



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVIII

[^{F1}RECOGNISED INVESTMENT EXCHANGES, CLEARING HOUSES AND CSDS]

CHAPTER I

EXEMPTION

General

285 [^{F1}Exemption for recognised bodies etc.]

(1) In this Act—

(a) “recognised investment exchange” means an investment exchange in relation to which a recognition order is in force;

[^{F2}(b) “recognised clearing house” means—

(i) a central counterparty in relation to which a recognition order is in force (in this Part referred to as a “recognised central counterparty”),
or

(ii) a clearing house which provides clearing services in the United Kingdom without doing so as a central counterparty, and in relation to which a recognition order is in force;

[^{F3}(c)

(d) [^{F4}“third country central counterparty” means a person established in a country other than the United Kingdom who has been recognised by the Bank of England as a central counterparty pursuant to Article 25 of the EMIR Regulation;]]

[^{F5}(e) “recognised CSD” means a central securities depository in relation to which a recognition order is in force;

Status: Point in time view as at 31/12/2020.

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- [^{F6}(g) “third country CSD” means a central securities depository, established in a country other than the United Kingdom, which is recognised by the Bank of England pursuant to Article 25 of the CSD regulation.]]
- (2) A recognised investment exchange is exempt from the general prohibition as respects any regulated activity—
- (a) which is carried on as a part of the exchange’s business as an investment exchange; or
- [^{F7}(b) which is carried on for the purposes of, or in connection with, the provision by the exchange of services designed to facilitate the provision of clearing services by another person.]
- (3) [^{F8}A recognised clearing house which is not a recognised central counterparty] is exempt from the general prohibition as respects any regulated [^{F9}activity—
- (a) which is carried on for the purposes of, or in connection with, the provision of clearing services by the clearing house, or
- (b) which is carried on for the purposes of, or in connection with, the provision by the clearing house of services designed to facilitate the provision of clearing services by another person.]
- [^{F10}(3ZA) Subsections (2) and (3) do not apply in respect of the regulated activity specified in article 63S of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (administering a benchmark).]
- [^{F11}(3A) A recognised central counterparty is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services or activities specified in its recognition order.
- [^{F12}(3B)]
- (3C) A third country central counterparty is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services or activities specified in its recognition by [^{F13}the Bank of England] pursuant to Article 25 of the EMIR regulation.]
- [^{F14}(3D) A recognised CSD is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with—
- (a) the core services listed in Section A of the Annex to the CSD regulation which the central securities depository is authorised to provide pursuant to Article 16 or 19(1)(a) or (c) of that regulation, or
- (b) any non-banking-type ancillary services listed in or permitted under Section B of that Annex which the central securities depository is authorised to provide, including services notified under Article 19 of the CSD regulation.
- [^{F15}(3E)]
- [^{F15}(3F)]
- (3G) A third country CSD is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services and activities covered by its recognition by [^{F16}the Bank of England] pursuant to Article 25 of the CSD regulation.
- (3H) But a recognised CSD [^{F17}... or a third country CSD is not exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of,

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or in connection with, any banking-type ancillary service listed in or permitted under Section C of the Annex to the CSD regulation.]

[^{F18}(4) The Treasury may by order amend paragraph (b) of subsection (2) or (3).]

Textual Amendments

- F1** S. 285 heading substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(9)(a)** (with regs. 7(4), 9(1))
- F2** S. 285(1)(b)-(d) substituted for s. 285(1)(b) and word (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(3)(a)** (with regs. 52-58)
- F3** S. 285(1)(c) omitted (31.12.2020) by virtue of The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(2)(a)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 285(1)(d) substituted (31.12.2020) by The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(2)(b)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 285(1)(e)-(g) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(9)(b)(ii)** (with regs. 7(4), 9(1))
- F6** S. 285(1)(g) substituted for s. 285(1)(f)(g) (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F7** S. 285(2)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 28(2)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F8** Words in s. 285(3) substituted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(3)(b)** (with regs. 52-58)
- F9** Words in s. 285(3) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 28(3)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F10** S. 285(3ZA) inserted (27.2.2018) by The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018 (S.I. 2018/135), regs. 1(2), **45**
- F11** S. 285(3A)-(3C) inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(3)(c)** (with regs. 52-58)
- F12** S. 285(3B) omitted (31.12.2020) by virtue of The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(3)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in s. 285(3C) substituted (31.12.2020) by The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(4)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F14** S. 285(3D)-(3H) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(9)(c)** (with regs. 7(4), 9(1))
- F15** S. 285(3E)(3F) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in s. 285(3G) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- F17** Words in s. 285(3H) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(2)(d)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** S. 285(4) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 28(4)**, 122(3) (with Sch. 20); [S.I. 2013/423](#), art. 3, Sch.

[^{F19}285A][^{F20}Powers exercisable in relation to recognised bodies]

- (1) For the purposes of this Part, the FCA is “the appropriate regulator” in relation to recognised investment exchanges.
- (2) For the purposes of this Part, the Bank of England is “the appropriate regulator” in relation to recognised clearing houses [^{F21} and recognised CSDs].
- (3) In Schedule 17A—
 - (a) Part 1 makes provision for a memorandum of understanding between the appropriate regulators [^{F22}, and between the FCA and the PRA,] with respect to the exercise of their functions in relation to recognised [^{F23}bodies];
 - (b) Part 2 applies certain provisions of this Act in relation to the Bank of England in consequence of the conferring of functions on the Bank under this Part of this Act;
 - (c) Part 3 makes provision relating to the winding up, administration or insolvency of [^{F24}recognised clearing houses][^{F25}and recognised CSDs]; and
 - (d) Part 4 makes provision about fees.]

Textual Amendments

- F19** S. 285A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 29(1)**, 122(3) (with Sch. 20); [S.I. 2013/113](#), art. 2(1)(b), Sch. Pt. 2; [S.I. 2013/423](#), art. 3, Sch.
- F20** S. 285A heading substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(10)(a)** (with regs. 7(4), 9(1))
- F21** Words in s. 285A(2) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(3)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in s. 285A(3)(a) substituted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), **Sch. 2 para. 43** (with Sch. 3); [S.I. 2017/43](#), reg. 2(g)
- F23** Word in s. 285A(3)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(10)(c)(i)** (with regs. 7(4), 9(1))
- F24** Words in s. 285A(3)(c) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(4)** (with regs. 52-58)
- F25** Words in s. 285A(3)(c) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(10)(c)(ii)** (with regs. 7(4), 9(1))

286 Qualification for recognition.

- (1) The Treasury may make regulations setting out the requirements—
 - (a) which must be satisfied by an investment exchange [^{F26}, clearing house or central securities depository] if it is to qualify as a body in respect of which

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- [^{F27}the appropriate regulator] may make a recognition order under this Part;
and
- (b) which, if a recognition order is made, it must continue to satisfy if it is to remain a recognised body.
- (2) But if regulations contain provision as to the default rules of an investment exchange [^{F28}, clearing house or central securities depository], or as to proceedings taken under such rules by such a body, they require the approval of the Secretary of State.
- (3) “Default rules” means rules of an investment exchange [^{F29}, clearing house or central securities depository] which provide for the taking of action in the event of a person’s appearing to be unable, or likely to become unable, to meet his obligations in respect of one or more market contracts connected with the exchange [^{F29}, clearing house or central securities depository].
- (4) “Market contract” means—
- (a) a contract to which Part VII of the ^{M1}Companies Act 1989 applies as a result of section 155 of that Act or a contract to which Part V of the ^{M2}Companies (No. 2)(Northern Ireland) Order 1990 applies as a result of Article 80 of that Order; and
- (b) such other kind of contract as may be prescribed.
- ^{F30}(4A)
- ^{F30}(4B)
- ^{F30}(4C)
- ^{F30}(4D)
- ^{F30}(4E)
- [^{F31}(4F) Regulations under subsection (1) may confer power on the appropriate regulator to make rules for the purposes of the regulations or of any specified provision made by the regulations.]
- (5) Requirements resulting from this section are referred to in this Part as “recognition requirements”.
- [^{F32}(6) In the case of an investment exchange, requirements resulting from this section are in addition to requirements which must be satisfied by the exchange as a result of section 290(1A) before [^{F33}the FCA] may make a recognition order declaring the exchange to be a recognised investment exchange.]

