
STATUTORY INSTRUMENTS

2019 No. 707

The Official Listing of Securities, Prospectus and
Transparency (Amendment etc.) (EU Exit) Regulations 2019

PART 2

Amendments of primary legislation

CHAPTER 1

The Financial Services and Markets Act 2000

Introduction

3. FSMA 2000 is amended as follows.

Part 6 rules

4. In section 73A (Part 6 rules)(1), omit subsection (5).

Applications for listing

5. In section 75 (applications for listing), in subsection (6), for “officially listed in another EEA State” substitute “listed in a country or territory outside the United Kingdom”.

Matters which may be dealt with by prospectus rules

- 6.—(1) Section 84 (matters which may be dealt with by prospectus rules) is amended as follows.

(2) In subsection (2)(i), omit the words from “or under” to the end.

(3) For subsection (4) substitute—

“(4) Prospectus rules may make provision for the purpose of dealing with matters dealt with in the prospectus directive or with matters that, when the United Kingdom was a member State, would have been matters arising out of or related to a provision of the prospectus directive.”.

(4) Omit subsection (5).

(5) In subsection (6)—

(a) for “non-EEA State” substitute “country or territory outside the United Kingdom”, and

(b) for “that State” substitute “that country or territory”.

Prohibition of dealing etc in transferable securities without approved prospectus

7. In section 85 (prohibition of dealing etc in transferable securities without approved prospectus), in subsection (7), for the words from “competent authority” to the end substitute “FCA”.

Exempt offers to the public

8.—(1) Section 86 (exempt offers to the public)(2) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b), for “per EEA State” substitute “in the United Kingdom”;
- (b) in paragraph (e), for “in the EEA States” substitute “in the United Kingdom”.

(3) In subsection (1A)(c), omit “or the competent authority of another EEA State”.

(4) In subsection (1B)—

- (a) in paragraph (a), omit “or the competent authority of another EEA State”;
- (b) in paragraph (b), for “Article 5(4)(b) of the prospectus directive” substitute “rule 2.2.7(2) of the Prospectus Rules sourcebook”.

(5) In subsection (2), for “point (1) of Section I of Annex II to the markets in financial instruments directive” substitute “paragraph 3(a) of Schedule 1 to the markets in financial instruments regulation”(3).

(6) In subsection (7)—

(a) in paragraph (a)—

- (i) for “points (1) to (4) of Section I of Annex II to the markets in financial instruments directive” substitute “paragraph 3 of Schedule 1 to the markets in financial instruments regulation”;
- (ii) for “the final paragraph of Section I of Annex II to that directive” substitute “paragraph 4 of that Schedule”;

(b) in paragraph (b)—

- (i) for “Section II of Annex II to that directive” substitute “paragraphs 5 and 6 of that Schedule”;
- (ii) for “the final paragraph of Section I of Annex II to that directive” substitute “paragraph 4 of that Schedule”;

(c) for paragraph (c) (including the “or” at the end) substitute—

“(c) a person who—

- (i) is an eligible counterparty for the purposes of Section 6 of Chapter 3 of the Conduct of Business sourcebook, and
- (ii) has not, before the making of the offer, agreed in writing with the relevant firm (or each of the relevant firms) to be treated as a non-professional client in accordance with paragraph 4 of Schedule 1 to the markets in financial instruments regulation; or”;

(d) in paragraph (d)(ii) for “may continue to treat as a professional client from 3 January 2018” substitute “was entitled immediately before exit day to continue to treat as a professional client”.

(7) In subsection (8), after “investment firm or” insert “qualifying”.

(2) Section 86 was substituted by [S.I. 2005/1433](#) and subsequently amended, most recently by [S.I. 2018/786](#).

(3) Schedule 1 is inserted by [S.I. 2018/1403](#).

- (8) In subsection (9)—
 - (a) after “Investment firms and” insert “qualifying”;
 - (b) in paragraph (b), for “directly applicable” substitute “retained direct”.
- (9) After subsection (9) insert—
 - “(9A) In this section—
 - “the Conduct of Business sourcebook” means the Conduct of Business sourcebook made under this Act by the FCA, as it has effect on exit day;
 - “the Prospectus Rules sourcebook” means the Prospectus Rules sourcebook⁽⁴⁾ made under this Act by the FCA, as it has effect on exit day.”.
- (10) Omit subsection (10).

