

Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

TITLE V

DERIVATIVES

Article 28

Obligation to trade on regulated markets, MTFs or OTFs

1 Financial counterparties as defined in Article 2(8) of Regulation (EU) No 648/2012 and non-financial counterparties that meet the conditions referred to in Article 10(1)(b) thereof shall conclude transactions which are neither intragroup transactions as defined in Article 3 of that Regulation nor transactions covered by the transitional provisions in Article 89 of that Regulation with other such financial counterparties or other such non-financial counterparties that meet the conditions referred to in Article 10(1)(b) of Regulation (EU) No 648/2012 in derivatives pertaining to a class of derivatives that has been declared subject to the trading obligation in accordance with the procedure set out in Article 32 and listed in the register referred to in Article 34 only on:

- a regulated markets;
- b MTFs;
- c OTFs; or
- [^{F1}d third-country trading venues, provided that—
 - i either—
 - aa a decision has been adopted before IP completion day by the European Commission in accordance with paragraph 4 of this Article as it had effect in the European Union before IP completion day; or
 - bb the Treasury has made regulations in accordance with paragraph 4 of this Article as it applies in the United Kingdom on and after IP completion day; and
 - ii the third country provides for an effective equivalent system for recognition of UK trading venues to admit to trading or trade derivatives declared subject to a trading obligation in that third country on a non-exclusive basis.]

2 The trading obligation shall also apply to counterparties referred to in paragraph 1 which enter into derivatives transactions pertaining to a class of derivatives that has been declared subject to the trading obligation with third-country financial institutions or other third-country entities that would be subject to the clearing obligation if they were established in the [^{F2}United Kingdom]. The trading obligation shall also apply to third-country entities that would be subject to the clearing obligation if they were established in the [^{F2}United Kingdom], which enter into derivatives transactions pertaining to a class of derivatives that has been declared subject to the trading obligation, provided that the contract has a direct, substantial and foreseeable effect within the [^{F2}United Kingdom] or where such obligation is necessary or appropriate to prevent the evasion of any provision of this Regulation.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 600/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F3}The competent authority must] regularly monitor the activity in derivatives which have not been declared subject to the trading obligation as described in paragraph 1 in order to identify cases where a particular class of contracts may pose systemic risk and to prevent regulatory arbitrage between derivative transactions subject to the trading obligation and derivative transactions which are not subject to the trading obligation.

3 Derivatives declared subject to the trading obligation pursuant to paragraph 1 shall be eligible to be admitted to trading on a regulated market or to trade on any trading venue as referred to in paragraph 1 on a non-exclusive and non-discriminatory basis.

4 [^{F4} The Treasury may by regulations specify] that the legal and supervisory framework of a third country ensures that a trading venue authorised in that third country complies with legally binding requirements which are equivalent to the requirements for the trading venues referred to in paragraph 1(a), (b) or (c) of this Article, resulting from this Regulation, [^{F5}United Kingdom law which was relied on by the United Kingdom before IP completion day to implement] Directive 2014/65/EU, and Regulation (EU) No 596/2014, and which are subject to effective supervision and enforcement in that third country.

Those decisions shall be for the sole purpose of determining eligibility as a trading venue for derivatives subject to the trading obligation.

The legal and supervisory framework of a third country is considered to have equivalent effect where that framework fulfils all the following conditions:

- a trading venues in that third country are subject to authorisation and to effective supervision and enforcement on an ongoing basis;
- b trading venues have clear and transparent rules regarding admission of financial instruments to trading so that such financial instruments are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable;
- c issuers of financial instruments are subject to periodic and ongoing information requirements ensuring a high level of investor protection;
- d it ensures market transparency and integrity via rules addressing market abuse in the form of insider dealing and market manipulation;

[^{F6}Regulations made by the Treasury] under this paragraph may be limited to a category or categories of trading venues. In that case, a third-country trading venue is only included in paragraph 1(d) if it falls within a category covered by [^{F7}regulations made by the Treasury].

[^{F8}In this paragraph, references to requirements of United Kingdom law which was relied on by the United Kingdom before IP completion day to implement Directive 2014/65/EU are to those requirements as they apply on the day on which regulations are made by the Treasury under this Article.]

