

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 VI

NON-DISCRIMINATORY CLEARING ACCESS FOR FINANCIAL INSTRUMENTS

Article 35

Non-discriminatory access to a CCP

1 Without prejudice to Article 7 of Regulation (EU) No 648/2012 [^{F1}and subject to paragraph 1A], a CCP shall accept to clear financial instruments on a non-discriminatory and transparent basis, including as regards collateral requirements and fees relating to access, regardless of the trading venue on which a transaction is executed. This in particular shall ensure that a trading venue has the right to non-discriminatory treatment of contracts traded on that trading venue in terms of:

- a collateral requirements and netting of economically equivalent contracts, where the inclusion of such contracts in the close-out and other netting procedures of a CCP based on the applicable insolvency law would not endanger the smooth and orderly functioning, the validity or enforceability of such procedures; and
- b cross-margining with correlated contracts cleared by the same CCP under a risk model that complies with Article 41 of Regulation (EU) No 648/2012.

A CCP may require that the trading venue comply with the operational and technical requirements established by the CCP including the risk management requirements. The requirement in this paragraph does not apply to any derivative contract that is already subject to the access obligations under Article 7 of Regulation (EU) No 648/2012.

A CCP is not bound by this Article if it is connected by close links to a trading venue which has given notification under Article 36(5).

[^{F2}1A. Paragraph 1 does not apply in relation to exchange-traded derivatives.]

2 A request to access a CCP by a trading venue shall be formally submitted to a CCP, [^{F3}the competent authority of the CCP] and the competent authority of the trading venue. The request shall specify to which types of financial instruments access is requested.

3 The CCP shall provide a written response to the trading venue within three months in the case of transferable securities and money market instruments, ^{F4}... either permitting access, under the condition that a relevant competent authority has granted access pursuant to paragraph 4, or denying access. The CCP may deny a request for access only under the conditions specified in paragraph 6(a). If a CCP denies access it shall provide full reasons in its response and inform its competent authority in writing of the decision. ^{F5}... The CCP shall also provide such notification and reasoning to the competent authority of the trading venue. The CCP shall make access possible within three months of providing a positive response to the access request.

4 The competent authority of the CCP or that of the trading venue shall grant a trading venue access to a CCP only where such access:

^{F6}a

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- b would not threaten the smooth and orderly functioning of the markets, in particular due to liquidity fragmentation, or would not adversely affect systemic risk.

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If a competent authority refuses access it shall issue its decision within two months following receipt of the request referred to in paragraph 2 and provide full reasons to the other competent authority, the CCP and the trading venue including the evidence on which the decision is based.

5 As regards transferable securities and money market instruments, a CCP that has been newly established and authorised as a CCP as defined in Article 2(1) of Regulation (EU) No 648/2012 to clear under Article 17 of Regulation (EU) No 648/2012 or recognised under Article 25 of Regulation (EU) No 648/2012 or authorised under a pre-existing national authorisation regime for a period of less than three years on 2 July 2014 may, before [F8 3 January 2018], apply to its competent authority for permission to avail itself of transitional arrangements. The competent authority may decide that this Article does not apply to the CCP in respect of transferable securities and money market instruments, for a transitional period until [F8 3 July 2020].

Where such a transitional period is approved, the CCP cannot benefit from the access rights under Article 36 or this Article in respect of transferable securities and money market instruments for the duration of that transitional arrangement.^{F9}...

Where a CCP which has been approved for the transitional arrangements under this paragraph is connected by close links to one or more trading venues, those trading venues shall not benefit from access rights under Article 36 or this Article in respect of transferable securities and money market instruments for the duration of the transitional arrangement.

A CCP which is authorised during the three year period prior to entry into force, but is formed by a merger or acquisition involving at least one CCP authorised prior to that period, shall not be permitted to apply for the transitional arrangements under this paragraph.

6 [F10 The Bank of England may, having consulted the FCA, make] technical standards to specify:

- a the specific conditions under which an access request may be denied by a CCP, including the anticipated volume of transactions, the number and type of users, arrangements for managing operational risk and complexity or other factors creating significant undue risks;
- b the conditions under which access must be permitted by a CCP, including confidentiality of information provided regarding financial instruments during the development phase, the non-discriminatory and transparent basis as regards clearing fees, collateral requirements and operational requirements regarding margining;
- c the conditions under which granting access will threaten the smooth and orderly functioning of markets or would adversely affect systemic risk;
- d the procedure for making a notification under paragraph 5;
- e the conditions for non-discriminatory treatment in terms of how contracts traded on that trading venue are treated in terms of collateral requirements and netting of economically equivalent contracts and cross-margining with correlated contracts cleared by the same CCP.

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Textual Amendments

- F1** Words in Art. 35(1) inserted (18.10.2021) by The Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/1074), regs. 1(2), **3(2)(a)**
- F2** Art. 35(1A) inserted (18.10.2021) by The Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/1074), regs. 1(2), **3(2)(b)**
- F3** Words in Art. 35(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **31(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 35(3) omitted (18.10.2021) by virtue of The Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/1074), regs. 1(2), **3(2)(c)**
- F5** Words in Art. 35(3) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **31(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Art. 35(4)(a) omitted (18.10.2021) by virtue of The Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/1074), regs. 1(2), **3(2)(d)(i)**
- F7** Words in Art. 35(4) omitted (18.10.2021) by virtue of The Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/1074), regs. 1(2), **3(2)(d)(ii)**
- F8** Substituted by Regulation (EU) 2016/1033 of the European Parliament and of the Council of 23 June 2016 amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories (Text with EEA relevance).
- F9** Words in Art. 35(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), **31(1)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Art. 35(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **31(1)(e)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Art. 35(6) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **31(1)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 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.

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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](#)

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.)