



# Financial Services Act 2012

## 2012 CHAPTER 21

### PART 2

#### AMENDMENTS OF FINANCIAL SERVICES AND MARKETS ACT 2000

##### *Regulated activities*

#### **7 Extension of scope of regulation**

- (1) In section 22 of FSMA 2000 (the classes of activity and categories of investment)—
- (a) after subsection (1) insert—
- “(1A) An activity is also a regulated activity for the purposes of this Act if it is an activity of a specified kind which is carried on by way of business and relates to—
- (a) information about a person's financial standing, or
- (b) the setting of a specified benchmark.”,
- (b) in subsection (3), after “(1)” insert “ or (1A) ”,
- (c) after subsection (5) insert—
- “(6) Benchmark” means an index, rate or price that—
- (a) is determined from time to time by reference to the state of the market,
- (b) is made available to the public (whether free of charge or on payment), and
- (c) is used for reference for purposes that include one or more of the following—
- (i) determining the interest payable, or other sums due, under loan agreements or under other contracts relating to investments;
- (ii) determining the price at which investments may be bought or sold or the value of investments;

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- (iii) measuring the performance of investments.”, and”
- (d) for the heading substitute “ Regulated activities ”.
- (2) Schedule 2 to FSMA 2000 (regulated activities) is amended as follows.
- (3) For paragraph 23 (and the italic heading before it) substitute—
- 23    **“Loans and other forms of credit**
- (1) Rights under any contract under which one person provides another with credit.
- (2) “Credit” includes any cash loan or other financial accommodation.
- (3) “Cash” includes money in any form.
- (4) It is immaterial for the purposes of sub-paragraph (1) whether or not the obligation of the borrower is secured on property of any kind.”
- (4) After paragraph 23A insert—
- 23B   **“Contracts for hire of goods**
- (1) Rights under a contract for the bailment or (in Scotland) hiring of goods to a person other than a body corporate.
- (2) “Goods” has the meaning given in section 61(1) of the Sale of Goods Act 1979.
- (3) It is immaterial for the purposes of sub-paragraph (1) whether the rights of the person to whom the goods are bailed or hired have been assigned to a body corporate.”
- (5) After paragraph 24 insert—

## “PART 2A

### REGULATED ACTIVITIES RELATING TO INFORMATION ABOUT PERSONS' FINANCIAL STANDING

#### 24A    ***General***

The matters with respect to which provision may be made under section 22(1A)(a) include, in particular, those described in general terms in this Part of this Schedule.

#### 24B    ***Providing credit reference services***

Furnishing persons with information that—

- (a) is relevant to the financial standing of persons other than bodies corporate, and
- (b) is collected for that purpose by the person furnishing it.

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#### 24C **Providing credit information services**

- (1) Taking steps on behalf of a person other than a body corporate in connection with information relevant to that person's financial standing that is or may be held by a regulated person.
  - (2) “Regulated person” means—
    - (a) a person who is carrying on a regulated activity, or
    - (b) a person who is carrying on a business in respect of which a licence under section 21 of the Consumer Credit Act 1974 is required.
- 24D Giving advice to a person other than a body corporate in relation to the taking of any steps of the kind mentioned in paragraph 24C(1).

### PART 2B

#### REGULATED ACTIVITIES RELATING TO THE SETTING OF BENCHMARKS

#### 24E **General**

The matters with respect to which provisions may be made under section 22(1A)(b) include, in particular, those described in general terms in this Part of this Schedule.

#### 24F **Providing information**

Providing any information or expression of opinion that—

- (a) is required by another person in connection with the determination of a benchmark, and
- (b) is provided to that person for that purpose.

#### 24G **Administration**

- (1) Administering the arrangements for determining a benchmark.
- (2) Collecting, analysing or processing information or expressions of opinion for the purpose of the determination of a benchmark.

#### 24H **Determining or publishing benchmark or publishing connected information**

- (1) Determining a benchmark.
- (2) Publishing a benchmark or information connected with a benchmark.”

#### Commencement Information

**II** S. 7 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

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## 8 Orders under section 22 of FSMA 2000

- (1) Schedule 2 to FSMA 2000 (regulated activities) is amended as follows.
- (2) In paragraph 25(1)—
  - (a) after “22(1)” insert “ or (1A) ”, and
  - (b) for “the Authority”, in each place, substitute “ either regulator ”.
- (3) For paragraph 26 substitute—

### 26 “Parliamentary control

- (1) This paragraph applies to any order made under section 22(1) or (1A) which contains a statement by the Treasury that, in their opinion, the effect (or one of the effects) of the proposed order would be that an activity which is not a regulated activity would become a regulated activity.
- (2) No order to which this paragraph applies may be made unless—
  - (a) a draft of the order has been laid before Parliament and approved by a resolution of each House, or
  - (b) sub-paragraph (4) applies.
- (3) Sub-paragraph (4) applies if an order to which this paragraph applies also contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.
- (4) Where this sub-paragraph applies the order—
  - (a) must be laid before Parliament after being made, and
  - (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without that affecting anything done under the order or the power to make a new order).
- (5) The “relevant period” is a period of 28 days beginning with the day on which the order is made.
- (6) In calculating the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.”

#### Commencement Information

**I2** S. 8 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

## 9 Designation of activities requiring prudential regulation by PRA

After section 22 of FSMA 2000 insert—

### “22A Designation of activities requiring prudential regulation by PRA

- (1) The Treasury may by order specify the regulated activities that are “PRA-regulated activities” for the purposes of this Act.

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- (2) An order under subsection (1) may—
  - (a) provide for exceptions;
  - (b) confer powers on the Treasury or either regulator;
  - (c) authorise the making of rules or other instruments by either regulator for purposes of, or connected with, any relevant provision;
  - (d) make provision in respect of any information or document which in the opinion of the Treasury or either regulator is relevant for purposes of, or connected with, any relevant provision;
  - (e) make such consequential, transitional, or supplemental provision as the Treasury consider appropriate for purposes of, or connected with, any relevant provision.
- (3) Provision made as a result of subsection (2)(e) may amend any primary or subordinate legislation, including any provision of, or made under, this Act.
- (4) “Relevant provision” means this section or any provision made under this section.

#### **22B Parliamentary control in relation to certain orders under section 22A**

- (1) This section applies to the first order made under section 22A(1).
- (2) This section also applies to any subsequent order made under section 22A(1) which—
  - (a) contains a statement by the Treasury that, in their opinion, the effect (or one of the effects) of the proposed order would be—
    - (i) that an activity would become a PRA-regulated activity, or
    - (ii) that a PRA-regulated activity would become a regulated activity that is not a PRA-regulated activity, or
  - (b) amends primary legislation.
- (3) No order to which this section applies may be made unless—
  - (a) a draft of the order has been laid before Parliament and approved by a resolution of each House, or
  - (b) subsection (5) applies.
- (4) Subsection (5) applies if an order to which this section applies contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.
- (5) Where this subsection applies the order—
  - (a) must be laid before Parliament after being made, and
  - (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without that affecting anything done under the order or the power to make a new order).
- (6) The “relevant period” is a period of 28 days beginning with the day on which the order is made.

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- (7) In calculating the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.”

**Commencement Information**

**I3** S. 9 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), **Sch. Pt. 1**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)