
STATUTORY INSTRUMENTS

2006 No. 2383

The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment) (No.2) Order 2006

PART 4

AMENDMENTS OF OTHER SECONDARY LEGISLATION

Amendments of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001

29. In the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001⁽¹⁾ after article 3A (arranging and advising on regulated mortgage contracts) insert—

“Arranging and advising on regulated home reversion plans

3B. A person is not to be regarded as carrying on by way of business an activity specified by—

- (a) article 25B of the Regulated Activities Order (arranging regulated home reversion plans);
- (b) article 53B of that Order (advising on regulated home reversion plans); or
- (c) article 64 of that Order (agreeing), so far as relevant to either of the articles mentioned in sub-paragraphs (a) and (b),

unless he carries on the business of engaging in that activity.

Arranging and advising on regulated home purchase plans

3C. A person is not to be regarded as carrying on by way of business an activity specified by—

- (a) article 25C of the Regulated Activities Order (arranging regulated home purchase plans);
- (b) article 53C of that Order (advising on regulated home purchase plans); or
- (c) article 64 of that Order (agreeing), so far as relevant to either of the articles mentioned in sub-paragraphs (a) and (b),

unless he carries on the business of engaging in that activity.”.

⁽¹⁾ S.I. 2001/1177; article 3A was inserted by S.I. 2003/1475.

Amendments of the Financial Services and Markets Act 2000 (Exemption) Order 2001

30. In the Financial Services and Markets Act 2000 (Exemption) Order 2001(2), Part 4 of the Schedule (persons exempt in respect of particular regulated activities) is amended as follows—

- (a) in paragraph 47 (local authorities)—
 - (i) delete “or” at the end of sub-paragraph (a);
 - (ii) after sub-paragraph (b) insert—
 - “;
 - (c) article 25B, 53B or 63B of that Order (arranging, advising on, entering into or administering a regulated home reversion plan); or
 - (d) article 25C, 53C or 63F of that Order (arranging, advising on, entering into or administering a regulated home purchase plan)”;
- (b) in paragraph 48(1) (social housing)—
 - (i) delete “or” at the end of paragraph (a);
 - (ii) after paragraph (b) insert—
 - “;
 - (c) article 25B, 53B or 63B of that Order (arranging, advising on, entering into or administering a regulated home reversion plan); or
 - (d) article 25C, 53C or 63F of that Order (arranging, advising on, entering into or administering a regulated home purchase plan)”.

Amendments of the Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001

31.—(1) The Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001(3) are amended as follows.

- (2) In regulation 1(2)(4) (interpretation)—
 - (a) after the definition of “contract of long-term care insurance” insert—
 - ““home purchaser” has the same meaning as in article 63F(3) of the Regulated Activities Order;”;
 - (b) after the definition of “other counterparties” insert—
 - ““plan provider” has the meaning given by paragraph (3) of article 63B of the Regulated Activities Order, read with paragraphs (7) and (8) of that article;”;
 - (c) after the definition of “the Regulated Activities Order” insert—
 - ““regulated home purchase plan” has the same meaning as in article 63F(3) of the Regulated Activities Order;
 - “regulated home reversion plan” has the same meaning as in article 63B(3) of the Regulated Activities Order;”;
 - (d) after the definition of “regulated mortgage contract” insert—
 - ““reversion seller” has the same meaning as in article 63B(3) of the Regulated Activities Order;”.
- (3) In regulation 2(1) (descriptions of business for which appointed representatives are exempt)—

(2) [S.I. 2001/1201](#); paragraphs 47 and 48 of the Schedule were substituted by [S.I. 2003/1675](#).

(3) [S.I. 2001/1217](#); amended by [S.I. 2003/1475](#) and [S.I. 2003/1476](#).

(4) The definition of “contract of long-term insurance” was inserted by [S.I. 2004/453](#).