Election to have prospectus

9. In section 87 (election to have prospectus), in subsection (4), omit “where the United Kingdom is the home State in relation to the issuer of the securities”.

Criteria for approval of prospectus by FCA

- 10.—(1) Section 87A (criteria for approval of prospectus by FCA)⁽⁵⁾ is amended as follows.
- (2) In subsection (1)—
 - (a) omit paragraph (a);
 - (b) in paragraph (c), for “this Part or the prospectus directive” substitute “qualifying prospectus legislation”.
 - (3) In subsection (2A), omit “EEA”.
 - (4) In subsection (7)(a), omit the words from “and any competent” to “87I”.
 - (5) After subsection (10) insert—
 - “(11) In this Part “qualifying prospectus legislation” means—
 - (a) the provisions of this Part,
 - (b) prospectus rules,
 - (c) any EU regulation, originally made under the prospectus directive, that is retained direct EU legislation,
 - (d) regulations made by the Treasury under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for a purpose specified in paragraphs 3 to 9 of Schedule 2 to those Regulations, and
 - (e) technical standards made by the FCA under regulation 72 of those Regulations for a purpose specified in paragraphs 22 to 30 of that Schedule.”.

Procedure for decision on application for approval

- 11.—(1) Section 87D (procedure for decision on application for approval) is amended as follows.
- (2) In subsection (1), omit “and ESMA”.

(4) Sourcebooks made by the Financial Conduct Authority are available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

(5) Sections 87A to 87R were inserted by [S.I. 2005/1433](#).

(3) Omit subsection (1A).

Repeal of sections 87E and 87F

12. Omit section 87E (transfer by FCA of application for approval) and section 87F (transfer to FCA of application for approval).

Repeal of section 87FB

13. Omit section 87FB (communication of final terms by FCA)(6).

Repeal of sections 87H and 87I

14. Omit section 87H (prospectus approved in another EEA State) and section 87I (provision of information to host Member State).

Power to suspend or prohibit offer to the public

15. In section 87K (power to suspend or prohibit offer to the public), in subsection (5), for the words from “means” to the end substitute “means a provision of qualifying prospectus legislation applicable in relation to the offer”.

Power to suspend or prohibit admission to trading on a regulated market

16. In section 87L (power to suspend or prohibit admission to trading on a regulated market), in subsection (5), for the words from “means” to the end substitute “means a provision of qualifying prospectus legislation applicable in relation to the admission of the transferable securities to trading on the regulated market in question”.

Public censure of issuer

17. In section 87M (public censure of issuer), in subsection (4), for the words from “means” to the end substitute “means a provision of qualifying prospectus legislation applicable to a prospectus in relation to the transferable securities in question”.

Repeal of section 87P

18. Omit section 87P (exercise of powers at request of competent authority of another EEA State).

Transparency rules

19.—(1) Section 89A (transparency rules)(7) is amended as follows.

(2) For subsection (1) substitute—

“(1) The FCA may make rules—

- (a) imposing requirements in relation to the disclosure of periodic or ongoing information about issuers whose securities are admitted to trading on a regulated market, and
- (b) dealing with matters arising out of or relating to such requirements.”.

(6) Inserted by S.I. 2014/3293.

(7) Sections 89A to 89G were inserted by the Companies Act 2006 (c. 46) section 1266(1).

(3) In subsection (2), after “any matters” insert “dealt with in the transparency obligations directive or with any matters that, when the United Kingdom was a member State, would have been matters”.

(4) After subsection (4) insert—

“(4A) The provision that may be made by virtue of subsection (4)(g) includes (but is not limited to) provision, in the case of an issuer whose registered office is situated in a country or territory outside the United Kingdom, allowing exemption from specified provisions of rules under this section if—

- (a) the law of that country or territory is considered by the FCA to lay down equivalent requirements, or
- (b) the issuer complies with the requirements of the law of a country or territory that the FCA considers as equivalent.”.

Provision of voteholder information

20.—(1) Section 89B (provision of voteholder information) is amended as follows.

(2) In subsection (4), for the words from “person” to the end substitute “person in accordance with the following provisions”.

(3) In subsection (5), omit “under subsection (4)(b)”.

Provision of information by issuers of transferable securities

21.—(1) Section 89C (provision of information by issuers of transferable securities) is amended as follows.

(2) In subsection (2), for paragraphs (a) and (aa) (except the final “and”) substitute—

“(a) an annual financial report which complies with subsection (5) and with such other requirements as may be specified;

(aa) in the case of an issuer which is—

- (i) a mining or quarrying undertaking, or
- (ii) a logging undertaking,

reports complying with specified requirements on payments to governments;”.

