
STATUTORY INSTRUMENTS

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⁽¹⁾ is amended as follows.
- (2) In section 131E (power to require information)⁽²⁾—
- (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—

⁽¹⁾ 2000 c.8.

⁽²⁾ 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);”.