
STATUTORY INSTRUMENTS

2019 No. 632

The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019

PART 3

Amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

Article 72 (overseas persons)

147.—(1) Article 72 (overseas persons) is amended as follows.

- (2) In paragraph (8) ^{M1}, for “credit institution” substitute “qualifying credit institution”.
- (3) In paragraphs (8)(b) and (10) ^{M2} omit “Member”.
- (4) In paragraph (9A) ^{M3}—
 - (a) in sub-paragraph (a) omit “23(2) or”;
 - (b) omit sub-paragraph (b) and the preceding “or”.
- (5) After paragraph (10) insert—

“(10A) This article does not apply in the following two cases.”
- (6) In paragraph (11) ^{M4}, for “This Article does not apply” substitute “The first case is”.
- (7) After paragraph (11) insert—

“(11A) The second case is where the overseas person is—

 - (a) a third-country firm, as defined by Article 2.1.42 of the markets in financial instruments regulation;
 - (b) established in a county that is the subject of [^{F1}an equivalence determination]; and
 - (c) carrying on an activity a third country firm established in that third country may carry on, by virtue of the [^{F2}equivalence determination], under—
 - (i) Article 46.1 of the markets in financial instruments regulation, if it is registered by the FCA in the register of third country firms established in accordance with Article 48 of that regulation, or
 - (ii) Article 46.5 of that regulation.”
- (8) In paragraph (12) ^{M5}—
 - (a) for “paragraph (11)” substitute “paragraphs (11) and (11A)”;
 - (b) in sub-paragraph (a)—
 - (i) after “by the Commission”, in both places, insert “before [^{F3}IP completion day]”;
 - (ii) omit the “and” at the end;
 - (c) after sub-paragraph (b) insert—

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, Section 147 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F4}(c) “equivalence determination” means a determination made by the Treasury—
- (i) in regulations under Article 47.1 of the markets in financial instruments regulation and not revoked; or
 - (ii) by direction under regulation 2 of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 and not revoked;]

[^{F5}(d) a country is the subject of an equivalence determination if a period of more than three years has elapsed since—

 - (i) the date on which the equivalence determination came into force, or
 - (ii) where two or more equivalence determinations have been made in succession in relation to the country concerned, the date on which the first equivalence determination came into force;

(e) for the purposes of sub-paragraph (d), an equivalence determination is not made in succession to an earlier determination if the earlier determination ceased to have effect before the later determination came into force.”].

Textual Amendments

- F1** Words in reg. 147(7) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **19(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in reg. 147(7) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **19(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 147(8)(b)(i) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, **Sch. para. 33(r)**
- F4** Words in reg. 147(8)(c) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **19(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 147(8)(c) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **19(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C1** Pts. 3-6 modified in part (31.12.2020) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(2), **11(1)(4)(5)** (with reg. 11(8)-(10)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 40(f)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I1** Reg. 147 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(3)

Marginal Citations

- M1** Paragraph (8) was inserted by [S.I. 2006/3384](#).
- M2** Paragraph (10) was inserted by [S.I. 2015/910](#).
- M3** Paragraph (9A) was inserted by [S.I. 2017/1064](#).
- M4** Paragraph (11) was inserted by [S.I. 2017/488](#).
- M5** Paragraph (12) was inserted by [S.I. 2017/488](#).

Changes to legislation:

The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, Section 147 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)