

Direction under article 32 Mortgage Credit Directive Order 2015 (FCA power to direct timing of applications for permission and registration)

1. Purpose and interpretation

This direction is made under article 32 of the Mortgage Credit Directive Order 2015 (SI 2015/910) (“the MCD Order”).

The purpose of this direction is to specify the date (“the opening date”) before which an application falling into a category described in section 2 below may not be made. This direction specifies two different opening dates for two different categories of applications.

An application made before the opening date specified in this direction is to be treated as if it had not been made.

Expressions used in this direction have the same meaning as in the MCD Order with the exception of “Second charge regulated mortgage contract” which has the same meaning as the corresponding definition set out in the FCA Handbook Glossary having effect from 21 March 2016.

This direction may be amended by the FCA by further direction.

2. Categories of applications to which this direction applies

This direction applies to an application that falls within article 32 (1) of the MCD Order. In particular, this direction applies to an application for:

- (a) a Part 4A permission or a variation of a Part 4A permission for activities in relation to a second charge regulated mortgage of the kind specified by:
 - (i) article 53A (advising on regulated mortgage contracts);
 - (ii) article 25A (arranging regulated mortgage contracts);
 - (iii) article 61 (entering into and administering regulated mortgage contracts); or
 - (iv) article 53DA (advising on regulated credit agreements for the acquisition of land)

of the Regulated Activities Order as amended or inserted by the MCD Order; or

- (b) entry on the register of consumer buy-to-let mortgage firms under article 8 of the MCD Order (register of consumer buy-to-let mortgage firms).

3. Opening Dates for applications

The FCA directs that:

- (a) an application in the category described in section 2 (a) above may not be made before 20 April 2015.
- (b) an application in the category described in section 2 (b) above may not be made before 21 September 2015.

4. Interaction with Consumer Credit

As a result of changes made to legislation to implement the Mortgage Credit Directive, certain regulated activities in relation to credit agreements secured by a second or subsequent mortgage on land, which currently fall within article 36A (Credit broking) or article 60B (Regulated credit agreements) of the Regulated Activities Order will, from 21 March 2016, fall within article 25A (Arranging regulated mortgage contracts), article 53A (Advising on regulated mortgage contracts) or article 61 (Entering into or administering regulated mortgage contracts) of the Regulated Activities Order.

For further information, on how these changes impact firms currently holding an interim permission, see chapter 4 of PS15/9:

<https://www.fca.org.uk/static/fca/documents/ps15-9.pdf>

5. Determination of applications

Part 4A permissions granted or varied or an entry on the register of consumer-buy-to-let mortgage firms pursuant to applications considered under this direction will take effect no earlier than 21 March 2016.