- (a) after sub-paragraph (ab) insert—
 - “(aba) an activity of the kind specified by article 25B of that Order (arranging regulated home reversion plans);
 - (abb) an activity of the kind specified by article 25C of that Order (arranging regulated home purchase plans);”;
 - (b) at the end of sub-paragraph (ca) delete “or”;
 - (c) after sub-paragraph (ca) insert—
 - “(cb) an activity of the kind specified by article 53B of that Order (advising on regulated home reversion plans);
 - (cc) an activity of the kind specified by article 53C of that Order (advising on regulated home purchase plans); or”;
 - (d) in sub-paragraph (d) for “(b), (c) or (ca)” substitute “(aba), (abb), (b), (c), (ca), (cb) or (cc)”.
- (4) After regulation 3(3) (requirements applying to contracts between authorised persons and appointed representatives) insert—
- “(3A) A representative is also to be treated as representing other counterparties for the purposes of paragraph (1) where he—
 - (a) makes arrangements (in circumstances constituting the carrying on of an activity of the kind specified by article 25B of that Order)—
 - (i) for a person to enter (or with a view to a person entering) as reversion seller or plan provider into a regulated home reversion plan with other counterparties, or
 - (ii) for a person to vary a regulated home reversion plan entered into on or after 6th April 2007 by him as reversion seller or plan provider with other counterparties; or
 - (b) gives advice (in circumstances constituting the carrying on of an activity of the kind specified by article 53B of that Order) on the merits of—
 - (i) a person entering as reversion seller or plan provider into a regulated home reversion plan with other counterparties, or
 - (ii) a person varying a regulated home reversion plan entered into on or after 6th April 2007 by him as reversion seller or plan provider with other counterparties.
 - (3B) A representative is also to be treated as representing other counterparties for the purposes of paragraph (1) where he—
 - (a) makes arrangements (in circumstances constituting the carrying on of an activity of the kind specified by article 25C of that Order)—
 - (i) for a person to enter (or with a view to a person entering) as home purchaser into a regulated home purchase plan with other counterparties, or
 - (ii) for a person to vary a regulated home purchase plan entered into on or after 6th April 2007 by a person as home purchaser with other counterparties; or
 - (b) gives advice (in circumstances constituting the carrying on of an activity of the kind specified by article 53C of that Order) on the merits of—
 - (i) a person entering as home purchaser into a regulated home purchase plan with other counterparties, or
 - (ii) a person varying a regulated home purchase plan entered into on or after 6th April 2007 by him as home purchaser with other counterparties.”.

Amendments of the Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001

32.—(1) The Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001(5) is amended as follows.

(2) In article 2(1) (interpretation)—

(a) after the definition of “contractually based investment” insert—

““home purchase provider” has the meaning given by article 63F(3) of the Regulated Activities Order;

“home purchaser” has the meaning given by article 63F(3) of the Regulated Activities Order;”;

(b) after the definitions of “occupational pension scheme” and “personal pension scheme” insert—

““plan provider” has the meaning given by paragraph (3) of article 63B of the Regulated Activities Order, read with paragraphs (7) and (8) of that article;”;

(c) after the definition of “the Regulated Activities Order” insert—

““regulated home purchase plan” has the meaning given by article 63F(3) of the Regulated Activities Order;

“regulated home reversion plan” has the meaning given by article 63B(3) of the Regulated Activities Order;

“regulated mortgage contract” has the meaning given by article 61 of the Regulated Activities Order;”

(d) after the definition of “relevant investment” insert—

““reversion seller” has the meaning given by article 63B(3) of the Regulated Activities Order;”.

(3) After article 6B (activities to which exemption from the general prohibition does not apply: regulated mortgage contracts) insert—

“6C.—(1) An activity of the kind specified by article 53B of the Regulated Activities Order (advising on regulated home reversion plans) where the advice in question falls within paragraph (2).

(2) Subject to paragraph (3), advice falls within this paragraph in so far as—

(a) it consists of a recommendation, given to an individual to enter as reversion seller or plan provider into a regulated home reversion plan with a particular person; and

(b) in entering into a regulated home reversion plan that person would be carrying on an activity of the kind specified by article 63B(1) of the Regulated Activities Order (regulated home reversion plans).

(3) Advice does not fall within paragraph (2) if it endorses a corresponding recommendation given to the individual by an authorised person with permission to carry on an activity of the kind specified by article 53B of the Regulated Activities Order or a person who is an exempt person in relation to an activity of that kind.

6D.—(1) An activity of the kind specified by article 63B(1) or (2) of the Regulated Activities Order (regulated home reversion plans).

(2) Paragraph (1) does not apply to an activity carried on by a person in his capacity as a trustee or personal representative where the reversion seller under the regulated home reversion plan in question is a beneficiary under the trust, will or intestacy.

6E.—(1) An activity of the kind specified by article 53C of the Regulated Activities Order (advising on regulated home purchase plans) where the advice in question falls within paragraph (2).

(2) Subject to paragraph (3), advice falls within this paragraph in so far as—

- (a) it consists of a recommendation, given to an individual to enter as home purchaser into a regulated home purchase plan with a particular person; and
- (b) in entering into a regulated home purchase plan that person would be carrying on an activity of the kind specified by article 63F(1) of the Regulated Activities Order (regulated home purchase plans).

(3) Advice does not fall within paragraph (2) if it endorses a corresponding recommendation given to the individual by an authorised person with permission to carry on an activity of the kind specified by article 53C of the Regulated Activities Order or a person who is an exempt person in relation to an activity of that kind.

6F.—(1) An activity of the kind specified by article 63F(1) or (2) of the Regulated Activities Order (regulated home purchase plans).

