

# FINANCIAL SERVICES ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 2 - Amendments of Financial Services and Markets Act 2000**

#### **Regulated activities**

#### *Section 7: Extension of scope of regulation*

179. *Section 7* amends section 22 of and Schedule 2 to FSMA to expand the scope of the power conferred by section 22 on the Treasury to specify by order what activities are “regulated” activities (and so subject to the general prohibition in section 19 of FSMA).
180. *Subsection (1)* inserts a new subsection (1A) to section 22 which enables the Treasury to specify as a regulated activity an activity which is carried on by way of business and which relates either to information about a person’s financial standing or the setting of a specified benchmark. “Benchmark” for these purposes is defined in *subsection (6)*.
181. *Subsections (3) and (4)* amend Schedule 2 to FSMA, which sets out in general terms the matters with respect to which provision may be made under section 22(1) (specification of activities and investments which are regulated activities). *Subsection (3)* substitutes paragraph 23, which currently relates to the provision of credit where the obligation of the borrower is secured on land, with a new provision which relates to the provision of credit (whether or not secured on land). *Subsection (4)* amends Schedule 2 to FSMA to include a reference to rights under contracts for the hire of goods. The effect of *subsections (3) and (4)* is to enable an order under section 22 to specify that activities in relation to the provision of credit and contracts for the hire of goods (which are currently subject to regulation by the Office of Fair Trading under the Consumer Credit Act 1974) are regulated activities for the purposes of FSMA.
182. New Parts 2A and 2B of Schedule 2 to FSMA, inserted by *subsection (5)* outlines, in general terms, the matters with respect to which provision may be made under section 22(1A). These amendments would enable being a credit reference agency or the provision of credit information services (which are currently subject to regulation by the Office of Fair Trading under the Consumer Credit Act 1974) to be specified as a regulated activity for the purposes of FSMA. The amendments would also enable activities relating to setting and administering benchmarks such as LIBOR to be specified as regulated activities for the purposes of FSMA.