(3) In subsections (3) and (4)(a), for “information required by Article 5 of the transparency obligations directive” substitute “a half-yearly financial report which covers the first 6 months of the financial year and complies with subsection (6) and with such other requirements as may be specified”.

(4) After subsection (4) insert—

“(5) An issuer’s annual financial report must include—

- (a) audited financial statements complying with specified requirements,
- (b) a management report complying with specified requirements, and
- (c) statements which—
 - (i) relate to the financial statements and the management report,
 - (ii) are made by the persons responsible within the issuer, and
 - (iii) comply with specified requirements.

(6) An issuer’s half-yearly financial report must include—

- (a) a condensed set of financial statements complying with specified requirements,

- (b) an interim management report complying with specified requirements, and
- (c) statements which—
 - (i) relate to the condensed set of financial statements and the interim management report,
 - (ii) are made by the persons responsible within the issuer, and
 - (iii) comply with specified requirements.

(7) In subsection (2)(aa), “mining or quarrying undertaking”, “logging undertaking”, “payment” and “government” have the same meanings as in the Reports on Payments to Governments Regulations 2014⁽⁸⁾.

(8) In this section “specified” means specified in, or referred to in, transparency rules.”.

Notification of voting rights held by issuer

22.—(1) Section 89D (notification of voting rights held by issuer) is amended as follows.

(2) In subsection (1), for the words from “the issuer” to the end substitute “the issuer in accordance with the following provisions”.

(3) In subsection (2), omit “under subsection (1)(b)”.

Transparency rules: interpretation etc

23. In section 89F (transparency rules: interpretation etc), after subsection (1) insert—

“(1A) The FCA must establish, publish and periodically update an indicative list of financial instruments that are subject to notification requirements by virtue of subsection (1)(b)(iii), taking into account developments on financial markets.

(1B) Publication of the indicative list is to be in such manner as the FCA considers appropriate.”.

Public censure of issuer

24.—(1) Section 89K (public censure of issuer)⁽⁹⁾ is amended as follows.

(2) In subsection (5), for the words from “under” to the end substitute “under qualifying transparency legislation”.

(3) After subsection (5) insert—

“(5A) In this Part “qualifying transparency legislation” means—

- (a) transparency rules,
- (b) any EU regulation, originally made under the transparency obligations directive, that is retained direct EU legislation,
- (c) regulations made by the Treasury under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for a purpose specified in paragraphs 10 to 20 of Schedule 2 to those Regulations, or
- (d) technical standards made by the FCA under regulation 72 of those Regulations for a purpose specified in paragraphs 31 to 35 of that Schedule.”.

(4) Omit subsection (6).

⁽⁸⁾ S.I. 2014/3209.

⁽⁹⁾ Sections 89K to 89N were inserted by the Companies Act 2006 section 1268.

Power to suspend or prohibit trading of securities

25.—(1) Section 89L (power to suspend or prohibit trading of securities) is amended as follows.

(2) In subsection (3), for the words from “a provision” to “directive” substitute “an applicable transparency obligation”.

(3) In subsection (5), for the words from “under” to the end substitute “under qualifying transparency legislation”.

(4) Omit subsection (6).

Voting rights suspension orders

26. In section 89NA (voting rights suspension orders)(**10**), in subsection (11), in the definition of “relevant transparency provision”—

(a) in paragraph (a), for “implements” substitute “implemented”;

(b) omit the “or” at the end of paragraph (a);

(c) for paragraph (b) substitute—

“(b) a provision, originally made under any of those Articles, that is retained direct EU legislation,

(c) a provision of regulations made by the Treasury under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for a purpose specified in paragraphs 13 to 16 of Schedule 2 to those Regulations, or

(d) a provision of technical standards made by the FCA under regulation 72 of those Regulations for a purpose specified in paragraphs 32 to 35 of that Schedule.”.

Corporate governance rules

27.—(1) Section 89O (corporate governance rules)(**11**) is amended as follows.

(2) For subsection (1) substitute—

“(1) The FCA may make rules (“corporate governance rules”) relating to the corporate governance of issuers who have requested or approved admission of their securities to trading on a regulated market.”.

(3) Omit subsections (3) and (4).

Storage of regulated information

28.—(1) Section 89W (storage of regulated information)(**12**) is amended as follows.