(2) Paragraph (1) does not apply to an activity carried on by a person in his capacity as a trustee or personal representative where the home purchaser under the regulated home purchase plan in question is a beneficiary under the trust, will or intestacy.”.

Amendment of the Money Laundering Regulations 2003

33. In regulation 2(3)(h) of the Money Laundering Regulations 2003(6) (interpretation) after “a regulated mortgage contract” insert “, rights under a regulated home reversion plan or rights under a regulated home purchase plan”.

Amendments of the Consumer Credit (Advertisement) Regulations 2004

34. In the Consumer Credit (Advertisements) Regulations 2004(7) for regulation 10(5) (exclusions) substitute—

“(5) These regulations do not apply to any advertisement in so far as it is a communication of an invitation or inducement to enter into—

- (a) a regulated mortgage contract within the meaning of article 61 of the Financial Services and Markets Act (Regulated Activities) Order 2001; or
- (b) a regulated home purchase plan within the meaning of article 63F of that Order.”.

Amendments of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005

35.—(1) The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005(8) is amended as follows.

(2) In the title of article 28B (real time communications: introductions in connection with qualifying credit) delete “in connection with qualifying credit”.

(6) [S.I. 2003/3075](#).

(7) [S.I. 2004/1484](#).

(8) [S.I. 2005/1529](#).

(3) In article 28B(1)(a) for “paragraphs 10, 10A or 10B” substitute “paragraph 10, 10A, 10B, 10C, 10D, 10E, 10F, 10G or 10H”.

(4) In article 73(2) (advice centres)—

(a) delete “or” at the end of sub-paragraph (b);

(b) after sub-paragraph (c) insert—

“;

(d) a regulated home reversion plan; or

(e) a regulated home purchase plan”.

(5) In Schedule 1 Part 1 (controlled activities)—

(a) after paragraph 10B (advising on qualifying credit etc.) insert—

“Providing a regulated home reversion plan

10C. Entering into a regulated home reversion plan as plan provider is a controlled activity.

Arranging a regulated home reversion plan

10D. Making arrangements—

(a) for another person to enter as reversion seller or plan provider into a regulated home reversion plan; or

(b) for a reversion seller or a plan provider under a regulated home reversion plan, entered into on or after 6th April 2007 by him, to vary the terms of that plan in such a way as to vary his obligations under that plan,

is a controlled activity.

Advising on a regulated home reversion plan

10E. Advising a person is a controlled activity if the advice is—

(a) given to the person in his capacity as reversion seller, potential reversion seller, plan provider or potential plan provider; and

(b) advice on the merits of his doing either of the following—

(i) entering into a regulated home reversion plan, or

(ii) varying the terms of a regulated home reversion plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.

Providing a regulated home purchase plan

10F. Entering into a regulated home purchase plan as home purchase provider is a controlled activity.

Arranging a regulated home purchase plan

10G. Making arrangements—

(a) for another person to enter as home purchaser into a regulated home purchase plan; or

- (b) for a home purchaser under a regulated home purchase plan, entered into on or after 6th April 2007 by him, to vary the terms of that plan in such a way as to vary his obligations under that plan,

is a controlled activity.

Advising on a regulated home purchase plan

10H. Advising a person is a controlled activity if the advice is—

- (a) given to the person in his capacity as home purchaser or potential home purchaser; and
- (b) advice on the merits of his doing either of the following—
 - (i) entering into a regulated home purchase plan, or
 - (ii) varying the terms of a regulated home purchase plan, entered into on or after 6th April 2007 by him, in such a way as to vary his obligations under that plan.”.

(6) In Schedule 1 Part 2 (controlled investments)—

- (a) after paragraph 26 (agreements for qualifying credit) insert—

“Regulated home reversion plans

26A. Rights under a regulated home reversion plan.

Regulated home purchase plans

26B. Rights under a regulated home purchase plan.”

- (b) in paragraph 27(1) (rights to or interests in investments) for “paragraph 26” substitute “paragraph 26, 26A or 26B”;
- (c) in paragraph 28 (interpretation)—
 - (i) after the definition of “contractually based investment” insert—

““home purchase provider” and “home purchaser” have the meanings given in article 63F(3) of the Regulated Activities Order;”;
 - (ii) after the definition of “occupational pension scheme” insert—

““plan provider” has the meaning given by paragraph (3) of article 63B of the Regulated Activities Order, read with paragraphs (7) and (8) of that article;”;
 - (iii) after the definition of “qualifying funeral plan contract” insert—

““regulated home purchase plan” has the meaning given in article 63F(3) of the Regulated Activities Order;

“regulated home reversion plan” and “reversion seller” have the meanings given in article 63B(3) of the Regulated Activities Order;”.