

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 I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

- 1 This Regulation establishes uniform requirements in relation to the following:
- a disclosure of trade data to the public;
 - b reporting of transactions to the competent authorities;
 - c trading of derivatives on organised venues;
 - ^{F1}d
 - e product intervention powers of competent authorities ^{F2}... and powers [^{F3}of the competent authority] on position management controls and position limits;
 - f provision of investment services or activities by third-country firms following an applicable equivalence decision by the [^{F4}Treasury] with or without a branch.
- ^{F52} This Regulation applies to—
- a investment firms and credit institutions which have their head office in the United Kingdom which—
 - i (subject to paragraphs 2A and 2C) have permission under Part 4A of FSMA to carry on regulated activities relating to investment services and activities in the United Kingdom, when those firms or institutions are providing investment services or performing investment activities; and
 - ii would require authorisation under Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments (in the case of investment firms) or Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (in the case of credit institutions) (as those directives applied in the European Union immediately before IP completion day) if they had their head offices in an EEA state; and
 - b market operators which have their registered office or head office in the United Kingdom, including any UK trading venues they operate.
- 2A. Subject to paragraph 2B, Titles II, III, IV, V, Article 38, and Title VII and EU tertiary legislation (within the meaning of section 20(1) of the European Union (Withdrawal) Act 2018) made under those provisions also apply to investment firms and credit institutions which have temporary permission to carry on such activities under the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018.
- 2B. Articles 20, 21, 26 and 27 only apply to a firm referred to in paragraph 2A in relation to business of that firm which is carried on through a branch in the United Kingdom.

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2C. This Regulation does not apply to any firm which has permission under Part 4A of FSMA to carry on regulated activities as an exempt investment firm, within the meaning of regulation 8 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.

2D. Subject to paragraph 2E, if—

- a a firm referred to in paragraph 2A complies with a requirement in Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments as it has effect in EU law (“the EEA requirement”) in relation to the services it provides in the United Kingdom; and
- b the EEA requirement has equivalent effect to a requirement in this Regulation as it applies in the United Kingdom (“the UK requirement”),

the firm is to be treated as complying with the UK requirement.

2E. Paragraph 2D does not apply in relation to requirements in Article 23, Title IV, Article 28, Article 29 (so far as that Article applies to CCPs), Article 30, Article 31 or Title VI.]

3 Title V of this Regulation also applies to all financial counterparties as defined in Article 2(8) of Regulation (EU) No 648/2012 and to all non-financial counterparties falling under Article 10(1)(b) of that Regulation.

4 Title VI of this Regulation also applies to CCPs and persons with proprietary rights to benchmarks.

[^{F6}4A Chapter 1 of Title 7 of this Regulation also applies to third-country firms providing investment services or performing investment activities in the United Kingdom.]

5 Title VIII of this Regulation applies to third-country firms providing investment services or activities within the [^{F7}United Kingdom] following an applicable equivalence decision by the [^{F8}Treasury] with or without a branch.

[^{F9}5za. For the purposes of paragraph 1(f) and 5, references to applicable equivalence decisions by the Treasury include references to applicable decisions made by the Commission as they applied immediately before IP completion day.]

[^{F10}5a Title II and Title III of this Regulation shall not apply to securities financing transactions as defined in point (11) of Article 3 of Regulation (EU) 2015/2365 of the European Parliament and of the Council⁽¹⁾.]

6 Articles 8, 10, 18 and 21 shall not apply to regulated markets, market operators and investment firms in respect of a transaction where the counterparty is a member of the European System of Central Banks (ESCB) [^{F11}, the Treasury or the Bank of England (“a relevant organisation”)] and where that transaction is entered into in performance of monetary, foreign exchange and financial stability policy which that [^{F12}relevant organisation] is legally empowered to pursue and where that member has given prior notification to its counterparty that the transaction is exempt.

7 Paragraph 6 shall not apply in respect of transactions entered into by any [^{F13}relevant organisation] in performance of their investment operations.

8 [^{F14}The Bank of England may, after consultation with the FCA, make technical standards specifying] the monetary, foreign exchange and financial stability policy operations and the types of transactions to which paragraphs 6 and 7 apply.

F15 ...

F15 ...

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9 [F16The Treasury may, by regulations extend the scope of paragraph 6 to other central banks.]

F17 ...

F17 ...

Textual Amendments

- F1** Art. 1(1)(d) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 1(1)(e) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(2)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 1(1)(e) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(2)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in Art. 1(1)(f) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 1(2)-(2E) substituted for Art. 1(2) (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(3)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2019/710, regs. 1(2), **16(10)(a)** and S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(f)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Art. 1(4A) inserted (1.7.2021) by [Financial Services Act 2021](#) (c. 22), s. 49(5), **Sch. 10 para. 2**; S.I. 2021/739, reg. 3(o)
- F7** Words in Art. 1(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(4)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Word in Art. 1(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 1(5za) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(5)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(f)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F10** Inserted 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).
- F11** Words in Art. 1(6) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(6)(a)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2019/710, regs. 1(2), **16(10)(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F12** Words in Art. 1(6) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(6)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in Art. 1(7) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(7)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in Art. 1(8) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **25(8)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- F15** Words in Art. 1(8) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **25(8)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in Art. 1(9) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **25(9)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in Art. 1(9) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **25(9)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 2

Definitions

- 1 For the purposes of this Regulation, the following definitions apply:
- (1) ^{F18}“investment firm” has the meaning given in paragraph 1A;
 - (2) “investment services and activities” means any of the services and activities listed in Part 3 of Schedule 2 to the Regulated Activities Order, relating to any of the instruments listed in Part 1 of Schedule 2 to that Order;
 - (3) “ancillary services” means any of the services listed in Part 3A of Schedule 2 to the Regulated Activities Order;
 - (4) “execution of orders on behalf of clients” means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients and includes the conclusion of agreements to sell financial instruments issued by an investment firm or a credit institution at the moment of their issuance;
 - (5) “dealing on own account” means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments;
 - (6) “market maker” means a natural or legal person holding themselves out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against that person's proprietary capital at prices defined by that person;
 - (7) “client” means any natural or legal person to whom an investment firm provides investment or ancillary services;
 - (8) “professional client” means a client who—
 - (a) meets the criteria in Schedule 1 to this Regulation; or
 - (b) is a local public authority or municipality—
 - (i) which has requested to be treated as a professional client; and
 - (ii) in relation to which the investment firm has complied with the applicable requirements set out in Chapter 3.5 of the Conduct of Business sourcebook;
 - (9) “financial instrument” means an instrument specified in Part 1 of Schedule 2 to the Regulated Activities Order;

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- (10) “market operator” means a person who manages or operates the business of a regulated market, and may be the regulated market itself;
- (11) “multilateral system” means any system or facility in which multiple third party buying and selling trading interests in financial instruments are able to interact in the system;
- (12) “systematic internaliser” means an investment firm which—
 - (a) on an organised, frequent, systematic and substantial basis, deals on own account when executing client orders outside a UK regulated market, UK MTF or UK OTF without operating a multilateral system; and
 - (b) either—
 - (i) satisfies the criteria set out in Article 12, 13, 14, 15 or 16 of Commission Delegated Regulation (EU) 2017/565 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, assessed in accordance with Article 17 of that Regulation; or
 - (ii) has chosen to opt in to the systematic internaliser regime;
- (12A) for the purposes of point (12)—
 - (a) the frequent and systematic basis is to be measured by the number of OTC trades in the financial instrument carried out by the investment firm on own account when executing client orders; and
 - (b) the substantial basis is to be measured either by the size of the OTC trading carried out by the investment firm in relation to the total trading of the investment firm in a specific financial instrument or by the size of the OTC trading carried out by the investment firm in relation to the total trading in the relevant area (within the meaning of Article 14(5A)) in a specific financial instrument;
- (13) “regulated market” means a multilateral system operated or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments (in the system and in accordance with its non-discretionary rules) in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules or systems;
- (13A) “UK regulated market” means a regulated market which is a recognised investment exchange under section 285 of FSMA, but not an overseas investment exchange within the meaning of section 313(1) of that Act;
- (13B) “EU regulated market” means a regulated market which is authorised and functions regularly and in accordance with Title III of Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments;
- (14) “multilateral trading facility” or “MTF” means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract;

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- (14A) “UK multilateral trading facility” or “UK MTF” means a multilateral system, operated by a UK investment firm or market operator, which—
- (a) brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract; and
 - (b) complies, as applicable, with—
 - (i) Paragraph 9A of the Schedule to the Recognition Requirements Regulations;
 - (ii) the EU regulations specified in Schedule 2 to this Regulation;
 - (iii) rules made by the competent authority governing the operating conditions of investment firms so far as they apply to MTFs,
 and for the purposes of this definition, an investment firm or market operator is a UK investment firm or market operator if it has its head office in the United Kingdom;
- (14B) “EU multilateral trading facility” or “EU MTF” means a multilateral system, operated by an investment firm or a market operator which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract in accordance with Title II of Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments;
- (15) “organised trading facility” or “OTF” means a multilateral system—
- (a) which is not a regulated market or an MTF; and
 - (b) in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract;
- (15A) “UK organised trading facility” or “UK OTF” means a multilateral system operated by a UK investment firm or market operator—
- (a) which is not a regulated market or an MTF; and
 - (b) in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract, and complies, as applicable, with—
 - (i) Paragraph 9A of the Schedule to the Recognition Requirements Regulations;
 - (ii) the EU regulations specified in Schedule 2 to this Regulation;
 - (iii) rules made by the competent authority governing the operating conditions of investment firms so far as they apply to OTFs;
 and for the purposes of this definition, an investment firm or market operator is a UK investment firm or market operator if it has its head office in the United Kingdom;
- (15B) “EU organised trading facility” or “EU OTF” means a multilateral system—
- (a) which is not a regulated market or an MTF; and

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- (b) in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments;
- (16) “trading venue” means a regulated market, an MTF or an OTF;
- (16A) “UK trading venue” means a UK regulated market, a UK MTF or a UK OTF;
- (16B) “EU trading venue” means an EU regulated market, an EU MTF or an EU OTF;]
- (17) ‘liquid market’ means:
 - (a) for the purposes of Articles 9, 11, and 18, a market for a financial instrument or a class of financial instruments, where there are ready and willing buyers and sellers on a continuous basis, and where the market is assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular financial instrument or of the particular class of financial instruments:
 - (i) the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of financial instrument;
 - (ii) the number and type of market participants, including the ratio of market participants to traded financial instruments in a particular product;
 - (iii) the average size of spreads, where available;
 - (b) for the purposes of Articles 4, 5 and 14, a market for a financial instrument that is traded daily where the market is assessed according to the following criteria:
 - (i) the free float;
 - (ii) the average daily number of transactions in those financial instruments;
 - (iii) the average daily turnover for those financial instruments;
- (18) [^{F19}“competent authority” means the authority designated by regulation 3 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017, or by regulation 17 of the Data Reporting Services Regulations 2017;
- (19) “credit institution” means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account;
- (20) “branch” means a place of business other than the head office which is a part of an investment firm, which has no legal personality and which provides investment services or activities and which may also perform ancillary services for which the investment firm has permission under Part 4A of FSMA or otherwise, or is authorised in its home jurisdiction;
- (21) A person (“A”) has “close links” with another person (“CL”) if—

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- (a) CL is a parent undertaking of A;
 - (b) CL is a subsidiary undertaking of A;
 - (c) CL is a parent undertaking of a subsidiary undertaking of A;
 - (d) CL is a subsidiary undertaking of a parent undertaking of A;
 - (e) CL owns or controls 20% or more of the voting rights or capital of A; or
 - (f) A owns or controls 20% or more of the voting rights or capital of CL, and for the purposes of this paragraph “parent undertaking” and “subsidiary undertaking” have the meanings given in section 1162 of the Companies Act 2006, taken with Schedule 7 to that Act;
- (22) “management body”, in relation to an investment firm, market operator or data reporting services provider, means—
- (a) the board of directors, or if there is no such board, the equivalent body responsible for the management of the firm, operator or provider; or
 - (b) any other person who effectively directs the business of the firm, operator or provider;
- (23) “structured deposit” means a deposit (see point (23A)), which is fully repayable at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as—
- (a) an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as Euribor or Libor;
 - (b) a financial instrument or combination of financial instruments;
 - (c) a commodity or combination of commodities or other physical or non-physical non-fungible assets; or
 - (d) a foreign exchange rate or combination of foreign exchange rates;
- (23A) “deposit” means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where—
- (a) its existence can only be proven by a financial instrument, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which existed in a Member State of the European Union on 2 July 2014;
 - (b) its principal is not repayable at par; or
 - (c) its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party;
- (24) “transferable securities” means those classes of securities which are negotiable on the capital market (with the exception of instruments of payment) such as—

