

Transposition Note: MiFID II and MiFIR

Abbreviations for EU legislation

MiFID II

Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments
Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments

MiFIR

Abbreviations for main UK implementing legislation

Data Reporting Services Regulations

Data Reporting Services Regulations 2017

Disclosure of Confidential Information Regulations

Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

EEA Passport Rights Regulations

Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001

FSMA

Financial Services and Markets Act 2000

FCA Handbook

Rules made under FSMA by the FCA

Financial Promotion Order

Financial Services and Markets Act 2000 (Financial Promotion) Order 2005

Markets in Financial Instruments Regulations

Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017¹

PRA Rulebook

Rules made under FSMA by the PRA

Regulated Activities Order

Financial Services and Markets Act 2000 (Regulated Activities) Order 2001²

Recognition Requirements Regulations

Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001

Qualifying EU Provisions Order

Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013

¹ These Regulations make extensive amendments to other legislation listed above, see in particular Schedule 2 to the Regulations which amends FSMA and Schedule 3 to the Regulations which amends legislation made under FSMA including the EEA Passport Rights Regulations, Recognition Requirements Regulations and Qualifying EU Provisions Order.

² This Order was substantially amended by the Financial Services and Markets Act (Regulated Activities) (Amendment) Order 2017 as part of the implementation of MiFID II.

TITLE I
SCOPE AND DEFINITIONS

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 1 (Scope)		
Article 1.1	See the information in this table on the transposition of specific regulatory requirements under each title of the Directive.	
Article 1.2	This provision of the Directive does not require transposition (descriptive text).	
Article 1.3		FCA application rules, Handbook Glossary 'MiFID investment firm' definition & Handbook references in the commentary corresponding to this Article.
Article 1.4	<ul style="list-style-type: none"> • Section 39 and 39A FSMA • Articles 21(1), 25(1) and (2), 37 and 53 of the Regulated Activities Order • Regulation 1(2) of the Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001 • Article 2(1) of the Financial Services and Markets Act 2000 (Professions) (Non-exempt Activities) Order 2001 • Schedule 1 to the Financial Promotion Order 	<p>FCA application rules, Handbook Glossary 'MiFID investment firm' definition & Handbook references in the commentary corresponding to the Article. In particular:</p> <ul style="list-style-type: none"> • For Article 1.4(a), see FCA Handbook: <ul style="list-style-type: none"> ○ SYSC 1 Annex 1 Part 2, 2.1.R and 2.8R(1) and PROD 1.3.1R as regards application and the Handbook entries below relating to articles 9 and 16; and ○ COMP 5 relating to article 14; • For Article 1.4(b), see: <ul style="list-style-type: none"> ○ SYSC 10.1.1R(1) relating to article 23; ○ COBS 1.1.1AR and 1.1.1AAR relating to articles 24-26 and 30; <p>SUP 12 relating to article 29 and esp. references to 'structured deposit appointed representatives'</p>
Article 1.5	See entry for Article 17 for detail	
Article 1.6		FCA Handbook- MAR 10

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 1.7	Paragraph 9ZD of the Schedule to the Recognition Requirement Regulations	FCA Handbook- MAR 5AA.1.1R
Article 2 (Exemptions)		
Article 2.1	<ul style="list-style-type: none"> • Section 327 FSMA • Regulation 47 of the Markets in Financial Instruments Regulations 	
Article 2.2	This provision of the directive does not require transposition (limitation on rights conferred by Directive)	
Article 2.3	This provision of the directive does not require transposition (confers powers on the Commission to adopt delegated acts).	
Article 2.4	This provision of the directive does not require transposition (confers powers on the Commission to adopt regulatory technical standards).	
Article 3 (Optional exemptions)		
Article 3.1	Regulation 4 and 6 of the Markets in Financial Instruments Regulations	

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 3.2	Sections 39, 39A, and 347 FSMA in relation to the appointment of tied agents by investment firms that are exempt from the directive under Article 3. Note provisions of domestic law transposing Articles 7, 8, 10, 21 and 22 also apply to such firms.	<p>FCA application rules & Handbook references in the commentary corresponding to the Article. In particular for :</p> <ul style="list-style-type: none"> ● in the case of the requirements in articles 9 and 23, see, esp. SYSC 1 Annex 1 Part 3 Table B, Column A relating to MiFID optional exemption firms, in conjunction with the Handbook references in the commentary corresponding to the Article; ● in the case of the requirements in articles 24 and 25 (other than article 24(10)), see esp. application of individual conduct rules to 'MiFID optional exemption business'. In relation to article 29, see SUP 12, esp. references to 'MiFID optional exemption appointed representatives'. ● In the case of requirements in article 24(10) see esp. SYSC 19F.1.1R ● in the case of the requirements in articles 16(3) and 16(6), see, esp. SYSC 1 Annex 1 Part 3 Table B, Column A relating to MiFID optional exemption firms, in conjunction with the Handbook references in the commentary corresponding to each of these provisions below;
Article 3.3	See the information in this table on the transposition of Article 34 and 35.	
Article 3.4	This provision of the directive does not require transposition (confers duties on Member States to notify ESMA/Commission).	
Article 3.5	This provision of the directive does not require transposition (confers duties on Member States to communicate information to ESMA).	
Article 4 (Definitions)		
Article 4.1.1	<ul style="list-style-type: none"> ● Article 3(1) of the Regulated Activities Order ● Regulation 2(1) of the Markets in Financial Instruments Regulations ● Regulation 2(1) of the Data Reporting Services Regulations ● Section 424A and paragraph 5(a) of Schedule 3 of FSMA 	FCA Handbook- Glossary

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 4.1.2	<ul style="list-style-type: none"> Sections 417 of FSMA Article 3(1) of the Regulated Activities Order, as amended by article 2(7) of the Regulated Activities Order Amendment Order Regulation 2(1) of the Markets in Financial Instruments Regulations 	<p>FCA Handbook- Glossary</p>
Article 4.1.3		<ul style="list-style-type: none"> FCA Handbook- Glossary PRA Rulebook- Glossary
Article 4.1.4		FCA Handbook- Glossary
Article 4.1.5		FCA Handbook- Glossary
Article 4.1.6		FCA Handbook- Glossary
Article 4.1.7		FCA Handbook- Glossary
Article 4.1.8		FCA Handbook- Glossary
Article 4.1.9	Regulation 2(1) of the Markets in Financial Instruments Regulations	FCA Handbook- Glossary/COBS 3.2.1R
Article 4.1.10		FCA Handbook- Glossary/COBS 3.5.1R
Article 4.1.11		FCA Handbook- Glossary/COBS 3.4.1R
Article 4.1.12	Regulation 3 of the Recognition Requirements Regulations	FCA Handbook- Glossary
Article 4.1.13	The definition for ‘ <i>small and medium-sized enterprise</i> ’ is only relevant to the definition of ‘ <i>SME growth market</i> ’ in Article 4.1.12. The definition in Article 4.1.12 is transposed by a cross-reference to Article 4.1.12 which incorporates any other text in the Directive that is relevant to Article 4.1.12, including Article 4.1.13. Article 4.1.13 does not require separate transposition.	
Article 4.1.14		FCA Handbook- Glossary
Article 4.1.15	<ul style="list-style-type: none"> Article 3(1) of the Regulated Activities Order, Regulation 2(1) of the Data Reporting Services Regulations Regulation 2(1) of the Data Reporting Services Regulations 	FCA Handbook- Glossary
Article 4.1.16	The definition for ‘ <i>C6 energy derivative contracts</i> ’ is only relevant to Article 90.4 and 95.1 of the Directive. Article 90.4 confers duties on the Commission and Article 95.1 concerns directly applicable provisions of MiFIR. As these provisions do not require transposition there is no need to transpose the linked definition in Article 4.1.16.	
Article 4.1.17		FCA Handbook- Glossary