Textual Amendments

- F26** Words in s. 286(1)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(11)(a)** (with regs. 7(4), 9(1))
- F27** Words in s. 286(1)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 2(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F28** Words in s. 286(2) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(11)(b)** (with regs. 7(4), 9(1))
- F29** Words in s. 286(3) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(11)(c)** (with regs. 7(4), 9(1))

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- F30** S. 286(4A)-(4E) omitted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 29](#) (with reg. 7)
- F31** S. 286(4F) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 30, 122\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), [Sch. Pt. 2](#); S.I. 2013/423, art. 3, [Sch.](#)
- F32** S. 286(6) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 2](#)
- F33** Words in s. 286(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 2\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)

Marginal Citations

- M1** 1989 c. 40.
M2 S.I. 1990/1504 (N.I. 10).

Applications for recognition

287 Application by an investment exchange.

- (1) Any body corporate or unincorporated association may apply to [^{F34}the FCA] for an order declaring it to be a recognised investment exchange for the purposes of this Act.
- (2) The application must be made in such manner as [^{F35}the FCA] may direct and must be accompanied by—
 - (a) a copy of the applicant's rules;
 - (b) a copy of any guidance issued by the applicant;
 - (c) the required particulars; and
 - (d) such other information as [^{F35}the FCA] may reasonably require for the purpose of determining the application.
- (3) The required particulars are—
 - (a) particulars of any arrangements which the applicant has made, or proposes to make, for the provision [^{F36}by another person] of clearing services in respect of transactions effected on the exchange;
 - (b) if the applicant proposes to provide [^{F37}services falling within section 285(2)(b)] in respect of transactions other than those effected on the exchange, particulars of the criteria which the applicant will apply when determining to whom it will provide those services [^{F38};
 - (c) a programme of operations which includes the types of business the applicant proposes to undertake and the applicant's proposed organisational structure;
 - (d) such particulars of the persons who effectively direct the business and operations of the exchange as [^{F39}the FCA] may reasonably require;
 - (e) such particulars of the ownership of the exchange, and in particular of the identity and scale of interests of the persons who are in a position to exercise significant influence over the management of the exchange, whether directly or indirectly, as [^{F40}the FCA] may reasonably require.]

[^{F41}(4) Subsection (3)(c) to (e) does not apply to an application by an overseas applicant.]

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Textual Amendments

- F34** Words in s. 287(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 3\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F35** Words in s. 287(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 3\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F36** Words in s. 287(3)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 3\(3\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F37** Words in s. 287(3)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 3\(3\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F38** S. 287(3)(c)-(e) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 3\(a\)](#)
- F39** Words in s. 287(3)(d) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 3\(3\)\(c\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F40** Words in s. 287(3)(e) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 3\(3\)\(c\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F41** S. 287(4) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), [Sch. 2 para. 3\(b\)](#)

Commencement Information

- I1** S. 287 wholly in force at 3.9.2001; s. 287 not in force at Royal Assent see s. 431(2); s. 287(2) in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, [Sch.](#); s. 287 in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2, [Sch. Pt. 2](#)

^{F42}287A Application by an investment exchange: persons connected with an applicant

Textual Amendments

- F42** S. 287A omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), [5\(4\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

288 Application by a clearing house.

[^{F43}(A1) This section applies only in relation to an application by a clearing house.]

[^{F44}(1) A body corporate or unincorporated association which is established in the United Kingdom may, where it intends to provide clearing services as a central counterparty, apply to the Bank of England in accordance with Article 17 of the EMIR regulation for an order granting authorisation for the purposes of that Article and declaring it to be a recognised central counterparty for the purposes of this Act.]

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- (1A) A body corporate or unincorporated association may, where it intends to provide clearing services in the United Kingdom without doing so as a central counterparty, apply to the Bank of England for an order declaring it to be for the purposes of this Act a recognised clearing house which is not a recognised central counterparty.]
- (2) [^{F45}An application under subsection (1A)] must be made in such manner as [^{F46}the Bank of England] may direct and must be accompanied by—
- (a) a copy of the applicant's rules;
 - (b) a copy of any guidance issued by the applicant;
 - (c) the required particulars; and
 - (d) such other information as [^{F47}the Bank] may reasonably require for the purpose of determining the application.
- (3) The required particulars are—
- (a) if the applicant makes, or proposes to make, clearing arrangements with a recognised investment exchange, particulars of those arrangements;
 - (b) if the applicant proposes to provide clearing services [^{F48}or services falling within section 285(3)(b)] for persons other than recognised investment exchanges, particulars of the criteria which it will apply when determining to whom it will provide those services.

Textual Amendments

- F43** S. 288(A1) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(12)** (with regs. 7(4), 9(1))
- F44** S. 288(1)(1A) substituted for s. 288(1) (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(5)(a)** (with regs. 52-58)
- F45** Words in s. 288(2) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(5)(b)** (with regs. 52-58)
- F46** Words in s. 288(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 4(3)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F47** Words in s. 288(2)(d) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 4(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F48** Words in s. 288(3)(b) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 4(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

Commencement Information

- I2** S. 288 wholly in force at 3.9.2001; s. 288 not in force at Royal Assent see s. 431(2); s. 288(2) in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, **Sch.**; s. 288 in force in so far as not already in force at 3.9.2001 by [S.I. 2001/2632](#), **art. 2 Sch. Pt. 2**

[^{F49}288A] Application by a central securities depository

Where a legal person which is established in the United Kingdom intends—

- (a) to operate a securities settlement system referred to in point (3) of Section A of the Annex to the CSD regulation, and

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(b) to provide at least one other core service listed in Section A of that Annex, it may apply to the Bank of England in accordance with Article 17 of the CSD regulation [^{F50}, and any technical standards originally made or adopted under that Article which are retained direct EU legislation and any technical standards made under that Article by the Bank on or after IP completion day,] for an order granting authorisation for the purposes of Article 16 of that regulation and declaring it to be a recognised CSD for the purposes of this Act.]

Textual Amendments

- F49** S. 288A inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(13)** (with regs. 7(4), 9(1))
- F50** Words in s. 288A substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(5)** (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 37\(b\)](#)) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

289 Applications: supplementary.

- (1) At any time after receiving an application and before determining it, [^{F51}the appropriate regulator] may require the applicant to provide such further information as it reasonably considers necessary to enable it to determine the application.
- (2) Information which [^{F52}the appropriate regulator] requires in connection with an application must be provided in such form, or verified in such manner, as [^{F52}the appropriate regulator] may direct.
- (3) Different directions may be given, or requirements imposed, by [^{F53}the appropriate regulator] with respect to different applications.
- [^{F54}(4) In relation to an application under section 288(1), this section does not apply to information which can be required under Article 17 of the EMIR regulation.]
- [^{F55}(5) In relation to an application under section 288A, this section applies only in relation to information which the Bank of England may require in connection with recognition requirements which do not [^{F56}derive from any of the following—
- (a) the CSD Regulation;
 - (b) any EU regulation, originally made under the CSD regulation, which is retained direct EU legislation;
 - (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the CSD regulation on or after IP completion day.]]

Textual Amendments

- F51** Words in s. 289(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 5](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F52** Words in s. 289(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 5](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)

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- F53** Words in s. 289(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 5](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F54** S. 289(4) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\), regs. 1\(2\), 3\(6\)](#) (with [regs. 52-58](#))
- F55** S. 289(5) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(14\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F56** Words in s. 289(5) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\), regs. 1\(3\), 5\(6\)](#) (as amended by [S.I. 2020/1301, regs. 1, 3, Sch. para. 37\(b\)](#)) (with savings in [S.I. 2019/680, reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

290 Recognition orders.

[^{F57}(1) If it appears to the appropriate regulator that the applicant satisfies the recognition requirements applicable in its case, the regulator may—

- (a) where the application is made under section 287, make a recognition order declaring the applicant to be a recognised investment exchange;
- (b) where the application is made under section 288(1) and Article 17 of the EMIR regulation allows authorisation to be granted, make a recognition order (“a central counterparty recognition order”) granting authorisation for the purposes of that Article and declaring the applicant to be a recognised central counterparty; ^{F58} ...
- (c) where the application is made under section 288(1A), make a recognition order declaring the applicant to be a recognised clearing house which is not a recognised central counterparty [^{F59}; or
- (d) where the application is made under section 288A, make a recognition order (a “CSD recognition order”) granting authorisation for the purposes of Article 16 of the CSD regulation and declaring the applicant to be a recognised CSD].]

[^{F60}[^{F61}(1A) In the case of an application for an order declaring the applicant to be a recognised investment exchange, the reference in subsection (1) to the recognition requirements applicable in its case includes a reference to requirements contained in any of the following—

- (a) any EU regulation, originally made under the markets in financial instruments directive, which is retained direct EU legislation;
- (b) any EU regulation, originally made under the markets in financial instruments regulation, which is retained direct EU legislation;
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the markets in financial instruments regulation on or after IP completion day.]

(1B) In the case mentioned in subsection (1A), the application must be determined by [^{F62}the FCA] before the end of the period of six months beginning with the date on which it receives the completed application.