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- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
 - (b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
 - (c) any other securities giving the right to acquire or sell any such securities or giving rise to a cash settlement determined by reference to such securities, currencies, interest rates or yields, commodities or other indices or measures;
- (25) “depositary receipts” means those securities which are negotiable on the capital market and which represent ownership of the securities of a non-domiciled issuer while being able to be admitted to trading on a regulated market and traded independently of the securities of the non-domiciled issuer;
- (25A) “money market instruments” means those classes of instruments which are normally dealt with on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment;
- (26) “exchange-traded fund” or “ETF” means a fund of which at least one unit or share class is traded throughout the day on at least one trading venue and with at least one market maker which takes action to ensure that the price of its units or shares on the trading venue does not vary significantly from its net asset value and, where applicable, from its indicative net asset value;]
- (27) ‘certificates’ means those securities which are negotiable on the capital market and which in case of a repayment of investment by the issuer are ranked above shares but below unsecured bond instruments and other similar instruments;
- (28) ‘structured finance products’ means those securities created to securitise and transfer credit risk associated with a pool of financial assets entitling the security holder to receive regular payments that depend on the cash flow from the underlying assets;
- (29) [^{F20}“derivatives” means those financial instruments defined in point (24)(c) or referred to in paragraphs 4 to 10 of Part 1 of Schedule 2 to the Regulated Activities Order;
- (30) “commodity derivatives” means those financial instruments—
 - (a) defined in point (24)(c);
 - (b) which relate to a commodity or an underlying referred to in paragraph 10 of Part 1 of Schedule 2 to the Regulated Activities Order; or
 - (c) which are referred to in paragraph 5, 6, 7 or 10 of Part 1 of Schedule 2 to that Order;]
- (31) ‘CCP’ means a CCP within the meaning of Article 2(1) of Regulation (EU) No 648/2012;
- (32) ‘exchange-traded derivative’ means a derivative that is traded on a regulated market or on a third-country market considered to be equivalent to a regulated market in accordance with Article 28 of this Regulation, and as such does not fall within the definition of an OTC derivative as defined in Article 2(7) of Regulation (EU) No 648/2012;

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- (33) ‘actionable indication of interest’ means a message from one member or participant to another within a trading system in relation to available trading interest that contains all necessary information to agree on a trade;
- (34) [^{F21}“approved publication arrangement” or “APA” means a person authorised under regulation 10 or 12A of the Data Reporting Services Regulations 2017 to provide the service of publishing trade reports on behalf of investment firms pursuant to Articles 20 and 21 of this Regulation;
- (35) “consolidated tape provider” or “CTP” means a person authorised under regulation 10 or 12A of the Data Reporting Services Regulations 2017 to provide the service of collecting trade reports for financial instruments listed in Articles 6, 7, 10, 12, 13, 20 and 21 of this Regulation from regulated markets, MTFs, OTFs and APAs and consolidating them into a continuous electronic live data stream providing price and volume data per financial instrument;
- (36) “approved reporting mechanism” or “ARM” means a person authorised under regulation 10 or 12A of the Data Reporting Services Regulations 2017 to provide the service of reporting details of transactions to competent authorities on behalf of investment firms;]
- (37) ^{F22} ...
- (38) ^{F22} ...
- (39) ^{F22} ...
- (40) ‘interoperability arrangement’ means an interoperability arrangement as defined in Article 2(12) of Regulation (EU) No 648/2012;
- (41) ‘third-country financial institution’ means an entity, the head office of which is established in a third country, that is authorised or licensed under the law of that third country to carry out any of the services or activities listed in Directive 2013/36/EU, Directive 2014/65/EU; Directive 2009/138/EC of the European Parliament and of the Council⁽²⁾, Directive 2009/65/EC of the European Parliament and of the Council⁽³⁾, Directive 2003/41/EC of the European Parliament and of the Council⁽⁴⁾ or Directive 2011/61/EU of the European Parliament and of the Council⁽⁵⁾;
- (42) [^{F23}“third country firm” means a firm—
 - (a) which is a credit institution providing investment services or performing investment activities or an investment firm; and
 - (b) whose registered office or (if it has no registered office) its head office is located in a third country;]
- (43) ‘wholesale energy product’ means wholesale energy products as defined in Article 2(4) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council⁽⁶⁾;
- (44) ‘agricultural commodity derivatives’ means derivative contracts relating to products listed in Article 1 of, and Annex I, Parts I to XX and XXIV/1 to, Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽⁷⁾;
- (45) ‘liquidity fragmentation’ means a situation in which:

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- (a) participants in a trading venue are unable to conclude a transaction with one or more other participants in that venue because of the absence of clearing arrangements to which all participants have access; or
 - (b) a clearing member or its clients would be forced to hold their positions in a financial instrument in more than one CCP which would limit the potential for the netting of financial exposures;
- (46) [F24]“sovereign debt” means a debt instrument issued by a sovereign issuer;
- (46A) “sovereign issuer” means any of the following which issue debt instruments—
 - (a) the United Kingdom, including a government department, an agency, or a special purpose vehicle of the United Kingdom;
 - (b) a State other than the United Kingdom, including a government department, an agency or a special purpose vehicle of the State;
 - (c) in the case of a federal State, a member of the federation;
 - (d) a special purpose vehicle for several States;
 - (e) an international financial institution established by two or more States which has the purpose of mobilising funding and providing financial assistance for the benefit of those of its members that are experiencing or threatened by severe financing problems;
 - (f) the European Union;
 - (g) the European Investment Bank;
 - (h) the International Finance Corporation;
 - (i) the International Monetary Fund;]
- (47) ‘portfolio compression’ means a risk reduction service in which two or more counterparties wholly or partially terminate some or all of the derivatives submitted by those counterparties for inclusion in the portfolio compression and replace the terminated derivatives with another derivative whose combined notional value is less than the combined notional value of the terminated derivatives[F25;]
- (48) [F10]“exchange for physical” means a transaction in a derivative contract or other financial instrument contingent on the simultaneous execution of an equivalent quantity of an underlying physical asset;
- (49) ‘package order’ means an order priced as a single unit:
 - (a) for the purpose of executing an exchange for physical; or
 - (b) in two or more financial instruments for the purpose of executing a package transaction;
- (50) ‘package transaction’ means:
 - (a) an exchange for physical; or
 - (b) a transaction involving the execution of two or more component transactions in financial instruments and which fulfils all of the following criteria:

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- (i) the transaction is executed between two or more counterparties;
 - (ii) each component of the transaction bears meaningful economic or financial risk related to all the other components;
 - (iii) the execution of each component is simultaneous and contingent upon the execution of all the other components.]
- (51) [F26“the FCA” means the Financial Conduct Authority;
- (52) “the PRA” means the Prudential Regulation Authority;
- (53) the “Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
- (54) “FSMA” means the Financial Services and Markets Act 2000;
- (55) “the Recognition Requirements Regulations” mean the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001;
- (56) the “Markets in Financial Instruments Regulations 2017” means the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017;
- (57) “Regulation (EU) 2017/565” means Commission Delegated Regulation 2017/565/EU supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;
- (58) “Regulation (EU) 2017/567” means Commission Delegated Regulation 2017/567/EU supplementing Regulation 600/2014/EU of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions;
- (59) “Regulation (EU) 2017/575” means Commission Delegated Regulation 2017/575/EU supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions;
- (60) “Regulation (EU) 2017/576” means Commission Delegated Regulation 2017/576/EU supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the annual publication by investment firms of information on the identity of execution venues and on the quality of execution;
- (61) “Directive 2014/65/EU” means Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments and amending Directive [2002/92/EC](#) and Directive 2011/61/EU;
- (61A) [F27“Directive 2013/36/EU” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;]
- (62) unless the context otherwise requires, all references in this Regulation—
 - (a) to a trading venue are to a UK trading venue;
 - (b) to a regulated market are to a UK regulated market;

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- (c) to an MTF are to a UK MTF;
 - (d) to an OTF are to a UK OTF; and
 - (e) to an EU regulated market, EU MTF or EU OTF include EU regulated markets, MTFs and OTFs in EEA countries;
- (63) references to a “third country” (including in expressions including the words “third country”) are, except where the context otherwise requires, to be read as references to a country other than the United Kingdom;
- (64) any reference in this Regulation to a sourcebook or manual is to a sourcebook or manual in the Handbook of Rules and Guidance published by the FCA containing rules made by the FCA under FSMA as the sourcebook or manual has effect on IP completion day;
- (65) any reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA as the rulebook has effect on IP completion day.]

[^{F28}1A

- 1 Subject to point (2), for the purpose of this Regulation, “investment firm” means a person (“P”) whose regular occupation or business is the provision of one or more investment services to third parties or the performance of one or more investment activities on a professional basis.
- 2 If P is not a legal person, P is not an investment firm unless—
 - a P's status ensures a level of protection for third party interests equivalent to that afforded by legal persons;
 - b P is subject to prudential supervision appropriate to P's legal form which is equivalent to that given to legal persons; and
 - c where P provides services involving the holding of third party funds or transferable securities—
 - i the ownership rights of third parties in instruments and funds held by P are safeguarded, especially in the event of—
 - (aa) the insolvency of P's firm or its proprietors; or
 - (bb) seizure, set off or any other action taken by creditors of P's firm or its proprietors;
 - ii P's firm is subject to rules designed to monitor the firm's solvency and that of its proprietors;
 - iii the annual accounts of P's firm are audited by one or more persons authorised under the law applying to the firm to audit accounts; and
 - iv where P is the only proprietor of the firm, P has made provision for the protection of investors if P's firm ceases business following P's death or incapacity or any other such event.
- 3 A person who is an authorised person with permission under Part 4A of FSMA to carry on a regulated activity which is any of the investment services and activities in the United Kingdom satisfies the conditions set out in paragraph (2).]

- 2 [^{F29}The Treasury may by regulations] specify certain technical elements of the definitions laid down in paragraph 1 to adjust them to market developments.

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Textual Amendments

- F10** Inserted 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).
- F18** Art. 2.1(1)-(16B) substituted for Art. 2.1(1)-(16) (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(a)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2019/1212, regs. 1(3), **14(2)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F19** Arts. 2.1(18)-(26) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Art. 2.1(29)(30) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Arts. 2.1(34)-(36) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Art. 2.1(37)-(39) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(e)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F23** Art. 2.1(42) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(f)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Art. 2.1(46)(46A) substituted for Art. 2.1(46) (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(g)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F25** 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).
- F26** Art. 2.1(51)-(65) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(2)(h)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(g)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F27** Art. 2.1(61A) inserted (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 3**; S.I. 2021/739, reg. 3(o)
- F28** Art. 2.1A inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in Art. 2.2 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **26(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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TITLE II

TRANSPARENCY FOR TRADING VENUES

CHAPTER 1

Transparency for equity instruments

Article 3

Pre-trade transparency requirements for trading venues in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments

1 Market operators and investment firms operating a trading venue shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems for shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue. That requirement shall also apply to actionable indication of interests. Market operators and investment firms operating a trading venue shall make that information available to the public on a continuous basis during normal trading hours.

2 The transparency requirements referred to in paragraph 1 shall be calibrated for different types of trading systems including order-book, quote-driven, hybrid and periodic auction trading systems.

3 Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information referred to in paragraph 1 to investment firms which are obliged to publish their quotes in shares, depositary receipts, ETFs, certificates and other similar financial instruments pursuant to Article 14.

Article 4

Waivers for equity instruments

1 ^[F30] The FCA may] waive the obligation for market operators and investment firms operating a trading venue to make public the information referred to in Article 3(1) for:

- a systems matching orders based on a trading methodology by which the price of the financial instrument referred to in Article 3(1) is derived from the trading venue where that financial instrument was first admitted to trading or the most relevant market in terms of liquidity, where that reference price is widely published and is regarded by market participants as a reliable reference price. The continued use of that waiver shall be subject to the conditions set out in Article 5.
- b systems that formalise negotiated transactions which are:
 - (i) made within the current volume weighted spread reflected on the order book or the quotes of the market makers of the trading venue operating that system, subject to the conditions set out in Article 5;
 - (ii) in an illiquid share, depositary receipt, ETF, certificate or other similar financial instrument that does not fall within the meaning of a liquid market, and are dealt within a percentage of a suitable reference price, being a percentage and a reference price set in advance by the system operator; or

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- (iii) subject to conditions other than the current market price of that financial instrument;
 - c orders that are large in scale compared with normal market size;
 - d orders held in an order management facility of the trading venue pending disclosure.
- 2 The reference price referred to in paragraph 1(a) shall be established by obtaining:
- a the midpoint within the current bid and offer prices of the trading venue where that financial instrument was first admitted to trading or the most relevant market in terms of liquidity; or
 - b when the price referred to in point (a) is not available, the opening or closing price of the relevant trading session.