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 4.1.18	Paragraph 9A of the Recognition Requirements Regulations	FCA Handbook- Glossary
Article 4.1.19	Regulation 3 of the Recognition Requirements Regulations	FCA Handbook- Glossary
Article 4.1.20	<ul style="list-style-type: none"> • Section 313D FSMA • Regulation 3 of the Recognition Requirements Regulations • Regulation 2(1) of the Data Reporting Services Regulations 	FCA Handbook- Glossary
Article 4.1.21	Regulation 2(1) of the Data Reporting Services Regulations	<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook- Glossary/General Provisions 1.2
Article 4.1.22	<ul style="list-style-type: none"> • Paragraph 9A of the Schedule to the Recognition Requirements Regulations • Regulation 2(1) of the Data Reporting Services Regulations 	<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook- Glossary
Article 4.1.23	<ul style="list-style-type: none"> • Paragraph 9A of the Schedule to the Recognition Requirements Regulations • Regulation 2(1) of the Data Reporting Services Regulations 	<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook- Passporting 1.2
Article 4.1.24	<ul style="list-style-type: none"> • Section 313D FSMA • Regulation 2(1) of the Markets in Financial Instruments Regulations • Regulation 2(1) of the Data Reporting Services Regulations 	<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook- Algorithmic Trading 1.3
Article 4.1.25	Regulation 3 of the Recognition Requirements Regulations	
Article 4.1.26	Regulation 2(1) of the Markets in Financial Instruments Regulations	<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook- Glossary
Article 4.1.27	Regulation 2(1) of the Data Reporting Services Regulations	FCA Handbook- Glossary
Article 4.1.28		FCA Handbook- Glossary
Article 4.1.29		<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook- Passporting 1.2
Article 4.1.30	Regulation 2(1) of the Markets in Financial Instruments Regulations	<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook - Glossary
Article 4.1.31		FCA Handbook- Glossary
Article 4.1.32	Section 420 FSMA	
Article 4.1.33		FCA Handbook- Glossary
Article 4.1.34	Regulation 3 of the Recognition Requirements Regulations	

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 4.1.35		FCA Handbook- Glossary
Article 4.1.36	<ul style="list-style-type: none"> Regulation 3 of the Recognition Requirements Regulations Regulation 44(2)(b) of, and paragraph 1 of Schedule 1 to, the Markets in Financial Instruments Regulations 	FCA Handbook- Glossary
Article 4.1.37	<ul style="list-style-type: none"> Regulation 3 of the Recognition Requirements Regulations Paragraph 1 of Schedule 1 to the Markets in Financial Instruments Regulations 	FCA Handbook- Glossary
Article 4.1.38	Regulation 3 of the Recognition Requirements Regulations	FCA Handbook- Glossary
Article 4.1.39	Regulation 3 of the Recognition Requirements Regulations	<ul style="list-style-type: none"> FCA Handbook- Glossary PRA Rulebook- Glossary
Article 4.1.40	Regulation 3 of the Recognition Requirements Regulations	
Article 4.1.41	Regulation 3 of the Recognition Requirements Regulations Regulation 2(1) of the Markets in Financial Instruments Regulations	<ul style="list-style-type: none"> FCA Handbook- Glossary PRA Rulebook- Algorithmic Trading 1.3
Article 4.1.42	The definition for 'cross-selling practices' is only relevant to Article 24.11. That Article confers a duty on ESMA to develop guidelines. As this provision does not require transposition, there is no need to transpose the linked definition in Article 4.1.42.	
Article 4.1.43		FCA Handbook- Glossary
Article 4.1.44		<ul style="list-style-type: none"> FCA Handbook- Glossary PRA Rulebook- Glossary
Article 4.1.45	Regulation 3 of the Recognition Requirements Regulations	
Article 4.1.46	Regulation 3 of the Recognition Requirements Regulations	FCA Handbook- Glossary
Article 4.1.47		FCA Handbook- Glossary
Article 4.1.48	Regulation 3 of the Recognition Requirements Regulations	FCA Handbook- Glossary
Article 4.1.49	Section 313D(1) FSMA	
Article 4.1.50	<ul style="list-style-type: none"> Regulation 3 of the Recognition Requirements Regulations Regulation 2(1) of the Markets in Financial Instruments Regulations 	FCA Handbook- Glossary
Article 4.1.51		FCA Handbook- Glossary
Article 4.1.52	Regulation 2(1) of the Data Reporting Services Regulations	FCA Handbook- Glossary
Article 4.1.53	Regulation 2(1) of the Data Reporting Services Regulations	FCA Handbook- Glossary

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 4.1.54	Regulation 2(1) of the Data Reporting Services Regulations	FCA Handbook- Glossary
Article 4.1.55	Regulation 2(1) of the Data Reporting Services Regulations	FCA Handbook- Glossary
Article 4.1.56		<ul style="list-style-type: none"> • FCA Handbook- Glossary • PRA Rulebook-Compliance and Internal Audit
Article 4.1.57	<ul style="list-style-type: none"> • Regulation 3 of the Recognition Requirements Regulations • Regulation 2(1) of the Markets in Financial Instruments Regulations 	
Article 4.1.58	The definition of “ <i>wholesale energy product</i> ” is relevant to paragraph (6) of Section C of Annex 1. Point (6) of Section C of Annex 1 is transposed in article 83 and 84 of the Regulated Activities Order by a cross-reference to paragraph (6) of Section C of Annex 1 which incorporates any other relevant text in the Directive, including Article 4.1.58. Article 4.1.58 does not require separate transposition in this instance.	
Article 4.1.59	The definition of “ <i>agricultural commodity derivatives</i> ” is only relevant to Article 79.7 and 88.1(g) of the Directive. These Articles concern cooperation between Member States and ESMA or third countries. As the specific term “ <i>agricultural commodity derivative</i> ” is not used in the transposition of these Articles there is no need to transpose the linked definition in Article 4.1.59.	
Article 4.1.60	The definition of “ <i>sovereign issuer</i> ” is only relevant to the definition of “ <i>sovereign debt</i> ” in Article 4.1.61. The definition in Article 4.1.61 is transposed in the Recognition Requirements Regulations by a cross-reference to Article 4.1.61 which incorporates any other text in the Directive relevant to that definition, including Article 4.1.58. Article 4.1.58 does not require separate transposition.	
Article 4.1.61	Regulation 3 of the Recognition Requirements Regulations	FCA Handbook- Glossary: 'sovereign debt'.
Article 4.1.62		FCA Handbook- Glossary: 'durable medium'.
Article 4.1.63	Regulation 2(1) of the Data Reporting Services Regulations	
Article 4.2	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts).	

TITLE II

AUTHORISATION AND OPERATING CONDITIONS FOR INVESTMENT FIRMS

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 5 (Requirement for authorisation)		Chapter I (conditions and procedures for authorisation)
Article 5.1	<ul style="list-style-type: none"> • Section 19, 22, 31, Part 4A, 418 and 419 FSMA • Article 4, Chapter 4, 5, 5A, 6, 7, 12 of Part 2, and Part 3 Regulated Activities Order. 	

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 5.2	<ul style="list-style-type: none"> Part 15 FSMA (in relation to compliance with Article 14 of Chapter 1 of Title II) and section 292 of FSMA Paragraph 9A of the Schedule to the Recognition Requirements Regulations 	COMP 5.5.1R(5A)
Article 5.3	Section 347 FSMA	
Article 5.4	Section 55B and Schedule 6 FSMA	
Article 6 (Scope of authorisation)		
Article 6.1	Section 55E and 55F FSMA	
Article 6.2	Section 55H and 55I FSMA	
Article 6.3	Section 31, 37, and Schedule 3 FSMA	
Article 7 (Procedures for granting and refusing requests for authorisation)		
Article 7.1	Section 55B and Schedule 6 to FSMA	
Article 7.2	Section 55B and Schedule 6 to FSMA	
Article 7.3	Section 55V FSMA	
Article 7.4	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 7.5	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 8 (Withdrawal of authorisation)		
-	Section 55J and 55K FSMA	

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 9 (Management body)		
Article 9.1		<ul style="list-style-type: none"> • FCA Handbook- SYSC 4.2.1R, 4.3A.1R, 4.3A.2R, 4.3A.3R, 4.3A.4R, 4.3A.5R, 4.3A.6R, 4.3A.7R, 4.3A.8R, 4.3A.9R, 4.3A.10R, and 5.1.7R • PRA Rulebook- General Organisational Requirements 5.2, 5.4, 5.5, 5.6, 6.1, 6.2, 6.3/Skills, Knowledge, Expertise 3.2
Article 9.2	Regulation 44(3)(b) of the MiFII Regulations	FCA Handbook- SYSC 4.3A.6R and Schedule 6.1AG
Article 9.3		<ul style="list-style-type: none"> • FCA Handbook- SYSC 4.3A.1R and 4.3A.1AR • PRA Rulebook- General Organisational Requirements 5.1, 5.1A and 5.7
Article 9.4		FCA Handbook- SYSC 4.3A.3R
Article 9.5		PRA Rulebook- General Organisational Requirements 3.1, 5.2
Article 9.6		FCA Handbook - SUP 10A.14.4D, 10A.14.8R, and 10A.14.10R
		<ul style="list-style-type: none"> • FCA Handbook- SYSC 4.2.2R and 4.2.6AR • PRA Rulebook- General Organisational Requirements 3.2
Article 10 (Shareholders and members with qualifying holdings)		
Article 10.1	Section 55B and paragraph 2C and 3B of Schedule 6 FSMA	FCA Handbook- SYSC 4.2.2R, SYSC 4.2.6R
Article 10.2	Section 55B and paragraph 2C and 3B of Schedule 6 FSMA	
Article 10.3	Parts 12 and 14 FSMA Sections 55J, 187, 191A, 191B(3)(b) and 380 FSMA	
Article 11 (Notification of proposed acquisitions)		
Article 11.1	Section 178 to 184 and 191D and 191E FSMA	
Article 11.2	Section 3D and 187A to 187C FSMA	
Article 11.3	-	FCA Handbook- SUP 11.4.2R and 16.4.5R
Article 11.4	Sections 191A to 191C and 191F FSMA	