(1C) Subsection (1B) does not apply in the case of an application by an overseas applicant.]

[^{F63}(1D) A central counterparty recognition order must specify the services or activities linked to clearing which the applicant may provide or perform and the classes of financial instruments covered by the order.]

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- [^{F64}(1E) A CSD recognition order must specify—
- (a) the core services listed in Section A of the Annex to the CSD regulation which the applicant is authorised to provide pursuant to Article 16 or 19(1)(a) or (c) of that regulation, and
 - (b) any non-banking-type ancillary services listed in or permitted under Section B of that Annex which the applicant is authorised to provide, including services notified under Article 19 of the CSD regulation.
- (1F) A CSD recognition order must also record the terms of any of the following authorisations granted to the CSD under the CSD regulation or notifications made by the CSD under that regulation—
- (a) an authorisation under Article 19(1) of the CSD regulation to outsource a core service under Article 30 of that regulation,
 - (b) an authorisation under Article 19(1)(d) of the CSD regulation (settlement of cash leg of securities settlement system in the books of another settlement agent),
 - (c) an authorisation under Article 19(1)(e) of the CSD regulation (setting up interoperable link),
 - (d) a notification under Article 19(5) of the CSD regulation (other CSD links),
 - (e) an authorisation under Article 54 or 56 of the CSD regulation to provide (in accordance with Article 54(2)(a) or (b)) any banking-type ancillary service listed in or permitted under Section C of the Annex to that regulation, and
 - (f) an authorisation to provide investment services and activities in addition to the services explicitly listed in Sections A and B of the Annex to the CSD regulation.]
- ^{F65}(2)
- (3) In considering an application [^{F66}made under section 287 or 288(1A)], [^{F67}the appropriate regulator] may have regard to any information which it considers is relevant to the application.
 - (4) A recognition order must specify a date on which it is to take effect.
- [^{F68}(4A) If the Bank of England has not made a decision in relation to an application under section 288A within six months of that application being complete, the applicant may refer the matter to the Tribunal.
- (4B) For the purposes of subsection (4A), an application is “complete” when the Bank of England informs the applicant that it is complete pursuant to Article 17(3) of the CSD regulation.]
- (5) Section 298 has effect in relation to a decision to refuse to make a recognition order [^{F69}in respect of an investment exchange or a clearing house which is not a central counterparty]—
- (a) as it has effect in relation to a decision to revoke such an order; and
 - (b) as if references to a recognised body were references to the applicant.
- [^{F70}(5A) Section 298 has effect in relation to a decision to refuse an application under section 288A—
- (a) as it has effect in relation to a decision to make a revocation order under section 297(1B); and
 - (b) as if references to a recognised body were references to the applicant.]

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^{F71}(6)

[^{F72}(7) Where—

- (a) a body corporate or unincorporated association has made an application under section 288(1), and
 - (b) the Bank of England has determined that application in accordance with Article 17 of the EMIR regulation,
- any previous recognition order under section 290(1)(c) or 292(2)(b) shall cease to be valid.]

Textual Amendments

- F57** S. 290(1) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(a)** (with regs. 52-58)
- F58** Word in s. 290(1)(b) omitted (28.11.2017) by virtue of [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(a)(i)** (with regs. 7(4), 9(1))
- F59** S. 290(1)(d) and word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(a)(ii)** (with regs. 7(4), 9(1))
- F60** S. 290(1A) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(7)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 37(b)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F61** S. 290(1A)-(1C) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 4**
- F62** Words in s. 290(1B) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 6(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F63** S. 290(1D) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(b)** (with regs. 52-58)
- F64** S. 290(1E)(1F) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(b)** (with regs. 7(4), 9(1))
- F65** S. 290(2) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 6(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F66** Words in s. 290(3) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(c)** (with regs. 52-58)
- F67** Words in s. 290(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 6(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F68** S. 290(4A)(4B) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(c)** (with regs. 7(4), 9(1))
- F69** Words in s. 290(5) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(d)** (with regs. 52-58)
- F70** S. 290(5A) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(d)** (with regs. 7(4), 9(1))

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- F71** S. 290(6) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 6\(6\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F72** S. 290(7) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), [3\(7\)\(e\)](#) (with [regs. 52-58](#))

Commencement Information

- I3** S. 290 wholly in force at 1.12.2001; s. 290 not in force at Royal Assent see s. 431(2); s. 290 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), art. 2(2), [Sch. Pt. 2](#); s. 290 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

[^{F73}290ZA] Variation of central counterparty recognition order

- (1) On an application made to it in accordance with Article 15 of the EMIR regulation, the Bank of England may in accordance with Article 17 of that regulation vary a central counterparty recognition order by specifying an additional service or activity or class of financial instruments.
- (2) Where Article 20(5) of the EMIR regulation applies, the Bank of England may vary a central counterparty recognition order by removing a service or activity or class of financial instruments from those specified in the order.
- (3) The Bank of England may at any time vary a central counterparty recognition order for the purpose of correcting an error in, or omission from, the order.]

Textual Amendments

- F73** S. 290ZA inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), [3\(8\)](#) (with [regs. 52-58](#))

[^{F74}290ZB] Variation of CSD recognition order

- (1) Where the Bank of England—
 - (a) grants an authorisation in accordance with Article 19(1), 54 or 56 of the CSD regulation,
 - (b) receives a notification under Article 19 of that regulation, or
 - (c) decides to withdraw authorisation for a service, activity or financial instrument in accordance with Article 20(4) or 57(4) of that regulation,the Bank of England must vary the CSD recognition order accordingly.
- (2) Where an authorisation to provide investment services and activities in addition to the services explicitly listed in Sections A and B of the Annex to the CSD regulation is granted, varied or withdrawn, the Bank of England must vary the CSD recognition order accordingly.
- (3) The Bank of England may at any time vary a CSD recognition order for the purpose of correcting an error in, or omission from, the order.]

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Textual Amendments

F74 S. 290ZB inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(16)** (with regs. 7(4), 9(1))

[^{F75}290A Refusal of recognition on ground of excessive regulatory provision

- (1) [^{F76}The appropriate regulator must] not make a recognition order if it appears to [^{F77}it that] an existing or proposed regulatory provision of the applicant in connection with—
- (a) the applicant's business as an investment exchange, ^{F78}...
 - (b) the provision by the applicant of clearing services, [^{F79}or
 - (c) the provision by the applicant of services falling within section 285(2)(b) or (3)(b),]
- imposes or will impose an excessive requirement on the persons affected (directly or indirectly) by it.
- (2) The reference in section 290(1) (making of recognition order) to satisfying the applicable recognition requirements shall be read accordingly.
- (3) Expressions used in subsection (1) above that are defined for the purposes of section 300A (power of [^{F80}appropriate regulator] to disallow excessive regulatory provision) have the same meaning as in that section.
- (4) The provisions of section 300A(3) and (4) (determination whether regulatory provision excessive) apply for the purposes of this section as for the purposes of section 300A.
- (5) Section 298 has effect in relation to a decision under this section to refuse a recognition order—
- (a) as it has effect in relation to a decision to revoke such an order, and
 - (b) as if references to a recognised body were references to the applicant.
- [^{F81}(6) This section does not apply to an application for recognition as an overseas investment exchange, an overseas clearing house [^{F82}, a recognised central counterparty or a recognised CSD].]

Textual Amendments

- F75** S. 290A inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), **ss. 4, 5(2)**
- F76** Words in s. 290A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F77** Words in s. 290A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F78** Word in s. 290A(1)(a) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

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- F79** S. 290A(1)(c) and word inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(d)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F80** Words in s. 290A(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(3)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F81** S. 290A(6) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(9)** (with [regs. 52-58](#))
- F82** Words in s. 290A(6) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(17)** (with [regs. 7\(4\), 9\(1\)](#))

291 Liability in relation to recognised body’s regulatory functions.

- (1) A recognised body and its officers and staff are not to be liable in damages for anything done or omitted in the discharge of the recognised body’s regulatory functions unless it is shown that the act or omission was in bad faith.
- (2) But subsection (1) does not prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the ^{M3}Human Rights Act 1998.
- (3) “Regulatory functions” means the functions of the recognised body so far as relating to, or to matters arising out of, the obligations to which the body is subject under or by virtue of this Act.

Modifications etc. (not altering text)

- C1** S. 291 modified (22.2.2008) by [The Northern Rock plc Transfer Order 2008 \(S.I. 2008/432\)](#), **art. 20**
- C2** S. 291 modified (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **art. 39**

Marginal Citations

- M3** 1998 c. 42.

^{F83}292 Overseas investment exchanges and overseas clearing houses.