Orders shall only reference the price referred to in point (b) outside the continuous trading phase of the relevant trading session.

- 3 Where trading venues operate systems which formalise negotiated transactions in accordance with paragraph 1(b)(i):
- a those transactions shall be carried out in accordance with the rules of the trading venue;
 - b the trading venue shall ensure that arrangements, systems and procedures are in place to prevent and detect market abuse or attempted market abuse in relation to such negotiated transactions in accordance with Article 16 of Regulation (EU) No 596/2014;
 - c the trading venue shall establish, maintain and implement systems to detect any attempt to use the waiver to circumvent other requirements of this Regulation [^{F31}, Commission Delegated Regulation (EU) 2017/565 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that directive, the Markets in Financial Instruments Regulations 2017 or rules or relevant technical standards made by the FCA] and to report attempts to the [^{F32}FCA][^{F33} (and for these purposes, “relevant technical standards” mean technical standards made by the FCA under this Regulation)].

Where [^{F34}the FCA] grants a waiver in accordance with paragraph 1(b)(i) or (iii), [^{F34}the FCA] shall monitor the use of the waiver by the trading venue to ensure that the conditions for use of the waiver are respected.

[^{F35}4 The FCA must monitor the application of any waivers granted under paragraph 1 and publish an annual report on how they are applied in practice.]

- 5 [^{F36}The FCA] may ^{F37}... withdraw a waiver granted under paragraph 1 as specified under paragraph 6, if it observes that the waiver is being used in a way that deviates from its original purpose or if it believes that the waiver is being used to circumvent the requirements established in this Article.

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...

- 6 [^{F39}The FCA may make] technical standards to specify the following:
- a the range of bid and offer prices or designated market-maker quotes, and the depth of trading interest at those prices, to be made public for each class of financial instrument concerned in accordance with Article 3(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 3(2);
 - b the most relevant market in terms of liquidity of a financial instrument in accordance with paragraph 1(a);

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- c the specific characteristics of a negotiated transaction in relation to the different ways the member or participant of a trading venue can execute such a transaction;
- d the negotiated transactions that do not contribute to price formation which avail of the waiver provided for under paragraph 1(b)(iii);
- e the size of orders that are large in scale and the type and the minimum size of orders held in an order management facility of a trading venue pending disclosure for which pre-trade disclosure may be waived under paragraph 1 for each class of financial instrument concerned;

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Textual Amendments

- F30** Words in Art. 4(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in Art. 4(3)(c) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(b)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Word in Art. 4(3)(c) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(b)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F33** Words in Art. 4(3)(c) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(b)(i)(cc)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in Art. 4(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F35** Art. 4(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F36** Words in Art. 4(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(d)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in Art. 4(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), **27(1)(d)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F38** Words in Art. 4(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), **27(1)(d)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F39** Words in Art. 4(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(e)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F40** Words in Art. 4(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), **27(1)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F41** Art. 4(7) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(1)(f)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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Article 5

Volume Cap Mechanism

1 In order to ensure that the use of the waivers provided for in Article 4(1)(a) and 4(1)(b)(i) does not unduly harm price formation, trading under those waivers is restricted as follows:

- a the percentage of trading in a financial instrument carried out on a trading venue under those waivers shall be limited to 4 % of the total volume of trading in that financial instrument on all trading venues [^{F42}across the relevant area] over the previous 12 months.
- b [^{F43}overall trading in the relevant area] in a financial instrument carried out under those waivers shall be limited to 8 % of the total volume of trading in that financial instrument on all trading venues [^{F44}across the relevant area] over the previous 12 months.

That volume cap mechanism shall not apply to negotiated transactions which are in a share, depositary receipt, ETF, certificate or other similar financial instrument for which there is not a liquid market as determined in accordance with Article 2(1)(17)(b) and are dealt within a percentage of a suitable reference price as referred to in Article 4(1)(b)(ii), or to negotiated transactions that are subject to conditions other than the current market price of that financial instrument as referred to in Article 4(1)(b)(iii).

2 [^{F45}Subject to paragraph 3A] when the percentage of trading in a financial instrument carried out on a trading venue under the waivers [^{F46}appears to the FCA to have exceeded] the limit referred to in paragraph 1(a), [^{F47}the FCA] shall within two working days suspend their use on that venue in that financial instrument based on the data published by [^{F48}the FCA] referred to in paragraph 4, for a period of six months.

3 [^{F49}Subject to paragraph 3A] when the percentage of trading in a financial instrument carried out on all trading venues [^{F50}across the relevant area] under those waivers [^{F51}appears to the FCA to have exceeded] the limit referred to in paragraph 1(b), [^{F52}the FCA] shall within two working days suspend the use of those waivers across [^{F53}the United Kingdom] for a period of six months.

[^{F54}3A. Paragraphs 2 and 3 do not apply during the period (“the transitional period”)—

- a of four years beginning with IP completion day; or
- b ending on the day directed by the Treasury, where this is earlier.

3B. During the transitional period, the FCA may suspend the use of a waiver provided for in Article 4(1)(a) and 4(1)(b)(i) for a period of up to six months to ensure that its use does not unduly harm price formation if the FCA considers it necessary to do so to advance the FCA's integrity objective under section 1D of FSMA.

3C. The FCA may renew a suspension imposed under paragraph 3B at the end of the six-month period referred to in that paragraph if it considers that the conditions which led it to impose a suspension still exist at that date.

3D. In deciding whether to suspend the use of a waiver under paragraph 3B, or to renew a suspension under paragraph 3C, the FCA—

- a must also take into account—
 - i its consumer protection objective and competition objective under sections 1C and 1E of FSMA;

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- ii the thresholds applying under Article 5 of Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments as it has effect in EU law; and
 - iii the most recent information published by ESMA under Article 5(4), 5(5) and 5(6) before IP completion day;
- b may take into account—
 - i any relevant information produced under Article 3, or under equivalent pre-trading transparency requirements in other jurisdictions, about the use of the waiver in the United Kingdom, or under equivalent waiver arrangements in any other country, in relation to the financial instrument; and
 - ii any relevant information available in relation to trading volumes in the financial instrument concerned, whether in the United Kingdom or in any other country.

3E. In deciding whether to issue a direction terminating the transitional period, the Treasury must take into account whether the FCA is able to carry out its functions relating to transparency under this Regulation and its implementing measures (as amended under the European Union (Withdrawal) Act 2018).]

4 [F⁵⁵ After the transitional period, the FCA] shall publish within [F⁵⁶ten working days] of the end of each calendar month, the total volume of [F⁵⁷trading in the relevant area] per financial instrument in the previous 12 months, the percentage of trading in a financial instrument carried out [F⁵⁸across the relevant area] under those waivers and on each trading venue in the previous 12 months, and the methodology that is used to derive those percentages.

5 In the event that the report referred to in paragraph 4 identifies any trading venue where trading in any financial instrument carried out under the waivers has exceeded 3,75 % of the total trading in [F⁵⁹the relevant area] in that financial instrument, based on the previous 12 months' trading, [F⁶⁰the FCA] shall publish an additional report within [F⁶¹ten working days] of the 15th day of the calendar month in which the report referred to in paragraph 4 is published. That report shall contain the information specified in paragraph 4 in respect of those financial instruments where 3,75 % has been exceeded.

6 In the event that the report referred to in paragraph 4 identifies that overall [F⁶²trading in the relevant area] in any financial instrument carried out under the waivers has exceeded 7,75 % of the total [F⁶²trading in the relevant area] in the financial instrument, based on the previous 12 months' trading, [F⁶³the FCA] shall publish an additional report within [F⁶⁴ten working days] of the 15th on the day of the calendar month in which the report referred to in paragraph 4 is published. That report shall contain the information specified in paragraph 4 in respect of those financial instruments where 7,75 % has been exceeded.

7 In order to ensure a reliable basis for monitoring the trading taking place under those waivers and for determining whether the limits referred to in paragraph 1 have been exceeded, operators of trading venues shall be obligated to have in place systems and procedures to:

- a enable the identification of all trades which have taken place on its venue under those waivers; and
- b ensure it does not exceed the permitted percentage of trading allowed under those waivers as referred to in paragraph 1(a) under any circumstances.

8 [F⁶⁵... Without prejudice to Article 4(5), [F⁶⁶the FCA] shall be empowered to suspend the use of those waivers from the date of application of this Regulation and thereafter on a monthly basis.

9 [F⁶⁷ The FCA may make] technical standards to specify the method, including the flagging of transactions, by which it collates, calculates and publishes the transaction data, as

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outlined in paragraph 4, in order to provide an accurate measurement of the total volume of trading per financial instrument and the percentages of trading that use those waivers [^{F68}across the relevant area] and per trading venue.

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10. [^{F70}For the purposes of this Article, “the relevant area” consists of the United Kingdom and those countries or regions specified by the FCA by direction in accordance with Article 50B.

11. The FCA may only give a direction under paragraph 10 specifying that a country or region is in the relevant area in relation to one or more financial instruments for the purposes of this Article if the FCA is able to obtain sufficient reliable trading data to enable it to assess the volume of trading in the financial instruments concerned in that country or region.]

Textual Amendments

- F42** Words in Art. 5(1)(a) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F43** Words in Art. 5(1)(b) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F44** Words in Art. 5(1)(b) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F45** Words in Art. 5(2) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F46** Words in Art. 5(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F47** Words in Art. 5(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(b)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F48** Words in Art. 5(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(b)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F49** Words in Art. 5(3) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F50** Words in Art. 5(3) substituted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F51** Words in Art. 5(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(c)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F52** Words in Art. 5(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(c)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F53** Words in Art. 5(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(2)(c)(v)** (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. (See end of Document for details) View outstanding changes

- F54** Art. 5(3A)-(3E) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(d)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2019/710, regs. 1(2), **16(11)(a)** and S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(h)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F55** Words in Art. 5(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(e)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F56** Words in Art. 5(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F57** Words in Art. 5(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(e)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F58** Words in Art. 5(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(e)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F59** Words in Art. 5(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(f)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F60** Words in Art. 5(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(f)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F61** Words in Art. 5(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(f)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F62** Words in Art. 5(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(g)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F63** Words in Art. 5(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(g)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F64** Words in Art. 5(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(g)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F65** Words in Art. 5(8) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(h)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F66** Words in Art. 5(8) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(h)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F67** Words in Art. 5(9) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F68** Words in Art. 5(9) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F69** Words in Art. 5(9) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(i)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**
- F70** Art. 5(10)(11) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(2)(j)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, **Sch. 5 para. 1(1)**

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Article 6

Post-trade transparency requirements for trading venues in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments

1 Market operators and investment firms operating a trading venue shall make public the price, volume and time of the transactions executed in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on that trading venue. Market operators and investment firms operating a trading venue shall make details of all such transactions public as close to real-time as is technically possible.

2 Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information under paragraph 1 of this Article to investment firms which are obliged to publish the details of their transactions in shares, depositary receipts, ETFs, certificates and other similar financial instruments pursuant to Article 20.

Article 7

Authorisation of deferred publication

1 [F71The FCA] shall be able to authorise market operators and investment firms operating a trading venue to provide for deferred publication of the details of transactions based on their type or size.

In particular, [F72the FCA] may authorise the deferred publication in respect of transactions that are large in scale compared with the normal market size for that share, depositary receipt, ETF, certificate or other similar financial instrument or that class of share, depositary receipt, ETF, certificate or other similar financial instrument.

Market operators and investment firms operating a trading venue shall obtain the [F73FCA's] prior approval of proposed arrangements for deferred trade-publication, and shall clearly disclose those arrangements to market participants and the public. [F74The FCA] shall monitor the application of those arrangements for deferred trade-publication and [F75must publish an annual report on how they are applied in practice.]

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2 [F77The FCA may make] technical standards to specify the following in such a way as to enable the publication of information required [F78under regulation 14 of the Data Reporting Services Regulations 2017]:

- a the details of transactions that investment firms, including systematic internalisers and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 6(1), including identifiers for the different types of transactions published under Article 6(1) and Article 20, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;
- b the time limit that would be deemed in compliance with the obligation to publish as close to real time as possible including when trades are executed outside ordinary trading hours.

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- c the conditions for authorising investment firms, including systematic internalisers and market operators and investment firms operating a trading venue to provide for deferred publication of the details of transactions for each class of financial instruments concerned in accordance with paragraph 1 of this Article and with Article 20(1);
- d the criteria to be applied when deciding the transactions for which, due to their size or the type, including liquidity profile of the share, depositary receipt, ETF, certificate or other similar financial instrument involved, deferred publication is allowed for each class of financial instrument concerned.