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 12 (Assessment period)		
Article 12.1	Section 180 and 189 FSMA	
Article 12.2	Section 190 FSMA	
Article 12.3	Section 190 FSMA	
Article 12.4	Section 190 and 391 FSMA	
Article 12.5	Section 190 FSMA	
Article 12.6	Section 191 FSMA	
Article 12.7	This provision of the Directive does not require transposition (limitation on imposition of more stringent requirements by member states)	
Article 12.8	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 12.9	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 13 (Assessment)		
Article 13.1	Section 185 and 186 FSMA	
Article 13.2	Section 185 FSMA	
Article 13.3	Section 185 FSMA	
Article 13.4	Section 179 FSMA	
Article 13.5	Section 185 FSMA	
Article 14 (Membership of an authorised investor compensation scheme)		
-	Part 15 FSMA	FCA Handbook- COMP 5.5
Article 15 (Initial capital endowment)		
-	Section 55B and Schedule 6 FSMA	
Article 16 (Organisational requirements)		
Article 16.1	-	See below
Article 16.2	-	<ul style="list-style-type: none"> • FCA Handbook- SYSC 6.1.1R and 6.1.7R • PRA Rulebook- Compliance and Internal Audit 2.1 and 2.6
Article 16.3	-	FCA Handbook- SYSC 10.1.7R, PROD 3.2.3.R, 3.2.4 R, 3.2.16 R, 3.2.19R, 3.3.3 R 3.3.16R, 3.3.26R and 3.3.27R
Article 16.4	-	<ul style="list-style-type: none"> • FCA Handbook- SYSC 4.1.6R • PRA Rulebook- General Organisational Requirements 2.5

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 16.5	-	<ul style="list-style-type: none"> • FCA Handbook- SYSC 8.1.1R, 4.1.1R(1), and 4.1.1R(3) • PRA Rulebook- General Organisational Requirements 2.1 and 2.4, Outsourcing 2.1, Record Keeping 2.1, and Risk Control 2.1A
Article 16.6	-	<ul style="list-style-type: none"> • FCA Handbook- SYSC 9.1.1AR • PRA Rulebook- Record Keeping 2.1
Article 16.7	-	FCA Handbook- SYSC 10A.1.6R, 10A.1.7R, 10A.1.8R, 10A.1.11 R, , 10A.1.13 R, 10A.1.14 R, and 10A.12 G
Article 16.8	-	FCA Handbook- CASS 6.2.1R
Article 16.9	-	FCA Handbook- CASS 7.10.16R and 7.12.1R
Article 16.10	-	FCA Handbook- CASS 6.1.6R(3) and CASS 7.11.1 R (3)
Article 16.11	-	FCA Handbook- SYSC 1 Annex 1 2.17R
Article 16.12	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts).	
Article 17 (Algorithmic trading)		
Article 17.1	Regulation 30 of the Markets in Financial Instruments Regulations (implementing Article 17 as applied by Article 1.5 of the Directive)	<ul style="list-style-type: none"> • FCA Handbook- MAR 7A.3.2 R and 7A.3.3 R • PRA Rulebook- Algorithmic trading 2.1 and 2.2
Article 17.2	Regulation 30, 31 and 46 of the Markets in Financial Instruments Regulations (implementing Article 17 as applied by Article 1.5 of the Directive)	<ul style="list-style-type: none"> • FCA Handbook- MAR 7A.3.6 R, 7A.3.7 R, and 7A.3.8 R • PRA Rulebook- Algorithmic trading 2.3
Article 17.3	Regulation 30 of the Markets in Financial Instruments Regulations (implementing Article 17 as applied by Article 1.5 of the Directive)	FCA Handbook- MAR 7A.3.4 R and 7A.3.5 R
Article 17.4	<ul style="list-style-type: none"> • Paragraph 3A of the Schedule to the Recognition Requirements Regulations • Regulation 30 of the Markets in Financial Instruments Regulations (implementing Article 17 as applied by Article 1.5 of the Directive) 	FCA Handbook- Glossary
Article 17.5	Regulation 32, 33 and 46 of the Markets in Financial Instruments Regulations (implementing Article 17 as applied by Article 1.5 of the Directive)	<ul style="list-style-type: none"> • FCA Handbook- MAR 7A.4.2R, MAR 7A.4.3R, MAR 7A.4.4 R, MAR 7A.4.5 R, MAR 7A.4.6 R • PRA Rulebook- Algorithmic trading 2.4 and 2.5
Article 17.6	Regulation 34 of the Markets in Financial Instruments Regulations (implementing Article 17 as applied by Article 1.5 of the Directive)	FCA Handbook- MAR 7A.5.2 R

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 17.7	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 18 (Trading process and finalisation of transactions in an MTF and an OTF)		
Article 18.1	Paragraph 3 and 4 of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1R(1), (2), (2A), and 5A.4.1 R(1)-(3)
Article 18.2	Paragraph 7A, 9D and 9G of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1R(3),(5) and 5A.4.1R(4)-(5)
Article 18.3	Paragraph 7B of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1R(4) and 5A.4.1R(6)
Article 18.4	Paragraph 4 of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.4.1R(6)-(7) (see more detailed commentary in relation to articles 48 and 49 below)
Article 18.5	See transposition of Articles 48 and 49 of the Directive	
Article 18.6	Paragraph 7B of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.4.1 R, MAR 5A.6.1 R
Article 18.7	Paragraph 9ZD of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1A R (1), MAR 5A.4.2 R(1)
Article 18.8	Paragraph 7A of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.8 R and 5A.4.3 R
Article 18.9	See transposition of Article 69(2) of the Directive	
Article 18.10	<ul style="list-style-type: none"> • Paragraph 9A of the Schedule to the Recognition Requirements Regulations • Regulation 42 of the Markets in Financial Instruments Regulations 	FCA Handbook- MAR 5.3.1AR(6) and MAR 5A.4.2R(2)
Article 18.11	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 19 (Specific requirements for MTFs)		
Article 19.1	Paragraph 9B of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1R(1) and 5.3.1R(2)
Article 19.2	Paragraph 9C of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1R(4)

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 19.3	Paragraph 1, 2, and 4 of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1AR(2) and (3), and 5.4.1 R
Article 19.4		FCA Handbook- COBS 1 Annex 1, Part 1 (2.1R, 3.1R)
Article 19.5	Paragraphs 9B of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1AR(4)
Article 20 (Specific requirements for OTFs)		
Article 20.1	Paragraph 9F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.3.1R and 5A.3.5R(1)
Article 20.2	Paragraph 9F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.3.5R
Article 20.3	Paragraph 9F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.3.5R
Article 20.4	Paragraph 9F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.3.1R
Article 20.5	Paragraph 9F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR5A3.4G
Article 20.6	Paragraph 9F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.3.2R and 5A.3.3G
Article 20.7	Paragraph 9H of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.3.10R
Article 20.8	Paragraph 9F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5A.3.9R

