

Chapter 4

Guidance on regulated activities connected with mortgages

4.1 Application and purpose

Application

4.1.1 **G** This chapter applies to any *person* who needs to know whether the activities he conducts in relation to mortgages are subject to *FCA* regulation.

Purpose of guidance

4.1.2 **G** Certain activities relating to mortgages are regulated by the *FCA*. The purpose of this *guidance* is to help *persons* decide whether they need *authorisation* and, if they do, to determine the scope of the *Part 4A permission* for which they will need to apply.

Effect of guidance

4.1.3 **G** This *guidance* is issued under section 139A of *Act* (*Guidance*). It is designed to throw light on particular aspects of regulatory requirements, not to be an exhaustive description of a *person's* obligations. If a *person* acts in line with the *guidance* in the circumstances contemplated by it, then the *FCA* will proceed on the footing that the *person* has complied with aspects of the requirement to which the *guidance* relates.

4.1.4 **G** Rights conferred on third parties cannot be affected by *guidance* given by the *FCA*. This *guidance* represents the *FCA's* view, and does not bind the courts, for example, in relation to an action for damages brought by a private *person* for breach of a *rule* (see section 138D of the *Act* (*Action for damages*)), or in relation to the enforceability of a contract where there has been a breach of the *general prohibition* on carrying on a *regulated activity* in the *United Kingdom* without *authorisation* (see sections 26 to 29 of the *Act* (*Enforceability of agreements*)). A *person* may need to seek his own legal advice.

4.1.5 **G** Anyone reading this *guidance* should refer to the *Act* and to the various *Orders* that are referred to in this *guidance*. These should be used to find out the precise scope and effect of any particular provision referred to in this *guidance*.

Guidance on other activities

4.1.6 **G** A *person* may be intending to carry on activities related to other forms of investment in connection with mortgages, such as advising on and arranging an endowment policy or *ISA* to repay an interest-only mortgage. Such a *person* should also consult the *guidance* in ■ PERG 2 (*Authorisation and*

regulated activities), ■ PERG 5 (Guidance on insurance distribution activities) and ■ PERG 8 (Financial promotion and related activities). In addition, ■ PERG 14 (Guidance on home reversion and home purchase activities) has *guidance on regulated activities relating to home reversion plans, home purchase plans and regulated sale and rent back agreements.*