(2) In subsection (1), omit the words from “meeting” to the end.

(3) After that subsection insert—

“(1A) The mechanism must comply with minimum quality standards of security, certainty as to the information source, time recording and easy access by end users (see provision made under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for the purpose specified in paragraph 19(b) of Schedule 2 to those Regulations).

(10) Inserted by [S.I. 2015/1755](#).

(11) Inserted by the Companies Act 2006 section 1269.

(12) Inserted by [S.I. 2015/1755](#).

(1B) The mechanism must be aligned with the procedure for filing the regulated information with the FCA.”.

(4) For subsection (2) substitute—

“(2) In this section “regulated information” means information which an issuer, or a person who has applied for the admission of securities to trading on a regulated market without the issuer’s consent, is required to disclose under—

- (a) listing rules,
- (b) qualifying transparency legislation, or
- (c) Articles 17 to 19 of the market abuse regulation.”.

Liability for key investor information

29. In section 90ZA (liability for key investor information)(**13**), for “implementing” substitute “originally made in implementation of”.

Penalties for breach of Part 6 rules

30.—(1) Section 91 (penalties for breach of Part 6 rules) is amended as follows.

(2) In subsection (1A)(**14**)—

- (a) in paragraph (e), for “the prospectus directive” substitute “qualifying prospectus legislation”;
- (b) for the words from “contravened” to “directive” substitute “contravened a provision of qualifying prospectus legislation”.

(3) In subsection (1B)(a)(i)(**15**), for the words from “transparency rules” to “directive” substitute “qualifying transparency legislation”.

Appointment by FCA of persons to carry out investigations

31. In section 97 (appointment by FCA of persons to carry out investigations), in subsection (1)—

- (a) in paragraph (a), for sub-paragraph (ii) substitute—
 - “(ii) any other provision of qualifying prospectus legislation or qualifying transparency legislation;”;
- (b) in paragraph (b), for sub-paragraph (ii) substitute—
 - “(ii) any other provision of qualifying prospectus legislation or qualifying transparency legislation;”;
- (c) in paragraph (ba)(**16**), for the words from “by that person of” to the end substitute “by that person of qualifying transparency legislation;”.

Repeal of section 100A

32. Omit section 100A (exercise of powers where UK is host member state)(**17**).

(13) Inserted by [S.I. 2011/1613](#).

(14) Inserted by [S.I. 2005/1433](#).

(15) Subsection (1B) was inserted by the Companies Act 2006 Schedule 15, paragraph 6, and was amended by the Financial Services Act 2012 (c. 21) section 16.

(16) Paragraph (ba) was inserted by [S.I. 2015/1755](#).

(17) Inserted by the Companies Act 2006 section 1271.

Meaning of “securities” etc.

33.—(1) Section 102A (meaning of “securities” etc.)(**18**) is amended as follows.

(2) In subsection (3), for “directive”, in both places where it occurs, substitute “regulation”.

(3) For subsection (3A)(**19**) substitute—

“(3A) “Debt securities” means bonds or other forms of transferable securitised debts, with the exception of—

- (a) transferable securities which are equivalent to shares, and
- (b) transferable securities which, if converted or if the rights conferred by them are exercised, give rise to a right to acquire—
 - (i) shares, or
 - (ii) transferable securities equivalent to shares.”.

(4) In subsection (4), for the words from “has” to the end substitute “means those instruments specified in Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”(20).

(5) For subsection (5) substitute—

“(5) “Non-equity transferable securities” means all transferable securities that are not equity securities; and for this purpose the following are “equity securities”—

- (a) shares,
- (b) other transferable securities which are equivalent to shares, and
- (c) transferable securities which—
 - (i) are within neither of paragraphs (a) and (b),
 - (ii) give the right to acquire securities within paragraph (a) or (b) if converted or if the rights conferred by them are exercised, and
 - (iii) are issued by the issuer of the underlying shares or by an entity belonging to the group of that issuer.”.

Meaning of “offer of transferable securities to the public” etc.

34.—(1) Section 102B (meaning of “offer of transferable securities to the public” etc.) is amended as follows.

(2) In subsection (5)(a), after “a regulated market” insert “, as defined in Article 2(1)(13) of the markets in financial instruments regulation(**21**)”.

(3) For subsection (6) substitute—

“(6) “Multilateral trading facility” has the same meaning as in the markets in financial instruments regulation (see Article 2(1)(14) of that Regulation)(**22**)”.

