
STATUTORY INSTRUMENTS

2017 No. 1212

The Risk Transformation Regulations 2017

PART 3

Offers of investments by transformer vehicles

Meaning of “qualified investor”

- 10.**—(1) In this Part, “qualified investor”, in relation to an offer of investments, means a person—
- (a) described in points (1) to (4) of Section I of Annex II to MIFID 2 (professional clients for the purposes of MIFID 2);
 - (b) recognised by an EEA State as an eligible counterparty for the purposes of Article 30 of MIFID 2 (transactions executed with eligible counterparties); or
 - (c) in respect of whom the conditions mentioned in paragraph (2) are satisfied.
- (2) The conditions referred to in paragraph (1)(c) are satisfied in respect of a person (“the proposed investor”) where—
- (a) the proposed investor confirms in writing to the person making the offer (“the offeror”) that the proposed investor is to be treated as a qualified investor for the purposes of this Part;
 - (b) the offeror carries out an assessment of the proposed investor’s expertise, experience and knowledge;
 - (c) the offeror concludes from the assessment referred to in sub-paragraph (b) that—
 - (i) the proposed investor is capable of making an informed decision to acquire the investments; and
 - (ii) the proposed investor understands the risks involved in acquiring the investments;
 - (d) the offeror’s conclusion referred to in sub-paragraph (c) is reasonable; and
 - (e) the proposed investor provides sufficient evidence to the offeror that the proposed investor satisfies at least two of the following criteria—
 - (i) the proposed investor has entered into or arranged at least 40 transactions in the reinsurance markets in the period of one year ending on the date on which confirmation is given under sub-paragraph (a);
 - (ii) the proposed investor has a portfolio of cash deposits and other financial instruments, the value of which exceeded £425,000 at any time in the period of two weeks ending on the date on which confirmation is given under sub-paragraph (a);
 - (iii) the proposed investor has worked for at least one year in a professional capacity in the financial sector and the proposed investor’s role required knowledge of the reinsurance markets.
- (3) Before 3rd January 2018, the reference in paragraph (1)(b) to Article 30 of MIFID 2 is to be treated as a reference to Article 24 of MIFID 1 (transactions executed with eligible counterparties).
- (4) In this regulation—

- (a) “financial instrument” means a financial instrument listed in Section C of Annex I to MIFID 2 (financial instruments);
- (b) “financial sector” has the same meaning as in Part 1 of Section II of Annex II to MIFID 2;
- (c) “MIFID 1” means [Directive 2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments⁽¹⁾;
- (d) “MIFID 2” means [Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments⁽²⁾; and
- (e) “reinsurance markets” includes the markets in insurance linked securities.

Investments to be offered only to qualified investors

11.—(1) A transformer vehicle must not offer to any person who is not a qualified investor an investment issued by the transformer vehicle.

(2) A transformer vehicle must take such steps as are reasonable in the circumstances to prevent an investment issued by the transformer vehicle to a qualified investor from being offered subsequently to a person who is not a qualified investor.

(3) A contravention of paragraph (1) or (2) is actionable, at the suit of a person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.

(1) OJ no L145, 30.4.2004, p.1. There are amendments to the directive which are not relevant to these Regulations.

(2) OJ no L173, 12.6.2014, p. 349. There are amendments to the directive which are not relevant to these Regulations.