Chapter II (Operating conditions for investment firms)	
Section 1 (General provisions)	
Article 21 (Regular review of conditions for initial authorisation)	
Article 21.1	Section 55B FSMA FCA Handbook-SUP 15
Article 21.2	Section 1L and 2K FSMA FCA Handbook-SUP 15.3.1R(1) and 15.3.11R
Article 22 (General obligation in respect of on-going supervision)	
Article 22	Sections 1L, 2K, and 165 FSMA FCA Handbook-SUP 2.3.5R, 2.3.7R, 15.3.1R, 15.3.11R, 15.3.17R, and 15.6.1R
Article 23 (Conflicts of interest)	
Article 23.1	- FCA Handbook-SYSC 10.1.3R
Article 23.2	- FCA Handbook-SYSC 10.1.8R(1)
Article 23.3	- FCA Handbook-SYSC 10.1.8R(2)
Article 23.4	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)
Section 2 (Provisions to ensure investor protection)	
Article 24 (General principles and information to clients)	
Article 24.1	- FCA Handbook-COBS 2.1.1R
Article 24.2	- FCA Handbook-PROD 3.2.1R and 3.3.1R
Article 24.3	Section 89 Financial Services Act 2012 FCA Handbook-COBS 4.2.1 R and 4.3.1 R
Article 24.4	- FCA Handbook-COBS 2.2A.2R (1), 6.1ZA.11R, 6.1ZA.12R, 6.2B.33 R, 9A.3.6 R, 14.3A.3.R,
Article 24.5	- FCA Handbook-COBS 2.2A.3R, 6.1ZA.13R, 6.2B.34R and 14.3A.3R(3).
Article 24.6	- FCA Handbook-COBS 1 Annex 1, Part 1, para. 5.1 R
Article 24.7	- FCA Handbook-COBS 2.3A.15R, 2.3A.16R, 2.3A.19R(1) to (3), and 6.2B.11 R (1) and (2)
Article 24.8	- FCA Handbook-COBS 2.3A.15R, 2.3A.16R and 2.3A.19R(1) to (3)
Article 24.9	- FCA Handbook-COBS 2.3A.5R, 2.3A.6R, and 2.3A.7E
Article 24.10	- FCA Handbook-SYSC 19F.1.3R
Article 24.11	- FCA Handbook-COBS 6.1ZA.16R
Article 24.12	This provision of the Directive does not require transposition (permits Member States to impose additional requirements in exceptional cases)
Article 24.13	These provisions of the Directive do not require transposition (confer power on Commission to adopt delegated acts)

Article 24.14	
Article 25 (Assessment of suitability and appropriateness and reporting to clients)	
Article 25.1	FCA Handbook-SYSC 5.1.5AAR and 5.1.5ABR
Article 25.2	FCA Handbook-COBS 9A.2.1R and 9A.2.16R
Article 25.3	FCA Handbook-COBS 10A.2.1R, 10A.2.2R, 10A.3.1R and 10A.3.2R
Article 25.4	FCA Handbook-COBS 10A.4.1R
Article 25.5	FCA Handbook-COBS 8A.1.9 R and 8A.1.11 R
Article 25.6	FCA Handbook-COBS 9A.3.2R, and 16A.2.1 R
Article 25.7	FCA Handbook-COBS 1 Annex 1, Part 1, para. 5A
Article 25.8	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)
Article 25.9	This provision of the Directive does not require transposition (confers power on ESMA to adopt guidelines)
Article 25.10	This provision of the Directive does not require transposition (confers power on ESMA to develop guidelines)
Article 25.11	This provision of the Directive does not require transposition (confers power on ESMA to develop guidelines)
Article 26 (Provision of services through the medium of another investment firm)	
Article 26	FCA Handbook-COBS 2.4.4 R
Article 27 (Obligation to execute orders on terms most favourable to the client)	
Article 27.1	FCA Handbook-COBS 11.2A.4R, 11.2A.5R, 11.2A.12R, 11.2A.45R
Article 27.2	FCA Handbook-COBS 11.2A.6R
Article 27.3	Paragraph 4C of the Schedule to the Recognition Requirements Regulations
Article 27.4	FCA Handbook-COBS 11.A.29 R
Article 27.5	FCA Handbook-COBS 11.2A.30R, 11.2A.31 R, and 11.2A.34 R (1), and 11.2A.35 R
Article 27.6	FCA Handbook-COBS 11.2A.52 R
Article 27.7	FCA Handbook-COBS 11.2A.41R
Article 27.8	FCA Handbook-COBS 11.2A.42 R (1) and (2)
Article 27.9	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)
Article 27.10	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Article 28 (Client order handling rules)	
Article 28.1	FCA Handbook-COBS 11.3.1R(1) and (2),
Article 28.2	FCA Handbook-COBS 11.4.1R, 11.4.5R, and 11.4.4A G

Article 28.3	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)	
Article 29 (Obligations of investment firms when appointing tied agents)		
Article 29.1		FCA Handbook-SUP 12.5.6AR and 12.5.8R
Article 29.2		FCA Handbook-SUP 12.3.5R, 12.6.1AR 12.6.13R, 12.6.15R and 12.6.15AR
Article 29.3	Section 39, 39A and 347 FSMA and the Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001	FCA Handbook-SUP 12.4.2AR and 12.4.11R
Article 29.4		FCA Handbook-SUP 12.6.14R and 12.6.15AR(3)
Article 29.5	Section 39, 39A and 347 FSMA and the Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001	
Article 29.6	This provision of the Directive does not require transposition (permits Member States to adopt or retain more stringent provisions)	
Article 30 (Transactions executed with eligible counterparties)		
Article 30.1		FCA Handbook-COBS 2.1.1AR, 4.2.1R, and COBS 1 Annex 1, Part 1, para. 1, and PROD 1.3.3R
Article 30.2		FCA Handbook-COBS 3.6.2R and 3.7.1R
Article 30.3		FCA Handbook-COBS 3.6.4AR, 3.6.6R, and 3.6.7R
Article 30.4		FCA Handbook-COBS 3.6.2R and 3.6.5 G
Article 30.5	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)	
Section 3 (Market transparency and integrity)		
Article 31 (Monitoring of compliance with the rules of the MTF or the OTF and with other legal obligations)		
Article 31.1	Paragraphs 3, 4, and 8 of the Schedule to the Recognition Requirements Regulations	FCA Handbook-MAR 5.5.1R and 5A.7.1R
Article 31.2	Paragraph 6 of the Schedule to the Recognition Requirements Regulations	FCA Handbook-MAR 5.6.1R(1) and 5A.8.1 R(1)
Article 31.3	Paragraph 6 of the Schedule to the Recognition Requirements Regulations	FCA Handbook-MAR 5.6.1R(2) and (3) and 5A.8.1R(2) and (3)
Article 31.4	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)	
Article 32 (Suspension and removal of financial instruments from trading on an MTF or an OTF)		
Article 32.1	Paragraph 7E of the Schedule to the Recognition Requirements Regulations	FCA Handbook-MAR 5.6A.1R(1), MAR 5A.9.1 R(1)
Article 32.2	Section 313CA to 313CC FSMA	FCA Handbook-MAR 5.6A.1R(2) and (3), MAR 5A.9.1 R(2) and (3)

	Paragraph 7E of the Schedule to the Recognition Requirements Regulations	
Article 32.3	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 32.4	This provision of the Directive does not require transposition (confers power on Commission to adopted delegated acts)	
Section 4 (SME growth markets)		
Article 33 (SME growth markets)		
Article 33.1	Paragraph 9E of the Schedule to the Recognition Requirements Regulations	FCA Handbook- REC 2.16A.1DR and MAR 5.10.1R(1)
Article 33.2		FCA Handbook- REC 2.16A.1DR and MAR 5.10.2R
Article 33.3		FCA Handbook- REC 2.16A.1DR and MAR 5.10.2R
Article 33.4		FCA Handbook- MAR 5.10.3G
Article 33.5		FCA Handbook- REC 2.16A.1DR and MAR 5.10.7R
Article 33.6	Regulation 42 of the Markets in Financial Instruments Regulations	
Article 33.7	Paragraph 9E of the Schedule to the Recognition Requirements Regulations	FCA Handbook- REC 2.16A.1DR and MAR 5.10.5R
Article 33.8	This provision of the Directive does not require transposition (confers power on Commission to adopted delegated acts)	
Chapter III (Rights of investment firms)		
Article 34 (Freedom to provide investment services and activities)		
Article 34.1	<ul style="list-style-type: none"> ● Section 31 and Part 2 of Schedule 3 FSMA ● EEA Passport Rights Regulations 	
Article 34.2	<ul style="list-style-type: none"> ● Paragraph 14 and 20 of Schedule 3 FSMA ● EEA Passport Rights Regulations 	FCA Handbook- SUP 13.5.2 R and SUP 13 Annex 2R PRA Rulebook- Passporting 4.3 and 6.2
Article 34.3	<ul style="list-style-type: none"> ● Paragraph 14 and 20 of Schedule 3 FSMA ● EEA Passport Rights Regulations 	
Article 34.4	<ul style="list-style-type: none"> ● Paragraph 22 of Schedule 3 FSMA ● EEA Passport Rights Regulations 	
Article 34.5		PRA Rulebook- Passporting 4.3
Article 34.6	<ul style="list-style-type: none"> ● Section 31 and 312A and Part 2 of Schedule 3 FSMA 	
Article 34.7	<ul style="list-style-type: none"> ● Section 312C and paragraph 14 and 20 of Schedule 3 FSMA ● EEA Passport Rights Regulations 	FCA Handbook- SUP 13.5.2R PRA Rulebook- Passporting 4.3