Repeal of section 102C

35. Omit section 102C (meaning of “home State” in relation to transferable securities).

(18) Sections 102A to 102C were inserted by [S.I. 2005/1433](#).

(19) Inserted by the Companies Act 2006 Schedule 15, paragraph 10(2).

(20) [S.I. 2001/544](#). Part 1 of Schedule 2 was substituted by [S.I. 2006/3384](#) and amended by [S.I. 2017/488](#).

(21) Article 2(1)(13) is substituted by [S.I. 2018/1403](#).

(22) Article 2(1)(14) is inserted by [S.I. 2018/1403](#).

Interpretation of Part 6 of FSMA 2000

36. In section 103 (interpretation of Part 6), in subsection (1)—

(a) after the definition of “prospectus rules” insert—

““qualifying prospectus legislation” has the meaning given in section 87A(11);

“qualifying transparency legislation” has the meaning given in section 89K(5A);”;

(b) for the definition of “regulated market” substitute—

““regulated market” (except in section 102B and Schedule 10A) means a UK regulated market, as defined in Article 2(1)(13A) of the markets in financial instruments regulation⁽²³⁾”.

Liability of issuers in connection with published information

37.—(1) Schedule 10A (liability of issuers in connection with published information)⁽²⁴⁾ is amended as follows.

(2) In paragraph 1, for sub-paragraph (3) substitute—

“(3) For the purposes of this Schedule the United Kingdom is the home State of an issuer if—

(a) the transparency rules impose requirements on the issuer in relation to the securities, or

(b) the issuer has its registered office (or, if it does not have a registered office, its head office) in the United Kingdom.”.

(3) In paragraph 2(4)—

(a) in paragraph (a)—

(i) for “EEA” substitute “United Kingdom”;

(ii) for “Article 21 of the transparency obligations directive” substitute “transparency rules”;

(b) in paragraph (b)—

(i) for “EEA” substitute “United Kingdom”;

(ii) for “that directive” substitute “transparency rules”.

(4) In paragraph 8—

(a) in sub-paragraph (1)—

(i) for paragraph (a) substitute—

“(a) “securities” means transferable securities as defined in Article 2(1) (24) of the markets in financial instruments regulation, other than money market instruments as defined in Article 2(1)(25A) of that regulation that have a maturity of less than 12 months (and includes instruments outside the United Kingdom);”⁽²⁵⁾

(ii) in paragraph (b), for sub-paragraphs (i) to (iii) substitute—

“(i) a regulated market as defined in Article 2(1)(13) of the markets in financial instruments regulation, or

⁽²³⁾ Article 2(1)(13A) is substituted by [S.I. 2018/1403](#).

⁽²⁴⁾ Inserted by [S.I. 2010/1192](#).

⁽²⁵⁾ Articles 1(1)(24) and (25A) are substituted by [S.I. 2018/1403](#).

- (ii) a multilateral trading facility as defined in Article 2(1)(14) of that regulation.”
- (b) omit sub-paragraph (6)(b).

Transferable securities excluded from certain provisions of section 85 of FSMA 2000

- 38.**—(1) Schedule 11A (transferable securities)(**26**) is amended as follows.
- (2) In paragraph 2—
 - (a) in paragraphs (a) and (b), for “an EEA State” substitute “any country or territory”;
 - (b) in paragraphs (c) and (e), for “an EEA State” substitute “any State”.
 - (3) In paragraph 3, for “an EEA State” substitute “any State”.
 - (4) In paragraph 4, for “an EEA State” substitute “any country or territory”.
 - (5) In paragraph 5—
 - (a) for the words from “a deposit” to the end substitute “the compensation scheme”;
 - (b) after sub-paragraph (2) insert—
 - “(3) “Credit institution” means a credit institution as defined in Article 4(1)(1) of the capital requirements regulation.”
 - (6) In paragraph 7, omit sub-paragraph (2)(e).
 - (7) In paragraph 8, in sub-paragraph (2)(a), for “the EEA States” substitute “the United Kingdom”.
 - (8) In paragraph 9(1), for “the EEA States” substitute “the United Kingdom”.

CHAPTER 2

The Companies Act 2006

Repeal of section 1273 of the Companies Act 2006

- 39.** Omit section 1273 of the Companies Act 2006(**27**) (corporate governance regulations).

(26) Inserted by S.I. 2005/1433.

(27) 2006 c. 46.