- (1) An application under section 287 or [^{F84}288(1A)] by an overseas applicant must contain the address of a place in the United Kingdom for the service on the applicant of notices or other documents required or authorised to be served on it under this Act.
- (2) If it appears to [^{F85}the appropriate regulator] that an overseas applicant satisfies the requirements of subsection (3) it may make a recognition order declaring the applicant to be—
 - (a) a recognised investment exchange;
 - (b) a recognised clearing house [^{F86}which is not a central counterparty].
- (3) The requirements are that—
 - [^{F87}(a) investors are afforded protection equivalent to that which they would be afforded if the body concerned were required to comply with—

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- (i) recognition requirements, other than any such requirements which are expressed in regulations under section 286 not to apply for the purposes of this paragraph, and
 - (ii) ^{F88}requirements contained in any of the following—
 - (aa) any EU regulation, originally made under the markets in financial instruments directive, which is retained direct EU legislation;
 - (bb) any EU regulation, originally made under the markets in financial instruments regulation, which is retained direct EU legislation;
 - (cc) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the markets in financial instruments regulation on or after IP completion day;]]
 - (b) there are adequate procedures for dealing with a person who is unable, or likely to become unable, to meet his obligations in respect of one or more market contracts connected with the investment exchange or clearing house;
 - (c) the applicant is able and willing to co-operate with ^{F89}the appropriate regulator] by the sharing of information and in other ways;
 - (d) adequate arrangements exist for co-operation between ^{F90}the appropriate regulator] and those responsible for the supervision of the applicant in the country or territory in which the applicant’s head office is situated.
- (4) In considering whether it is satisfied as to the requirements mentioned in subsection (3)
- (a) and (b), ^{F91}the appropriate regulator] is to have regard to—
 - (a) the relevant law and practice of the country or territory in which the applicant’s head office is situated;
 - (b) the rules and practices of the applicant.
- (5) In relation to an overseas applicant and a body or association declared to be a recognised investment exchange or recognised clearing house by a recognition order made by virtue of subsection (2)—
- (a) the reference in section 313(2) to recognition requirements is to be read as a reference to matters corresponding to the matters in respect of which provision is made in the recognition requirements;
 - (b) sections 296(1) and 297(2) have effect as if the requirements mentioned in section 296(1)(a) and section 297(2)(a) were those of subsection (3)(a), (b), and (c) of this section;
 - (c) section 297(2) has effect as if the grounds on which a recognition order may be revoked under that provision included the ground that in the opinion of ^{F92}the appropriate regulator] arrangements of the kind mentioned in subsection (3)
 - (d) no longer exist.
- ^{F93}(6) Where a recognised clearing house is ^{F94}... recognised as a third country central counterparty, any previous recognition order under section 290(1)(c) or 292(2)(b) shall cease to be valid.]

Textual Amendments

F83 S. 292 amendment to earlier affecting provision S.I. 2019/710, reg. 38 (31.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 43\(k\)](#)

Status: Point in time view as at 31/12/2020.

Changes to legislation: Financial Services and Markets Act 2000, Chapter I is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F84** Word in s. 292(1) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(10)(a)** (with regs. 52-58)
- F85** Words in s. 292(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F86** Words in s. 292(2)(b) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(10)(b)** (with regs. 52-58)
- F87** S. 292(3)(a) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 32** (with reg. 7)
- F88** S. 292(3)(a)(ii) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(8)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 37(b)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F89** Words in s. 292(3)(c) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F90** Words in s. 292(3)(d) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F91** Words in s. 292(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F92** Words in s. 292(5)(c) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F93** S. 292(6) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(10)(c)** (with regs. 52-58)
- F94** Words in s. 292(6) omitted (31.12.2020) by virtue of [The Central Counterparties \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1184\)](#), regs. 1(2), **4** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C3** S. 292 excluded in part (30.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **38** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 43(k)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Commencement Information

- I4** S. 292 wholly in force at 1.12.2001; s. 292 not in force at Royal Assent see s. 431(2); s. 292(1) in force and s. 292(2)-(5) in force specified purposes at 3.9.2001 by S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**; s. 292 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Status: Point in time view as at 31/12/2020.

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^{F95}Publication of information by recognised investment exchange

Textual Amendments

F95 S. 292A and cross-heading inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 5**

292A Publication of information by recognised investment exchange

- (1) A recognised investment exchange must as soon as practicable after a recognition order is made in respect of it publish such particulars of the ownership of the exchange as the [^{F96}FCA] may reasonably require.
- (2) The particulars published under subsection (1) must include particulars of the identity and scale of interests of the persons who are in a position to exercise significant influence over the management of the exchange, whether directly or indirectly.
- (3) If an ownership transfer takes place in relation to a recognised investment exchange, the exchange must as soon as practicable after becoming aware of the transfer publish such particulars relating to the transfer as the [^{F97}FCA] may reasonably require.
- (4) "Ownership transfer", in relation to an exchange, means a transfer of ownership which gives rise to a change in the persons who are in a position to exercise significant influence over the management of the exchange, whether directly or indirectly.
- (5) A recognised investment exchange must publish such particulars of any decision it makes to suspend or remove a financial instrument from trading on a regulated market operated by it as the [^{F98}FCA] may reasonably require.
- (6) The [^{F99}FCA] may determine the manner of publication under subsections (1), (3) and (5) and the timing of publication under subsection (5).
- (7) This section does not apply to an overseas investment exchange.]

Textual Amendments

- F96** Word in s. 292A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 9** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F97** Word in s. 292A(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 9** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F98** Word in s. 292A(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 9** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F99** Word in s. 292A(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 9** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

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Supervision

293 Notification requirements.

- (1) The [^{F100}appropriate regulator] may make rules requiring a recognised body to give it—
 - (a) notice of such events relating to the body as may be specified; and
 - (b) such information in respect of those events as may be specified.
- (2) The rules may also require a recognised body to give the [^{F100}appropriate regulator], at such times or in respect of such periods as may be specified, such information relating to the body as may be specified.
- (3) An obligation imposed by the rules extends only to a notice or information which the [^{F100}appropriate regulator] may reasonably require for the exercise of its functions under this Act [^{F101}or [^{F102}for the purposes of] [Directive 2016/1148/EU](#) of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security network and information systems across the Union][^{F103}as that directive had effect immediately before IP completion day].
- (4) The rules may require information to be given in a specified form and to be verified in a specified manner.
- (5) If a recognised body—
 - (a) alters or revokes any of its rules or guidance, or
 - (b) makes new rules or issues new guidance,it must give written notice to the [^{F104}appropriate regulator] without delay.
- [^{F105}(5A) In relation to a recognised CSD, in subsection (5), “guidance” means guidance issued, or any recommendation made, in writing or other legible form and intended to have continuing effect, by the recognised CSD to—
 - (a) all or any class of its members, or
 - (b) persons using or seeking to use its services,with respect to any of the services or activities specified in its recognition order.]
- (6) If a recognised investment exchange makes a change—
 - (a) in the arrangements it makes for the provision [^{F106}by another person] of clearing services in respect of transactions effected on the exchange, or
 - (b) in the criteria which it applies when determining to whom it will provide [^{F107}services falling within section 285(2)(b)],it must give written notice to [^{F108}the FCA and the Bank of England] without delay.
- (7) If a recognised clearing house makes a change—
 - (a) in the recognised investment exchanges for whom it provides clearing services [^{F109}or services falling within section 285(3)(b)], or
 - (b) in the criteria which it applies when determining to whom (other than recognised investment exchanges) it will provide clearing services [^{F110}or services falling within section 285(3)(b)],it must give written notice to [^{F111}the Bank of England and the FCA] without delay.
- [^{F112}(7A) In subsections (1) and (2), “recognised body” includes [^{F113}a third country CSD, in relation to any services referred to in the Annex to the CSD regulation which the third country CSD provides in the United Kingdom].]

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(8) Subsections (5) to (7) do not apply to an overseas investment exchange or an overseas clearing house.

(9) “Specified” means specified in [^{F114}the appropriate regulator's] rules.

