

EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES AND MARKETS ACT 2000 (REGULATED ACTIVITIES)
(AMENDMENT) (NO. 3) ORDER 2014

2014 No. 1740

- 1.** This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The instrument removes certain credit and credit broking activities from the scope of regulation under the Financial Services and Markets Act 2000 (“the Act”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The instrument is made under section 22(1) and (5) of, and paragraph 25 of Schedule 2 to, the Act.

5. Territorial Extent and Application

5.1 The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The instrument amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544; “the RAO”) so as to remove certain credit and credit broking activities from the scope of regulation under the Act. In particular, it extends the definition of a ‘housing authority’ so that the regulatory exemption for lending by the Welsh Ministers under certain types of credit agreement also extends to lending by a wholly-owned subsidiary of the Welsh Ministers. The extension will place ‘Help to Buy –Wales’ (the Welsh Government’s version of the Help to Buy: equity loan

scheme) on the same regulatory footing as the English and Scottish schemes. A further effect of the amendment is that developers and others who broker such lending will not require authorisation by the Financial Conduct Authority.

8. Consultation outcome

8.1 The FCA and the Welsh Assembly Government were consulted on, and closely involved in the preparation of, the draft Order.

9. Guidance

9.1 Further guidance will be made available by the FCA.

10. Impact

10.1 This instrument will have no impact on business, charities or the voluntary sector.

10.2 The impact on business, charities or voluntary bodies of the transfer of consumer credit regulation from the OFT to the FCA is set out in the impact assessment accompanying the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013 (S.I. 2013/1881). The Government's best estimate of the total cost to business of the new regulatory regime is £336 million over 10 years (at 2013 prices). The Government's best estimate of benefits of the regime is £689 million over 10 years. The estimated net benefit over 10 years is £353 million.

10.3 The impact on the public sector is not quantified as public sector organisations generally do not undertake consumer credit activities, apart from local authorities which offer certain types of unsecured credit agreements. The Government has previously consulted local authorities and found that comparatively few authorities would need to be authorised.

11. Regulating small business

11.1 The instrument is deregulatory so will not increase the regulatory burdens on small business.

12. Monitoring & review

12.1 HM Treasury will monitor the practical effects of the instruments to ensure they continue to meet the policy aims.

13. Contact

13.1 Anna Harvey at HM Treasury (tel: 0207 270 5780 or email: anna.harvey@hmtreasury.gsi.gov.uk) can answer any queries regarding the instruments.