Draft Order laid before Parliament under section 9N of the Bank of England Act 1998, for approval by resolution of each House of Parliament.

D R A F T   S T A T U T O R Y   I N S T R U M E N T S

2016 No.

FINANCIAL SERVICES AND MARKETS

The Bank of England Act 1998 (Macro-prudential Measures) Order 2016

Made - - - - ***

Coming into force - - [ ]

In accordance with section 9N of the Bank of England Act 1998(**a**), a draft of this Order has been laid before Parliament and approved by a resolution of each House.

In accordance with section 9L(2) of the Bank of England Act 1998, the Treasury has consulted with the Financial Policy Committee of the Bank of England.

The Treasury make the following Order in exercise of the powers conferred by section 9I(2) and 9L of the Bank of England Act 1998(**b**):

Citation and Commencement

1. This Order may be cited as the Bank of England Act 1998 (Macro-prudential Measures) Order 2016 and comes into force on [ ].

Interpretation

2.—(1) In this Order—

"borrower" means a person who receives credit, and includes a person acting jointly with others, and a person acting as a trustee who receives credit jointly with other trustees;

"buy-to-let mortgage contract" means a contract, under which-

(a) the lender provides credit to the borrower;

(b) the obligation of the borrower to repay is secured by a mortgage on land whether or not in the United Kingdom;

(c) at least 40% of the land is used, or is intended to be used, as or in connection with a dwelling; and

(d) the land subject to mortgage cannot at any time be occupied as a dwelling by the borrower or by a related person, and is to be occupied on the basis of a rental agreement.

(**a**) 1998 c.11, inserted by section 4 of the Financial Services Act 2012 (c.21).
(**b**) Inserted by section 4 of the Financial Services Act 2012.

;

"buy-to-let property" means the land which is the subject of a buy-to-let mortgage contract;

"cost benefit analysis" means—

(a) an analysis of the costs, including the costs to business activity and the impact on economic growth, and benefits of any change in rules made pursuant to Part 9A of the Financial Services and Markets Act 2000(**a**) to give effect to a subsequent direction; and

(b) where the costs and benefits can reasonably be estimated and it is reasonably practicable to produce an estimate, an estimate of those costs and of those benefits;

"credit" includes a cash loan, and any other form of financial accommodation;

"excluded buy-to-let mortgage contracts" means buy-to-let mortgage contracts under which a borrower obtains credit from a lender in relation to land, on which there are currently no dwellings, with the intention, or principal intention, of constructing new buildings on that land which will be used as dwellings; "FCA" has the meaning given by section 1A of the Financial Services and Markets Act 2000(**b**);

"Financial Policy Committee" has the meaning given by section 9B of the 1998 Act(**c**);

"interest coverage ratio" means the ratio of the expected monthly rental income from a buy-to-let property to the monthly interest payments as estimated by the lender at the time of deciding to provide credit to the borrower;

"lender" means a person providing credit by way of business;

"loan-to-value percentage" means, in relation to a provision of credit by a lender to a borrower, the aggregate amount of outstanding credit provided under all relevant buy-to-let mortgage contracts relating to the same land immediately after the last amount of credit is provided, as a percentage of the total value of the land as assessed by the lender for the purposes of deciding to provide credit to the borrower;

"PRA" has the meaning given by section 2A of the Financial Services and Markets Act 2000(**d**);

"related person" means, in relation to a borrower, or in the case of credit provided to trustees, a beneficiary of the trust —

(a) that person's spouse or civil partner;

(b) a person (whether or not of the opposite sex) whose relationship with that person has substantially the same characteristics of a relationship between husband and wife or between civil partners; or

(c) that person's parent, brother, sister, child, grandparent or grandchild "relevant buy-to-let mortgage contracts" means all buy-to-let mortgage contracts, other than excluded buy-to-let mortgages contracts;

"regulated persons" has the meaning given by section 9H(2) of the 1998 Act(**e**);

"the 1998 Act" means the Bank of England Act 1998;

(2) Any reference to 'specified' in the first column of the table in article 3 of this Order means specified by the Financial Policy Committee in a direction made under section 9H of the 1998 Act by reference to this Order.

Macro-prudential measures

3. The measures listed in the first column of the table (and any measures falling within a listed measure) are prescribed in relation to the regulator specified in the second column of the table.

(**a**) Inserted by section 24 of the Financial Services Act 2012.
(**b**) Inserted by section 6(1) of the Financial Services Act 2012.
(**c**) Inserted by section 4 of the Financial Services Act 2012.
(**d**) Inserted by section 6(1) of the Financial Services Act 2012.
(**e**) Inserted by section 4 of the Financial Services Act 2012.

Macro-prudential measure	*Regulator*
A measure to require, if such action is, in the opinion of the FPC proportionate, based on its assessment of a cost benefit analysis, regulated persons, who enter into relevant buy-to-let mortgage contracts to ensure that no more than a specified proportion of relevant buy-to-let mortgage contracts entered into after the date of a direction made with reference to this order have a loan-to-value percentage greater than the maximum loan-to-value percentage specified in the direction.	PRA or FCA
A measure to require, if such action is, in the opinion of the FPC proportionate, based on its assessment of a cost benefit analysis, regulated persons who enter into relevant buy-to-let mortgage contracts to ensure that no more than a specified proportion of relevant buy-to-let mortgage contracts entered into after the date of a direction made with reference to this order have an expected interest coverage ratio less than the minimum interest coverage ratio, when the expected interest coverage ratio is calculated using a specified interest rate.	PRA or FCA

Disapplication of procedural requirements

4.—(1) Paragraph (2) applies if—

(a) the Financial Policy Committee has given a direction to the PRA or the FCA under section 9H of the 1998 Act which specifies a loan-to-value percentage or an interest coverage ratio ("the first direction");

(b) the Financial Policy Committee subsequently revokes the first direction; and

(c) within a reasonable period of time after the revocation of the first direction, the Financial Policy Committee gives another direction to the PRA or the FCA under section 9H of the 1998 Act ("the subsequent direction") which is in substance identical to the first direction except in relation to the values specified in the direction.

(2) To the extent that the subsequent direction is implemented by way of rules pursuant to Part 9A of the Financial Services and Markets Act 2000 then—

(a) sections 138I, 138K, and 139A(3) of the Financial Services and Markets Act 2000 do not apply to the FCA, but the FCA must undertake and publish, at the same time as the subsequent direction is implemented, a cost benefit analysis relating to changes implemented pursuant to the subsequent direction; and

(a) sections 138J and 138K of the Financial Services and Markets Act 2000 do not apply to the PRA, but the PRA must undertake and publish, at the same time as the subsequent direction is implemented, a cost benefit analysis relating to changes implemented pursuant to the subsequent direction.

Review

5.—(1) The Treasury must from time to time—

(a) carry out a review of articles 2 to 4,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by those articles,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which articles 2 to 4 come into force.

(a) Reports under this article are afterwards to be published at intervals not exceeding five years.

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

The Financial Policy Committee is responsible for monitoring and addressing systemic risks which threaten the stability of the United Kingdom's financial system. One tool available to the FPC is the power to issue directions to the Prudential Regulation Authority and the Financial Conduct Authority (together the regulators). The Financial Policy Committee can only issue directions in relation to macro-prudential measures which have been prescribed by HM Treasury.

To be completed following the consultation period.