Article 34.8	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 34.9	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 35 (Establishment of a branch)		
Article 35.1	<ul style="list-style-type: none"> Section 31 and Part 2 of Schedule 3 FSMA EEA Passport Rights Regulations 	
Article 35.2	Paragraph 13, 19 and 20A of Schedule 3 FSMA	<ul style="list-style-type: none"> FCA Handbook- SUP 13.5.1R and SUP 13 Annex 1R and 1AR PRA Rulebook – Passporting 2.4
Article 35.3	Paragraph 19 and 20A of Schedule 3 FSMA	
Article 35.4	<ul style="list-style-type: none"> Paragraph 22 of Schedule 3 FSMA EEA Passport Rights Regulations 	
Article 35.5	Paragraph 19 of Schedule 3 FSMA	
Article 35.6	Paragraph 13 of Schedule 3 FSMA	
Article 35.7		PRA Rulebook – Passporting 2.4
Article 35.8	Section 194 FSMA	FCA Handbook – Application provisions relating to articles 24,25, 27 and 28 of the directive
Article 35.9	Sections 169, 354A and 354B of FSMA	
Article 35.10	EEA Passport Rights Regulations	<ul style="list-style-type: none"> FCA Handbook- SUP 13.8.1R and SUP 13 Annex 1AR PRA Rulebook
Article 35.11	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 35.12	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 36 (Access to regulated markets)		
Article 36.1	Paragraph 7B of the Schedule to the Recognition Requirements Regulations	
Article 36.2	This provision of the Directive does not require transposition in the United Kingdom (prohibition on imposition of additional regulatory or administrative requirements by Member States)	
Article 37 (Access to CCP, clearing and settlement facilities and right to designate settlement system)		
Article 37.1	Paragraph 7C, 21A, and 31 of the Schedule to the Recognition Requirements Regulations	

Article 37.2	<p>Paragraph 7D of the Schedule to the Recognition Requirements Regulations</p> <p>Section 3D, 3Q and 131I of FSMA</p> <p>Section 98-103 of the Financial Services (Banking Reform) Act 2013</p> <p>The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (definition of “designated authority”)</p>
Article 38 (Provisions regarding CCPs, clearing and settlement arrangements in respect of MTFs)	
Article 38.1	This provision of the Directive does not require transposition in the United Kingdom (there is no bar on arrangements with CCPs in other Member States)
Article 38.2	This provision of the Directive does not require specific transposition in the United Kingdom (note section 410 FSMA allows HMT to require the FCA, PRA and Bank of England to take steps to comply with EU law). However, please see sections 1B and 1D of FSMA (general duties of the FCA)
Chapter IV (Provision of investment services and activities by third country firms)	
Section 1 (Provision of services or performance of activities through the establishment of a branch)	
Article 39 (Establishment of a branch)	
The United Kingdom does not require third country firms providing investment services or performing investment activities in the United Kingdom to establish a branch in the United Kingdom for the purposes of article 39 of the directive. As a result Chapter IV of Title II of the Directive does not require transposition.	
Article 40 (Obligation to provide information)	
See above	
Article 41 (Granting of the authorisation)	
See above	
Article 42 (Provision of services at the exclusive initiative of the client)	
See above	
Section 2 (Withdrawal of authorisations)	
Article 43 (Withdrawal of authorisation)	
See above	

TITLE III

REGULATED MARKETS

ARTICLE	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Article 44 (Authorisation and applicable law)		
Article 44.1	Sections 285, 286, and 287 FSMA (read with the Regulated Activities Order and the provisions of the Recognition Requirements Regulations transposing Title III of the Directive-see below)	
Article 44.2	Section 1L FSMA	
Article 44.3	Section 285, 286, 287 and 327 FSMA (read with the Regulated Activities Order)	
Article 44.4	This provision of the Directive is not specifically transposed as the default position is that trading within the United Kingdom is governed by United Kingdom law, except where any applicable EU law applies	
Article 44.5	<ul style="list-style-type: none"> • Section 297 FSMA (read with section 293A) • Article 4 of the QEPO 	
Article 45 (Requirements for the management body of a market operator)		
Article 45.1	Paragraphs 2 and 2A of the Schedule to the Recognition Requirements Regulations	
Article 45.2	Paragraphs 2A and 2B of the Schedule to the Recognition Requirements Regulations Regulation 44 of the Markets in Financial Instruments Regulations	
Article 45.3	Paragraph 2A of the Schedule to the Recognition Requirements Regulations	
Article 45.4	Paragraph 2B of the Schedule to the Recognition Requirements Regulations	
Article 45.5	Paragraph 2B of the Schedule to the Recognition Requirements Regulations	
Article 45.6	Paragraphs 2A of the Schedule to the Recognition Requirements Regulations	

Article 45.7	Paragraph 2 and 2B of the Schedule to the Recognition Requirements Regulations	
Article 45.8		FCA Handbook- REC 3.4.2AR, 3.4.2 BR, 3.4.4 AR
Article 45.9	This provision of the directive does not require transposition (confers power on ESMA to issue guidelines)	
Article 46 (Requirements relating to persons exercising significant influence over the management of the regulated market)		
Article 46.1	Paragraph 2 of the Schedule to the Recognition Requirements Regulations	
Article 46.2	Sections 287, 292A and 293 FSMA	FCA Handbook- REC 3.24.1R
Article 46.3	Section 301F of Chapter 1A of Part 18 of FSMA	
Article 47 (Organisational requirements)		
Article 47.1	Paragraph 1, 3, and 4 of the Schedule to the Recognition Requirements Regulations	
Article 47.2	Paragraph 9ZA of the Schedule to the Recognition Requirements Regulations	
Article 48 (Systems resilience, circuit breakers and electronic trading)		
Article 48.1	Paragraph 3 of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.2R(1)-(4), 5A.5.1R(1)-(4)
Article 48.2	Paragraph 3A of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.3R(1) and (2) and 5A.5.3R(1) and (2)
Article 48.3	Paragraph 3A of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.3R(3) to (5), 5.3A.4R(1) to (3), and 5A.5.4R(1) to (5)
Article 48.4	Paragraph 3 of the Schedule to the Recognition Requirements Regulations	FCA Handbook 5.3A.2R(5) and 5A.5.2R(5)
Article 48.5	Paragraph 3B of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.5, 5.3A.6R, 5.3A.7R, 5.3A.8R, 5A.5.5R, 5A.5.6R, 5A.5.7R, and 5A.5R.
Article 48.6	Paragraph 3 of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.2R(6) to (10) and 5A.5.2R(6) to (10)
Article 48.7	Paragraph 3C of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.9R(1) to (6) and 5A.5.9R(1) to (6)
Article 48.8	Paragraph 3D of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.10R and 5A.5.10R

Article 48.9	Paragraph 3E of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.11R, 5.3A.12G(1) to (5), 5A.5.11R, and 5A.5.12G(1) to (5)
Article 48.10	Paragraph 3F of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.13R and 5A.5.13R
Article 48.11	Section 296 FSMA	
Article 48.12	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 48.13	This provision of the Directive does not require transposition (confers power on ESMA to develop guidelines)	
Article 49 (Tick sizes)		
Article 49.1	Paragraph 3G of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.14R and 5A.5.14R
Article 49.2	These provisions of the Directive do not require transposition (confer power on Commission to adopt implementing technical standards drafted by ESMA)	FCA Handbook- MAR 5.3A.15R(1) and (2) and 5A.5.15R(1) and (2)
Article 49.3		
Article 49.4		
Article 50 (Synchronisation of business clocks)		
Article 50.1	Paragraph 3H of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3A.17R and 5A.5.17R
Article 50.2	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 51 (Admission of financial instruments to trading)		
Article 51.1	Paragraph 7A and 9ZB of the Schedule to the Recognition Requirements Regulations	
Article 51.2	Paragraph 7A of the Schedule to the Recognition Requirements Regulations	
Article 51.3	Paragraph 7A of the Schedule to the Recognition Requirements Regulations	
Article 51.4	Paragraph 7A of the Schedule to the Recognition Requirements Regulations	
Article 51.5	Paragraph 7A of the Schedule to the Recognition Requirements Regulations	
Article 51.6	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 52 (Suspension and removal of financial instruments from trading on a regulated market)		

