
STATUTORY INSTRUMENTS

2018 No. 1321

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

PART 3

Amendments of Regulation (EU) No 236/2012

Exemptions

10.—(1) In Article 16—

(a) in paragraph 1—

(i) for “Union” substitute “United Kingdom”;

(b) in paragraph 2—

(i) for the first sub-paragraph, substitute—

“2. Where the shares of a company are traded on a trading venue in the United Kingdom and a venue located in a third country the FCA shall determine, at least every two years, whether the principal trading venue for the trading of those shares is located in a third country.”;

(ii) after the first sub-paragraph, insert—

“Where the shares of a company traded on a trading venue in the United Kingdom and a venue located in a third country were included in the most recent list published by ESMA under Article 16.2 of this Regulation as it had effect before exit day, those shares are to be treated as entitled to the exemption provided for in paragraph 1 for a period of two years beginning with exit day.”;

(iii) omit the second sub-paragraph;

(iv) in the third sub-paragraph, for “ESMA” substitute “the FCA”;

(c) in paragraph 3—

(i) in the first sub-paragraph for the words from the beginning to “develop draft regulatory”, substitute “For the purposes of this Article, the FCA may make”;

(ii) omit the second and third sub-paragraphs;

(d) in paragraph 4—

(i) in the first sub-paragraph—

(aa) for the words from the beginning to “develop draft implementing”, substitute “For the purposes of paragraphs 1 and 2, the FCA may make”;

(bb) omit point (b);

(cc) in point (c), for “ESMA” substitute “the FCA”;

(ii) delete the second and third sub-paragraphs.

(2) In Article 17—

(a) in the first sub-paragraph of paragraph 2—

- (i) for “Commission may, in accordance with the procedure referred to in Article 44(2), adopt decisions determining” substitute “Treasury may by regulations determine”;
 - (ii) for “Title III of [Directive 2004/39/EC](#)” substitute “Title III of [Directive 2014/65/EU](#) and Articles 3, 4, 6 and 7 of Regulation (EU) No 600/2014”;
 - (iii) for “[Directive 2003/6/EC](#) of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)” substitute “Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April on market abuse”;
- (b) in paragraph 4, for “[Commission Regulation \(EC\) No 2273/2003](#) of 22 December 2003 implementing [Directive 2003/6/EC](#) of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments” substitute “Commission Delegated Regulation (EU) No 2016/1052 of 8 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the conditions applicable to buy-back programmes and stabilisation measures”;
- (c) in paragraph 5, for “competent authority of its home Member State” substitute “FCA”;
- (d) in paragraph 6, for “relevant competent authority” substitute “FCA”;
- (e) insert after paragraph 6—

“**6A.** A notification made under paragraph 5 or 6 before exit day to a competent authority other than the FCA is only valid after exit day if a copy of that notification has been provided to the FCA not less than 30 calendar days before the day of exit day.”;
- (f) in paragraph 7—
 - (i) in the first sentence, for “competent authority referred to in paragraphs 5 and 6” substitute “FCA”;
 - (ii) in the second sentence, for “competent authority” substitute “FCA”;
- (g) omit paragraph 8;
- (h) in paragraph 9, for “competent authority of its home Member State” substitute “FCA”;
- (i) in paragraph 10, for “relevant competent authority” substitute “FCA”;
- (j) in paragraph 11, for “competent authority of the home Member State” substitute “FCA”;
- (k) omit paragraph 12;
- (l) in paragraph 13, for “ESMA” substitute “The FCA”;
- (m) omit paragraph 14.