Textual Amendments

- F100** Words in s. 293(1)-(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F101** Words in s. 293(3) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(18)(a)** (with regs. 7(4), 9(1))
- F102** Words in s. 293(3) substituted (27.2.2018) by The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018 (S.I. 2018/135), regs. 1(2), **67**
- F103** Words in s. 293(3) inserted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(9)(a)** (with savings in S.I. 2019/680, reg. 11) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 37(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F104** Words in s. 293(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F105** S. 293(5A) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(18)(b)** (with regs. 7(4), 9(1))
- F106** Words in s. 293(6)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(3)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F107** Words in s. 293(6)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F108** Words in s. 293(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(3)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F109** Words in s. 293(7)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(4)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F110** Words in s. 293(7)(b) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(4)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F111** Words in s. 293(7) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(4)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F112** S. 293(7A) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(18)(c)** (with regs. 7(4), 9(1))
- F113** Words in s. 293(3) inserted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(9)(a)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 37(b)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F114** Words in s. 293(9) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 10(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

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Commencement Information

- I5** S. 293 wholly in force at 1.12.2001; s. 293 not in force at Royal Assent see s. 431(2); s. 293 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; s. 293 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

^{F115}293A Information: compliance with ^{F116}specified requirements

^{F117}(1) The appropriate regulator may require a recognised body to give the appropriate regulator such information as the appropriate regulator reasonably requires in order to satisfy itself that the body is complying with any ^{F118}qualifying provision that is specified, or of a description specified, for the purposes of this section by the Treasury by order.

^{F119}(2) The Bank of England may require ^{F120}a third country CSD which provides any services referred to in the Annex to the CSD regulation in the United Kingdom to give the Bank reports on those services and statistical information relating to those services, at such times or in respect of such periods as may be specified by the Bank.

(3) A requirement under subsection (2) extends only to information which the Bank may reasonably require for the exercise of its functions under the CSD regulation or ^{F121}any EU regulation originally made under the CSD regulation which is retained direct EU legislation, or any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the CSD regulation on or after IP completion day.]]

Textual Amendments

- F115** S. 293A substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 8 para. 11 (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F116** Word in s. 293A heading substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), 5(10)(a) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F117** S. 293A(1): s. 293A renumbered as s. 293A(1) (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, 2(19)(a) (with regs. 7(4), 9(1))
- F118** Words in s. 293A(1) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), 5(10)(b) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F119** S. 293A(2)(3) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, 2(19)(b) (with regs. 7(4), 9(1))
- F120** Words in s. 293A(2) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), 5(10)(c) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F121** Words in s. 293A(3) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), 5(10)(d) (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 37(b)) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

294 Modification or waiver of rules.

(1) The ^{F122}appropriate regulator] may, on the application or with the consent of a recognised body, direct that rules made under section 293 or 295—

Status: Point in time view as at 31/12/2020.

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- (a) are not to apply to the body; or
 - (b) are to apply to the body with such modifications as may be specified in the direction.
- (2) An application must be made in such manner as the [^{F123}appropriate regulator] may direct.
- (3) Subsections (4) to (6) apply to a direction given under subsection (1).
- (4) The [^{F124}appropriate regulator] may not give a direction unless it is satisfied that—
- (a) compliance by the recognised body with the rules, or with the rules as unmodified, would be unduly burdensome or would not achieve the purpose for which the rules were made; and
 - (b) the direction would not result in undue risk to persons whose interests the rules are intended to protect.
- (5) A direction may be given subject to conditions.
- (6) The [^{F125}appropriate regulator] may—
- (a) revoke a direction; or
 - (b) vary it on the application, or with the consent, of the recognised body to which it relates.

[^{F126}(7) In this section, “recognised body”, in relation to rules made under section 293, includes [^{F127}a third country CSD].]

Textual Amendments

- F122** Words in s. 294(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F123** Words in s. 294(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F124** Words in s. 294(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F125** Words in s. 294(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F126** S. 294(7) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, [2\(20\)](#) (with regs. 7(4), 9(1))
- F127** Words in s. 294(7) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), [5\(11\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Modifications etc. (not altering text)

- C4** S. 294 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, [arts. 1\(2\)](#), 3(10); S.I. 2001/3538, [art. 2\(1\)](#)

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Commencement Information

- 16** S. 294 wholly in force at 3.9.2001; s. 294 not in force at Royal Assent see s. 431(2); s. 294(2) in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; s. 294 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2 Sch. Pt. 2

295 Notification: overseas investment exchanges and overseas clearing houses.

- (1) At least once a year, every overseas investment exchange and overseas clearing house must provide [^{F128}the appropriate regulator] with a report.
- (2) The report must contain a statement as to whether any events have occurred which are [^{F129}likely to affect the appropriate regulator's assessment of whether it is satisfied as to the requirements set out in section 292(3)].
- (3) The report must also contain such information as may be specified in rules made by [^{F130}the appropriate regulator].

^{F131}(4)

Textual Amendments

- F128** Words in s. 295(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 8 para. 13(2) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F129** Words in s. 295(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 8 para. 13(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F130** Words in s. 295(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 8 para. 13(4) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F131** S. 295(4) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), Sch. 8 para. 13(5) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

Commencement Information

- 17** S. 295 wholly in force at 1.12.2001; s. 295 not in force at Royal Assent see s. 431(2); s. 295 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; s. 295 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

[^{F132}295A] On-site inspection of [^{F133}United Kingdom branches of third country] CSDs

- (1) For the purposes of [^{F134}Article 25(11) of the CSD regulation], the Bank of England may, on giving reasonable notice and at any reasonable time, carry out an on-site inspection of any branch maintained by [^{F135}a third country CSD] in the United Kingdom.

^{F136}(2)

- (3) The Bank of England's power under subsection (1) is enforceable, on the application of the Bank of England, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

Status: Point in time view as at 31/12/2020.

Changes to legislation: Financial Services and Markets Act 2000, Chapter 1 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F132** S. 295A inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(21)** (with regs. 7(4), 9(1))
- F133** Words in s. 295A heading substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F134** Words in s. 295A(1) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F135** Words in s. 295A(1) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F136** S. 295A(2) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

296 [F137 Appropriate regulator's] power to give directions.

- (1) This section applies if it appears to [F138 the appropriate regulator] that a recognised body—
- (a) has failed, or is likely to fail, to satisfy the recognition requirements; or
 - (b) has failed to comply with any other obligation imposed on it by or under this Act.
- [F139(1A) This section also applies [F140: if it appears to the appropriate regulator that a recognised body] has failed, or is likely to fail, to comply with any obligation imposed on it by [F141 or under][F142 any qualifying provision] specified (or of a description specified) [F143 for the purposes of this subsection] in an order made by the Treasury.]
- [F144(1B)]
- [F145(1C) This section also applies if it appears to the Bank of England that a Tier 2 third country central counterparty has failed to comply with an obligation imposed on it by or under this Act, or by or under the EMIR regulation.]
- (2) [F146 The regulator concerned] may direct [F147 the recognised body F148 ...] to take specified steps for the purpose of securing the body's compliance with—
- (a) the recognition requirements; or
 - (b) any obligation of the kind in question.
- [F149(2ZA) Where this section applies by virtue of subsection (1C), the Bank of England may direct the Tier 2 third country central counterparty to take specified steps for the purpose of securing compliance with the obligations referred to in that subsection.]
- [F150(2A) In the case of [F151 a recognised body other than an overseas investment exchange or overseas clearing house], those steps may include—
- (a) the granting to [F152 the regulator concerned] of access to the premises of [F153 the body] for the purpose of inspecting—
 - (i) those premises; or
 - (ii) any documents on the premises which appear to [F152 the regulator concerned] to be relevant for the purpose mentioned in subsection (2);

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- (b) the suspension of the carrying on of any regulated activity by [^{F154}the body] for the period specified in the direction.]

^{F155}(2B)

[^{F156}(2C) In the case of a Tier 2 third country central counterparty, those steps may include—

- (a) the granting to the Bank of England of access to any premises of the Tier 2 third country central counterparty for the purposes of inspecting—
 - (i) those premises; or
 - (ii) any documents on the premises which appear to the Bank of England to be relevant for the purposes mentioned in subsection (2ZA);
- (b) the suspension for the period specified in the direction of the carrying on in the United Kingdom by the Tier 2 third country central counterparty of any activity in respect of which the third country central counterparty is exempt from the general prohibition.

(2D) The Bank of England may not inspect the premises or documents on the premises of a Tier 2 third country central counterparty without first informing the relevant third country competent authority, and inspections must be conducted in accordance with cooperation arrangements established under Article 25.7 of the EMIR regulation.

(2E) In subsection (2D), relevant third country competent authority means a regulatory authority of a country other than the United Kingdom which is responsible for the authorisation and supervision of central counterparties in its territory.]

(3) A direction under this section [^{F157}(except a direction made under subsection (2ZA))] is enforceable, on the application of [^{F158}the regulator concerned], by an injunction or, in Scotland, by an order for specific performance under section 45 of the ^{M4}Court of Session Act 1988.

(4) The fact that a rule made by a recognised body has been altered in response to a direction given by [^{F159}an appropriate regulator] does not prevent it from being subsequently altered or revoked by the recognised body.

