
STATUTORY INSTRUMENTS

2020 No. 480

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Regulated Activities) (Coronavirus) (Amendment) Order 2020

<i>Made</i>	- - - -	<i>at 9.30 a.m. on 1st May 2020</i>
<i>Laid before Parliament</i>		<i>at 1.00 p.m. on 1st May 2020</i>
<i>Coming into force</i>	- -	<i>4th May 2020</i>

The Treasury, in exercise of the powers conferred by sections 22(1) and (5) and 428(3) of, and paragraph 25 of Schedule 2 to, the Financial Services and Markets Act 2000⁽¹⁾, make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Regulated Activities) (Coronavirus) (Amendment) Order 2020.

(2) This Order comes into force on 4th May 2020.

(3) For the purposes of this Order—

“the Act” means the Financial Services and Markets Act 2000;

“Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽²⁾.

Amendment of the Regulated Activities Order

2.—(1) The Regulated Activities Order is amended as follows.

(2) In article 36H (operating an electronic system in relation to lending), at the beginning of paragraph (4), insert the words “Subject to article 60C(4C),”.

(3) In article 39H (activities where a person has a connection to the agreement), after paragraph (1), insert—

(1) 2000 c.8.

(2) S.I. 2001/544.

“(1A) In so far as it applies to article 39F(1), the exclusion in paragraph (1)(a) does not apply to a lender under a credit agreement which is an exempt agreement by virtue of article 60C(4A).”.

(4) In article 60C (exempt agreements: exemptions relating to the nature of the agreement), after paragraph (4), insert—

“(4A) A credit agreement is an exempt agreement if—

- (a) the lender provides the borrower with credit of £25,000 or less,
- (b) the agreement is entered into by the borrower wholly for the purposes of a business carried on, or intended to be carried on, by the borrower, and
- (c) the agreement is entered into by the lender and the borrower under the Bounce Back Loan Scheme.

(4B) For the purposes of paragraph (4A), “Bounce Back Loan Scheme” means the scheme of that name operated from 4th May 2020 by the British Business Bank plc on behalf of the Secretary of State.

(4C) An agreement exempt under paragraph (4A) may not also be an article 36H agreement by virtue of paragraph (4) of that article.”.

Transitional provisions

3.—(1) Subject to paragraph (2), a person who immediately before the date this Order comes into force had permission under Part 4A of the Act to carry on an activity of the kind specified under article 60B(2) of the Regulated Activities Order is, from the date on which this Order comes into force, to be treated as having a Part 4A permission under the Act to carry on an activity of the kind specified by article 39F(1) of the Regulated Activities Order in relation to an exempt agreement specified in article 60C(4A) of the Regulated Activities Order.

(2) Paragraph (1) applies where the person is a lender who enters into an exempt agreement as specified in article 60C(4A) of the Regulated Activities Order.

(3) Paragraph (1) does not affect the ability of the FCA or the PRA to vary or cancel a Part 4A permission under the Act.

(4) Where, by virtue of paragraph (1), a person is treated as having a Part 4A permission of the kind specified by article 39F(1) of the Regulated Activities Order, section 347(2) of the Act (the record of authorised persons etc) does not require the FCA to amend the record maintained under that section in respect of that permission, but this does not prevent the FCA from doing so.

*Maggie Throup
Iain Stewart*

Two of the Lords Commissioners of Her Majesty's Treasury

At 9.30 a.m. on 1st May 2020

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (the “RAO”) and makes supplemental provision in respect of the amendments.

Section 19 of the Financial Services and Markets Act 2000 prohibits a person who is not authorised or exempt from carrying on any regulated activity in the United Kingdom. Contravention of that prohibition is a criminal offence. Entering into a regulated credit activity as lender is generally a specified activity for the purposes of section 22(1) of that Act.

This Order amends article 60C of the RAO to create a new type of exempt agreement. This amendment provides that a credit agreement is an exempt agreement where a lender provides a borrower with credit of £25,000 or less for the purposes of a business carried on, or intended to be carried on, by the borrower and where the agreement is entered into under the Bounce Back Loan Scheme (“the BBLs”) operated by the British Business Bank.

This Order amends article 39H of the RAO to provide that where a lender carries out the activity of debt-collecting in relation to a BBL loan the activity is not excluded from the activity specified in article 39F. The effect is that where a lender carries out the activity of debt collecting in relation to BBL loans, the activity is a specified activity.

This Order also provides a transitional provision whereby a lender who enters into a loan under the BBLs and who had permission under Part 4A of FSMA to carry out the activity in debt collecting in accordance with article 60B(2) of the RAO, will, from the date this Order comes into force, continue to have permission to carry out that regulated activity, but in accordance with article 39F(1) of the RAO.

An explanatory memorandum is available with this Order on www.legislation.gov.uk.

An impact assessment has not been produced for this Order.