STATUTORY INSTRUMENTS

2019 No. 1416

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019

PART 4

AMENDMENT OF RETAINED DIRECT EU LEGISLATION

Amendment of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories

34. In Article 89—

(a) in paragraph 1, in the first sub-paragraph—

(i) for "18 June 2021" substitute "18 June 2023"; and

(ii) after "pension scheme arrangements" insert "or EEA pension scheme arrangements";

(b) at the end of paragraph 1 insert—

"The Treasury may make regulations extending the exemption referred to in the first sub-paragraph by a period of up to two years at a time where it concludes that no appropriate technical solution has been developed for the transfer by pension scheme arrangements and EEA pension scheme arrangements of cash and non-cash collateral as variation margins and that the adverse effect of centrally clearing derivative contracts on the retirement benefits of future pensioners remains.

In this paragraph, and in paragraph 2, "EEA pension scheme arrangement" means a pension scheme arrangement as defined by Article 2(10) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories as it has effect in EU law.";

(c) for paragraph 2 substitute—

"**2.** This paragraph applies to:

(a) pension scheme arrangements that fall within point (c) of Article 2(10); and

(b) EEA pension scheme arrangements that fall within points (c) or (d) of Article 2(10) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories as it has effect in EU law.

For the pension scheme arrangements and EEA pension scheme arrangements to which this paragraph applies, the exemption referred to in the first sub-paragraph of paragraph 1 shall only apply where it is granted by the FCA for types of entities or types of arrangements. The FCA shall only grant an exemption where it is satisfied that the type of entities or the type of arrangements fall within the description of those arrangements to which this paragraph applies, and that they encounter difficulties in meeting the variation margin requirements. The FCA must grant or refuse an exemption within 30 calendar days of receipt of a request for an exemption.

The FCA shall publish on its website a list of types of entities and types of arrangements which have been granted an exemption in accordance with this paragraph.”.