Article 52.1	Paragraph 7E of the Schedule to the Recognition Requirements Regulations	
Article 52.2	<ul style="list-style-type: none"> Section 313CA to 313D FSMA Paragraph 7E of the Schedule to the Recognition Requirements Regulations 	FCA Handbook- REC 3.14.2AR and 3.15.2AR
Article 52.3	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 52.4	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)	
Article 53 (Access to a regulated market)		
Article 53.1	Paragraph 4 and 7B of the Schedule to the Recognition Requirements Regulations	
Article 53.2	Paragraph 7B of the Schedule to the Recognition Requirements Regulations	
Article 53.3	Paragraph 7B of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 5.3.1R(4)
Article 53.4		FCA Handbook- COBS 1 Annex 1, Part 1, 4.1R
Article 53.5	Paragraph 7B of the Schedule to the Recognition Requirements Regulations	
Article 53.6	Chapter 3A of Part 18 FSMA	
Article 53.7	Paragraph 7B of the Schedule to the Recognition Requirements Regulations	
Article 54 (Monitoring of compliance with the rules of the regulated market and with other legal obligations)		
Article 54.1	Paragraphs 3 of the Schedule to the Recognition Requirements Regulations	
Article 54.2	<ul style="list-style-type: none"> Paragraph 4 of the Schedule to the Recognition Requirements Regulations Regulation 43 of the Markets in Financial Instruments Regulations 	
Article 54.3	Paragraph 6 of the Schedule to the Markets in Financial Instruments Regulations	FCA Handbook- REC 3.21.1R(2) and 3.25.1R
Article 54.4	This provision of the Regulation does not require transposition (confers power on Commission to adopt delegated acts)	
Article 55 (Provisions regarding CCP and clearing and settling arrangements)		

Article 55.1	This provision of the Directive does not require transposition in the United Kingdom (prohibition on Member States preventing regulated markets from entering into arrangements with CCPs, clearing houses, or settlement systems of other Member States).
Article 55.2	This provision of the Directive does not require any further specific transposition into the UK (s.410 of FSMA allows HMT to require the Financial Conduct Authority, Prudential Regulation Authority and Bank of England to take steps to comply with EU Law). However, please see section 1B and 1D of FSMA (general duties of the FCA)
Article 56 (List of regulated markets)	
Article 56	Regulation 41 of the Markets in Financial Instruments Regulations

TITLE IV

POSITION LIMITS AND POSITION MANAGEMENT CONTROLS IN COMMODITY DERIVATIVES AND REPORTING

Article 57 (Position limits and position management controls in commodity derivatives)	
Article 57.1	Regulations 16 and 17 of the Markets in Financial Instruments Regulations
Article 57.2	Regulation 18 of the Markets in Financial Instruments Regulations
Article 57.3	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Article 57.4	Regulation 19 of the Markets in Financial Instruments Regulations
Article 57.5	Regulation 20 of the Markets in Financial Instruments Regulations
Article 57.6	Regulation 21 and 22 of the Markets in Financial Instruments Regulations
Article 57.7	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Article 57.8	Paragraph 7BA of the Schedule to the Recognition Requirements FCA Handbook- MAR 10.3.3R and 10.4.3R
Article 57.9	Regulation 23 of the Markets in Financial Instruments Regulations Paragraph 7BA of the Schedule to the Recognition Requirements Regulations FCA Handbook- MAR 10.3.3R
Article 57.10	Regulation 24 of the Markets in Financial Instruments Regulations Paragraph 7BA of the Schedule to the Recognition Requirements Regulations FCA Handbook- MAR 10.3.3R
Article 57.11	Regulation 28 of the Markets in Financial Instruments Regulations
Article 57.12	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Article 57.13	Regulation 25 of the Markets in Financial Instruments Regulations
Article 57.14	Regulation 26 of the Markets in Financial Instruments Regulations
Article 58 (Position reporting by categories of position holders)	
Article 58.1	Paragraph 7BB of the Schedule to the Recognition Requirements FCA Handbook-MAR 10.4.3R(2) and (3)
Article 58.2	FCA Handbook-MAR 10.4.8D

Article 58.3		FCA Handbook-MAR 10.4.7D
Article 58.4	Paragraph 7BB of the Schedule to the Recognition Requirements Regulations	FCA Handbook- MAR 10.4.3(2)(a), (b), (c), and (4)(a) and (b), and 10.4.4R
Article 58.5	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 58.6	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)	
Article 58.7	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	

TITLE V
DATA REPORTING SERVICES

Section 1 (Authorisation procedures for data reporting services)	
Article 59 (Requirement for authorisation)	
Article 59.1	Regulations 5 and 30 of the Data Reporting Services Regulations
Article 59.2	Regulations 5 and 8 of the Data Reporting Services Regulations FCA Handbook-MAR 9.2
Article 59.3	Regulation 6 and 10(11) of the Data Reporting Services Regulations
Article 59.4	Regulation 18 and 21 of the Data Reporting Services Regulations FCA Handbook-MAR 9.4
Article 60 (Scope of authorisation)	
Article 60.1	Regulation 10(6) and 12 of the Data Reporting Services Regulations FCA Handbook-MAR 9.2
Article 60.2	Regulation 5 of the Data Reporting Services Regulations
Article 61 (Procedures for granting and refusing requests for authorisation)	
Article 61.1	Regulation 9 of the Data Reporting Services Regulations
Article 61.2	Regulation 7 of the Data Reporting Services Regulations FCA Handbook-MAR 9.2
Article 61.3	Regulation 10 of the Data Reporting Services Regulations
Article 61.4	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Article 61.5	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)
Article 62 (Withdrawal of authorisations)	
Article 62	Regulation 11 of the Data Reporting Services Regulations
Article 63 (Requirements for the management body of a data reporting service provider)	
Article 63.1	Regulation 13 of the Data Reporting Services Regulations FCA Handbook-MAR 9.5.3G
Article 63.2	This provision of the Directive does not require transposition (confers duty on ESMA to develop guidelines)
Article 63.3	FCA Handbook-MAR 9.3
Article 63.4	Regulation 13 of the Data Reporting Services Regulations
Article 63.5	Regulation 9, 11(1)(g) and 22(2) of the Data Reporting Services Regulations

Section 2 (Conditions for APAs)	
Article 64 (Organisational requirements)	
Article 64.1	Regulation 14 of the Data Reporting Services Regulations
Article 64.2	Regulation 14 of the Data Reporting Services Regulations
Article 64.3	Regulation 14 of the Data Reporting Services Regulations
Article 64.4	Regulation 14 of the Data Reporting Services Regulations
Article 64.5	Regulation 14 of the Data Reporting Services Regulations
Article 64.6	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Article 64.7	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)
Article 64.8	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Section 3 (Conditions for CTPs)	
Article 65 (Organisational requirements)	
Article 65.1	Regulation 15 of the Data Reporting Services Regulations
Article 65.2	Regulation 15 of the Data Reporting Services Regulations
Article 65.3	Regulation 15 of the Data Reporting Services Regulations
Article 65.4	Regulation 15 of the Data Reporting Services Regulations
Article 65.5	Regulation 15 of the Data Reporting Services Regulations
Article 65.6	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Article 65.7	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)
Article 65.8	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)
Section 4 (Conditions for ARMs)	
Article 66 (Organisational requirements)	
Article 66.1	Regulation 16 of the Data Reporting Services Regulations
Article 66.2	Regulation 16 of the Data Reporting Services Regulations
Article 66.3	Regulation 16 of the Data Reporting Services Regulations
Article 66.4	Regulation 16 of the Data Reporting Services Regulations
Article 66.5	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)

TITLE VI

COMPETENT AUTHORITIES

<i>Chapter I (Designation, powers and redress procedures)</i>	
Article 67 (Designation of competent authorities)	
Article 67.1	<ul style="list-style-type: none"> • Section 354E FSMA • Article 2 of the Qualifying EU Provisions Order • Regulation 3 of, and paragraph 3 and 4 of Schedule 1 to, the Markets in Financial Instruments Regulations • Regulation 17 of the Data Reporting Services Regulations
Article 67.2	All the authorities designated by the United Kingdom for the purposes of Article 67.1 of the Directive are public bodies
Article 67.3	This provision of the Directive does not require transposition (confers a duty on ESMA)
Article 68 (Cooperation between authorities in the same Member State)	
Article 68	<ul style="list-style-type: none"> • Sections 3D, 3E, 354A, and 354B FSMA • Paragraphs 22 and 29 of Schedule 1 to the Markets in Financial Instruments Regulations
Article 69 (Supervisory powers)	
Article 69.1	See the measures implementing Article 69.2
Article 69.2	<ul style="list-style-type: none"> • Part 4A, 5, 11, 13, 14, 18, 18A, 25, and 27 FSMA • Regulation 25, Part 5, and paragraphs 2, 5, 8, 16, 19, 20 to 23, and 29 of Schedule 1 to the Markets in Financial Instruments Regulations • Paragraph 6 of the Schedule to the Recognition Requirements Regulations • Article 2, 4, 5, 7 of the Qualifying EU Provisions Order • Regulations 4, 18, 21, 22, 29, 30, 33 to 38, and 43 of the Data Reporting Services Regulations
Article 70 (Sanctions for infringements)	
Article 70.1	See the list of measures implementing Article 70.6
	FCA Handbook – SUP 2.3.5R