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Textual Amendments

- F71** Words in Art. 7(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F72** Words in Art. 7(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F73** Words in Art. 7(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F74** Words in Art. 7(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(a)(iv)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F75** Words in Art. 7(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(a)(iv)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F76** Words in Art. 7(1) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(a)(v)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F77** Words in Art. 7(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(b)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F78** Words in Art. 7(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(b)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F79** Words in Art. 7(2) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(3)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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CHAPTER 2

Transparency for non-equity instruments

Article 8

Pre-trade transparency requirements for trading venues in respect of bonds, structured finance products, emission allowances and derivatives

1 ^[F25] Market operators and investment firms operating a trading venue shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems for bonds, and structured finance products, emission allowances, derivatives traded on a trading venue and package orders.] That requirement shall also apply to actionable indication of interests. Market operators and investment firms operating a trading venue shall make that information available to the public on a continuous basis during normal trading hours. That publication obligation does not apply to those derivative transactions of non-financial counterparties which are objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty or of that group.

2 The transparency requirements referred to in paragraph 1 shall be calibrated for different types of trading systems, including order-book, quote-driven, hybrid, periodic auction trading and voice trading systems.

3 Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information referred to in paragraph 1 to investment firms which are obliged to publish their quotes in bonds, structured finance products, emission allowances and derivatives pursuant to Article 18.

4 Market operators and investment firms operating a trading venue shall, where a waiver is granted in accordance with Article 9(1)(b), make public at least indicative pre-trade bid and offer prices which are close to the price of the trading interests advertised through their systems in bonds, structured finance products, emission allowances and derivatives traded on a trading venue. Market operators and investment firms operating a trading venue shall make that information available to the public through appropriate electronic means on a continuous basis during normal trading hours. Those arrangements shall ensure that information is provided on reasonable commercial terms and on a non-discriminatory basis.

Textual Amendments

F25 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 \(Text with EEA relevance\).](#)

Article 9

Waivers for non-equity instruments

1 ^[F80] The FCA] shall be able to waive the obligation for market operators and investment firms operating a trading venue to make public the information referred to in Article 8(1) for:

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- a orders that are large in scale compared with normal market size and orders held in an order management facility of the trading venue pending disclosure;
- b actionable indications of interest in request-for-quote and voice trading systems that are above a size specific to the financial instrument, which would expose liquidity providers to undue risk and takes into account whether the relevant market participants are retail or wholesale investors;
- c derivatives which are not subject to the trading obligation specified in Article 28 and other financial instruments for which there is not a liquid market^[F25];
- ^[F10]d orders for the purpose of executing an exchange for physical;
- e package orders that meet one of the following conditions:
 - (i) at least one of its components is a financial instrument for which there is not a liquid market, unless there is a liquid market for the package order as a whole;
 - (ii) at least one of its components is large in scale compared with the normal market size, unless there is a liquid market for the package order as a whole;
 - (iii) all of its components are executed on a request-for-quote or voice system and are above the size specific to the instrument.]

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^[F10]2a ^[F82]The FCA] shall be able to waive the obligation referred to in Article 8(1) for each individual component of a package order.]

^[F83]3 The FCA may withdraw a waiver granted under paragraph 1 if it observes that the waiver is being used in a way that deviates from its original purpose or if it considers that the waiver is being used to circumvent the requirements established in this Article.]

4 ^[F84]As] the competent authority responsible for supervising one or more trading venues on which a class of bond, structured finance product, emission allowance or derivative is traded ^[F85]the FCA may], where the liquidity of that class of financial instrument falls below a specified threshold ^[F86]or if paragraph 4A applies], temporarily suspend the obligations referred to in Article 8. The specified threshold shall be defined on the basis of objective criteria specific to the market for the financial instrument concerned. Notification of such temporary suspension shall be published on the website of the ^[F87]FCA].

The temporary suspension shall be valid for an initial period not exceeding three months from the date of its publication on the website of the ^[F88]FCA]. Such a suspension may be renewed for further periods not exceeding three months at a time if the grounds for the temporary suspension continue to be applicable. Where the temporary suspension is not renewed after that three-month period, it shall automatically lapse.

^{F89} ...

^[F90]4A. During the transitional period referred to in Article 5(3A), the FCA may suspend the obligations referred to in Article 8 in relation to a financial instrument or class of financial instrument for a specified period if the FCA considers that it is necessary to do so to advance the FCA's integrity objective under section 1D of FSMA.

4B. In deciding whether to suspend those obligations—

- a the FCA must also take into account—
 - i its consumer protection objective and competition objective under sections 1C and 1E of FSMA; and

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- ii the most recent specified threshold published before IP completion day on the basis of calculations under Article 16 of Commission Delegated Regulation (EU) 2017/583 supplementing Regulation (EU) No 600/2014 on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives;
 - b the FCA may also take into account any other relevant information available in relation to liquidity in the relevant class of financial instrument concerned, whether in the United Kingdom or in any other country.]
- 5 [F91The FCA may make] technical standards to specify the following:
- a the parameters and methods for calculating the threshold of liquidity referred to in paragraph 4 in relation to the financial instrument. The parameters and methods for [F92the FCA] to calculate the threshold shall be set in such a way that when the threshold is reached, it represents a significant decline in liquidity across all venues within [F93the relevant area] for the financial instrument concerned based on the criteria used under Article 2(1)(17);
 - b the range of bid and offer prices or quotes and the depth of trading interests at those prices, or indicative pre-trade bid and offer prices which are close to the price of the trading interest, to be made public for each class of financial instrument concerned in accordance with Article 8(1) and (4), taking into account the necessary calibration for different types of trading systems as referred to in Article 8(2);
 - c the size of orders that are large in scale and the type and the minimum size of orders held in an order management facility pending disclosure for which pre-trade disclosure may be waived under paragraph 1 for each class of financial instrument concerned;
 - d the size specific to the financial instrument referred to in paragraph 1(b) and the definition of request-for-quote and voice trading systems for which pre-trade disclosure may be waived under paragraph 1;

When determining the size specific to the financial instrument that would expose liquidity providers to undue risk and takes into account whether the relevant market participants are retail or wholesale investors, in accordance with paragraph 1(b), [F94the FCA must] take the following factors into account:

- (i) whether, at such sizes, liquidity providers would be able to hedge their risks;
- (ii) where a market in the financial instrument, or a class of financial instruments, consists in part of retail investors, the average value of transactions undertaken by those investors;
- e the financial instruments or the classes of financial instruments for which there is not a liquid market where pre-trade disclosure may be waived under paragraph 1.

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[F965A. For the purposes of this Article, “the relevant area” consists of the United Kingdom and those countries or regions specified by the FCA by direction in accordance with Article 50B.

5B. The FCA may only give a direction under paragraph 5A specifying that a country or region is within the relevant area in relation to one or more financial instruments for the purposes of this Article if the FCA is able to obtain sufficient reliable trading data to enable it to assess the volume of trading in the financial instruments concerned in that country or region.]

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[^{F106} In order to ensure the consistent application of points (i) and (ii) of paragraph (1)(e), [^{F97}the FCA may make] technical standards to establish a methodology for determining those package orders for which there is a liquid market. When developing such methodology for determining whether there is a liquid market for a package order as a whole, [^{F98}the FCA must] assess whether packages are standardised and frequently traded.

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Textual Amendments

- F10** Inserted 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).
- F25** 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).
- F80** Words in Art. 9(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F81** Art. 9(2) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F82** Words in Art. 9(2a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F83** Art. 9(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F84** Word in Art. 9(4) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(e)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F85** Words in Art. 9(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(e)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F86** Words in Art. 9(4) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(e)(i)(cc)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F87** Word in Art. 9(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(e)(i)(dd)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F88** Word in Art. 9(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F89** Words in Art. 9(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), **27(4)(e)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F90** Art. 9(4A)(4B) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(f)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(h)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**

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- F91** Words in Art. 9(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(g)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F92** Words in Art. 9(5)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(g)(ii)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F93** Words in Art. 9(5)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(g)(ii)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F94** Words in Art. 9(5)(d) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(g)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F95** Words in Art. 9(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), **27(4)(g)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F96** Art. 9(5A)(5B) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(h)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F97** Words in Art. 9(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F98** Words in Art. 9(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **27(4)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F99** Words in Art. 9(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), **27(4)(i)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 10

Post-trade transparency requirements for trading venues in respect of bonds, structured finance products, emission allowances and derivatives

1 Market operators and investment firms operating a trading venue shall make public the price, volume and time of the transactions executed in respect of bonds, structured finance products, emission allowances and derivatives traded on a trading venue. Market operators and investment firms operating a trading venue shall make details of all such transactions public as close to real-time as is technically possible.

2 Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information under paragraph 1 to investment firms which are obliged to publish the details of their transactions in bonds, structured finance products, emission allowances and derivatives pursuant to Article 21.

Article 11

Authorisation of deferred publication

1 ^[F100]The FCA] shall be able to authorise market operators and investment firms operating a trading venue to provide for deferred publication of the details of transactions based on the size or type of the transaction.

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In particular, [F¹⁰¹the FCA] may authorise the deferred publication in respect of transactions that:

- a are large in scale compared with the normal market size for that bond, structured finance product, emission allowance or derivative traded on a trading venue, or for that class of bond, structured finance product, emission allowance or derivative traded on a trading venue; or
- b are related to a bond, structured finance product, emission allowance or derivative traded on a trading venue, or a class of bond, structured finance product, emission allowance or derivative traded on a trading venue for which there is not a liquid market;
- c are above a size specific to that bond, structured finance product, emission allowance or derivative traded on a trading venue, or that class of bond, structured finance product, emission allowance or derivative traded on a trading venue, which would expose liquidity providers to undue risk and takes into account whether the relevant market participants are retail or wholesale investors.

Market operators and investment firms operating a trading venue shall obtain the [F¹⁰²FCA's] prior approval of proposed arrangements for deferred trade-publication, and shall clearly disclose those arrangements to market participants and the public. [F¹⁰³The FCA must monitor the application of those arrangements for deferred trade-publication and must publish an annual report on how they are applied in practice.]

2 [F¹⁰⁴As] the competent authority responsible for supervising one or more trading venues on which a class of bond, structured finance product, emission allowance or derivative is traded [F¹⁰⁵the FCA may], where the liquidity of that class of financial instrument falls below the threshold determined in accordance with the methodology as referred to in Article 9(5) (a) [F¹⁰⁶or if paragraph 2A applies], temporarily suspend the obligations referred to in Article 10. That threshold shall be defined based on objective criteria specific to the market for the financial instrument concerned. Such temporary suspension shall be published on the website of the [F¹⁰⁷FCA].

The temporary suspension shall be valid for an initial period not exceeding three months from the date of its publication on the website of the [F¹⁰⁸FCA]. Such a suspension may be renewed for further periods not exceeding three months at a time if the grounds for the temporary suspension continue to be applicable. Where the temporary suspension is not renewed after that three-month period, it shall automatically lapse.

F¹⁰⁹ ...

[F¹¹⁰2A. During the transitional period referred to in Article 5(3A), the FCA may suspend the obligations referred to in Article 10 in relation to a financial instrument or class of financial instrument for a specified period if the FCA considers that it is necessary to do so to advance the FCA's integrity objective under section 1D of FSMA.

2B. In deciding whether to suspend those obligations—

- a the FCA must also take into account—
 - i its consumer protection objective and competition objective under sections 1C and 1E of FSMA; and
 - ii the most recent specified threshold published before IP completion day on the basis of calculations under Article 16 of Commission Delegated Regulation (EU) 2017/583 supplementing Regulation (EU) No 600/2014 on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives;

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- b the FCA may also take into account any relevant information available in relation to liquidity in the relevant class of financial instrument concerned, whether in the United Kingdom or in any other country.]
- 3 [F111The FCA] may, in conjunction with an authorisation of deferred publication:
 - a request the publication of limited details of a transaction or details of several transactions in an aggregated form, or a combination thereof, during the time period of deferral;
 - b allow the omission of the publication of the volume of an individual transaction during an extended time period of deferral;
 - c regarding non-equity instruments that are not sovereign debt, allow the publication of several transactions in an aggregated form during an extended time period of deferral;
 - d regarding sovereign debt instruments, allow the publication of several transactions in an aggregated form for an indefinite period of time.

In relation to sovereign debt instruments, points (b) and (d) may be used either separately or consecutively whereby once the volume omission extended period lapses, the volumes could then be published in aggregated form.

In relation to all other financial instruments, when the deferral time period lapses, the outstanding details of the transaction and all the details of the transactions on an individual basis shall be published.

- 4 [F112The FCA may make] technical standards to specify the following in such a way as to enable the publication of information required under [F113regulation 14 of the Data Reporting Services Regulations 2017]:

- a the details of transactions that investment firms, including systematic internalisers, and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 10(1), including identifiers for the different types of transactions published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;
- b the time limit that would be deemed in compliance with the obligation to publish as close to real time as possible including when trades are executed outside ordinary trading hours;
- c the conditions for authorising investment firms, including systematic internalisers, and market operators and investment firms operating a trading venue, to provide for deferred publication of the details of transactions for each class of financial instrument concerned in accordance with paragraph 1 of this Article and with Article 21(4);
- d the criteria to be applied when determining the size or type of a transaction for which deferred publication and publication of limited details of a transaction, or publication of details of several transactions in an aggregated form, or omission of the publication of the volume of a transaction with particular reference to allowing an extended length of time of deferral for certain financial instruments depending on their liquidity, is allowed under paragraph 3.

