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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 XVA

##### Regulated Home Reversion Plans

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#### Textual Amendments

- F1** Pt. 2 Chs. 15A, 15B 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), **18**

#### *The activities*

#### **Entering into and administering regulated home reversion plans**

**63B.**—(1) Entering into a regulated home reversion plan as plan provider is a specified kind of activity.

(2) Administering a regulated home reversion plan is also a specified kind of activity where the plan was entered into on or after 6th April 2007.

(3) In this Chapter—

- (a) a “regulated home reversion plan” is an arrangement comprised in one or more instruments or agreements, in relation to which the following conditions are met at the time it is entered into—
- (i) the arrangement is one under which a person (the “plan provider”) buys all or part of a qualifying interest in land (other than timeshare accommodation) in the United Kingdom from an individual or trustees (the “reversion seller”);
  - (ii) the reversion seller (if he is an individual) or an individual who is a beneficiary of the trust (if the reversion seller is a trustee), or a related person, is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling, and intends to do so; and
  - (iii) the arrangement specifies one or more qualifying termination events, on the occurrence of which that entitlement will end;
- (b) “administering” a regulated home reversion plan means any of—

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- (i) notifying the reversion seller of changes in payments due under the plan, or of other matters of which the plan requires him to be notified;
- (ii) taking any necessary steps for the purposes of making payments to the reversion seller under the plan; and
- (iii) taking any necessary steps for the purposes of collecting or recovering payments due under the plan from the reversion seller,

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

(4) For the purposes of paragraph (3)—

- (a) the reference to a “qualifying interest” in land—
  - (i) in relation to land in England or Wales, is to an estate in fee simple absolute or a term of years absolute, whether subsisting at law or in equity;
  - (ii) in relation to land in Scotland, is to the interest of an owner in land or the tenant’s right over or interest in a property subject to a lease;
  - (iii) in relation to land in Northern Ireland, is to any freehold estate or any leasehold estate, whether subsisting at law or in equity;
- (b) “timeshare accommodation” has the meaning given by section 1 of the Timeshare Act 1992;
- (c) “related person” in relation to the reversion seller or, where the reversion seller is a trustee, a beneficiary of the trust, means—
  - (i) that person’s spouse 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
- (d) “qualifying termination event”, in relation to a person’s entitlement to occupy land, means—
  - (i) the person becomes a resident of a care home;
  - (ii) the person dies;
  - (iii) the end of a specified period of at least twenty years beginning with the day on which the reversion seller entered into the arrangement.

(5) For the purposes of paragraph (3)(a)(ii), 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.

(6) For the purposes of the definition of “qualifying termination event” in paragraph (4), “care home”—

- (a) in relation to England <sup>F2</sup>..., has the meaning given by section 3 of the Care Standards Act 2000;
  - [ in relation to Wales, means a place at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over;]
- <sup>F3</sup>(aa) of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided
- (b) in relation to Scotland, means accommodation provided by a [<sup>F4</sup>“care home service” within the meaning of paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010];
- (c) in relation to Northern Ireland, means—

- (i) a residential care home within the meaning of article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; or
  - (ii) a nursing home within the meaning of article 11 of that Order.
- (7) In this Order—
- (a) references to entering into a regulated home reversion plan as plan provider include acquiring any obligations or rights (including his interest in land) of the plan provider, under such a plan; but
  - (b) in relation to a person who acquires any such obligations or rights, an activity is a specified kind of activity for the purposes of articles 25B(1)(b) and 53B(b)(ii) and paragraph (2) only if the plan was entered into by the plan provider (rather than the obligations or rights acquired) on or after 6th April 2007.
- (8) Accordingly, references in this Order to a plan provider, other than in paragraph (7), include a person who acquires any such obligations or rights.

#### Textual Amendments

- F2** Words in art. 63B(6)(a) omitted (2.4.2018) by virtue of [The Alternative Investment Fund Managers \(Amendment\) Regulations 2018 \(S.I. 2018/134\)](#), regs. 1(3), **4(a)**
- F3** Art. 63B(6)(aa) inserted (2.4.2018) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2018 \(S.I. 2018/134\)](#), regs. 1(3), **4(b)**
- F4** Words in art. 63B(6)(b) substituted (28.10.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications of Enactments\) Order 2011 \(S.I. 2011/2581\)](#), art. 1(2)(b), **Sch. 2 para. 32**

#### Exclusions

##### Arranging administration by authorised person

**63C.** A person who is not an authorised person does not carry on an activity of the kind specified by article 63B(2) in relation to a regulated home reversion plan where he—

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

##### Administration pursuant to agreement with authorised person

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

##### Other exclusions

**63E.** Article 63B is also subject to the exclusions in articles 66 (trustees etc.), 72 (overseas persons) [<sup>F5</sup>, <sup>F6</sup> ... [<sup>F7</sup>72AA (managers of [<sup>F8</sup>UK UCITS] and AIFs) and 72G (local authorities).]]

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### Textual Amendments

- F5** Words in art. 63E substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(6)**
- F6** Words in art. 63E omitted (31.12.2020) by virtue of [The Electronic Commerce and Solvency 2 \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1361\)](#), regs. 1(2), **5(3)(c)** (as amended by [S.I. 2019/1390](#), regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in art. 63E 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(39)**
- F8** Words in art. 63E substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **148(2)(p)** (with savings in [S.I. 2019/680](#), **reg. 11** (as amended by [S.I. 2019/1212](#), regs. 1(3), **22(3)**); 2020 c. 1, **Sch. 5 para. 1(1)**

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