
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the “principal Order”) so as to specify as regulated activities for the purposes of the Financial Services and Markets Act 2000 (c. 8) (“FSMA”) the activities of entering into, administering, arranging and advising on regulated home reversion plans and regulated home purchase plans. The matters with respect to which regulated activities may be specified include finance arrangements in connection with the acquisition or disposal of land (paragraph 23A of Schedule 2 to FSMA, inserted by the Regulation of Financial Services (Land Transactions) Act 2005 (c. 24)). The Order also clarifies an existing provision relating to high net worth companies.

Article 3 inserts new definitions and makes a consequential amendment to the definition of “overseas person” in the principal Order.

Article 4 inserts new articles into the principal Order which specify the new regulated activities of arranging regulated home reversion plans (“home reversion arranging”) and arranging regulated home purchase plans (“home purchase arranging”).

Articles 5 to 11 amend articles 26 to 33A of the principal Order, so as to apply the exclusions specified in those articles to home reversion arranging and home purchase arranging. Those exclusions relate, for example, to arrangements not causing a deal, the provision of the means of communication between the parties to a transaction, arrangements to which the arranger is a party and arrangements where the transaction is with or through an authorised person.

Article 13 inserts new articles into the principal Order which specify the new regulated activities of advising on regulated home reversion plans (“home reversion advising”) and advising on regulated home purchase plans (“home purchase advising”).

Articles 14 and 15 amend respectively articles 54 and 54A of the principal Order so as to apply the exclusion specified in those articles to home reversion advising and home purchase advising. Those exclusions relate to advice given in the media and advice given in the course of administration by an authorised person.

Article 17 amends article 61 of the principal Order to provide that products which have the features of both a regulated home purchase plan and a regulated mortgage contract will not be considered a regulated mortgage contract.

Article 18 inserts new articles into the principal Order which specify the new regulated activities of entering into and administering regulated home reversion plans (“home reversion entry”) and entering into and administering regulated home purchase plans (“home purchase entry”) and apply exclusions relating to arranging administration by an authorised person and administration pursuant to an agreement with an authorised person.

Articles 19, 20 and 21 amend respectively articles 66, 67 and 72 of the principal Order so as to extend certain other exclusions to home reversion and home purchase entry, home reversion and home purchase arranging and home reversion and home purchase advising.

Article 22 amends the definition of “high net worth company” in article 72F of the principal Order to clarify that in order to be a high net worth company and benefit from the exception for business angel-led enterprise capital funds, a company must execute the specified document in a manner which binds it.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Articles 23 and 24 insert new articles into the principal Order which specify rights under regulated home reversion plans and rights under regulated home purchase plans as specified investments and exclude such rights from the scope of article 89 of the principal Order.

Articles 25 to 28 make consequential amendments to the Consumer Credit Act 1974 (c. 39), the Companies Act 1985 (c. 6), the Law of Property (Miscellaneous Provisions) Act 1989 (c. 34) and FSMA.

Articles 29 to 35 make consequential amendments to other secondary legislation including other instruments made under FSMA.

Article 37 confers an interim permission on certain applicants who have applied for permission under Part 4 of FSMA to enter into, administer, arrange or advise on regulated home reversion plans or regulated home purchase plans and whose application is pending on the date (6th April 2007) when those activities become regulated activities.

Article 38 confers interim approval, in similar terms to those in article 36, on people who are working for a person who has applied for a Part IV permission and who would need approval under Part 5 of FSMA.

Article 39 enables the Financial Services Authority to modify, amongst other things, its rules in their application to persons with an interim permission or interim approval.

Article 40 and the Schedule provide for the application of provisions in FSMA and the principal Order to persons with an interim permission or interim approval, indicating where such provisions are to be treated as including or not including such persons.

A Regulatory Impact Assessment of the effect of this instrument on the costs of business has been prepared and may be obtained from the Payments and Inclusion Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. It is also available on HM Treasury's website (www.hm-treasury.gov.uk).