Article 70.2	Paragraph 10 and 11 of Schedule 1 to the Markets in Financial Instruments Regulations Regulations 23 and 24 of the Data Reporting Services Regulations	
Article 70.3	See the list of measures implementing Article 70.6	
Article 70.4	See the measures implementing Article 70.6	
Article 70.5	<ul style="list-style-type: none"> • Section 177 FSMA • Article 2 of the Qualifying EU Provisions Order • Paragraph 19 of Schedule 1 to the Markets in Financial Instruments Regulations • Regulation 33 of the Data Reporting Services Regulations 	
Article 70.6	<ul style="list-style-type: none"> • Part 14, 18, 25 and 27 FSMA • Articles 2, 3, and 4 of the Qualifying EU Provisions Order • Paragraph 10, 11, and 21 of Schedule 1 to the Markets in Financial Instruments Regulations • Regulations 5, 22, 23, 24 and 36 of the Data Reporting Services Regulations 	
Article 71 (Publication of decisions)		
Article 71.1	<ul style="list-style-type: none"> • Section 391D FSMA • Paragraph 22 of Schedule 1 to the Markets in Financial Instruments Regulations • Regulation 37 of the Data Reporting Services Regulations 	
Article 71.2	<ul style="list-style-type: none"> • Section 391D FSMA • Paragraph 22 of Schedule 1 to the Markets in Financial Instruments Regulations • Regulation 37 of the Data Reporting Services Regulations 	
Article 71.3	<ul style="list-style-type: none"> • Section 391D FSMA • Paragraph 22 of Schedule 1 to the Markets in Financial Instruments Regulations • Regulation 37 of the Data Reporting Services Regulations 	
Article 71.4	<ul style="list-style-type: none"> • Regulation 45 of the Markets in Financial Instruments Regulations 	
Article 71.5	<ul style="list-style-type: none"> • Section 391D FSMA 	

	<ul style="list-style-type: none"> Paragraph 22 of Schedule 1 to the Markets in Financial Instruments Regulations Regulation 37 of the Data Reporting Services Regulations 	
Article 71.6	This provision of the Directive does not require transposition (confers duty on ESMA)	
Article 71.7	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 72 (Exercise of supervisory powers and powers to impose sanctions)		
Article 72.1	This provision of the Article is not specifically transposed, as the national measures transposing Article 69 and 70 of the Directive set out how the FCA is to exercise those powers.	
Article 72.2		FCA Handbook- DEPP 6
Article 73 (Reporting of infringements)		
Article 73.1	<ul style="list-style-type: none"> Employment Rights Act 1996 Public Interest Disclosure (Prescribed Persons) Order 2014 Data Protection Act 1998 Common law duties regarding confidentiality Obligations to act reasonably under public law principles. Obligation on public authorities to respect Article 8 of the European Convention on Human Rights (see section 6 Human Rights Act 1998) 	
Article 73.2	<ul style="list-style-type: none"> Paragraph 9 of the Schedule to the Recognition Requirements Regulations 	FCA Handbook-SYSC 18.6.1R PRA-Rulebook-General Organisational Requirements 2A.2 and 2A.7, Internal Governance of Third Country Branches 2A.1 and 2A.2.
Article 74 (Right of Appeal)		
Article 74.1	<ul style="list-style-type: none"> Part 9, Part 26 and section 208, 312H, 313A, and 386 FSMA Section 108 and 111 Magistrates Court Act 1980 Section 1 Administration of Justice Act 1960 Section 1 Criminal Appeal Act 1968 Section 16 Senior Courts Act 1981 Tribunal Procedure (Upper Tribunal) Rules 2008 Paragraphs 13, 18, and 22 of Schedule 1 to the Markets in Financial Instruments Regulations 	

	<ul style="list-style-type: none"> Regulations 8, 10, 11, 12, 22, and 26 of the Data Reporting Services Regulations 	
Article 74.2	This provision of the Directive is not specifically transposed: the acts of public authorities, including a failure to comply with domestic or EU law, can be challenged in the courts via the judicial review procedure.	
Article 75 (Extra-judicial mechanism for consumers complaints)		
Article 75.1	Part 16 and Schedule 17 FSMA	FCA Handbook – DISP 1.1A and DISP 2
Article 75.2	Regulation 8 to 12, 14 and 14A Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015	
Article 75.3	Section 354D FSMA	
Article 76 (Professional Secrecy)		
Article 76.1	<ul style="list-style-type: none"> Section 348 and 349 FSMA 	
Article 76.2	<ul style="list-style-type: none"> Regulation 2, 8, and 9 Disclosure of Confidential Information Regulations 	
Article 76.3	<ul style="list-style-type: none"> Regulation 35 of the Data Reporting Services Regulations 	
Article 76.4	<ul style="list-style-type: none"> Persons who have worked for, or on behalf of, the FCA or PRA will normally be bound by contractual and other common law duties of confidence. 	
Article 77 (Relations with auditors)		
Article 77.1	<ul style="list-style-type: none"> Section 342 and 343 FSMA 	
Article 77.2	<ul style="list-style-type: none"> Financial Services and Markets Act 2000 (Communications by Auditors) Regulations 2001 Regulations 34 and 43 of the Data Reporting Services Regulations 	
Article 78 (Data protection)		
Article 78	This provision of the Directive is not specifically transposed: the United Kingdom's Data Protection Act 1998 (which implements Directive 95/46/EC) applies to any processing of personal data in the United Kingdom.	
Article 79 (Cooperation between the competent authorities of the Member States and with ESMA)		
Article 79.1	Sections 69, 354A, 354B, and 354E FSMA	
Article 79.2	Sections 1B(5), 354A, and 354B FSMA Regulations 3, 6 and 9 of the Disclosure of Confidential Information Regulations	

	The Legislative and Regulatory Reform Act	
Article 79.3	<ul style="list-style-type: none"> Sections 69, 354A, and 354B FSMA Paragraphs 6 and 19 of Schedule 1 to the Markets in Financial Instruments Regulations Regulations 19 and 33 of the Data Reporting Services Regulations 	
Article 79.4	Section 354E FSMA	
Article 79.5	Regulation 28A of the Markets in Financial Instruments Regulations	
Article 79.6	Sections 354A, and 354B FSMA	
Article 79.7	Sections 354A, and 354B FSMA	
Article 79.8	This provision of the Directive does not require transposition (confers power on Commission to adopt delegated acts)	
Article 79.9	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 80 (Cooperation between competent authorities in supervisory activities, for on-site verifications or investigations)		
Article 80.1	<ul style="list-style-type: none"> Section 169 FSMA Regulation 19 of the Markets in Financial Instruments Regulations Regulation 33 of the Data Reporting Services Regulation 	
Article 80.2	This provision of the Directive does not require transposition (confers duty on ESMA)	
Article 80.3	This provision of the Directive does not require transposition (confers power on Commission to adopt regulatory technical standards drafted by ESMA)	
Article 80.4	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	
Article 81 (Exchange of information)		
Article 81.1	<ul style="list-style-type: none"> Section 348, 349, and 354 FSMA 	
Article 81.2	<ul style="list-style-type: none"> Disclosure of confidential information regulations 	
Article 81.3	<ul style="list-style-type: none"> Regulation 20 of the Markets in Financial Instruments Regulations Regulation 35 of the Data Reporting Services Regulations 	
Article 81.4	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)	

