14(d)**
- F15** Words in art. 54(3) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), art. 1(1), **Sch. 2 para. 35(a)**

[^{F16}Advice given in the course of administration by authorised person

54A.—[

^{F17}(1)] A person who is not an authorised person (“A”) does not carry on an activity of the kind specified by article 53A by reason of—

- (a) anything done by an authorised person (“B”) in relation to a regulated mortgage contract which B is administering pursuant to arrangements of the kind mentioned in article 62(a); or
- (b) anything A does in connection with the administration of a regulated mortgage contract in circumstances falling within article 62(b).

[

^{F18}(2) A person who is not an authorised person (“A”) does not carry on an activity of the kind specified by article 53B by reason of—

- (a) anything done by an authorised person (“B”) in relation to a regulated home reversion plan which B is administering pursuant to arrangements of the kind mentioned in article 63C(a); or

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- (b) anything A does in connection with the administration of a regulated home reversion plan in circumstances falling within article 63C(b).
- (3) A person who is not an authorised person (“A”) does not carry on an activity of the kind specified by article 53C by reason of—
- (a) anything done by an authorised person (“B”) in relation to a regulated home purchase plan which B is administering pursuant to arrangements of the kind mentioned in article 63G(a); or
- (b) anything A does in connection with the administration of a regulated home purchase plan in circumstances falling within article 63G(b).]
- [
- ^{F19}(4) A person who is not an authorised person (“A”) does not carry on an activity of the kind specified by article 53D by reason of
- (a) anything done by an authorised person (“B”) in relation to a regulated sale and rent back agreement which B is administering pursuant to arrangements of the kind mentioned in article 63K(a); or
- (b) anything A does in connection with the administration of a regulated sale and rent back agreement in circumstances falling within article 63K(b).]]

Textual Amendments

- F16** Art. 54A inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **15**
- F17** Art. 54A(1): art. 54A renumbered as art. 54A(1) (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **15(a)**
- F18** Art. 54A(2)(3) inserted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **15(b)**
- F19** Art. 54A(4) inserted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **15**

Other exclusions

55.—^{F20}(1)] Article 53 is also subject to the exclusions in articles 66 (trustees etc.), 67, (profession or non-investment business), 68 (sale of goods and supply of services), 69 (groups and joint enterprises), 70 (sale of body corporate) ^{F21}, 72 (overseas persons)]^{F22}, 72A (information society services), 72B (activities carried on by a provider of relevant goods or services) ^{F23}, 72AA (managers of UCITS and AIFs) and 72D (large risks contracts where risk situated outside the EEA)].

^{F24}(2) [^{F25}Articles 53A, 53B ^{F26}, 53C and 53D] are] also subject to the exclusions in articles 66 (trustees etc.), 67 (profession or non-investment business) ^{F27}, 72A (information society services) and 72AA (managers of UCITS and AIFs)].

Textual Amendments

- F20** Art. 55(1): art. 55 renumbered as art. 55(1) (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **16(a)**
- F21** Words in art. 55 substituted (21.8.2002) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2002 \(S.I. 2002/1776\)](#), arts. 1, **3(12)**

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- F22** Words in art. 55(1) substituted (31.10.2004 for specified purposes, 14.1.2005 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **9(3)**
- F23** Words in art. 55(1) substituted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(7)**
- F24** Art. 55(2) inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **16(b)**
- F25** Words in art. 55(2) substituted (6.11.2006 for specified purposes, 6.4.2007 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **16**
- F26** Words in art. 55(2) substituted (1.7.2009 for specified purposes, 30.6.2010 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), arts. 1(2), **16**
- F27** Words in art. 55(2) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(6)**

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