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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 IV

#### CONSEQUENTIAL PROVISIONS

*Regulated mortgage contracts: consequential provisions*

#### **Consequential amendments of the Consumer Credit Act 1974**

- 90.**—(1) The Consumer Credit Act 1974<sup>M1</sup> is amended as follows.
- (2) In section 16 (exempt agreements)<sup>M2</sup>, after subsection (6B) insert—
- “(6C) This Act does not regulate a consumer credit agreement if—
- (a) it is secured by a land mortgage; and
  - (b) entering into that agreement as lender is a regulated activity for the purposes of the Financial Services and Markets Act 2000.
- (6D) But section 126, and any other provision so far as it relates to section 126, applies to an agreement which would (but for subsection (6C)) be a regulated agreement.
- (6E) Subsection (6C) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000 (regulated activities: power to specify classes of activity and categories of investment);
  - (b) any order for the time being in force under that section; and
  - (c) Schedule 2 to that Act.”.

(3) In section 43 (advertisements), after subsection (3) insert—

“(3A) An advertisement does not fall within subsection (1)(a) in so far as it is a communication of an invitation or inducement to engage in investment activity within the meaning of section 21 of the Financial Services and Markets Act 2000, other than an exempt generic communication.

(3B) An “exempt generic communication” is a communication to which subsection (1) of section 21 of the Financial Services and Markets Act 2000 does not apply, as a result of an order under subsection (5) of that section, because it does not identify a person as providing an investment or as carrying on an activity to which the communication relates.”.

(4) In section 52 (quotations), after subsection (2) insert—

“(3) In this section, “quotation” does not include—

    - (a) any document which is a communication of an invitation or inducement to engage in investment activity within the meaning of section 21 of the Financial Services and Markets Act 2000; or

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**Changes to legislation:** The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, PART IV is up to date with all changes known to be in force on or before 24 May 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)

(b) any document (other than one falling within paragraph (a)) provided by an authorised person (within the meaning of that Act) in connection with an agreement which would or might be an exempt agreement as a result of section 16(6C).”.

(5) In section 53 (duty to display information), after “land” insert “ (other than credit provided under an agreement which is an exempt agreement as a result of section 16(6C)) ”.

(6) In section 137 (extortionate credit bargains), in subsection (2)(a), after “any agreement” insert “ (other than an agreement which is an exempt agreement as a result of section 16(6C)) ”.

(7) In section 151 (advertisements for the purposes of ancillary credit business), after subsection (2) insert—

“(2A) An advertisement does not fall within subsection (1) or (2) in so far as it is a communication of an invitation or inducement to engage in investment activity within the meaning of section 21 of the Financial Services and Markets Act 2000, other than an exempt generic communication (as defined in section 43(3B)).”.

#### Commencement Information

**II** Art. 90 in force at 31.10.2004, see art. 1(2)(b) (as read with Treasury notice dated 9.7.2003)

#### Marginal Citations

**M1** 1974 c. 39.

**M2** Subsection (6B) was inserted by s. 22(3) of the [Housing and Planning Act 1986 \(c. 63\)](#) and amended by the [Housing Act 1988 \(c. 50\)](#), [Sch. 17](#), Part I, [para. 20](#), and by the [Government of Wales Act 1998 \(c. 38\)](#), [Sch. 18](#), Part VI.

### Consequential amendments of subordinate legislation under the Consumer Credit Act 1974

**91.**—(1) In the Consumer Credit (Advertisements) Regulations 1989<sup>M3</sup>, after paragraph (2) of regulation 9 (application of Regulations) insert—

“(3) These Regulations do not apply to any advertisement in so far as it is a communication of an invitation or inducement to engage in investment activity within the meaning of section 21 of the Financial Services and Markets Act 2000, other than an exempt generic communication.

(4) An “exempt generic communication” is a communication to which subsection (1) of section 21 of the Financial Services and Markets Act 2000 does not apply, as a result of an order under subsection (5) of that section, because it does not identify a person as providing an investment or as carrying on an activity to which the communication relates.”.

(2) In the Consumer Credit (Content of Quotations) and Consumer Credit (Advertisements) (Amendment) Regulations 1999<sup>M4</sup>, in the definition of “quotation” in paragraph (1) of regulation 2 (interpretation of Part II)—

(a) omit “or” at the end of sub-paragraph (c); and

(b) after sub-paragraph (d) insert—

“(e) any document which is a communication of an invitation or inducement to engage in investment activity within the meaning of section 21 of the Financial Services and Markets Act 2000; or

(f) any document (other than one falling within sub-paragraph (e)), provided by an authorised person (within the meaning of that Act) in connection with

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an agreement which would or might be an exempt agreement as a result of section 16(6C) of the Act.”.

**Commencement Information**

**I2** Art. 91 in force at 31.10.2004, see art. 1(2)(b) (as read with Treasury notice dated 9.7.2003)

**Marginal Citations**

**M3** Subsection (6B) was inserted by s. 22(3) of the [Housing and Planning Act 1986 \(c. 63\)](#) and amended by the [Housing Act 1988 \(c. 50\)](#), [Sch. 17](#), Part I, para. 20, and by the [Government of Wales Act 1998 \(c. 38\)](#), [Sch. 18](#), Part VI.

**M4** [S.I. 1989/1125](#), amended by [S.I. 1999/2725](#), [S.I. 1999/3177](#) and [S.I. 2000/1797](#), and modified by [S.I. 1992/3218](#).

**Status:**

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**Changes to legislation:**

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