F114 ...

F114 ...

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

Textual Amendments

- F100** Words in Art. 11(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F101** Words in Art. 11(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F102** Words in Art. 11(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(a)(iii)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F103** Words in Art. 11(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(a)(iii)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F104** Word in Art. 11(2) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(b)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F105** Words in Art. 11(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(b)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F106** Words in Art. 11(2) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(b)(i)(cc)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F107** Word in Art. 11(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(b)(i)(dd)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F108** Word in Art. 11(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F109** Words in Art. 11(2) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(b)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F110** Art. 11(2A)(2B) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(c)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2019/710, regs. 1(2), **16(11)(b)** and S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(h)(iii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F111** Words in Art. 11(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F112** Words in Art. 11(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(e)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F113** Words in Art. 11(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **27(5)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F114** Words in Art. 11(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), **27(5)(e)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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CHAPTER 3

Obligation to offer trade data on a separate and reasonable commercial basis

Article 12

Obligation to make pre-trade and post-trade data available separately

1 Market operators and investment firms operating a trading venue shall make the information published in accordance with Articles 3, 4 and 6 to 11 available to the public by offering pre-trade and post-trade transparency data separately.

2 [^{F115} The FCA may make] technical standards to specify the offering of pre-trade and post-trade transparency data, including the level of disaggregation of the data to be made available to the public as referred to in paragraph 1.

F116 ...

F116 ...

Textual Amendments

F115 Words in [Art. 12\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(6)(a)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F116 Words in [Art. 12\(2\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(6)(b)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 13

Obligation to make pre-trade and post-trade data available on a reasonable commercial basis

1 Market operators and investment firms operating a trading venue shall make the information published in accordance with Articles 3, 4 and 6 to 11 available to the public on a reasonable commercial basis and ensure non-discriminatory access to the information. Such information shall be made available free of charge 15 minutes after publication.

2 [^{F117} The Treasury may by regulations clarify] what constitutes a reasonable commercial basis to make information public as referred to in paragraph 1.

Textual Amendments

F117 Words in [Art. 13\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **27(7)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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TITLE III

**[^{F118}TRANSPARENCY FOR SYSTEMATIC INTERNALISERS
AND INVESTMENT FIRMS TRADING OTC AND TICK
SIZE REGIME FOR SYSTEMATIC INTERNALISERS]**

Article 14

**Obligation for systematic internalisers to make public firm quotes in respect of
shares, depositary receipts, ETFs, certificates and other similar financial instruments**

1 Investment firms shall make public firm quotes in respect of those shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue for which they are systematic internalisers and for which there is a liquid market.

Where there is not a liquid market for the financial instruments referred to in the first subparagraph, systematic internalisers shall disclose quotes to their clients upon request.

2 This Article and Articles 15, 16 and 17 shall apply to systematic internalisers when they deal in sizes up to standard market size. Systematic internalisers shall not be subject to this Article and Articles 15, 16 and 17 when they deal in sizes above standard market size.

3 Systematic internalisers may decide the size or sizes at which they will quote. The minimum quote size shall be at least the equivalent of 10 % of the standard market size of a share, depositary receipt, ETF, certificate or other similar financial instrument traded on a trading venue. For a particular share, depositary receipt, ETF, certificate or other similar financial instrument traded on a trading venue each quote shall include a firm bid and offer price or prices for a size or sizes which could be up to standard market size for the class of shares, depositary receipts, ETFs, certificates or other similar financial instruments to which the financial instrument belongs. The price or prices shall reflect the prevailing market conditions for that share, depositary receipt, ETF, certificate or other similar financial instrument.

4 Shares, depositary receipts, ETFs, certificates and other similar financial instruments shall be grouped in classes on the basis of the arithmetic average value of the orders executed in the market for that financial instrument. The standard market size for each class of shares, depositary receipts, ETFs, certificates and other similar financial instruments shall be a size representative of the arithmetic average value of the orders executed in the market for the financial instruments included in each class.

5 The market for each share, depositary receipt, ETF, certificate or other similar financial instrument shall be comprised of all orders executed in the [^{F119}relevant area] in respect of that financial instrument excluding those that are large in scale compared to normal market size.

[^{F120}5A. For the purposes of this Article—

- a “the relevant area” consists of the United Kingdom and those countries or regions specified by the FCA by direction in accordance with Article 50B;
- b the FCA may only give a direction under point (a) specifying that a country or region is within the relevant area in relation to one or more financial instruments for the purposes of this Article if the FCA is able to obtain sufficient reliable trading data to enable it to assess total orders executed in the financial instruments concerned in that country or region.]

6 [^{F121}Unless paragraph 6A applies][^{F122}the FCA]^{F123}... shall determine at least annually, on the basis of the arithmetic average value of the orders executed in the market in respect

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of [^{F124}each share, depositary receipt, ETF, certificate and other similar financial instrument], the class to which it belongs. That information shall be made public to all market participants [^{F125}and published by the FCA] on its website.

[^{F126}6A. During the transitional period referred to in Article 5(3A), the FCA may determine the class of each share, depositary receipt, ETF, certificate and other similar financial instruments otherwise than on the basis of the arithmetic average value of the orders executed in the market in that instrument, if the FCA considers that it is necessary to do so to advance the FCA's integrity objective under section 1D of FSMA.

6B. In determining the class of a financial instrument as referred to in paragraph 6A—

- a the FCA must have regard to—
 - i its consumer protection objective and competition objective under sections 1C and 1E of FSMA; and
 - ii the most recent classes determined for the financial instruments in question before IP completion day;
- b the FCA may also take into account any relevant information available in relation to the value of the orders executed in relation to the financial instrument in question in the United Kingdom or in any other country.

6C. If the FCA does not determine the class of a financial instrument during the transitional period in accordance with paragraphs 6A and 6B, the class determined for that financial instrument (if any) before IP completion day must continue to apply.]

7 In order to ensure the efficient valuation of shares, depositary receipts, ETFs, certificates and other similar financial instruments and maximise the possibility of investment firms to obtain the best deal for their clients, [^{F127}the FCA may make] technical standards to specify further the arrangements for the publication of a firm quote as referred to in paragraph 1, the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3, and of the standard market size as referred to in paragraphs 2 and 4.

F128

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F128

...

Textual Amendments

- F119** Words in Art. 14(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F120** Art. 14(5A) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F121** Words in Art. 14(6) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(1)(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F122** Words in Art. 14(6) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(1)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F123** Words in Art. 14(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), **28(1)(c)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- F124** Words in Art. 14(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(1)(c)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F125** Words in Art. 14(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(1)(c)(v)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F126** Art. 14(6A)-(6C) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(1)(d)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(i)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F127** Words in Art. 14(7) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(1)(e)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F128** Words in Art. 14(7) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(1)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 15

Execution of client orders

1 Systematic internalisers shall make public their quotes on a regular and continuous basis during normal trading hours. They may update their quotes at any time. They shall be allowed, under exceptional market conditions, to withdraw their quotes.

[^{F129}Firms that meet the definition of systematic internaliser must notify the FCA in accordance with the rules of that authority. The FCA must publish a list of the systematic internalisers in the United Kingdom for which it has received notifications.]

The quotes shall be made public in a manner which is easily accessible to other market participants on a reasonable commercial basis.

2 Systematic internalisers shall, while complying with [^{F130}the rules in section 11.2A of the Conduct of Business sourcebook, Articles 64 to 66 of Regulation (EU) 2017/565, Regulation (EU) 2017/575 and Regulation (EU) 2017/576], execute the orders they receive from their clients in relation to the shares, depositary receipts, ETFs, certificates and other similar financial instruments for which they are systematic internalisers at the quoted prices at the time of reception of the order.

However, in justified cases, they may execute those orders at a better price provided that the price falls within a public range close to market conditions.

3 Systematic internalisers may execute orders they receive from their professional clients at prices different than their quoted ones without having to comply with the requirements established in paragraph 2, in respect of transactions where execution in several securities is part of one transaction or in respect of orders that are subject to conditions other than the current market price.

4 Where a systematic internaliser quoting only one quote or whose highest quote is lower than the standard market size receives an order from a client of a size bigger than its quotation size, but lower than the standard market size, it may decide to execute that part of the order which exceeds its quotation size, provided that it is executed at the quoted price, except where otherwise permitted under the conditions laid down in paragraphs 2 and 3. Where the systematic internaliser is quoting in different sizes and receives an order between those sizes, which it chooses to execute, it shall execute the order at one of the quoted prices in compliance

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with ^{F131}rules 11.3.1, 11.4.1, 11.4.4A and 11.4.5 of the Conduct of Business sourcebook, and Articles 67 to 70 of Regulation (EU) 2017/565], except where otherwise permitted under the conditions of paragraphs 2 and 3 of this Article.

5 ^{F132} The Treasury may by regulations clarify] what constitutes a reasonable commercial basis to make quotes public as referred to in paragraph 1.

Textual Amendments

- F129** Words in Art. 15(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F130** Words in Art. 15(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F131** Words in Art. 15(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F132** Words in Art. 15(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 16

Obligations of competent authorities

The ^{F133}competent authority] shall check the following:

- (a) that investment firms regularly update bid and offer prices published in accordance with Article 14 and maintain prices which reflect the prevailing market conditions;
- (b) that investment firms comply with the conditions for price improvement laid down in Article 15(2).

Textual Amendments

- F133** Words in Art. 16 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 17

Access to quotes

1 Systematic internalisers shall be allowed to decide, on the basis of their commercial policy and in an objective non-discriminatory way, the clients to whom they give access to their quotes. To that end there shall be clear standards for governing access to their quotes. Systematic internalisers may refuse to enter into or discontinue business relationships with clients on the basis of commercial considerations such as the client credit status, the counterparty risk and the final settlement of the transaction.

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

2 In order to limit the risk of exposure to multiple transactions from the same client, systematic internalisers shall be allowed to limit in a non-discriminatory way the number of transactions from the same client which they undertake to enter at the published conditions. They may, in a non-discriminatory way and in accordance with [F134] rules 11.3.1, 11.4.1, 11.4.4A and 11.4.5 of the Conduct of Business sourcebook, and Articles 67 to 70 of Regulation (EU) 2017/565], limit the total number of transactions from different clients at the same time provided that this is allowable only where the number and/or volume of orders sought by clients considerably exceeds the norm.

3 In order to ensure the efficient valuation of shares, depositary receipts, ETFs, certificates and other similar financial instruments and maximise the possibility for investment firms to obtain the best deal for their clients, [F135] the Treasury may by regulations specify]:

- a the criteria specifying when a quote is published on a regular and continuous basis and is easily accessible as referred to in Article 15(1) as well as the means by which investment firms may comply with their obligation to make public their quotes, which shall include the following possibilities:
 - (i) through the facilities of any regulated market which has admitted the financial instrument in question to trading;
 - (ii) through an APA;
 - (iii) through proprietary arrangements;
- b the criteria specifying those transactions where execution in several securities is part of one transaction or those orders that are subject to conditions other than current market price as referred to in Article 15(3);
- c the criteria specifying what can be considered as exceptional market conditions that allow for the withdrawal of quotes as well as the conditions for updating quotes as referred to in Article 15(1);
- d the criteria specifying when the number and/or volume of orders sought by clients considerably exceeds the norm as referred to in paragraph 2.
- e the criteria specifying when prices fall within a public range close to market conditions as referred to in Article 15(2).

Textual Amendments

F134 Words in Art. 17(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(4)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F135 Words in Art. 17(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F136] Article 17a

Tick sizes

Systematic internalisers' quotes, price improvements on those quotes and execution prices shall comply with tick sizes set in accordance with [F137] paragraph 3G of Schedule 1 to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories)

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

Regulations 2001, as if that paragraph applied to the systemic internaliser in the course of its operations as such and sub-paragraph (1A) were omitted].

Application of tick sizes shall not prevent systematic internalisers matching orders large in scale at mid#point within the current bid and offer prices.]

Textual Amendments

- F136** Inserted by Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (Text with EEA relevance).
- F137** Words in Art. 17a substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(4A)** (with savings in S.I. 2019/680, reg. **11**) (as inserted by S.I. 2020/1385, regs. 1(4), **49(3)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 18

Obligation for systematic internalisers to make public firm quotes in respect of bonds, structured finance products, emission allowances and derivatives

1 Investment firms shall make public firm quotes in respect of bonds, structured finance products, emission allowances and derivatives traded on a trading venue for which they are systematic internalisers and for which there is a liquid market when the following conditions are fulfilled:

- a they are prompted for a quote by a client of the systematic internaliser;
- b they agree to provide a quote.

