

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 (Text with EEA relevance)

TITLE VI

REGISTRATION AND SUPERVISION OF TRADE REPOSITORIES

CHAPTER I

Conditions and procedures for registration of a trade repository

Article 55

Registration of a trade repository

- 1 A trade repository shall register with [^{F1}the FCA] for the purposes of Article 9.
- 2 To be eligible to be registered under this Article, a trade repository shall be a legal person established in the [^{F2}United Kingdom] and meet the requirements laid down in Title VII.
- ^{F3}3
- 4 A registered trade repository shall comply at all times with the conditions for registration. A trade repository shall, without undue delay, notify [^{F4}the FCA] of any material changes to the conditions for registration.

Textual Amendments

- F1** Words in Art. 55(1) substituted (31.12.2020) by [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(2)(a)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F2** Words in Art. 55(2) substituted (31.12.2020) by [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(2)(b)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Art. 55(3) omitted (31.12.2020) by virtue of [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(2)(c)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 55(4) substituted (31.12.2020) by [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(2)(d)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, Sch. 5 para. 1(1)

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Article 56

Application for registration

[^{F5}1 For the purposes of Article 55(1), a trade repository shall submit either of the following to [^{F6}the FCA]:

- a an application for registration;
- b an application for an extension of the registration where the trade repository is already registered under Chapter III of Regulation (EU) 2015/2365.]

2 [^{F7}The FCA] shall assess whether the application is complete within 20 working days of receipt of the application.

Where the application is not complete, [^{F8}the FCA] shall set a deadline by which the trade repository is to provide additional information.

After assessing an application as complete, [^{F8}the FCA] shall notify the trade repository accordingly.

[^{F9}3 The FCA may make technical standards specifying the form and content of applications under paragraph 1.]

[^{F10}4

Textual Amendments

- F5** Substituted by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (Text with EEA relevance).
- F6** Words in Art. 56(1) substituted (31.12.2020) by The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1318), regs. 1(3), **2(3)(a)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 56(2) substituted (31.12.2020) by The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1318), regs. 1(3), **2(3)(b)(i)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 56(2) substituted (31.12.2020) by The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1318), regs. 1(3), **2(3)(b)(ii)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 56(3) substituted (31.12.2020) by The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1318), regs. 1(3), **2(3)(c)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Art. 56(4) omitted (31.12.2020) by virtue of The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1318), regs. 1(3), **2(3)(d)** (with regs. 14-19) (as amended by S.I. 2020/56, regs. 1, 9 and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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^{F11}Article 57

Notification of and consultation with competent authorities prior to registration

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Textual Amendments

- F11** Art. 57 omitted (31.12.2020) by virtue of [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(4)** (with regs. 14-19) (as amended by [S.I. 2020/56](#), regs. 1, 9 and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 58

Examination of the application

1 ^{[F12}The FCA] shall, within 40 working days from the notification referred to in the third subparagraph of Article 56(2), examine the application for registration based on the compliance of the trade repository with Articles 78 to 81 and shall adopt a fully reasoned registration decision or decision refusing registration.

^{F13}2

Textual Amendments

- F12** Words in Art. 58(1) substituted (31.12.2020) by [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(5)(a)** (with regs. 14-19) (as amended by [S.I. 2020/56](#), regs. 1, 9 and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Art. 58(2) omitted (31.12.2020) by virtue of [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(5)(b)** (with regs. 14-19) (as amended by [S.I. 2020/56](#), regs. 1, 9 and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F14}Article 59

Notification of ESMA decisions relating to registration

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Textual Amendments

- F14** Art. 59 omitted (31.12.2020) by virtue of [The Trade Repositories \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1318), regs. 1(3), **2(6)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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^{F15}Article 60

Exercise of the powers referred to in Articles 61 to 63

Textual Amendments

- F15** Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 61

Request for information

Textual Amendments

- F15** Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 62

General investigations

Textual Amendments

- F15** Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 63

On-site inspections

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Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 64

Procedural rules for taking supervisory measures and imposing fines

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Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 65

Fines

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Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 66

Periodic penalty payments

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Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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^{F15}Article 67

Hearing of the persons concerned

Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/335), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 68

Disclosure, nature, enforcement and allocation of fines and periodic penalty payments

Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/335), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 69

Review by the Court of Justice

Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/335), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F15}Article 70

Amendments to Annex II

Changes to legislation: Regulation (EU) No 648/2012 of the European Parliament and of the Council, TITLE VI is up to date with all changes known to be in force on or before 13 October 2023. 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

Textual Amendments

F15 Arts. 60-70 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

l^{F16} Article 71

Withdrawal of registration

1 The FCA may, on its own initiative, withdraw the registration of a trade repository where the trade repository:

- a expressly renounces the registration or has provided no services for the preceding 6 months;
- b obtained the registration by making false statements or by any other irregular means; or
- c no longer meets the conditions for registration.

