

---

STATUTORY INSTRUMENTS

---

**2018 No. 1403**

The Markets in Financial Instruments  
(Amendment) (EU Exit) Regulations 2018

PART 3

Amendment of secondary legislation: European Union (Withdrawal) Act 2018

CHAPTER 2

The Financial Services and Markets Act 2000  
(Markets in Financial Instruments) Regulations 2017

**Miscellaneous FCA functions**

- 15.—(1) Omit regulations 41, 42 and 43.
- (2) In regulation 44, omit paragraph (3).
- (3) Omit regulations 45, 46.
- (4) In regulation 47, in paragraph (1)—
- (a) in sub-paragraph (a)—
    - (i) for “Article 2.1(j) (exemptions) of the markets in financial instruments directive” substitute “regulation 30(1A)(e)”;
    - (ii) for “Article 2.1(j) of that directive” substitute “that regulation”;
  - (b) in sub-paragraph (b)—
    - (i) for “the final point of Article 2.1(j) (exemptions) of the markets in financial instruments directive” substitute “the words after paragraph (ii) of sub-paragraph (e) of regulation 30(1A)”;
    - (ii) for “under that Article” substitute “described in paragraphs (i) and (ii) of that sub-paragraph”.
- (5) After regulation 47, insert—

**“Position management and publication of position reports**

- 47A.—(1) The FCA must maintain a database containing—
- (a) the position limits established by the FCA under regulation 16; and
  - (b) the information the FCA receives from—
    - (i) market operators operating trading venues summarising the position management controls in effect in relation to trading venues under paragraph 7BA(3) of the Schedule to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses

and Central Securities Depositories) Regulations 2001 (“the Recognition Requirements Regulations”)(1); and

(ii) firms operating MTF or OTF in the United Kingdom summarising the position management controls in effect in relation to trading venues under rule 10.3.3R of the Market Conduct sourcebook.

(2) The FCA must ensure that the database referred to in paragraph (1) is published on its website.

(3) The FCA must publish all weekly reports it receives from market operators and firms operating trading venues in the United Kingdom under—

- (a) paragraph 7BB(5) of the Schedule to the Recognition Requirements Regulations;
- (b) rule 10.4.3 of the Market Conduct sourcebook.

(4) For the purpose of this regulation, “market operator” has the meaning given in Article 2(1)(10) of the markets in financial instruments regulation.

### Statements of Policy

**47B.**—(1) The FCA must prepare and issue a statement of its policy in relation to the exercise of—

- (a) the following functions in the markets in financial instruments regulation—
  - (i) suspending the use of waivers under Article 5(3B);
  - (ii) withdrawing a waiver under Article 9(3);
  - (iii) suspending the obligations referred to in Article 8 under Article 9(4A);
  - (iv) suspending the obligations referred to in Article 10 under Article 11(2A);
  - (v) determining the class to which financial instruments belong under Article 14.6A;
  - (vi) suspending the obligations referred to in Article 21(1) under Article 21(4A);
 and
- (b) its functions under Article 5(1A) of Commission Delegated Regulation 2017/567/ EU supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions.

(2) No statement may be issued under paragraph (1) or amended without the approval of the Treasury.

(3) The Treasury may refuse to approve a statement of policy or amended statement of policy if it appears to the Treasury that—

- (a) the issue of that statement would prejudice any current or proposed negotiations for an international agreement between the United Kingdom and one or more other countries, international organisations or institutions; or
- (b) they may direct the FCA not to issue the statement of policy under section 410 (international standards) of the Financial Services and Markets Act 2000.

(4) For the purposes of paragraph (3), “international organisations” includes the European Union.

(1) [S.I. 2001/995](#). Paragraphs 7BA and 7BB were inserted by [S.I. 2017/701](#).

(5) The Treasury must notify the FCA in writing whether or not they approve a statement of policy within four weeks from the day on which that statement is submitted to the Treasury for approval (“the relevant period”).

(6) Provision of a draft statement of policy to the Treasury for consultation does not amount to submission of the statement for approval.

(7) If the Treasury do not give notice under paragraph (5) before the end of the relevant period, the Treasury is deemed to have approved the statement of policy.

(8) The FCA must publish any statement of policy issued under this Article in the way appearing to the FCA to be best calculated to bring it to the attention of the public.”.