

SCHEDULE 5

Credit agreements

PART 1

Prohibitions and restrictions

Power to prohibit the entry into credit agreements

1.—(1) If it appears to the FCA that sub-paragraph (4) has been, or is likely to be, contravened as respects an EEA authorised payment institution exercising passport rights in the United Kingdom, it may by notice given to the institution in accordance with Part 2 of this Schedule impose on the institution a credit prohibition.

(2) If it appears to the FCA that a restriction imposed under paragraph 2 on an EEA authorised payment institution exercising passport rights in the United Kingdom has not been complied with, it may by notice given to the institution in accordance with Part 2 of this Schedule impose on the institution a credit prohibition.

(3) “A credit prohibition” means a prohibition on carrying on, or purporting to carry on, in the United Kingdom any business which consists of or includes carrying on an activity—

- (a) of the kind specified by article 36A, 36H, 39D, 39E, 39F, 39G, 60B, 60N, 89A or 89B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽¹⁾ (activities relating to credit); and
- (b) listed in Annex I to the payment services directive or which the institution is entitled to carry on in accordance with Article 18 of that directive.

(4) This sub-paragraph is contravened as respects an EEA authorised payment institution exercising passport rights in the United Kingdom if—

- (a) the institution or any of its employees, agents or associates (whether past or present), or
- (b) where the institution is a body corporate, any controller of the institution or an associate of any such controller,

does any of the things specified in sub-paragraph (5).

(5) A person does a thing specified in this sub-paragraph if the person—

- (a) commits any offence involving fraud or other dishonesty or violence;
- (b) contravenes any provision made by or under—
 - (i) the Consumer Credit Act 1974;
 - (ii) the 2000 Act, to the extent that that Act relates to any activity of the kind specified by article 36A, 36H, 39D, 39E, 39F, 39G, 60B, 60N, 89A or 89B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
 - (iii) any other enactment regulating the provision of credit to individuals or other transactions with individuals;
- (c) contravenes any provision in force in an EEA State which corresponds to a provision of the kind mentioned in paragraph (b);
- (d) practices discrimination on grounds of sex, colour, race or ethnic or national origins in, or in connection with, the carrying on of any business;

(1) [S.I. 2001/544](#). Articles 36A, 36H, 39D, 39F, 39G, 60B, 60N, 89A and 89B were inserted by [S.I. 2013/1881](#) and amended by [S.I. 2014/366](#), [1448](#) and [1850](#), [2015/853](#) and [2016/392](#).

Status: This is the original version (as it was originally made).

- (e) engages in business practices appearing to the FCA to be deceitful or oppressive or otherwise unfair or improper (including practices that appear to the FCA to involve irresponsible lending).
- (6) A credit prohibition may be absolute or may be imposed—
 - (a) for such period,
 - (b) until the occurrence of such event, or
 - (c) until such conditions are complied with,as may be specified in the notice given under sub-paragraph (1) or (2).
- (7) Any period, event or condition so specified may be varied by the FCA on the application of the institution concerned (for which, see paragraph 5).
- (8) A credit prohibition may be withdrawn in whole or in part—
 - (a) on the initiative of the FCA, by notice served by the FCA on the institution concerned, and any such notice takes effect on such date as is specified in the notice;
 - (b) on an application submitted by the institution concerned (for which, see paragraph 5).
- (9) Where the FCA withdraws a credit prohibition and imposes a restriction under paragraph 2, the FCA may specify that the withdrawal of the credit prohibition only takes effect when the imposition of the restriction is no longer open to review.
- (10) For the purposes of sub-paragraph (9), whether the imposition of a restriction is open to review is to be determined in accordance with section 391(8) of the 2000 Act (publication) as if the imposition of the restriction were a matter to which a supervisory notice (within the meaning of that section) relates.
- (11) An institution contravening a prohibition imposed under this paragraph is guilty of an offence and liable—
 - (a) on summary conviction to a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (12) In this paragraph—
 - “associate” has the same meaning as in article 60L of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (interpretation of Chapter 14A)(2);
 - “controller” has the meaning given by section 422 of the 2000 Act (controller)(3).
- (13) If a credit prohibition is in effect in relation to an institution, article 60JA of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (payment institutions)(4) does not apply in relation to that institution.

(2) [S.I. 2001/544](#). Article 60L was inserted by [S.I. 2013/1881](#). There are amendments to article 60L but none is relevant here.

(3) Section 422 was substituted by [S.I. 2009/534](#) and amended by [S.I. 2013/3115](#).

(4) [S.I. 2001/544](#). Article 60JA was inserted by [S.I. 2014/366](#).