2 The FCA may also, on its own initiative, withdraw the registration of a trade repository where it is desirable to do so to advance one or more of its operational objectives set out in section 1B(3) of the FSMA.

3 The FCA may, on an application by a trade repository, withdraw the registration of the trade repository.

4 The decision to withdraw the registration of a trade repository under paragraph 1, 2 and 3 shall be reflected in the Register.]

Textual Amendments

F16 Arts. 71-71b substituted for Art. 71 (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(2)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

l^{F16} Article 71a

Publication and notification of decisions about registration of trade repositories

1 The FCA must publish on its website a list of trade repositories registered in accordance with Article 58 (“the Register”).

2 On the adoption of a decision under Article 58 or 71, the FCA must notify its decision to the trade repository concerned.

3 A refusal of an application to register under Article 58 comes into effect on the fifth working day following the day on which it is adopted.

4 A withdrawal of registration under Article 71 takes effect:

- a immediately upon the adoption of the decision if the notice states that is the case;
- b on such date as may be specified in that notice; or

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- c if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- 5 A decision to withdraw a registration on the FCA's own initiative under paragraph 1 or 2 of Article 71 may be expressed to take effect immediately (or on a specified date) only if the FCA, having regard to the ground on which it is exercising its power reasonably considers that it is necessary for the withdrawal or direction to take effect immediately (or on that date).
- 6 If the decision referred to in paragraph 2 is:
 - a to refuse the application for registration made under Article 58;
 - b to exercise the FCA's power under paragraph 1 or 2 of Article 71; or
 - c to refuse an application made by a trade repository under paragraph 3 of Article 71,
 the FCA must give the trade repository a written notice.
- 7 A written notice under paragraph 6 must:
 - a give details of the decision made by the FCA;
 - b state the FCA's reasons for the decision;
 - c state when the decision takes effect; and
 - d inform the trade repository that it may either:
 - i) request a review of the decision by the FCA, and make written representations for the purpose of the review, within such period as may be specified in the notice; or
 - ii) refer the matter to the Upper Tribunal ("the Tribunal") within such period as may be specified in the notice; and
 - e indicate the procedure on a reference to the Tribunal.
- 8 If the trade repository requests a review of the decision made by the FCA ("the original decision") the FCA must consider any written representations made by the trade repository and review the original decision.
- 9 On a review under paragraph 8, the FCA may adopt any decision ("the new decision") it could have adopted on the application.
- 10 The FCA must give the trade repository written notice of its decision on the review.
- 11 This paragraph applies to a decision—
 - a to maintain a decision to refuse an application for registration, made under Article 58;
 - b to refuse to revoke a decision made under paragraph 1 or 2 of Article 71; or
 - c to maintain a decision to refuse an application from a trade repository under paragraph 3 of Article 71.
- 12 A written notice in relation to a decision to which paragraph 11 applies must:
 - a give details of the new decision made by the FCA;
 - b state the FCA's reasons for the new decision;
 - c state whether the decision takes effect immediately or on such date as may be specified in the notice;
 - d inform the trade repository that it may, within such period as may be specified in the notice, refer the new decision to the Tribunal; and
 - e indicate the procedure on a reference to the Tribunal.]

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Textual Amendments

F16 Arts. 71-71b substituted for Art. 71 (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F16} Article 71b

Reference to the Tribunal

1 A trade repository may, subject to paragraph 2, refer to the Tribunal the FCA's decision to:

- a refuse to register the trade repository under Article 58;
- b exercise its power under paragraph 1 or 2 of Article 71; or
- c refuse the trade repository's application under paragraph 3 of Article 71.

2 Where there is a review under paragraph 8 of Article 71a, paragraph 1 applies only in relation to the FCA's decision in response to that review.]