Textual Amendments

- F137** Words in s. 296 heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(8)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F138** Words in s. 296(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F139** S. 296(1A) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(2), **Sch. 2 para. 7(a)**
- F140** Words in s. 296(1A) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(3)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F141** Words in s. 296(1A) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(22)(a)** (with regs. 7(4), 9(1))
- F142** Words in s. 296(1A) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(13)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

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- F143** Words in s. 296(1A) inserted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(13)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F144** S. 296(1B) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(13)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F145** S. 296(1C) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **2(3)(a)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F146** Words in s. 296(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F147** Words in s. 296(2) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(22)(c)** (with regs. 7(4), 9(1))
- F148** Words in s. 296(2) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(13)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F149** S. 296(2ZA) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **2(3)(b)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F150** S. 296(2A) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(2), **Sch. 2 para. 7(b)**
- F151** Words in s. 296(2A) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(5)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F152** Words in s. 296(2A)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(5)(b)(i)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F153** Words in s. 296(2A)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(5)(b)(ii)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F154** Words in s. 296(2A)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(5)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F155** S. 296(2B) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(13)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F156** S. 296(2C)-(2E) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **2(3)(c)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F157** Words in s. 296(3) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **2(3)(d)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F158** Words in s. 296(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(6)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.

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F159 Words in s. 296(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 14\(7\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(b)(c), [Sch. Pts. 2, 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

Modifications etc. (not altering text)

C5 S. 296 amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), [arts. 1\(2\)](#), 3(11); [S.I. 2001/3538](#), [art. 2\(1\)](#)

C6 S. 296 applied by 1989 c. 40, s. 169(2A) (as inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), [regs. 1, 3\(15\)\(a\)](#) (with [regs. 7\(4\), 9\(1\)](#)))

Marginal Citations

M4 [1988 c. 36](#).

[^{F160}296A Additional power to direct [^{F161}recognised central counterparties]

- (1) The Bank of England may direct a [^{F162}recognised central counterparty] to take, or refrain from taking, specified action if the Bank is satisfied that it is necessary to give the direction, having regard to the public interest in—
 - (a) protecting and enhancing the stability of the UK financial system,
 - (b) maintaining public confidence in the stability of the UK financial system,
 - (c) maintaining the continuity of the ^{F163}... clearing services provided by the [^{F164}recognised central counterparty], and
 - (d) maintaining and enhancing the financial resilience of the [^{F164}recognised central counterparty].
- (2) The direction may, in particular—
 - (a) specify the time for compliance with the direction,
 - (b) require the rules of the [^{F164}recognised central counterparty] to be amended, and
 - (c) override such rules (whether generally or in their application to a particular case).
- (3) The direction may not require the [^{F164}recognised central counterparty]—
 - (a) to take any steps for the purpose of securing its compliance with—
 - (i) the recognition requirements, or
 - (ii) any obligation of a kind mentioned in section 296(1)(b) or (1A), or
 - (b) to accept a transfer of property, rights or liabilities of another [^{F164}recognised central counterparty].
- (4) If the direction is given in reliance on section 298(7) the Bank must, within a reasonable time of giving the direction, give the [^{F164}recognised central counterparty] a statement of its reasons—
 - (a) for giving the direction, and
 - (b) for relying on section 298(7).
- (5) The direction is enforceable, on the application of the Bank, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (6) The Bank may revoke a direction given under this section.]

Status: Point in time view as at 31/12/2020.

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Textual Amendments

- F160** S. 296A inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 31, 122\(3\)](#) (with Sch. 20); [S.I. 2013/423, art. 3, Sch.](#)
- F161** Words in s. 296A heading substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\), regs. 1\(2\), 3\(11\)\(a\)](#) (with regs. 52-58)
- F162** Words in s. 296A(1) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\), regs. 1\(2\), 3\(11\)\(b\)\(i\)](#) (with regs. 52-58)
- F163** Words in s. 296A(1)(c) omitted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\), regs. 1\(2\), 3\(11\)\(b\)\(ii\)](#) (with regs. 52-58)
- F164** Words in s. 296A(1)-(4) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\), regs. 1\(2\), 3\(11\)\(c\)](#) (with regs. 52-58)

297 Revoking recognition.

- (1) A recognition order [^{F165}in respect of a recognised investment exchange or in respect of a recognised clearing house which is not a recognised central counterparty] may be revoked by an order made by [^{F166}the appropriate regulator] at the request, or with the consent, of the recognised body concerned.
- [^{F167}(1A) A central counterparty recognition order may be revoked by an order made by the Bank of England in accordance with Article 20 of the EMIR regulation.]
- [^{F168}(1B) A CSD recognition order may be revoked by an order made by the Bank of England in accordance with Article 20 of the CSD regulation.]
- (2) If it appears to [^{F169}the appropriate regulator] that a recognised body [^{F170}which is not a recognised central counterparty][^{F171}or a recognised CSD]—
- (a) is failing, or has failed, to satisfy the recognition requirements, or
 - (b) is failing, or has failed, to comply with any other obligation imposed on it by or under this Act,
- it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.
- [^{F172}(2A) If it appears to [^{F173}the appropriate regulator] that a recognised body [^{F174}which is not a recognised central counterparty][^{F175}or a recognised CSD]^{F176}...—
- (a) has not carried on the business of an investment exchange [^{F177}or (as the case may be) of a clearing house] during the period of twelve months beginning with the day on which the recognition order took effect in relation to it,
 - (b) has not carried on the business of an investment exchange [^{F178}or (as the case may be) of a clearing house] at any time during the period of six months ending with the relevant day, or
 - (c) has failed, or is likely to fail, to comply with any obligation imposed on it by [^{F179}any qualifying provision] specified (or of a description specified) [^{F180}for the purposes of this subsection] in an order made by the Treasury,
- it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.

Status: Point in time view as at 31/12/2020.

Changes to legislation: Financial Services and Markets Act 2000, Chapter I is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2B) The “relevant day”, for the purposes of paragraph (b) of subsection (2A), is the day on which the power to make an order under that subsection is exercised.

(2C) Subsection (2A) does not apply to an overseas investment exchange [^{F181}or overseas clearing house].]

[^{F182}(2D) If it appears to the Bank of England that a recognised central counterparty [^{F183}or a recognised CSD] has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.]

(3) An order under this section (“a revocation order”) must specify the date on which it is to take effect.

(4) In the case of a revocation order made under subsection (2) [^{F184}or (2A)], the specified date must not be earlier than the end of the period of three months beginning with the day on which the order is made.

(5) A revocation order may contain such transitional provisions as [^{F185}the appropriate regulator] thinks necessary or expedient.

^{F186}(6)

Textual Amendments

- F165** Words in s. 297(1) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(a)** (with regs. 52-58)
- F166** Words in s. 297(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F167** S. 297(1A) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(b)** (with regs. 52-58)
- F168** S. 297(1B) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(23)(a)** (with regs. 7(4), 9(1))
- F169** Words in s. 297(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F170** Words in s. 297(2) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(c)** (with regs. 52-58)
- F171** Words in s. 297(2) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(23)(b)** (with regs. 7(4), 9(1))
- F172** S. 297(2A)-(2C) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 8(a)**
- F173** Words in s. 297(2A) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(3)(a)(i)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F174** Words in s. 297(2A) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(d)** (with regs. 52-58)

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- F175** Words in s. 297(2A) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(23)(b)** (with regs. 7(4), 9(1))
- F176** Words in s. 297(2A) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 15(3)(a)(ii)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F177** Words in s. 297(2A)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 15(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F178** Words in s. 297(2A)(b) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 15(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F179** Words in s. 297(2A)(c) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(14)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F180** Words in s. 297(2A)(c) inserted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(14)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F181** Words in s. 297(2C) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 15(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F182** S. 297(2D) inserted (13.7.2016) by The Financial Services and Markets Act 2000 (Transparency of Securities Financing Transactions and of Reuse) Regulations 2016 (S.I. 2016/715), reg. 1(2), **Sch. 1 para. 1(2)**
- F183** Words in s. 297(2D) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(23)(b)** (with regs. 7(4), 9(1))
- F184** Words in s. 297(4) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(2), **Sch. 2 para. 8(b)**
- F185** Words in s. 297(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 15(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F186** S. 297(6) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(14)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C7** S. 297 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(11)**; S.I. 2001/3538, **art. 2(1)**

298 Directions and revocation: procedure.

- (1) Before giving a direction under section 296 [^{F187}or 296A], or making a revocation order under section [^{F188}297(1B), (2),][^{F189}(2A) or (2D)], [^{F190}the appropriate regulator] must—
- (a) give written notice of its intention to do so to the recognised body concerned;
- ^{F191}(b)
- ^{F192}(c)
- (2) A notice under subsection (1) must—
- (a) state why [^{F193}the appropriate regulator] intends to give the direction or make the order; and
- (b) draw attention to the right to make representations conferred by subsection (3).