2 In relation to bonds, structured finance products, emission allowances and derivatives traded on a trading venue for which there is not a liquid market, systematic internalisers shall disclose quotes to their clients on request if they agree to provide a quote. That obligation may be waived where the conditions specified in Article 9(1) are met.

3 Systematic internalisers may update their quotes at any time. They may withdraw their quotes under exceptional market conditions.

[^{F138}4 Firms which meet the definition of systematic internaliser must notify the FCA in accordance with the rules of that authority. The FCA must publish a list of the systematic internalisers in the United Kingdom for which it has received notifications.]

5 Systematic internalisers shall make the firm quotes published in accordance with paragraph 1 available to their other clients. Notwithstanding, they shall be allowed to decide, on the basis of their commercial policy and in an objective non-discriminatory way, the clients to whom they give access to their quotes. To that end, systematic internalisers shall have in place clear standards for governing access to their quotes. Systematic internalisers may refuse to enter into or discontinue business relationships with clients on the basis of commercial considerations such as the client credit status, the counterparty risk and the final settlement of the transaction.

6 Systematic internalisers shall undertake to enter into transactions under the published conditions with any other client to whom the quote is made available in accordance with paragraph 5 when the quoted size is at or below the size specific to the financial instrument determined in accordance with Article 9(5)(d).

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

Systematic internalisers shall not be subject to the obligation to publish a firm quote pursuant to paragraph 1 for financial instruments that fall below the threshold of liquidity determined in accordance with Article 9(4).

7 Systematic internalisers shall be allowed to establish non-discriminatory and transparent limits on the number of transactions they undertake to enter into with clients pursuant to any given quote.

8 The quotes published pursuant to paragraph 1 and 5 and those at or below the size referred to in paragraph 6 shall be made public in a manner which is easily accessible to other market participants on a reasonable commercial basis.

9 The quoted price or prices shall be such as to ensure that the systematic internaliser complies with its obligations under [F139]section 11.2A of the Conduct of Business sourcebook, Articles 64 to 66 of Regulation (EU) 2017/565, Regulation (EU) 2017/575 and Regulation (EU) 2017/576], where applicable, and shall reflect prevailing market conditions in relation to prices at which transactions are concluded for the same or similar financial instruments on a trading venue.

However, in justified cases, they may execute orders at a better price provided that the price falls within a public range close to market conditions.

10 Systematic internalisers shall not be subject to this Article when they deal in sizes above the size specific to the financial instrument determined in accordance with Article 9(5)(d).

[F1011 In respect of a package order and without prejudice to paragraph 2, the obligations in this Article shall only apply to the package order as a whole and not to any component of the package order separately.]

Textual Amendments

F10 Inserted 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).

F138 Art. 18(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(5)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F139 Words in Art. 18(9) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(5)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 19

Monitoring by [F140 the competent authority]

1 [F141The competent authority] shall monitor the application of Article 18 regarding the sizes at which quotes are made available to clients of the investment firm and to other market participants relative to other trading activity of the firm, and the degree to which the quotes reflect prevailing market conditions in relation to transactions in the same or similar financial instruments on a trading venue. F142...

2 [F143 The Treasury may by regulations specify] the sizes referred to in Article 18(6) at which a firm shall enter into transactions with any other client to whom the quote is made

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available. The size specific to the financial instrument shall be determined in accordance with the criteria set in Article 9(5)(d).

3 ^[F144]The Treasury may by regulations specify] what constitutes a reasonable commercial basis to make quotes public as referred to in Article 18(8).

Textual Amendments

- F140** Words in [Art. 19](#) heading substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(6)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F141** Words in [Art. 19\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(6)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F142** Words in [Art. 19\(1\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(6)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F143** Words in [Art. 19\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(6)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F144** Words in [Art. 19\(3\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(6)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 20

Post-trade disclosure by investment firms, including systematic internalisers, in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments

1 Investment firms which, either on own account or on behalf of clients, conclude transactions in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, shall make public the volume and price of those transactions and the time at which they were concluded. That information shall be made public through an APA.

2 The information which is made public in accordance with paragraph 1 of this Article and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 6, including the regulatory technical standards adopted in accordance with Article 7(2)(a). Where the measures adopted pursuant to Article 7 provide for deferred publication for certain categories of transaction in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, that possibility shall also apply to those transactions when undertaken outside trading venues.

- 3 ^[F145]The FCA may make] technical standards to specify the following:
- a identifiers for the different types of transactions published under this Article, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;
 - b the application of the obligation under paragraph 1 to transactions involving the use of those financial instruments for collateral, lending or other purposes where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument;

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- c the party to a transaction that has to make the transaction public in accordance with paragraph 1 if both parties to the transaction are investment firms.

F146
...

F146
...

Textual Amendments

F145 Words in Art. 20(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **28(7)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F146 Words in Art. 20(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), **28(7)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 21

Post-trade disclosure by investment firms, including systematic internalisers, in respect of bonds, structured finance products, emission allowances and derivatives

1 Investment firms which, either on own account or on behalf of clients, conclude transactions in bonds, structured finance products, emission allowances and derivatives traded on a trading venue shall make public the volume and price of those transactions and the time at which they were concluded. That information shall be made public through an APA.

2 Each individual transaction shall be made public once through a single APA.

3 The information which is made public in accordance with paragraph 1 and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 10, including the regulatory technical standards adopted in accordance with Article 11(4) (a) and (b).

4 ^[F147]The competent authority] shall be able to authorise investment firms to provide for deferred publication, or may request the publication of limited details of a transaction or details of several transactions in an aggregated form, or a combination thereof, during the time period of the deferral or may allow the omission of the publication of the volume for individual transactions during an extended time period of deferral, or in the case of non-equity financial instruments that are not sovereign debt, may allow the publication of several transactions in an aggregated form during an extended time period of deferral, or in the case of sovereign debt instruments may allow the publication of several transactions in an aggregated form for an indefinite period of time, and may temporarily suspend the obligations referred to in paragraph 1 on the same conditions as laid down in Article 11.

Where the measures adopted pursuant to Article 11 provide for deferred publication and publication of limited details or details in an aggregated form, or a combination thereof, or for omission of the publication of the volume for certain categories of transactions in bonds, structured finance products, emission allowances and derivatives traded on a trading venue, that possibility shall also apply to those transactions when undertaken outside trading venues.

^[F148]4A. During the transitional period referred to in Article 5(3A), the FCA may suspend the obligations referred to in Article 21(1) in relation to a specified class of financial instruments as described in paragraph 4 for a specified period otherwise than on the conditions laid down

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in Article 11 if the FCA considers that it is necessary to do so to advance the FCA's integrity objective under section 1D of FSMA.

- 4B. In deciding whether to suspend those obligations—
- a the FCA must also take into account—
 - i its consumer protection objective and competition objective under sections 1C and 1E of FSMA; and
 - ii the most recent specified threshold published before IP completion day on the basis of calculations under Article 16 of Commission Delegated Regulation (EU) 2017/583 supplementing Regulation (EU) No 600/2014 on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives;
 - b the FCA may also take into account any other relevant information available in relation to liquidity in the relevant class of financial instrument concerned, whether in the United Kingdom or in any other country.]

5 [F¹⁴⁹ The FCA may make] technical standards in such a way as to enable the publication of information required under [F¹⁵⁰ regulation 14 of the Data Reporting Services Regulations 2017] to specify the following:

- a the identifiers for the different types of transactions published in accordance with this Article, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;
- b the application of the obligation under paragraph 1 to transactions involving the use of those financial instruments for collateral, lending or other purposes where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument;
- c the party to a transaction that has to make the transaction public in accordance with paragraph 1 if both parties to the transaction are investment firms.

F151 ...

F151 ...

Textual Amendments

- F147** Words in Art. 21(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(8)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F148** Art. 21(4A)(4B) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(8)(b)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(i)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F149** Words in Art. 21(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(8)(c)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F150** Words in Art. 21(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(8)(c)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F151** Words in Art. 21(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), **28(8)(c)(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. (See end of Document for details) View outstanding changes

Article 22

Providing information for the purposes of transparency and other calculations

1 In order to carry out calculations for determining the requirements for the pre-trade and post-trade transparency and the trading obligation regimes imposed by Articles 3 to 11, Articles 14 to 21 and Article 32, which are applicable to financial instruments and for determining whether an investment firm is a systematic internaliser, [^{F152}the competent authority] may require information from:

- a trading venues;
- b APAs; and
- c CTPs.

2 Trading venues, APAs and CTPs shall store the necessary data for a sufficient period of time.

^{F153}3

4 [^{F154}The FCA may make] technical standards to specify the content and frequency of data requests and the formats and the timeframe in which trading venues, APAs and CTPs must respond to such requests in accordance with paragraph 1, the type of data that must be stored, and the minimum period of time for which trading venues, APAs and CTPs must store data in order to be able to respond to such requests in accordance with paragraph 2.

^{F155} ...

^{F155} ...

Textual Amendments

F152 Words in Art. 22(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **28(9)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F153 Art. 22(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), **28(9)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F154 Words in Art. 22(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **28(9)(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F155 Words in Art. 22(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), **28(9)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 23

Trading obligation for investment firms

1 An investment firm shall ensure the trades it undertakes in shares admitted to trading on a regulated market or traded on a trading venue shall take place on a regulated market, MTF or [^{F156}UK] systematic internaliser, or a third-country trading venue assessed as equivalent [^{F157}by the Commission in accordance with Article 25(4)(a) of Directive 2014/65/EU before IP

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

completion day, or specified as equivalent in regulations made by the Treasury under paragraph 8 of Schedule 3 on or after IP completion day], as appropriate, unless their characteristics include that they:

- a are non-systematic, ad-hoc, irregular and infrequent; or
- b are carried out between eligible and/or professional counterparties and do not contribute to the price discovery process.

[^{F158}1A. For the purposes of paragraph 1, a ‘UK systematic internaliser’ is a systematic internaliser which—

- a has its head office in the United Kingdom, or
- b operates through a branch in the United Kingdom.]

2 An investment firm that operates an internal matching system which executes client orders in shares, depositary receipts, ETFs, certificates and other similar financial instruments on a multilateral basis must ensure it [^{F159}has permission to operate a multilateral trading facility under Part 4A of FSMA] and comply with all relevant provisions pertaining to [^{F160}such permissions].

3 [^{F161}The FCA may make] technical standards to specify the particular characteristics of those transactions in shares that do not contribute to the price discovery process as referred to in paragraph 1, taking into consideration cases such as:

- a non-addressable liquidity trades; or
- b where the exchange of such financial instruments is determined by factors other than the current market valuation of the financial instrument.

^{F162} ...

^{F162} ...

[^{F163}4. The Treasury may only specify a third country trading venue as equivalent for the purposes of paragraph 1 if it is satisfied that the legal and supervisory framework of the third country in question ensures that a trading venue authorised in that country—

- a complies with legally binding requirements equivalent to the requirements resulting from Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse, Title II of this Regulation, provisions of the law of the United Kingdom relied on by the United Kingdom before IP completion day to implement Title III of Directive 2014/65/EU and Directive [2004/109/EC](#) of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; and
- b is subject to effective supervision and enforcement in that third country.

5. For the purpose of paragraph 4, a third-country legal and supervisory framework may be considered equivalent where that framework fulfils at least the following conditions—

- a the markets are subject to authorisation and to effective supervision and enforcement on an ongoing basis;
- b the markets have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable;
- c security issuers are subject to periodic and ongoing information requirements ensuring a high level of investor protection; and
- d market transparency and integrity are ensured by the prevention of market abuse in the form of insider dealing and market manipulation.

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

6. For the purposes of paragraph 4, references to requirements resulting from provisions of the law of the United Kingdom relied upon before IP completion day to implement Title III of Directive 2014/65/EU and Directive 2004/109/EC are to those requirements as they apply on the day on which regulations are made by the Treasury under this Article.]

Textual Amendments

- F156** Word in Art. 23(1) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(10)(a)(i)** (as inserted by S.I. 2019/1390, regs. 1(4), **9(2)(a)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F157** Words in Art. 23(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(10)(a)(ii)** (as amended by S.I. 2019/1390, regs. 1(3), **9(2)(a)(ii)** and S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(i)(iii)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F158** Art. 23(1A) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(10)(aa)** (as inserted by S.I. 2019/1390, regs. 1(4), **9(2)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F159** Words in Art. 23(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(10)(b)(i)** (as amended by S.I. 2019/710, regs. 1(2), 16(12)); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F160** Words in Art. 23(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(10)(b)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**)
- F161** Words in Art. 23(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(10)(c)(i)**; 2020 c. 1, **Sch. 5 para. 1(1)**)
- F162** Words in Art. 23(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), **28(10)(c)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**)
- F163** Art. 23(4)-(6) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **28(10)(d)** (as amended by S.I. 2019/1212, regs. 1(3), **14(3)** and S.I. 2020/1301, regs. 1, 3, **Sch. para. 12(i)(iv)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Textual Amendments

- F118** Substituted by Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (Text with EEA relevance).

