
DRAFT STATUTORY INSTRUMENTS

2019 No.

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

PART 2

Amendments to the Act

CHAPTER 6

Part 9A of the Act: rules and guidance

Introduction

34. Part 9A of the Act (rules and guidance) is amended as follows.

Section 137J (rules about recovery plans: duty to consult)

35. In section 137J(1) (rules about recovery plans: duty to consult), in subsection (6)(2)—

(a) for the definition of “institution” substitute—

““institution” means—

- (a) a credit institution, other than an entity mentioned in Article 2.5 of the capital requirements directive; or
- (b) an investment firm as defined in Article 4.1(2) of the capital requirements regulation that is subject to the initial capital requirement specified in rules made by a regulator for the purpose of implementing Article 28(2) of the capital requirements directive;”;

(b) in the definition of “institution authorised in the UK”, for “an institution which is an authorised person and” substitute “an authorised person who is”.

Section 137N (recovery plans and resolution packs: restriction on duty of confidence)

36. In section 137N (recovery plans and resolution packs: interpretation), in subsection (5)(3), in the definition of “qualifying parent undertaking” omit paragraph (b) and the “or” preceding it.

Section 137Q (price stabilising rules)

37.—(1) Section 137Q (price stabilising rules) is amended as follows.

(2) In subsection (3A)(b)(4) for “EEA” substitute “United Kingdom”.

(1) Part 9A of the Financial Services and Markets Act 2000 (consisting of sections 137A to 141A) was inserted by section 24(1) of the Financial Services Act 2012.
(2) Subsection (6) was substituted by [S.I. 2014/3348](#).
(3) Subsection (5) was amended by [S.I. 2014/3348](#).
(4) Subsection (3A) was substituted by [S.I. 2016/680](#).

(3) For subsection (5)(5) substitute—

“(5) In this section references to Article 5 of the market abuse regulation include—

- (a) any technical standards originally adopted or made under that Article which are retained direct EU legislation, and
- (b) any technical standards made under that Article by the FCA.”.

Section 137R (financial promotion rules)

38.—(1) Section 137R (financial promotion rules) is amended as follows.

(2) In subsection (5)(b)(6), for the words from “requirements” to “insurance distribution directive,” substitute “listed requirements”.

(3) In subsection (5)(c)(7), for “requirements mentioned in paragraph (b)” substitute “listed requirements”.

(4) After subsection (5) insert—

“(5A) In subsection (5) “the listed requirements” means—

- (a) requirements under the law of any part of the United Kingdom that appear to the FCA to correspond to requirements of—
 - (i) Articles 24 (general principles and information to clients) and 25 (assessment of suitability and appropriateness and reporting to clients) of the markets in financial instruments directive,
 - (ii) Commission Delegated Directive (EU) 2017/593 of 7 April 2016, so far as adopted under those Articles,
 - (iii) Article 77 of the UCITS directive,
 - (iv) Articles 10 and 11 of the mortgages directive, or
 - (v) Article 17 of the insurance distribution directive, and
- (b) requirements of any retained direct EU legislation originally made under Article 24(13) or 25(8) of the markets in financial instruments directive.”(8).

Section 138K (consultation: mutual societies)

39. In section 138K(9) omit subsections (5)(d)(10) and (6) (references to EEA mutual societies).

Section 139A (power of the FCA to give guidance)

40. In section 139A (power of the FCA to give guidance), in subsection (4)(11) for “or a directly applicable regulation made under the market abuse regulation” substitute “, any retained EU direct legislation originally made under the market abuse regulation or any subordinate legislation (within the meaning of the Interpretation Act 1978) made on or after exit day under the market abuse regulation”.

(5) Subsection (5) was inserted by [S.I. 2016/680](#).

(6) Subsection (5)(b) was amended by [S.I. 2015/910](#), [2017/701](#) and [2018/546](#).

(7) Subsection (5) was amended by [S.I. 2015/910](#), [2017/701](#) and [2018/546](#).

(8) Commission Delegated Directive (EU) 2017/593 was published at OJNo. L 87, 31.3.2017, p 500 – 517.

(9) Section 138K was inserted by section 24(1) of the Financial Services Act 2012.

(10) Subsection (5) was amended. None of these amendments is relevant.

(11) Subsection (4) was inserted by [S.I. 2016/680](#).

Section 141A (power to make consequential amendments of references to rules etc)

41. In section 141A (power to make consequential amendments of references to rules etc), after subsection (4) insert—

“(5) A regulator’s power under Part 2 of the Powers Regulations to amend its rules is treated for the purposes of this section as a power under this Part; and for this purpose “the Powers Regulations” means the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 ([S.I. 2018/1115](#)).”.