5 In order to ensure consistent application of this Article, [^{F9}the FCA may make] technical standards to specify the types of contracts referred to in paragraph 2 which have a direct, substantial and foreseeable effect within [^{F10}the United Kingdom] and the cases where the trading obligation is necessary or appropriate to prevent the evasion of any provision of this Regulation.

^{F11} ...

^{F11} ...

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Where possible and appropriate, the ^{F12}... technical standards referred to in this paragraph shall be identical to those adopted under Article 4(4) of Regulation (EU) No 648/2012.

Textual Amendments

- F1** Art. 28(1)(d) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(a)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(j)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F2** Words in Art. 28(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 28(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 28(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(c)(i)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 28(4) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(c)(i)(bb)** (as amended by S.I. 2019/1212, regs. 1(3), **14(4)(a)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 45(a)(ii)**)); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in Art. 28(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(c)(ii)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 28(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(c)(ii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 28(4) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(c)(iii)** (as inserted by S.I. 2019/1212, regs. 1(3), **14(4)(b)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 45(a)(iii)**)); 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Words in Art. 28(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(d)(i)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Art. 28(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(d)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Art. 28(5) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Word in Art. 28(5) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(1)(d)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are outstanding changes not yet made to Regulation (EU) No 600/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulation power to amend or revoke conferred by [2023 c. 29 s. 1517](#)
- Regulation power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 1](#)
- Regulation power to modify conferred by [2023 c. 29 s. 1317](#)
- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)
- Art. 28(1) words substituted by [2023 c. 29 Sch. 2 para. 16\(2\)](#)

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

- Title IVa addition by [EUR 2019/2175](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Title VIa addition by [EUR 2019/2175](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Sch. 3 para. 31 revoked by [2023 c. 29 Sch. 2 para. 50\(c\)\(ii\)](#)
- Sch. 3 para. 32 revoked by [2023 c. 29 Sch. 2 para. 50\(c\)\(ii\)](#)
- Art. 2.1(12)(12A) substituted by [2023 c. 29 Sch. 2 para. 8](#)
- Art. 2.1(17) words omitted by [2023 c. 29 Sch. 2 para. 19\(a\)](#)
- Art. 2.1(17) words substituted by [2023 c. 29 Sch. 2 para. 19\(b\)](#)
- Art. 3(4)(5) inserted by [2023 c. 29 Sch. 2 para. 2](#)
- Art. 4a inserted by [2023 c. 29 Sch. 2 para. 4](#)
- Art. 14(6D)(6E) inserted by [2023 c. 29 Sch. 2 para. 6\(3\)](#)
- Art. 18-18b substituted for Art. 18 by [2023 c. 29 Sch. 2 para. 10](#)
- Art. 28(1A) inserted by [2023 c. 29 Sch. 2 para. 16\(3\)](#)
- Art. 28a inserted by [2023 c. 29 Sch. 2 para. 17](#)
- Art. 46(2A) inserted by S.I. 2018/1403, reg. 33(1)(ba) (as inserted) by [S.I. 2019/710 reg. 16\(15\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 16(15)(a) omitted (30.9.2020) by virtue of S.I. 2020/1055, regs. 1(2), 13)
- Art. 46(2A) omitted by [2021 c. 22 Sch. 10 para. 5\(4\)](#)
- Art. 50C(2) words inserted by [2023 c. 29 Sch. 2 para. 26\(2\)](#)
- Art. 50C(3) words inserted by [2023 c. 29 Sch. 2 para. 26\(3\)](#)
- Art. 50C(4) words inserted by [2023 c. 29 Sch. 2 para. 26\(4\)](#)
- Art. 50D(1) words substituted by [2023 c. 29 Sch. 2 para. 27\(2\)\(a\)](#)
- Art. 50D(1) words substituted by [2023 c. 29 Sch. 2 para. 27\(2\)\(b\)](#)
- Art. 50D(2A) inserted by [2023 c. 29 Sch. 2 para. 27\(4\)](#)
- Art. 50D(3) words substituted by [2023 c. 29 Sch. 2 para. 27\(5\)](#)
- Art. 54a addition by [EUR 2019/2175](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 54b addition by [EUR 2019/2175](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)