

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

Exclusions

Advice given in newspapers etc.

54.—(1) There is excluded from [^{F1}articles 53, 53A, 53B [^{F2}, 53C [^{F3}, 53D [^{F4}, 53DA] and 53E]]] 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 [^{F5}, 53A, 53B [^{F6}, 53C [^{F7}, 53D [^{F4}, 53DA] or 53E],] as the case may be]; nor

[^{F8}(b) that of leading or enabling persons—

(i) to buy, sell, subscribe for or underwrite securities or [^{F9}relevant investments], or (as the case may be),

[^{F10}(ia) to enter into a relevant article 36H agreement (within the meaning of that article) as a lender, to assume the rights of a lender under such an agreement by assignment or operation of law, or to assign rights under such an agreement,]

(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];]

[^{F13}(va) to enter as a recipient of credit into a regulated credit agreement the purpose of which is to acquire or retain property rights in land or in an existing or projected building.]

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[^{F14}(vi) to require the trustee or manager of a pension scheme to take any of the actions referred to in article 53E(1)(c).]

(2) There is also excluded from [^{F15}articles 53, 53A, 53B [^{F16}, 53C [^{F17}, 53D [^{F4}, 53DA] and 53E]]] 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) [^{F18}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.

Textual Amendments

- F1** 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)**
- F2** 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)**
- F3** Words in art. 54(1) substituted (6.4.2015) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/731\)](#), arts. 1, **2(3)(a)(i)**
- F4** Word in art. 54 inserted (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(10)(a)** (with Pt. 4)
- F5** 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)**
- F6** 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)**
- F7** Words in art. 54(1)(a) substituted (6.4.2015) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/731\)](#), arts. 1, **2(3)(a)(ii)**
- F8** 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)**
- F9** 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)**
- F10** Art. 54(1)(b)(ia) inserted (17.3.2016 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), art. 1(2)(3)(d), **2(9)** (with Pt. 5)
- 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** Art. 54(1)(b)(va) inserted (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(10)(b)** (with Pt. 4)

- F14** Art. 54(1)(b)(vi) inserted (6.4.2015) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/731\)](#), arts. 1, **2(3)(a)(iii)**
- F15** 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)**
- F16** 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)**
- F17** Words in art. 54(2) substituted (6.4.2015) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/731\)](#), arts. 1, **2(3)(b)**
- F18** 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)**

[^{F19}Advice given in the course of administration by authorised person

54A.—[

^{F20}(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).

[
^{F21}(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
- (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).]

[
^{F22}(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).]

[

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^{F23}(5) A person who is not an authorised person (“A”) does not carry on an activity of the kind specified by article 53DA by reason of—

- (a) anything done by an authorised person (“B”) in relation to a regulated credit agreement which B is administering pursuant to arrangements of the kind mentioned in article 60I(a) (arranging administration by authorised person); or
- (b) anything A does in connection with the administration of a regulated credit agreement in circumstances falling within article 60I(b).]]

Textual Amendments

- F19** 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**
- F20** 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)**
- F21** 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)**
- F22** 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**
- F23** Art. 54A(5) inserted (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(11)** (with Pt. 4)

^{F24}Advice given by reason of providing pensions guidance under Part 20A of the Act

54B.—(1) A person does not carry on an activity of the kind specified in article 53, 53A, 53B, 53C or 53D by reason of providing pensions guidance under arrangements made with the Treasury pursuant to section 333B of the Act.

(2) For the purposes of paragraph (1), pensions guidance given by a designated guidance provider is given under arrangements made with the Treasury.]

Textual Amendments

- F24** Art. 54B inserted (26.3.2015) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(Pensions Guidance Exclusions\) Order 2015 \(S.I. 2015/489\)](#), arts. 1, **2(6)**

Other exclusions

55.—^{F25}(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)]^{F26}, 72 (overseas persons)]^{F27}, 72A (information society services), 72B (activities carried on by a provider of relevant goods or services)]^{F28}, 72AA (managers of UCITS and AIFs)]^{F29}, 72D (large risks contracts where risk situated outside the EEA), 72G (local authorities) and 72H (insolvency practitioners)]].

^{F30}(2) [^{F31}Articles 53A, 53B]^{F32}, [^{F33}53C, 53D and 53DA]] are] also subject to the exclusions in articles 66 (trustees etc.), 67 (profession or non-investment business)]^{F34}, 72A (information society

services)]^{F35}, 72AA (managers of UCITS and AIFs)]^{F36}, 72G (local authorities) and 72I (registered consumer buy-to-let mortgage firms)]].]

Textual Amendments

- F25** 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)**
- F26** 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)**
- F27** 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)**
- F28** 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)**
- F29** Words in art. 55(1) 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(23)(a)**
- F30** 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)**
- F31** 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**
- F32** 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**
- F33** Words in art. 55(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(12)(a)** (with Pt. 4)
- F34** 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)**
- F35** Words in art. 55(2) 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(23)(b)**
- F36** Words in art. 55(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(12)(b)** (with Pt. 4)

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