TITLE IV

TRANSACTION REPORTING

Article 24

Obligation to uphold integrity of markets

[^{F164} The FCA] shall monitor the activities of investment firms to ensure that they act honestly, fairly and professionally and in a manner which promotes the integrity of the market.

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

Textual Amendments

F164 Words in Art. 24 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **29(1)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 25

Obligation to maintain records

1 Investment firms shall keep at the disposal of the competent authority, for five years, the relevant data relating to all orders and all transactions in financial instruments which they have carried out, whether on own account or on behalf of a client. In the case of transactions carried out on behalf of clients, the records shall contain all the information and details of the identity of the client, and the information required under ^{F165}the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017]. ^{F166}...

2 The operator of a trading venue shall keep at the disposal of the competent authority, for at least five years, the relevant data relating to all orders in financial instruments which are advertised through their systems. The records shall contain the relevant data that constitute the characteristics of the order, including those that link an order with the executed transaction(s) that stems from that order and the details of which shall be reported in accordance with Article 26(1) and (3). ^{F167}...

3 ^{F168}[The FCA may make] technical standards to specify the details of the relevant order data required to be maintained under paragraph 2 of this Article that is not referred to in Article 26.

Those ^{F169}... technical standards shall include the identification code of the member or participant which transmitted the order, the identification code of the order, the date and time the order was transmitted, the characteristics of the order, including the type of order, the limit price if applicable, the validity period, any specific order instructions, details of any modification, cancellation, partial or full execution of the order, the agency or principal capacity.

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Textual Amendments

F165 Words in Art. 25(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **29(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F166 Words in Art. 25(1) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **29(2)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F167 Words in Art. 25(2) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **29(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F168 Words in Art. 25(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **29(2)(c)(i)** (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. (See end of Document for details) View outstanding changes

F169 Words in Art. 25(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), **29(2)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F170 Words in Art. 25(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), **29(2)(c)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 26

Obligation to report transactions

1 Investment firms which execute transactions in financial instruments shall report complete and accurate details of such transactions to the competent authority as quickly as possible, and no later than the close of the following working day.

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F171 ...

2 The obligation laid down in paragraph 1 shall apply to:

- a financial instruments which are admitted to trading or traded on a [^{F172}UK, Gibraltar or EU trading venue] or for which a request for admission to trading has been made;
- b financial instruments where the underlying is a financial instrument traded on a [^{F172}UK, Gibraltar or EU trading venue]; and
- c financial instruments where the underlying is an index or a basket composed of financial instruments traded on a [^{F172}UK, Gibraltar or EU trading venue].

The obligation shall apply to transactions in financial instruments referred to in points (a) to (c) irrespective of whether or not such transactions are carried out on the [^{F172}UK, Gibraltar or EU trading venue].

3 The reports shall, in particular, include details of the names and numbers of the financial instruments bought or sold, the quantity, the dates and times of execution, the transaction prices, a designation to identify the clients on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the applicable waiver under which the trade has taken place, means of identifying the investment firms concerned, and a designation to identify a short sale as defined in Article 2(1)(b) of Regulation (EU) No 236/2012 in respect of any shares and sovereign debt within the scope of Articles 12, 13 and 17 of that Regulation. For transactions not carried out on a trading venue, the reports shall include a designation identifying the types of transactions in accordance with the measures to be adopted pursuant to Article 20(3)(a) and Article 21(5)(a). For commodity derivatives, the reports shall indicate whether the transaction reduces risk in an objectively measurable way in accordance with [^{F173}Part 3 of the Markets in Financial Instruments Regulations 2017].

4 Investment firms which transmit orders shall include in the transmission of that order all the details as specified in paragraphs 1 and 3. Instead of including the mentioned details when transmitting orders, an investment firm may choose to report the transmitted order, if it is executed, as a transaction in accordance with the requirements under paragraph 1. In that case, the transaction report by the investment firm shall state that it pertains to a transmitted order.

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

5 The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by a firm which is not subject to this Regulation in accordance with paragraphs 1 and 3.

6 In reporting the designation to identify the clients as required under paragraphs 3 and 4, investment firms shall use a legal entity identifier established to identify clients that are legal persons.

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7 The reports shall be made to the competent authority either by the investment firm itself, an ARM acting on its behalf or by the trading venue through whose system the transaction was completed, in accordance with paragraphs 1, 3 and 9.

Investment firms shall have responsibility for the completeness, accuracy and timely submission of the reports which are submitted to the competent authority.

By way of derogation from that responsibility, where an investment firm reports details of those transactions through an ARM which is acting on its behalf or a trading venue, the investment firm shall not be responsible for failures in the completeness, accuracy or timely submission of the reports which are attributable to the ARM or trading venue. In those cases and subject to [F175 regulation 16(3)(d) of the Data Reporting Services Regulations] the ARM or trading venue shall be responsible for those failures.

Investment firms must nevertheless take reasonable steps to verify the completeness, accuracy and timeliness of the transaction reports which were submitted on their behalf.

[F176 The FCA] shall require the trading venue, when making reports on behalf of the investment firm, to have sound security mechanisms in place designed to guarantee the security and authentication of the means of transfer of information, to minimise the risk of data corruption and unauthorised access and to prevent information leakage maintaining the confidentiality of the data at all times. [F176 The FCA] shall require the trading venue to maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.

Trade-matching or reporting systems, including trade repositories registered or recognised in accordance with Title VI of Regulation (EU) No 648/2012, may be approved by the competent authority as an ARM in order to transmit transaction reports to the competent authority in accordance with paragraphs 1, 3 and 9.

Where transactions have been reported to a trade repository in accordance with Article 9 of Regulation (EU) No 648/2012 which is approved as an ARM and where those reports contain the details required under paragraphs 1, 3 and 9 and are transmitted to the competent authority by the trade repository within the time limit set in paragraph 1, the obligation on the investment firm laid down in paragraph 1 shall be considered to have been complied with.

Where there are errors or omissions in the transaction reports, the ARM, investment firm or trading venue reporting the transaction shall correct the information and submit a corrected report to the competent authority.

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9 [F178 The FCA may make] technical standards to specify:

- a data standards and formats for the information to be reported in accordance with paragraphs 1 and 3, including the methods and arrangements for reporting financial transactions and the form and content of such reports;

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- ^{F179}b
- c the references of the financial instruments bought or sold, the quantity, the dates and times of execution, the transaction prices, the information and details of the identity of the client, a designation to identify the clients on whose behalf the investment firm has executed that transaction, a designation to identify the persons and the computer algorithms within the investment firm responsible for the investment decision and the execution of the transaction, a designation to identify the applicable waiver under which the trade has taken place, the means of identifying the investment firms concerned, the way in which the transaction was executed, data fields necessary for the processing and analysis of the transaction reports in accordance with paragraph 3; and
 - d the designation to identify short sales of shares and sovereign debt as referred to in paragraph 3;
 - e the relevant categories of financial instrument to be reported in accordance with paragraph 2;
 - f the conditions upon which legal entity identifiers are developed, attributed and maintained, by [^{F180}the United Kingdom] in accordance with paragraph 6, and the conditions under which those legal entity identifiers are used by investment firms so as to provide, pursuant to paragraphs 3, 4 and 5, for the designation to identify the clients in the transaction reports they are required to establish pursuant to paragraph 1;
 - g the application of transaction reporting obligations to branches of investment firms;
 - h what constitutes a transaction and execution of a transaction for the purposes of this Article.
 - i when an investment firm is deemed to have transmitted an order for the purposes of paragraph 4.

^{F181} ...

^{F181} ...

10 By [^{F253} January 2020], [^{F182}the FCA must publish a report] on the functioning of this Article, including its interaction with the related reporting obligations under Regulation (EU) No 648/2012, and whether the content and format of transaction reports ^{F183}... comprehensively enables monitoring of the activities of investment firms in accordance with Article 24 of this Regulation. ^{F184}...

[^{F185}11. For the purposes of paragraph 2—

- a ‘Gibraltar trading venue’ means a Gibraltar regulated market, a Gibraltar multilateral trading facility or a Gibraltar organised trading facility;
- b for the purposes of subparagraph (a)—
 - i ‘Gibraltar regulated market’ means a regulated market which is authorised and functions regularly and in accordance with Part 3 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar (as amended from time to time);
 - ii ‘Gibraltar multilateral trading facility’ means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar (as amended from time to time);
 - iii ‘Gibraltar organised trading facility’ means a multilateral system—
 - aa which is not a regulated market or an MTF;

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bb in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract, in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar (as amended from time to time).]

Textual Amendments

- F25** 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).
- F171** Words in Art. 26(1) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F172** Words in Art. 26(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(b)** (as amended by S.I. 2019/710, regs. 1(2), **16(13)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F173** Words in Art. 26(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F174** Words in Art. 26(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), **29(3)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F175** Words in Art. 26(7) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(e)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F176** Words in Art. 26(7) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(e)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F177** Art. 26(8) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(f)**; 2020 c. 1, Sch. 5 para. 1(1)
- F178** Words in Art. 26(9) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(g)(i)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F179** Art. 26(9)(b) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(g)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F180** Words in Art. 26(9)(f) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(g)(i)(cc)** (as inserted by S.I. 2019/710, regs. 1(2), **16(13)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F181** Words in Art. 26(9) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(g)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F182** Words in Art. 26(10) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(h)(i)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F183** Words in Art. 26(10) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(h)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F184** Words in Art. 26(10) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(h)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F185** Art. 26(11) inserted by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(3)(i)** (as inserted by S.I. 2019/710, regs. 1(2), **16(13)(c)**; 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. (See end of Document for details) View outstanding changes

Article 27

Obligation to supply financial instrument reference data

1 With regard to financial instruments admitted to trading on regulated markets or traded on MTFs or OTFs, trading venues shall provide ^[F186]the FCA with identifying reference data for the purposes of transaction reporting under Article 26.

With regard to other financial instruments covered by Article ^[F187]26(2)(b) or (c) traded on its system, each systematic internaliser shall provide ^[F188]the FCA with reference data relating to those financial instruments.

Identifying reference data shall be made ready for submission to the ^[F189]FCA in an electronic and standardised format before trading commences in the financial instrument that it refers to. The financial instrument reference data shall be updated whenever there are changes to the data with respect to a financial instrument. ^[F190] This data is to be transmitted without delay to the FCA, which must publish it as soon as practicable on its website. ^[F191]...

2 In order to allow ^[F192]the FCA to monitor, pursuant to Article 26, the activities of investment firms to ensure that they act honestly, fairly and professionally and in a manner which promotes the integrity of the market, ^[F193]the FCA shall establish the necessary arrangements in order to ensure that:

- a ^[F194]the FCA effectively receive the financial instrument reference data pursuant to paragraph 1;
- b the quality of the data so received is appropriate for the purpose of transaction reporting under Article 26;

^{F195}c

3 ^[F196]The FCA may make technical standards to specify:

- a data standards and formats for the financial instrument reference data in accordance with paragraph 1, including the methods and arrangements for supplying the data and any update thereto to ^[F197]the FCA in accordance with paragraph 1, and the form and content of such data;
- b the technical measures that are necessary in relation to the arrangements to be made by ^[F198]the FCA pursuant to paragraph 2.

^{F199} ...

^{F199} ...

Textual Amendments

F186 Words in Art. 27(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F187 Words in Art. 27(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(a)(ii)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F188 Words in Art. 27(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(a)(ii)(bb)** (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. (See end of Document for details) View outstanding changes

- F189** Word in Art. 27(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(a)(iii)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F190** Words in Art. 27(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(a)(iii)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F191** Words in Art. 27(1) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(a)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F192** Words in Art. 27(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(b)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F193** Words in Art. 27(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(b)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F194** Words in Art. 27(2)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F195** Art. 27(2)(c) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(b)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F196** Words in Art. 27(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(c)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F197** Words in Art. 27(3)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(c)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F198** Words in Art. 27(3)(b) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **29(4)(c)(i)(cc)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F199** Words in Art. 27(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), **29(4)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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:

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- a regulated markets;
- b MTFs;
- c OTFs; or
- ^{F200}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 ^{F201}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 ^{F201}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 ^{F201}United Kingdom] or where such obligation is necessary or appropriate to prevent the evasion of any provision of this Regulation.

^{F202}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 ^{F203} 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, ^{F204}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;

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- 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;

[^{F205}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 [^{F206}regulations made by the Treasury].

[^{F207}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, [^{F208}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 [^{F209}the United Kingdom] and the cases where the trading obligation is necessary or appropriate to prevent the evasion of any provision of this Regulation.

