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STATUTORY INSTRUMENTS

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**2018 No. 1321**

**The Short Selling (Amendment) (EU Exit) Regulations 2018**

**PART 2**

**Amendment of primary legislation**

**Amendment of the Financial Services and Markets Act 2000**

**2.—**(1) The Financial Services and Markets Act 2000<sup>(1)</sup> is amended as follows.

(2) In section 131E (power to require information)<sup>(2)</sup>—

(a) in subsection (2), at the end insert “or to respond to a request referred to in subsection (5A)”;

(b) in subsection (5A)—

(i) in the opening words, for “functions under the short selling regulation” substitute “relevant functions”;

(ii) for paragraph (a), substitute—

“(a) an overseas regulator, or”;

(c) omit subsection (5B);

(d) for subsection (6), substitute—

“(6) In this section—

“overseas regulator” means—

(a) the competent authority of an EEA State for the purposes of the short selling regulation, as that regulation has effect in the European Union (the “EU short selling regulation”); or

(b) the authority of a third country which is not an EEA State which exercises functions corresponding to those of a competent authority under the EU short selling regulation;

“relevant functions” means—

(a) in relation to a competent authority of an EEA State, its functions under the EU short selling regulation;

(b) in relation to ESMA, its functions under the EU short selling regulation;

(c) in relation to an authority of a third country which is not an EEA state, its functions corresponding to the functions referred to in paragraph (a);

“specified” means specified in the notice.”.

(3) In section 131F (power to require information: supplementary), after subsection (6), insert—

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<sup>(1)</sup> 2000 c.8.

<sup>(2)</sup> Sections 131B to 131K were inserted by s.8 of the Financial Services Act 2010 (c.28). Subsections (5A) and (5B) were inserted by S.I. 2012/2554.

“(6A) Where the FCA is exercising its powers under section 131E in response to a request from an overseas regulator or ESMA, references to the short selling regulation are to be read as including the EU short selling regulation, within the meaning of section 131E(6).”

- (4) In section 131FA (investigations in support of EEA Regulator)(3)—
- (a) for subsection (1), substitute—

“(1) The FCA may appoint one or more competent persons to investigate any matter if it is requested to do so by—

    - (a) the competent authority of an EEA state acting in the exercise of its functions under the short selling regulation, as that regulation has effect in the European Union; or
    - (b) an authority of a third country which is not an EEA state which is acting in the exercise of functions corresponding to those referred to in paragraph (a).”;
  - (b) omit subsection (2);
  - (c) in subsection (4), for “the EEA regulator” substitute “the authority making the request under subsection (1) (“the requesting regulator”)”;
  - (d) in subsection (5), for “EEA” substitute “requesting”;
  - (e) in the heading, for “EEA” substitute “overseas”.
- (5) In section 131FB (entry of premises under warrant)—
- (a) in subsection (10)—
    - (i) for “EEA” substitute “overseas”;
    - (ii) for “its functions under the short selling regulation” substitute “relevant functions”;
  - (b) omit subsection (11);
  - (c) in subsection (12), for the definition of “EEA regulator” substitute—

““overseas regulator” and “relevant functions” have the meanings given in section 131E(6);”.