Textual Amendments

F16 Arts. 71-71b substituted for Art. 71 (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F17} Article 72

Supervisory fees

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Textual Amendments

F17 Arts. 72-74 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F17} Article 73

Supervisory measures by ESMA

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Textual Amendments

- F17** Arts. 72-74 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(3)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F17}Article 74

Delegation of tasks by ESMA to competent authorities

Textual Amendments

- F17** Arts. 72-74 omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(3)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 2

Relations with third countries

Article 75

Equivalence ^{F18}...

1 [^{F19}The Treasury may by regulations determine] that the legal and supervisory arrangements of a third country ensure that:

- a trade repositories authorised in that third country comply with legally binding requirements which are equivalent to those laid down in this Regulation [^{F20}including compliance with the requirements to give direct and immediate access to the data to the entities referred to in paragraph 3 of Article 81];
- b effective supervision and enforcement of trade repositories takes place in that third country on an ongoing basis; and
- c guarantees of professional secrecy exist, including the protection of business secrets shared with third parties by the authorities, and they are at least equivalent to those set out in this Regulation.

[^{F21}Regulations made under the first sub-paragraph must also specify the relevant authorities in third countries which are entitled to access data held by trade repositories established in the United Kingdom.]

^{F22}2

3 [^{F23}The FCA] shall establish cooperation arrangements with the competent authorities of the relevant third countries. Those arrangements shall specify at least:

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- a a mechanism for the exchange of information between [^{F24}the FCA] on the one hand and the relevant competent authorities of third countries concerned on the other; and
- b procedures concerning the coordination of supervisory activities.

^{F25}4

Textual Amendments

- F18** Words in Art. 75 heading omitted (31.12.2020) by virtue of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(5)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in Art. 75(1) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(6)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Words in Art. 75(1)(a) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(6)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 75(1) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(6)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Art. 75(2) omitted (31.12.2020) by virtue of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(7)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in Art. 75(3) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(8)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in Art. 75(3)(a) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(8)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Art. 75(4) omitted (31.12.2020) by virtue of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(9)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 76

Cooperation arrangements

Relevant authorities of third countries that do not have any trade repository established in their jurisdiction may contact [^{F26}the FCA] with a view to establishing cooperation arrangements to access information on derivatives contracts held in [^{F27}trade repositories established in the United Kingdom].

[^{F28}The FCA] may establish cooperation arrangements with those relevant authorities regarding access to information on derivatives contracts held in [^{F27}trade repositories established in the United Kingdom] that these authorities need to fulfil their respective

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responsibilities and mandates, provided that guarantees of professional secrecy exist, including the protection of business secrets shared by the authorities with third parties.

Textual Amendments

- F26** Word in Art. 76 substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(10)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in Art. 76 substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(10)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Word in Art. 76 substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(10)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[^{F29} Article 76a

Mutual direct access to data

1 Where necessary for the exercise of their duties, relevant authorities of third countries in which one or more trade repositories are established shall have direct access to information in trade repositories established in the [^{F30}United Kingdom], provided that [^{F31}the Treasury has made regulations] in accordance with paragraph 2 to that effect.

2 Upon the submission of a request by the authorities referred to in paragraph 1 of this Article, the [^{F32}Treasury may by regulations determine] whether the legal framework of the third country of the requesting authority fulfils all of the following conditions:

- a trade repositories established in that third country are duly authorised;
- b effective supervision and enforcement of trade repositories takes place in that third country on an ongoing basis;
- c guarantees of professional secrecy exist, including the protection of business secrets shared with third parties by the authorities, and they are at least equivalent to those set out in this Regulation;
- d trade repositories authorised in that third country are subject to a legally binding and enforceable obligation to grant the entities referred to in Article 81(3) direct and immediate access to the data.]

Textual Amendments

- F29** Inserted by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (Text with EEA relevance).
- F30** Words in Art. 76a(1) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1416), regs. 1(3), **31(a)(i)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/628, regs. 1(3), 13(2); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: Regulation (EU) No 648/2012 of the European Parliament and of the Council, TITLE VI is up to date with all changes known to be in force on or before 13 October 2023. 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

- F31** Words in Art. 76a(1) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1416), regs. 1(3), **31(a)(ii)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/628, regs. 1(3), 13(2); 2020 c. 1, Sch. 5 para. 1(1))
- F32** Words in Art. 76a(2) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1416), regs. 1(3), **31(b)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/628, regs. 1(3), 13(2); 2020 c. 1, Sch. 5 para. 1(1))

Article 77

Recognition of trade repositories

1 A trade repository established in a third country may provide its services and activities to entities established in the ^{F33}[United Kingdom] for the purposes of Article 9 only after its recognition by ^{F34}[the FCA] in accordance with paragraph 2.