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- (3) Before the end of the period for making representations—
- (a) the recognised body,
 - ^{F194}(b)
 - ^{F195}(c)
- may make representations to [^{F196}the appropriate regulator].
- ^{F197}(4) The period for making representations is such period as is specified in the notice (which may, in any particular case, be extended by the appropriate regulator).]
- (5) In deciding whether to—
- (a) give a direction, or
 - (b) make a revocation order,
- [^{F198}the appropriate regulator] must have regard to any representations made in accordance with subsection (3).
- (6) When [^{F199}the appropriate regulator] has decided whether to give a direction under section 296 [^{F200}or 296A] or to make the proposed revocation order, it must—
- (a) give the recognised body written notice of its decision; ^{F201} ... [^{F202}and
 - (aa) in the case of a direction under section 296 given to a recognised CSD ^{F203} ... or a revocation order under section 297(1B), give the recognised CSD ^{F203} ... reasons for its decision.]
 - ^{F201}(b)
- ^{F204}(6A) If the appropriate regulator—
- (a) gives a direction under section 296 to a recognised body because it has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation;
 - [gives any other direction under section 296 to a recognised CSD;
 - ^{F205}(aa)
 - ^{F206}(ab)
 - (ac) makes a revocation order under section 297(1B);]
 - (b) makes a revocation order under section 297(2A)(c) because a recognised body has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation; or
 - (c) makes a revocation order under section 297(2D),
- the body concerned may refer the matter to the Tribunal.]
- (7) If [^{F207}the appropriate regulator][^{F208}reasonably considers it necessary] to do so, it may give a direction under section 296 [^{F209}or 296A]—
- (a) without following the procedure set out in this section; or
 - (b) if [^{F207}the appropriate regulator] has begun to follow that procedure, regardless of whether the period for making representations has expired.
- ^{F210}(7A) Subsection (7) does not apply in relation to a direction given to a recognised CSD ^{F211} ... under section 296.
- ^{F212}(7B)
- (8) If [^{F213}the appropriate regulator] has, in relation to a particular matter, followed the procedure set out in subsections (1) to (5), it need not follow it again if, in relation

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to that matter, it decides to take action other than that specified in its notice under subsection (1).

F214(9)

Textual Amendments

- F187** Words in s. 298(1) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 16\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F188** Word in s. 298(1) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, [2\(24\)\(a\)](#) (with regs. 7(4), 9(1))
- F189** Words in s. 298(1) substituted (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), reg. 1(2), [Sch. 1 para. 1\(3\)\(a\)](#)
- F190** Words in s. 298(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F191** S. 298(1)(b) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(2\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F192** S. 298(1)(c) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(2\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F193** Words in s. 298(2)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F194** S. 298(3)(b) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(3\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F195** S. 298(3)(c) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(3\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F196** Words in s. 298(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F197** S. 298(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(4\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F198** Words in s. 298(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F199** Words in s. 298(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F200** Words in s. 298(6) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 16\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F201** S. 298(6)(b) and word omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(5\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F202** S. 298(6)(aa) and word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, [2\(24\)\(b\)](#) (with regs. 7(4), 9(1))
- F203** Words in s. 298(6)(aa) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), [5\(15\)\(a\)](#) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F204** S. 298(6A) inserted (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), reg. 1(2), [Sch. 1 para. 1\(3\)\(b\)](#)

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- F205** S. 298(6A)(aa)-(ac) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(24)(c)** (with regs. 7(4), 9(1))
- F206** S. 298(6A)(ab) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F207** Words in s. 298(7) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 16(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F208** Words in s. 298(7) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 32(6)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F209** Words in s. 298(7) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 16(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F210** S. 298(7A)(7B) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(24)(d)** (with regs. 7(4), 9(1))
- F211** Words in s. 298(7A) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F212** S. 298(7B) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F213** Words in s. 298(8) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 16(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F214** S. 298(9) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C8** S. 298 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2)**, 3(11); S.I. 2001/3538, **art. 2(1)**
- C9** S. 298 applied (with modifications) by 1998 c. 40, s. 170B(9) (as inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), reg. 1(2), **s. 170B(9)** (with regs. 52-58))
- C10** S. 298 applied by S.I. 2014/2879, reg. 5M(4) (as inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **5(9)** (with regs. 7(4), 9(1)))

Commencement Information

- I8** S. 298 wholly in force at 1.12.2001; s. 298 not in force at Royal Assent see s. 431(2); s. 298 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, **art. 2 Sch. Pt. 2**; s. 298 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

299 Complaints about recognised bodies.

- (1) The [^{F215}appropriate regulator] must make arrangements for the investigation of any relevant complaint about a recognised body.
- (2) “Relevant complaint” means a complaint which the [^{F216}appropriate regulator] considers is relevant to the question of whether the body concerned should remain a recognised body.

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Textual Amendments

- F215** Words in s. 299(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 17](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F216** Words in s. 299(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 17](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

300 Extension of functions of Tribunal.

- (1) If the Treasury are satisfied that the condition mentioned in subsection (2) is satisfied, they may by order confer functions on the Tribunal with respect to disciplinary proceedings—
 - (a) of one or more investment exchanges in relation to which a recognition order under section 290 is in force or of such investment exchanges generally, ^{F217}...
 - (b) of one or more clearing houses in relation to which a recognition order under that section is in force or of such clearing houses generally [^{F218}or
 - (c) of one or more central securities depositories in relation to which a recognition order under that section is in force or of such central securities depositories generally].
- (2) The condition is that it is desirable to exercise the power conferred under subsection (1) with a view to ensuring that—
 - (a) decisions taken in disciplinary proceedings with respect to which functions are to be conferred on the Tribunal are consistent with—
 - (i) decisions of the Tribunal in cases arising under Part VIII; and
 - (ii) decisions taken in other disciplinary proceedings with respect to which the Tribunal has functions as a result of an order under this section; or
 - (b) the disciplinary proceedings are in accordance with the Convention rights.
- (3) An order under this section may modify or exclude any provision made by or under this Act with respect to proceedings before the Tribunal.
- (4) “Disciplinary proceedings” means proceedings under the rules of an investment exchange [^{F219}, clearing house or central securities depository] in relation to [^{F220}a contravention of Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation by a person subject to the rules].
- (5) “The Convention rights” has the meaning given in section 1 of the ^{M5}Human Rights Act 1998.

Textual Amendments

- F217** Word in s. 300(1)(a) omitted (28.11.2017) by virtue of [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, [2\(25\)\(a\)\(i\)](#) (with regs. 7(4), 9(1))
- F218** S. 300(1)(c) and word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, [2\(25\)\(a\)\(ii\)](#) (with regs. 7(4), 9(1))

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F219 Words in s. 300(4) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(25)(b)** (with regs. 7(4), 9(1))

F220 Words in s. 300(4) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **10(13)**

Marginal Citations

M5 1998 c. 42.

[^{F221}Power to disallow excessive regulatory provision

Textual Amendments

F221 S. 300A and cross-heading inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), ss. 1, 5(2) (with s. 5(3))

300A Power of [^{F222}appropriate regulator] to disallow excessive regulatory provision

- (1) This section applies where a recognised body proposes to make any regulatory provision in connection [^{F223}with—
 - (a) its business as an investment exchange,
 - (b) the provision by it of clearing services, or
 - (c) the provision by it of services falling within section 285(2)(b) or (3)(b).]
- (2) If it appears to the [^{F224}appropriate regulator]—
 - (a) that the proposed provision will impose a requirement on persons affected (directly or indirectly) by it, and
 - (b) that the requirement is excessive,the [^{F224}appropriate regulator] may direct that the proposed provision must not be made.
- (3) A requirement is excessive if—
 - (a) it is not required under ^{F225}... any enactment or rule of law in the United Kingdom, and
 - (b) either—
 - (i) it is not justified as pursuing a reasonable regulatory objective, or
 - (ii) it is disproportionate to the end to be achieved.
- (4) In considering whether a requirement is excessive the [^{F226}appropriate regulator] must have regard to all the relevant circumstances, including—
 - (a) the effect of existing legal and other requirements,
 - (b) the global character of financial services and markets and the international mobility of activity,
 - (c) the desirability of facilitating innovation, and
 - (d) the impact of the proposed provision on market confidence.
- (5) In this section “requirement” includes any obligation or burden.
- (6) Any provision made in contravention of a direction under this section is of no effect.]

