

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 VIII

PROVISION OF SERVICES AND PERFORMANCE OF ACTIVITIES BY THIRD-COUNTRY FIRMS FOLLOWING AN EQUIVALENCE [^{F1}DETERMINATION] WITH OR WITHOUT A BRANCH

Article 46

General provisions

1 A third-country firm may provide investment services or perform investment activities with or without any ancillary services to eligible counterparties and to professional clients within [^{F1}Part 2 of Schedule 1 to this Regulation][^{F2}in the United Kingdom] without the establishment of a branch where it is registered in the register of third-country firms kept by [^{F3}the FCA] in accordance with [^{F4}Article 48].

2 [^{F5}The FCA] shall register a third-country firm that has applied for the provision of investment services or performance of activities [^{F6}in the United Kingdom] in accordance with paragraph 1 only where the following conditions are met:

- [^{F7}a the Treasury has made a determination under Article 47(1) in respect of the third country;
- aa the firm, and the services or activities, fall within the scope of the determination;]
- b the firm is authorised in the jurisdiction where its head office is established to provide the investment services or activities to be provided in the [^{F8}United Kingdom] and it is subject to effective supervision and enforcement ensuring a full compliance with the requirements applicable in that third country;
- c cooperation arrangements have been established pursuant to Article 47(2).
- [^{F9}d the firm has established the necessary arrangements and procedures to provide the information required by rules made under paragraph 6B of this Article;
- e the firm has established the necessary arrangements and procedures to comply with requirements imposed under Article 48A.]

^{F10}3

4 The third-country firm referred to in paragraph 1 shall submit its application to [^{F11}the FCA] after the [^{F12}making of a determination by the Treasury under Article 47(1) that the legal and supervisory arrangements of the third country in which the third-country firm is authorised satisfy the requirements described in Article 47(1).]

[^{F13}An application for registration must—

- a be made in such form and manner as the FCA may direct, and
- b contain, or be accompanied by, such information as the FCA may direct.]

The applicant third-country firm shall provide [^{F14}the FCA] with all [^{F15}further] information necessary for its registration. Within 30 working days of receipt of the application, [^{F14}the FCA] shall assess whether the application is complete. If the

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application is not complete, [^{F14}the FCA] shall set a deadline by which the applicant third-country firm is to provide additional information.

The registration decision shall be based on the conditions set out in paragraph 2.

Within 180 working days of the submission of a complete application, [^{F16}the FCA] shall inform the applicant third-country firm in writing with a fully reasoned explanation whether the registration has been granted or refused.

^{F17} ...

5 Third-country firms providing services in accordance with this Article shall inform clients established in the [^{F18}United Kingdom], before the provision of any investment services, that they are not allowed to provide services to clients other than eligible counterparties and professional clients within the meaning of Section I of Annex II to Directive 2014/65/EU and that they are not subject to supervision in the [^{F18}United Kingdom]. They shall indicate the name and the address of the competent authority responsible for supervision in the third country.

The information in the first subparagraph shall be provided [^{F19}in writing, in a prominent way and in such form as the FCA may direct].

^{F20} ... Where an eligible counterparty or professional client within [^{F21}Part 2 of Schedule 1 to this Regulation] established or situated in the [^{F18}United Kingdom] initiates at its own exclusive initiative the provision of an investment service or activity by a third-country firm, this Article does not apply to the provision of that service or activity by the third-country firm to that person including a relationship specifically related to the provision of that service or activity. An initiative by such clients shall not entitle the third-country firm to market new categories of investment product or investment service to that individual.

[^{F22}5A. For the purposes of paragraph 5, where a third-country firm or a person acting on behalf of a third-country firm solicits a person, the provision of an investment service or activity by the third-country firm to the person is not initiated at the person's own exclusive initiative.]

6 Third-country firms providing services or performing activities in accordance with this Article shall, before providing any service or performing any activity in relation to a client established in the [^{F23}United Kingdom], offer to submit any disputes relating to those services or activities to the jurisdiction of a court or arbitral tribunal in [^{F24}the United Kingdom].

[^{F25}6A. Third-country firms providing services or performing activities in accordance with this Article must—

- a keep the data relating to all orders and transactions in the United Kingdom in financial instruments which they have carried out, whether on own account or on behalf of a client, for a period of five years, and
- b make that data available to the FCA on request.

6B. The FCA may make rules requiring third-country firms providing services or performing activities in accordance with this Article to provide information specified in the rules to the FCA at intervals specified in the rules.]

^{F26}7

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Textual Amendments

- F1** Words in Art. 46(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 46(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 46(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 46(1) substituted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(2)**; S.I. 2021/739, reg. 3(o)
- F5** Words in Art. 46(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(b)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 46(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(b)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Art. 46(2)(a)(aa) substituted for Art. 46(2)(a) (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(3)(a)**; S.I. 2021/739, reg. 3(o)
- F8** Words in Art. 46(2)(b) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(b)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 46(2)(d)(e) inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(3)(b)**; S.I. 2021/739, reg. 3(o)
- F10** Art. 46(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), **33(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Art. 46(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(d)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Art. 46(4) substituted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(5)(a)**; S.I. 2021/739, reg. 3(o)
- F13** Words in Art. 46(4) inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(5)(b)**; S.I. 2021/739, reg. 3(o)
- F14** Words in Art. 46(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(d)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Word in Art. 46(4) inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(5)(c)**; S.I. 2021/739, reg. 3(o)
- F16** Words in Art. 46(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(d)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in Art. 46(4) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(d)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in Art. 46(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(e)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in Art. 46(5) substituted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(6)**; S.I. 2021/739, reg. 3(o)

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- F20** Words in Art. 46(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), **33(1)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 46(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(e)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Art. 46(5A) inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(7)**; S.I. 2021/739, reg. 3(o)
- F23** Words in Art. 46(6) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(f)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in Art. 46(6) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **33(1)(f)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Art. 46(6A)(6B) inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(8)**; S.I. 2021/739, reg. 3(o)
- F26** Art. 46(7) omitted (1.7.2021) by virtue of [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), **Sch. 10 para. 5(9)**; S.I. 2021/739, reg. 3(o)

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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](#)
- Art. 46 para. 6c addition by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46 para. 6b addition by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46 para. 6a addition by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46 para. 2 Point (d) addition by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46 para. 8 addition by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46 para. 5 Unnumbered Paragraph 3 replacement by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46 para. 4 Unnumbered Paragraph 5 replacement by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46 para. 7 replacement by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 46(2)(a) words inserted by [S.I. 2018/1403 reg. 33\(1\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 33(1)(b)(ii) substituted immediately before IP completion day by S.I. 2019/710, regs. 1(2), 16(15)(a)(i))
- Art. 46(2)(a) words inserted by S.I. 2018/1403, reg 33(1)(b)(ii) (as substituted) by [S.I. 2019/710 reg. 16\(15\)\(a\)\(i\)](#) (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)

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.)