
Status: Point in time view as at 23/02/2011.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Chapter XV is up to date with all changes known to be in force on or before 20 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)

STATUTORY INSTRUMENTS

2001 No. 544

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

PART II

SPECIFIED ACTIVITIES

CHAPTER XV

REGULATED MORTGAGE CONTRACTS

The activities

Regulated mortgage contracts

61.—(1) Entering into a regulated mortgage contract as lender is a specified kind of activity.

(2) Administering a regulated mortgage contract is also a specified kind of activity, where the contract was entered into [^{F1}by way of business] after the coming into force of this article.

(3) In this Chapter—

[^{F2}(a) a contract is a “regulated mortgage contract” if, at the time it is entered into, the following conditions are met—

- (i) the contract is one under which a person (“the lender”) provides credit to an individual or to trustees (“the borrower”);
- (ii) the contract provides for the obligation of the borrower to repay to be secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom;
- (iii) at least 40% of that land is used, or is intended to be used, as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who is a beneficiary of the trust, or by a related person;

[^{F3}but such a contract is not a regulated mortgage contract if it is a regulated home purchase plan;]]

(b) “administering” a regulated mortgage contract means either or both of—

- (i) notifying the borrower of changes in interest rates or payments due under the contract, or of other matters of which the contract requires him to be notified; and
- (ii) taking any necessary steps for the purposes of collecting or recovering payments due under the contract from the borrower;

but a person is not to be treated as administering a regulated mortgage contract merely because he has, or exercises, a right to take action for the purposes of enforcing the contract (or to require that such action is or is not taken);

(c) “credit” includes a cash loan, and any other form of financial accommodation.

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- (4) For the purposes of [^{F4}paragraph 3(a)]—
- (a) a “first legal mortgage” means a legal mortgage ranking in priority ahead of all other mortgages (if any) affecting the land in question, where “mortgage” includes charge and (in Scotland) a heritable security;
 - (b) the area of any land which comprises a building or other structure containing two or more storeys is to be taken to be the aggregate of the floor areas of each of those storeys;
 - (c) “related person”, in relation to the borrower or (in the case of credit provided to trustees) a beneficiary of the trust, means—
 - (i) that person’s spouse [^{F5}or civil partner];
 - (ii) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or
 - (iii) that person’s parent, brother, sister, child, grandparent or grandchild; and
 - [^{F6}(d) “timeshare accommodation” means overnight accommodation which is the subject of a timeshare contract within the meaning of the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010.]

Textual Amendments

- F1** Words in art. 61(2) inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(1)(b), **8(a)**
- F2** Art. 61(3)(a) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(1)(b), **8(b)**
- F3** Words in art. 61(3)(a) 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), **17**
- F4** Words in art. 61(4) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(1)(b), **8(c)**
- F5** Words in art. 61(4)(c)(i) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Amendments to Subordinate Legislation\) Order 2005 \(S.I. 2005/2114\)](#), reg. 1, **Sch. 16 para. 1(3)**
- F6** Art. 61(4)(d) substituted (23.2.2011) by [The Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 \(S.I. 2010/2960\)](#), reg. 1(2), **Sch. 6 para. 7(2)** (with Sch. 7 para. 4)

Commencement Information

- I1** Art. 61 in force at 31.10.2004, see art. 1(2)(b) (as read with Treasury notice dated 9.7.2003)

Exclusions

Arranging administration by authorised person

62. A person who is not an authorised person does not carry on an activity of the kind specified by article 61(2) in relation to a regulated mortgage contract where he—

- (a) arranges for another person, being an authorised person with permission to carry on an activity of that kind, to administer the contract; or
- (b) administers the contract himself during a period of not more than one month beginning with the day on which any such arrangement comes to an end.

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Commencement Information

I2 Art. 62 in force at 31.10.2004, see art. 1(2)(b) (as read with Treasury notice dated 9.7.2003)

Administration pursuant to agreement with authorised person

63. A person who is not an authorised person does not carry on an activity of the kind specified by article 61(2) in relation to a regulated mortgage contract where he administers the contract pursuant to an agreement with an authorised person who has permission to carry on an activity of that kind.

Commencement Information

I3 Art. 63 in force at 31.10.2004, see art. 1(2)(b) (as read with Treasury notice dated 9.7.2003)

[^{F7}Other exclusions

63A. Article 61 is also subject to the exclusions in articles 66 (trustees etc.), 72 (overseas persons) and 72A (information society services).]

Textual Amendments

F7 Art. 63A 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), **17**

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