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Textual Amendments

- F222** Words in s. 300A heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 18\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F223** Words in s. 300A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 18\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F224** Words in s. 300A(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 18\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F225** Words in s. 300A(3)(a) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), [5\(16\)](#) (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F226** Words in s. 300A(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 18\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

[^{F227}300B] Duty to notify proposal to make regulatory provision

- (1) A recognised body that proposes to make any regulatory provision must give written notice of the proposal to the [^{F228}appropriate regulator] without delay.
- (2) The [^{F228}appropriate regulator] may by rules under section 293 (notification requirements)—
 - (a) specify descriptions of regulatory provision in relation to which, or circumstances in which, the duty in subsection (1) above does not apply, or
 - (b) provide that the duty applies only to specified descriptions of regulatory provision or in specified circumstances.
- (3) The [^{F228}appropriate regulator] may also by rules under that section—
 - (a) make provision as to the form and contents of the notice required, and
 - (b) require the body to provide such information relating to the proposal as may be specified in the rules or as the [^{F228}appropriate regulator] may reasonably require.

Textual Amendments

- F227** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), [ss. 2, 3, 5\(2\)](#) (with [s. 5\(3\)](#))
- F228** Words in s. 300B substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 19](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

300C Restriction on making provision before [^{F229}appropriate regulator] decides whether to act

- (1) Where notice of a proposal to make regulatory provision is required to be given to the [^{F230}appropriate regulator] under section 300B, the provision must not be made—
 - (a) before that notice is given, or

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- (b) subject to the following provisions of this section, before the end of the initial period.
- (2) The initial period is—
- (a) the period of 30 days beginning with the day on which the [F231 appropriate regulator] receives notice of the proposal, or
- (b) if any consultation period announced by the body in relation to the proposal ends after that 30-day period, the end of the consultation period.
- (3) If before the end of the initial period the [F232 appropriate regulator] notifies the body that it is calling in the proposal, the provisions of section 300D (consideration by [F232 appropriate regulator] whether to disallow proposed provision) apply as to when the provision may be made.
- (4) If—
- (a) before the end of the initial period the [F233 appropriate regulator] notifies the body that it is not calling in the proposal, or
- (b) the initial period ends without the [F234 appropriate regulator] having notified the body that it is calling in the proposal,
- the body may then make the proposed provision.
- (5) Any provision made in contravention of this section is of no effect.

Textual Amendments

- F227** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), [ss. 2, 3, 5\(2\)](#) (with [s. 5\(3\)](#))
- F229** Words in s. 300C heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F230** Words in s. 300C(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F231** Words in s. 300C(2)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F232** Words in s. 300C(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F233** Words in s. 300C(4)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F234** Words in s. 300C(4)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

300D Consideration by [F235 appropriate regulator] whether to disallow proposed provision

- (1) This section applies where the [F236 appropriate regulator] notifies a recognised body that it is calling in a proposal to make regulatory provision.

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- (2) The [^{F236}appropriate regulator] must publish a notice—
 - (a) giving details of the proposed provision,
 - (b) stating that it has called in the proposal in order to consider whether to disallow it, and
 - (c) specifying a period during which representations with respect to that question may be made to it.
- (3) The [^{F236}appropriate regulator] may extend the period for making representations.
- (4) The [^{F236}appropriate regulator] must notify the body of its decision whether to disallow the provision not later than 30 days after the end of the period for making representations, and must publish the decision and the reasons for it.
- (5) The body must not make the provision unless and until—
 - (a) the [^{F237}appropriate regulator] notifies it of its decision not to disallow it, or
 - (b) the 30-day period specified in subsection (4) ends without the [^{F238}appropriate regulator] having notified any decision.
- (6) If [^{F239}the appropriate regulator] notifies the body of its decision to disallow the provision and that decision is questioned in legal proceedings—
 - (a) the body must not make the provision until those proceedings, and any proceedings on appeal, are finally determined,
 - (b) if [^{F240}the appropriate regulator's] decision is quashed and the matter is remitted to it for reconsideration, the court may give directions as to the period within which [^{F241}the regulator concerned] is to complete its reconsideration, and
 - (c) the body must not make the provision until—
 - (i) [^{F242}the appropriate regulator] notifies it of its decision on reconsideration not to disallow the provision, or
 - (ii) the period specified by the court ends without [^{F243}the appropriate regulator] having notified any decision.
- (7) Any provision made in contravention of subsection (5) or (6) is of no effect.

Textual Amendments

- F227** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), [ss. 2, 3, 5\(2\)](#) (with [s. 5\(3\)](#))
- F235** Words in s. 300D heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F236** Words in s. 300D(1)-(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F237** Words in s. 300D(5)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F238** Words in s. 300D(5)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

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- F239** Words in s. 300D(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 21(3)(a)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F240** Words in s. 300D(6)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 21(3)(b)(i)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F241** Words in s. 300D(6)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 21(3)(b)(ii)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F242** Words in s. 300D(6)(c)(i) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 21(3)(c)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F243** Words in s. 300D(6)(c)(ii) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 21(3)(c)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)

300E Power to disallow excessive regulatory provision: supplementary

- (1) In sections 300A to 300D—
- “regulatory provision” means any rule, guidance, arrangements, policy or practice, and
 - references to making provision shall be read accordingly as including, as the case may require, issuing guidance, entering into arrangements or adopting a policy or practice.
- (2) For the purposes of those sections a variation of a proposal is treated as a new proposal.
- (3) Those sections do not apply to an overseas investment exchange [^{F244}, overseas clearing house [^{F245}, recognised central counterparty or recognised CSD]].]

Textual Amendments

- F227** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), **ss. 2, 3, 5(2)** (with s. 5(3))
- F244** Words in s. 300E(3) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(13)** (with regs. 52-58)
- F245** Words in s. 300E(3) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(26)** (with regs. 7(4), 9(1))

Other matters

301 Supervision of certain contracts.

- (1) The Secretary of State and the Treasury, acting jointly, may by regulations provide for—
- Part VII of the ^{M6}Companies Act 1989 (financial markets and insolvency), and
 - Part V of the ^{M7}Companies (No. 2)(Northern Ireland) Order 1990,
- to apply to relevant contracts as it applies to contracts connected with a recognised body.

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- (2) “Relevant contracts” means contracts of a prescribed description in relation to which settlement arrangements are provided by a person for the time being included in a list (“the list”) maintained by [^{F246}the Bank of England] for the purposes of this section.
- (3) Regulations may be made under this section only if the Secretary of State and the Treasury are satisfied, having regard to the extent to which the relevant contracts concerned are contracts of a kind dealt in by persons supervised by [^{F247}the FCA or the Bank of England], that it is appropriate for the arrangements mentioned in subsection (2) to be supervised by [^{F248}the Bank].
- (4) The approval of the Treasury is required for—
 - (a) the conditions set by the [^{F249}Bank of England] for admission to the list; and
 - (b) the arrangements for admission to, and removal from, the list.
- (5) If the Treasury withdraw an approval given by them under subsection (4), all regulations made under this section and then in force are to be treated as suspended.
- (6) But if—
 - (a) the [^{F250}Bank of England] changes the conditions or arrangements (or both), and
 - (b) the Treasury give a fresh approval under subsection (4),
 the suspension of the regulations ends on such date as the Treasury may, in giving the fresh approval, specify.
- (7) The [^{F251}Bank of England] must—
 - (a) publish the list as for the time being in force; and
 - (b) provide a certified copy of it to any person who wishes to refer to it in legal proceedings.
- (8) A certified copy of the list is evidence (or in Scotland sufficient evidence) of the contents of the list.
- (9) A copy of the list which purports to be certified by or on behalf of the [^{F252}Bank of England] is to be taken to have been duly certified unless the contrary is shown.
- (10) Regulations under this section may, in relation to a person included in the list—
 - (a) apply (with such exceptions, additions and modifications as appear to the Secretary of State and the Treasury to be necessary or expedient) such provisions of, or made under, this Act as they consider appropriate;
 - (b) provide for the provisions of Part VII of the ^{M8}Companies Act 1989 and Part V of the ^{M9}Companies (No. 2)(Northern Ireland) Order 1990 to apply (with such exceptions, additions or modifications as appear to the Secretary of State and the Treasury to be necessary or expedient).

Textual Amendments

F246 Words in s. 301(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 22\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

F247 Words in s. 301(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 22\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

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- F248** Words in s. 301(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 22(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F249** Words in s. 301(4)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 22(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F250** Words in s. 301(6)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 22(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F251** Words in s. 301(7) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 22(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F252** Words in s. 301(9) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 22(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

Marginal Citations

- M6** 1989 c. 40.
M7 S.I. 1990/1504 (N.I. 10).
M8 1989 c. 40.
M9 S.I. 1990/1504 (N.I. 10).

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