

DRAFT STATUTORY INSTRUMENTS

**2018 No.**

The Over the Counter Derivatives, Central Counterparties  
and Trade Repositories (Amendment, etc., and  
Transitional Provision) (EU Exit) Regulations 2018

PART 3

AMENDMENT AND REVOCATION OF RETAINED DIRECT EU LEGISLATION

CHAPTER 1

AMENDMENT OF THE EMIR REGULATION

**Clearing obligation**

14.—(1) Article 4 is amended as follows.

(2) In paragraph 1—

- (a) in point (a), in points (iv) and (v), for “Union” wherever it appears substitute “United Kingdom”;
- (b) in point (b), in point (ii)—
  - (i) for “notification as referred to in Article 5(1)” substitute “authorisation of a CCP to clear a class of OTC derivatives under Article 14 or 15”;
  - (ii) for “Commission” substitute “Bank of England”.

(3) In paragraph 2, in the second sub-paragraph—

- (a) in point (a)—
  - (i) for “Union” substitute “United Kingdom”;
  - (ii) for “their respective competent authorities” substitute “the FCA”;
  - (iii) for “the competent authorities” both times it appears substitute “the FCA”;
  - (iv) omit from “If there is disagreement between” to the end;
- (b) in point (b)—
  - (i) for “a Member State” substitute “the United Kingdom”;
  - (ii) for “Union” both times it appears substitute “United Kingdom”;
  - (iii) for “its competent authority” substitute “the FCA”;
  - (iv) omit from “The competent authority shall” to the end.

(4) For paragraph 4, substitute—

“4. The FCA may make technical standards specifying the contracts that are considered to have a direct, substantial and foreseeable effect within the United Kingdom or the cases where it is necessary or appropriate to prevent the evasion of any provision of this Regulation as referred to in paragraph 1(a)(v).

The Bank of England may make technical standards in relation to CCPs, and the FCA may make technical standards in relation to all other cases, specifying the types of indirect contractual arrangements that meet the conditions referred to in the second sub-paragraph of paragraph 3.”.