2 A trade repository referred to in paragraph 1 shall submit to ^{F35}[the FCA] its application for recognition together with all necessary information, including at least the information necessary to verify that the trade repository is authorised and subject to effective supervision in a third country ^{F36}...

Within 30 working days of receipt of the application ^{F37}[or the date on which a cooperation arrangement with a third country prescribed in accordance with paragraph 3 of Article 75 is entered into, whichever is later], ^{F35}[the FCA] shall assess whether the application is complete. If the application is not complete, ^{F35}[the FCA] shall set a deadline by which the applicant trade repository has to provide additional information.

Within 180 working days of the submission of a complete application, ^{F35}[the FCA] shall inform the applicant trade repository in writing with a fully reasoned explanation whether the recognition has been granted or refused.

^{F35}[The FCA] shall publish on its website a list of the trade repositories recognised in accordance with this Regulation.

^{F38}3 The FCA may grant recognition to a trade repository established in a third country only if:

- a the trade repository is authorised and subject to supervision in that third country;
- b the third country is recognised by regulations made by the Treasury as one in which the arrangements for trade repositories are equivalent to those in the United Kingdom (in accordance with paragraph 1 of Article 75); and
- c cooperation arrangements entered into with the third country (in accordance with paragraph 3 of Article 75) provide for the FCA to have immediate and continuous access to the information needed for the performance of their duties, including information on derivative contracts held in trade repositories established in the third country.

4 The FCA may, on its own initiative, withdraw the recognition of a trade repository granted under paragraph 2 where the trade repository:

- a no longer meets the conditions for recognition in points (a) to (c) of paragraph 3;
- b expressly renounces the recognition or has provided no services for the preceding 6 months; or
- c obtained the recognition by making false statements or by any other irregular means.

Changes to legislation: Regulation (EU) No 648/2012 of the European Parliament and of the Council, TITLE VI is up to date with all changes known to be in force on or before 13 October 2023. 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

5 A trade repository must, without undue delay, notify the FCA of any material changes affecting the condition for recognition in point (a) of paragraph 3.]

Textual Amendments

- F33** Words in Art. 77(1) substituted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(12)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in Art. 77(1) substituted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(12)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F35** Words in Art. 77(2) substituted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(13)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F36** Words in Art. 77(2) omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(13)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in Art. 77(2) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(13)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F38** Art. 77(3)-(5) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **56(14)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

Regulation (EU) No 648/2012 of the European Parliament and of the Council, TITLE VI is up to date with all changes known to be in force on or before 13 October 2023. 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 :

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

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Art. 2(30)-(33) inserted by [S.I. 2018/1184 reg. 7](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1184, reg. 7 substituted (1.3.2019) by The Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019 (S.I. 2019/405), regs. 1(2), 9)
- Art. 4(1)(a)(v) words substituted by [S.I. 2019/335 reg. 14\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(a) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 14(a))
- Art. 4(1)(a)(iv) words substituted by [S.I. 2019/335 reg. 14\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(a) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 14(a))
- Art. 4(1)(b)(ii) words substituted by [S.I. 2019/335 reg. 14\(2\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(b) omitted (30.10.2019) by virtue of S.I. 2019/1416, regs. 1(2), 14(b))
- Art. 4(1)(b)(ii) words substituted by [S.I. 2019/335 reg. 14\(2\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(b) omitted (30.10.2019) by virtue of S.I. 2019/1416, regs. 1(2), 14(b))
- Art. 10(1)(a) word omitted by [S.I. 2019/335 reg. 20\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 20(2) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 17(a))
- Art. 10(1)(a) words omitted by [S.I. 2019/335 reg. 20\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 20(2) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 17(a))
- Art. 25(6A) inserted by [S.I. 2018/1184 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8 omitted (25.6.2020) by virtue of S.I. 2020/646, regs. 1(2)(c), 4(3))
- Art. 25(7)(c) words substituted by [S.I. 2018/1184 reg. 8\(10\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8 omitted (25.6.2020) by virtue of S.I. 2020/646, regs. 1(2)(c), 4(3))