
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Financial Services and Markets Act 2000
(Amendment) (EU Exit) Regulations 2019

PART 2

Amendments to the Act

CHAPTER 3

Part 4A of the Act: permission to carry on regulated activities

Introduction

14. Part 4A of the Act(1) (permission to carry on regulated activities) is amended as follows.

Section 55D (application for permission)

15.—(1) Section 55D (firms based outside EEA) is amended as follows.

(2) In the heading, for “EEA” substitute “the United Kingdom”.

(3) For “non-EEA”, wherever occurring, substitute “non-UK”.

(4) In subsection (1)(a) for “EEA” substitute “United Kingdom”.

Section 55J (variation and cancellation of Part 4A permission: general)

16.—(1) Section 55J(2) (variation or cancellation on initiative of regulator) is amended as follows.

(2) In subsection (6A)—

(a) in paragraph (c)—

(i) for the words from “provide” to “managers directive” substitute “carry on the management of portfolios of investments in accordance with mandates given by investors on a discretionary, and client-by-client, basis”;

(ii) for “the capital requirements directive” substitute “any enactment (as amended from time to time) that immediately before exit day implemented provisions of the capital requirements directive”;

(b) in paragraph (e)—

(i) for sub-paragraph (i) substitute—

“(i) an AIFMD requirement;”;

(ii) omit sub-paragraphs (ii) and (iii);

(1) Part 4A was inserted by section 11(2) of the Financial Services Act 2012.

(2) Relevant amending instruments are [S.I. 2013/1773](#), [S.I. 2013/3115](#), [S.I. 2015/910](#), [S.I. 2015/1882](#) and [S.I. 2016/680](#).

- (iii) for sub-paragraph (iv), including the “or” at the end, substitute—
 - “(iv) an ELTIF requirement; or”;
- (iv) for sub-paragraph (v) substitute—
 - “(v) an MMF requirement.”.
- (3) After subsection (6A), insert—
 - “(6AA) For the purposes of subsection (6A)(e)—
 - (a) an AIFMD requirement is a provision of—
 - (i) the Alternative Investment Fund Managers Regulations 2013,
 - (ii) any EU regulation, originally made under the alternative investment fund managers directive, which is retained direct EU legislation,
 - (iii) any provision made by or under this Act that immediately before exit day implemented provisions of the alternative investment fund managers directive (as that implementing provision is amended from time to time), or
 - (iv) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under the alternative investment fund managers directive by regulations made under section 8 of the European Union (Withdrawal) Act 2018;
 - (b) an ELTIF requirement is a provision of—
 - (i) Regulation (EU) No. 2015/760 of the European Parliament and of the Council of 29th April 2015 on European Long-term Investment Funds (“the ELTIF Regulation”),
 - (ii) any EU regulation, originally made under the ELTIF Regulation, which is retained direct EU legislation, or
 - (iii) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the ELTIF Regulation on or after exit day;
 - (c) an MMF requirement is a provision of—
 - (i) the MMF Regulation,
 - (ii) any EU regulation, originally made under the MMF Regulation, which is retained direct EU legislation, or
 - (iii) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the MMF Regulation on or after exit day.”.
- (4) In subsection (6B)—
 - (a) in paragraph (c), omit “, in accordance with Chapter 11 of the mortgages directive,”;
 - (b) in paragraph (d)—
 - (i) for “implements” substitute “sets”;
 - (ii) omit “set out in the mortgages directive”.
- (5) Omit subsection (7).
- (6) In subsection (7ZA)—
 - (a) in the words before paragraph (a), after the words “managing a”, insert “UK”;
 - (b) for paragraph (c) substitute—
 - “(c) an MMF requirement,”.
- (7) In subsection (7ZB), for the words after “requirement” substitute—

“imposed by—

- (a) the market abuse regulation,
 - (b) any EU regulation, originally made under the market abuse regulation, which is retained direct EU legislation, or
 - (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the market abuse regulation on or after exit day.”.
- (8) After subsection (12), insert—
- “(13) In this section “enactment” has the meaning given by section 3T.”.

Section 55K (variation and cancellation of Part 4A permission: investment firms)

17. In section 55K (investment firms: particular conditions that enable cancellation), in subsection (1)—

- (a) in paragraph (c) omit the words from “pursuant”, in the first place it occurs, to “that Chapter,”;
- (b) in paragraph (d) for the words from “the operating conditions” to “that Chapter,” substitute “any retained direct EU legislation, or any provision made by or under this Act, which sets the operating conditions”.

Section 55KA (variation and cancellation of Part 4A permission: insurance undertakings etc.)

18. In section 55KA(3) (insurance undertakings etc.), in subsection (1)(b)(i), for the words from “a finance scheme” to the end substitute “, in accordance with requirements imposed by or under this Act, a finance scheme for restoring compliance with the appropriate capital requirement;”.

Section 55PA (imposition and variation of requirements)

19. Omit section 55PA(4) (assets requirements imposed on insurance undertakings or reinsurance undertakings).

Section 55Q (exercise of power in support of overseas regulator)

20.—(1) Section 55Q(5) (exercise of power in support of overseas regulator) is amended as follows.

- (2) Omit subsection (4).
- (3) In subsection (5), in the words before paragraph (a), for the words from “do so” to “EU obligation, it” substitute “exercise its own-initiative powers in response to a request, the UK regulator”.
- (4) Omit subsection (7).
- (5) In subsection (8), for “subsection” substitute “subsections (5) and”.

Section 55R (connected persons)

21. In section 55R (persons connected with an applicant), omit subsections (4) to (9)(6).

(3) Section 55KA was inserted by [S.I. 2015/575](#).

(4) Section 55PA was inserted by [S.I. 2015/575](#).

(5) There are other amending instruments but none is relevant.

(6) Subsections (4) to (6) were inserted by [S.I. 2013/3115](#); subsections (7) to (9) were inserted by [S.I. 2017/701](#); there are other amending instruments but none is relevant.

Section 55S (additional permissions)

22. Omit section 55S (duty of FCA or PRA to consider other permissions).

Sections 55Z1 to 55Z2A (notification)

23. Omit sections 55Z1 to 55Z2A(7) (notification of ESMA, EBA and European bodies).

(7) Section 55Z2 was amended by [S.I. 2013/3115](#) and [S.I. 2015/486](#); section 55Z2A was inserted by [S.I. 2013/3115](#).