Article 82 (Binding mediation)	
Article 82.1	This provision of the Directive does not require transposition (deals with referral of disputes between competent authorities to ESMA for mediation)
Article 82.2	
Article 83 (refusal to cooperate)	
-	<ul style="list-style-type: none"> • Section 169 FSMA • Regulation 19 of the Markets in Financial Instruments Regulations • Regulation 33 of the Data Reporting Services Regulation
Article 84 (consultation prior to authorisation)	
Article 84.1	Section 55R FMSA
Article 84.2	Section 55R FSMA
Article 84.3	Section 354 FSMA
Article 84.4	This provision of the Directive does not require transposition (confers power on Commission to adopt implementing technical standards drafted by ESMA)
Article 85 (powers for host member state)	
Article 85.1	FCA Handbook-SUP 16.12
Article 85.2	FCA Handbook-SUP 16.12
Article 86 (precautionary measures to be taken by host Member States)	
Article 86.1	Section 195A FSMA
Article 86.2	Section 194A
Article 86.3	Section 195A and 312B FSMA
Article 86.4	Section 197 and 312B FSMA
Article 87 (cooperation and exchange of information with third countries)	
Article 87.1	These provisions of the Directive do not require transposition (they extend application of directly applicable provisions in Regulation (EU) 1095/2010)
Article 87.2	
Article 88 (exchange of information with third countries)	
Article 88.1	<ul style="list-style-type: none"> • Section 348, 349, and 354 FSMA • Disclosure of confidential information regulations • Regulation 20 of the Markets in Financial Instruments Regulations • Regulation 35 of the Data Reporting Services Regulations • Section 348 and 349 FSMA
Article 88.2	

	<ul style="list-style-type: none"> • Disclosure of confidential information regulations • Regulation 20 of the Markets in Financial Instruments Regulations • Regulation 35 of the Data Reporting Services Regulations 	
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TITLE VII

DELEGATED ACTS

Title VII for the most part does not require transposition with the exception of Article 95.2

Final Provisions	
Article 95 (transitional provisions)	
Article 95.2	<ul style="list-style-type: none"> • Regulation 55A Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013

ANNEXES

	HMT TRANSPOSING MEASURES	FCA/PRA TRANSPOSING MEASURES
Annex I (list of services and activities and financial instruments)		
Section A	Regulation 3(1) Regulated Activities Order (see definition of investment services and activities)	
Section B	Regulation 82B to 85 Regulated Activities Order	
Section C	Regulation 3(1) Regulated Activities Order (see definition of financial instrument)	
Section D	Regulation 2(1) Data Reporting Services Regulations (see definition of a data reporting service)	

Annex II (professional clients for the purpose of this directive)	
No HMT transposing measures for this Annex	Implementation by FCA transposing measures only
Professional client is a client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs. In order to be considered to be professional client, the client must comply with the following criteria:	COBS 3.5.1R
I. CATEGORIES OF CLIENT WHO ARE CONSIDERED TO BE PROFESSIONALS	
The following shall all be regarded as professionals in all investment services and activities and financial instruments for the purposes of the Directive.	COBS 3.5.2R
(1) Entities which are required to be authorised or regulated to operate in the financial markets. The list below shall be understood as including all authorised entities carrying out the characteristic activities of the entities mentioned: entities authorised by a Member State under a Directive, entities authorised or regulated by a Member State without reference to a Directive, and entities authorised or regulated by a third country:	COBS 3.5.2R(1)
(a) Credit institutions;	COBS 3.5.2R(1)(a)
(b) Investment firms;	COBS 3.5.2R(1)(b)
(c) Other authorised or regulated financial institutions;	COBS 3.5.2R(1)(c)
(d) Insurance companies;	COBS 3.5.2R(1)(d)
(e) Collective investment schemes and management companies of such schemes;	COBS 3.5.2R(1)(e)
(f) Pension funds and management companies of such funds;	COBS 3.5.2R(1)(f)
(g) Commodity and commodity derivatives dealers;	COBS 3.5.2R(1)(g)
(h) Locals;	COBS 3.5.2R(1)(h)
(i) Other institutional investors;	COBS 3.5.2R(1)(i)
(2) Large undertakings meeting two of the following size requirements on a company basis:	COBS 3.5.2R(2)
– balance sheet total: EUR 20 000 000	COBS 3.5.2R(2)(a)

–	net turnover: EUR 40 000 000	COBS 3.5.2R(2)(b)
–	own funds: EUR 2 000 000	COBS 3.5.2R(2)(c)
(3)	National and regional governments, including public bodies that manage public debt at national or regional level, Central Banks, international and supranational institutions such as the World Bank, the IMF, the ECB, the EIB and other similar international organisations.	COBS 3.5.2R(4)
(4)	Other institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitisation of assets or other financing transactions.	COBS 3.5.2R(5)
	The entities referred to above are considered to be professionals. They must however be allowed to request non-professional treatment and investment firms may agree to provide a higher level of protection. Where the client of an investment firm is an undertaking referred to above, the investment firm must inform it prior to any provision of services that, on the basis of the information available to the investment firm, the client is deemed to be a professional client, and will be treated as such unless the investment firm and the client agree otherwise. The investment firm must also inform the customer that he can request a variation of the terms of the agreement in order to secure a higher degree of protection.	COBS 3.7.1R and COBS 3.3.2G
	It is the responsibility of the client, considered to be a professional client, to ask for a higher level of protection when it deems it is unable to properly assess or manage the risks involved.	COBS 3.7.2G
	This higher level of protection will be provided when a client who is considered to be a professional enters into a written agreement with the investment firm to the effect that it shall not be treated as a professional for the purposes of the applicable conduct of business regime. Such agreement shall specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.	COBS 3.7.5R

	II. CLIENTS WHO MAY BE TREATED AS PROFESSIONALS ON REQUEST
II.1. Identification criteria	
COBS 3.5.3R	Clients other than those mentioned in section I, including public sector bodies, local public authorities, municipalities and private individual investors, may also be allowed to waive some of the protections afforded by the conduct of business rules.
COBS 3.5.3R, COBS 3.5.7G	Investment firms shall therefore be allowed to treat any of those clients as professionals provided the relevant criteria and procedure mentioned below are fulfilled. Those clients shall not, however, be presumed to possess market knowledge and experience comparable to that of the categories listed in Section I.
COBS 3.5.3R(1)	Any such waiver of the protection afforded by the standard conduct of business regime shall be considered to be valid only if an adequate assessment of the expertise, experience and knowledge of the client, undertaken by the investment firm, gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making investment decisions and understanding the risks involved.
COBS 3.5.3R, COBS 3.5.5G	The fitness test applied to managers and directors of entities licensed under Directives in the financial field could be regarded as an example of the assessment of expertise and knowledge. In the case of small entities, the person subject to that assessment shall be the person authorised to carry out transactions on behalf of the entity.
COBS 3.5.3R(2)	In the course of that assessment, as a minimum, two of the following criteria shall be satisfied:
COBS 3.5.3R(2)(a)	– the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters,
COBS 3.5.3R(2)(b)	– the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds EUR 500 000,

<p>– the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.</p>	<p>COBS 3.5.3R(2)(c)</p>
<p>Member States may adopt specific criteria for the assessment of the expertise and knowledge of municipalities and local public authorities requesting to be treated as professional clients. Those criteria can be alternative or additional to those listed in the fifth paragraph.</p>	<p>COBS 3.5.3BR, COBS 3.5.3CR and COBS 3.5.3ER</p>
<p>II.2. PROCEDURE</p>	
<p>Those clients may waive the benefit of the detailed rules of conduct only where the following procedure is followed:</p>	<p>COBS 3.5.3R(3)</p>
<p>– they must state in writing to the investment firm that they wish to be treated as a professional client, either generally or in respect of a particular investment service or transaction, or type of transaction or product,</p>	<p>COBS 3.5.3R(3)(a)</p>
<p>– the investment firm must give them a clear written warning of the protections and investor compensation rights they may lose,</p>	<p>COBS 3.5.3R(3)(b)</p>
<p>– they must state in writing, in a separate document from the contract, that they are aware of the consequences of losing such protections.</p>	<p>COBS 3.5.3R(3)(c)</p>
<p>Before deciding to accept any request for waiver, investment firms must be required to take all reasonable steps to ensure that the client requesting to be treated as a professional client meets the relevant requirements stated in Section II.1.</p>	<p>COBS 3.5.6R</p>
<p>However, if clients have already been categorised as professionals under parameters and procedures similar to those referred to above, it is not intended that their relationships with investment firms shall be affected by any new rules adopted pursuant to this Annex.</p>	<p>COBS TP 1 and the definition of “professional client” in the glossary</p>

<p>Firms must implement appropriate written internal policies and procedures to categorise clients. Professional clients are responsible for keeping the investment firm informed about any change, which could affect their current categorisation. Should the investment firm become aware however that the client no longer fulfils the initial conditions, which made him eligible for a professional treatment, the investment firm shall take appropriate action.</p>	<p>COBS 3.5.8G, COBS 3.5.9R, COBS 3.8.1R</p>
<p>Annex III and IV</p>	
<p>Annex III and IV do not require transposition</p>	