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Where possible and appropriate, the ^{F211}... 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

- F200** 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)**
- F201** 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)
- F202** 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)
- F203** 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)
- F204** 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)**
- F205** 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)
- F206** 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)
- F207** 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,

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

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)**)

F208 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)

F209 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)

F210 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)

F211 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)

Article 29

Clearing obligation for derivatives traded on regulated markets and timing of acceptance for clearing

1 The operator of a regulated market shall ensure that all transactions in derivatives that are concluded on that regulated market are cleared by a CCP.

2 CCPs, trading venues and investment firms which act as clearing members in accordance with Article 2(14) of Regulation (EU) No 648/2012 shall have in place effective systems, procedures and arrangements in relation to cleared derivatives to ensure that transactions in cleared derivatives are submitted and accepted for clearing as quickly as technologically practicable using automated systems.

In this paragraph, ‘cleared derivatives’ means

- a all derivatives which are to be cleared pursuant to the clearing obligation under paragraph 1 of this Article or pursuant to the clearing obligation under Article 4 of Regulation (EU) No 648/2012;
- b all derivatives which are otherwise agreed by the relevant parties to be cleared.

3 ^[F212]The appropriate regulator may make technical standards to specify the minimum requirements for systems, procedures and arrangements, including the acceptance timeframes, under this Article taking into account the need to ensure proper management of operational or other risks.

^[F213]The appropriate regulator shall have ongoing authority to develop further ^{F214}... technical standards to update those in force if it considers that that is required as industry standards evolve.

^{F215} ...

^{F215} ...

^[F216]For the purposes of this paragraph, “appropriate regulator” means—

- a the Bank of England, in relation to CCPs;
- b the FCA in all other cases.

The FCA and the Bank of England must co-ordinate the exercise of their functions when making technical standards under this Article to ensure that the technical standards made under it are mutually compatible.]

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

Textual Amendments

- F212** Word in Art. 29(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F213** Word in Art. 29(3) substituted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(2)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F214** Word in Art. 29(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), **30(2)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F215** Words in Art. 29(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), **30(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F216** Words in Art. 29(3) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 30

Indirect Clearing Arrangements

1 Indirect clearing arrangements with regard to exchange-traded derivatives are permissible provided that those arrangements do not increase counterparty risk and ensure that the assets and positions of the counterparty benefit from protection with equivalent effect to that referred to in Articles 39 and 48 of Regulation (EU) No 648/2012.

2 [^{F217}The appropriate regulator may make] technical standards to specify the types of indirect clearing service arrangements, where established, that meet the conditions referred to in paragraph 1, ensuring consistency with provisions established for OTC derivatives under Chapter II of Commission Delegated Regulation (EU) No 149/2013⁽⁸⁾. [^{F218}For cases other than CCPs, technical standards may also specify the types of indirect clearing service arrangements that meet conditions for reasonable and transparent commercial terms.]

F219 ...

F219 ...

[^{F220}For the purposes of this paragraph, “appropriate regulator” means—

- a the Bank of England, in relation to CCPs;
- b the FCA in all other cases.

The FCA and the Bank of England must co-ordinate the exercise of their functions when making technical standards under this Article to ensure that the technical standards made under it are mutually compatible.]

Textual Amendments

- F217** Words in Art. 30(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(3)(a)(i)** (with savings in S.I. 2019/680, reg. 11) (as substituted by S.I. 2020/1385, regs. 1(4), **49(4)**)

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

- F218** Words in Art. 30(2) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(3)(a)(ii)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/1385, regs. 1(4), **49(4)**)
- F219** Words in Art. 30(2) 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(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F220** Words in Art. 30(2) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(3)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 31

Portfolio Compression

1 When providing portfolio compression, investment firms and market operators shall not be subject to the best execution obligation in [F²²¹section 11.2A of the Conduct of Business sourcebook], the transparency obligations in Articles 8, 10, 18 and 21 of this Regulation and the obligation in [F²²²rule 5AA.1.1 in the Market Conduct sourcebook]. The termination or replacement of the component derivatives in the portfolio compression shall not be subject to Article 28 of this Regulation.

2 Investment firms and market operators providing portfolio compression shall make public through an APA the volumes of transactions subject to portfolio compressions and the time they were concluded within the time limits specified in Article 10.

3 Investment firms and market operators providing portfolio compressions shall keep complete and accurate records of all portfolio compressions which they organise or participate in. Those records shall be made available promptly to the relevant competent authority ^{F²²³}... upon request.

4 [F²²⁴The Treasury may by regulations specify] the following:

- a the elements of portfolio compression,
- b the information to be published pursuant to paragraph 2,

in such a way as to make use as far as possible of any existing record keeping, reporting or publication requirements.

Textual Amendments

- F221** Words in Art. 31(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(4)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F222** Words in Art. 31(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(4)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F223** Words in Art. 31(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), **30(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F224** Words in Art. 31(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **30(4)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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Article 32

Trading obligation procedure

- 1 ^{F225}The FCA may make] technical standards to specify the following:
- a which of the class of derivatives declared subject to the clearing obligation in accordance with Article 5(2) and (4) of Regulation (EU) No 648/2012 or a relevant subset thereof shall be traded on the venues referred to in Article 28(1) of this Regulation;
 - b the date or dates from which the trading obligation takes effect, including any phase-in and the categories of counterparties to which the obligation applies where such phase-in and such categories of counterparties have been provided for in ^{F226}... technical standards in accordance with Article 5(2)(b) of Regulation (EU) No 648/2012.

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...

- 2 In order for the trading obligation to take effect:
- a the class of derivatives pursuant to paragraph 1(a) or a relevant subset thereof must be admitted to trading or traded on at least one trading venue as referred to in Article 28(1), and
 - b there must be sufficient third-party buying and selling interest in the class of derivatives or a relevant subset thereof so that such a class of derivatives is considered sufficiently liquid to trade only on the venues referred to in Article 28(1).
- 3 In developing the ^{F228}... technical standards referred to in paragraph 1, ^{F229}the FCA] shall consider the class of derivatives or a relevant subset thereof as sufficiently liquid pursuant to the following criteria:
- a the average frequency and size of trades over a range of market conditions, having regard to the nature and lifecycle of products within the class of derivatives;
 - b the number and type of active market participants including the ratio of market participants to products/contracts traded in a given product market;
 - c the average size of the spreads.

In preparing those ^{F228}... technical standards, ^{F229}the FCA] shall take into consideration the anticipated impact that trading obligation might have on the liquidity of a class of derivatives or a relevant subset thereof and the commercial activities of end users which are not financial entities.

^{F229}The FCA] shall determine whether the class of derivatives or relevant subset thereof is only sufficiently liquid in transactions below a certain size.

- 4 ^{F230}The FCA] shall, on its own initiative, in accordance with the criteria set out in paragraph 2 and after conducting a public consultation, identify and notify to the ^{F231}Treasury] the classes of derivatives or individual derivative contracts that should be subject to the obligation to trade on the venues referred to in Article 28(1), but for which no CCP has yet received authorisation under Article 14 or 15 of Regulation (EU) No 648/2012 or which is not admitted to trading or traded on a trading venue referred to in Article 28(1).

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Following the notification by [^{F230}the FCA] referred to in the first subparagraph, the [^{F231}Treasury] may publish a call for development of proposals for the trading of those derivatives on the venues referred to in Article 28(1).

5 [^{F232}The FCA] shall in accordance with paragraph 1, [^{F233}make] technical standards to amend, suspend or revoke existing ^{F234}... technical standards whenever there is a material change in the criteria set out in paragraph 2. ^{F235}...

^{F235}
...

6 [^{F236}The FCA may make] technical standards to specify the criteria referred to in paragraph 2(b).

^{F237}
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^{F237}
...

Textual Amendments

- F225** Words in Art. 32(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **30(5)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F226** Word in Art. 32(1)(b) 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(5)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F227** Words in Art. 32(1) 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(5)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F228** Words in Art. 32(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), **30(5)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F229** Words in Art. 32(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **30(5)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F230** Words in Art. 32(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **30(5)(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F231** Word in Art. 32(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **30(5)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F232** Words in Art. 32(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **30(5)(d)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F233** Word in Art. 32(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **30(5)(d)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F234** Word in Art. 32(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(5)(d)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F235** Words in Art. 32(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(5)(d)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- F236** Words in Art. 32(6) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(5)(e)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F237** Words in Art. 32(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), **30(5)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 33

Mechanism to avoid duplicative or conflicting rules

- F238** 1
 2 ^[F239] The Treasury may by regulations specify] that the legal, supervisory and enforcement arrangements of the relevant third country:
 a are equivalent to the requirements resulting from Articles 28 and 29;
 b ensure protection of professional secrecy that is equivalent to that set out in this Regulation;
 c are being effectively applied and enforced in an equitable and non-distortive manner so as to ensure effective supervision and enforcement in that third country.
- F240** ...
 3 ^[F241] Regulations] on equivalence as referred to in paragraph 2 shall have the effect that counterparties entering into a transaction subject to this Regulation shall be deemed to have fulfilled the obligation contained in Articles 28 and 29 where at least one of the counterparties is established in that third country and the counterparties are in compliance with those legal, supervisory and enforcement arrangements of the relevant third country.
- ^[F242] 4 Where regulations made under paragraph 2 are revoked, transactions by counterparties shall automatically be subject again to all requirements contained in Articles 28 and 29 of this Regulation.]

Textual Amendments

- F238** Art. 33(1) 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(6)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F239** Words in Art. 33(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(6)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F240** Words in Art. 33(2) 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(6)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F241** Word in Art. 33(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(6)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F242** Art. 33(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(6)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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^{F243} Article 34

Register of derivatives subject to the trading obligation

1. The FCA must publish and maintain on its website a register specifying—
 - a every derivative that appears to the FCA to be subject to the obligation to trade on the venues referred to in Article 28(1);
 - b the venues where the derivative is admitted to trading or traded;
 - c the dates from which the obligation takes effect.
2. The FCA may draw on such information as it considers appropriate to maintain the register, including information published in the register maintained by ESMA under Article 34 of Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments as it has effect in EU law.]

Textual Amendments

F243 Art. 34 substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **30(7)** (with savings in [S.I. 2019/680](#), **reg. 11**) (as amended by [S.I. 2019/710](#), regs. 1(2), **16(14)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

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 [^{F244}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).

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[^{F245}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, [^{F246}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, ^{F247}... 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. ^{F248}... 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:

^{F249}a

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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^{F250}

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 [^{F253}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 [^{F253}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. ^{F251}...

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.

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

6 [F252 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.

F253

F253

Textual Amendments

- F25** 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).
- F244** 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)**
- F245** 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)**
- F246** 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)
- F247** 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)**
- F248** 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)
- F249** 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)**
- F250** 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)**
- F251** 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)

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

F252 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)

F253 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)

Article 36

Non-discriminatory access to a trading venue

1 Without prejudice to Article 8 of Regulation (EU) No 648/2012 [^{F254}and subject to paragraph 1A], a trading venue shall provide trade feeds on a non-discriminatory and transparent basis, including as regards fees related to access, upon request to any CCP authorised or recognised by Regulation (EU) No 648/2012 that wishes to clear transactions in financial instruments that are concluded on that trading venue. That requirement does not apply to any derivative contract that is already subject to the access obligations under Article 8 of Regulation (EU) No 648/2012.

A trading venue is not bound by this Article if it is connected by close links to a CCP which has given notification that it is availing of the transitional arrangements under Article 35(5).

[^{F255}1A. Paragraph 1 does not apply in relation to exchange-traded derivatives.]

2 A request to access a trading venue by a CCP shall be formally submitted to a trading venue, [^{F256}the competent authority of the trading venue] and the competent authority of the CCP.

3 The trading venue shall provide a written response to the CCP within three months in the case of transferable securities and money market instruments, ^{F257}... either permitting access, under the condition that the relevant competent authority has granted access pursuant to paragraph 4, or denying access. The trading venue may deny access only under the conditions specified under paragraph 6(a). When access is denied the trading venue shall provide full reasons in its response and inform its competent authority in writing of the decision. ^{F258}... The trading venue shall also provide such notification and reasoning to the competent authority of the CCP. The trading venue shall make access possible within three months of providing a positive response to the access request.

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

- ^{F259}a
- b would not threaten the smooth and orderly functioning of the markets, in particular due to liquidity fragmentation and the trading venue has put in place adequate mechanisms to prevent such fragmentation, or would not adversely affect systemic risk.

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If a competent authority denies 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 trading venue and the CCP including the evidence on which its decision is based.

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

F2615

6 [F262The FCA may, having consulted the Bank of England, make] technical standards to specify:

- a the specific conditions under which an access request may be denied by a trading venue, including conditions based on the anticipated volume of transactions, the number of users, arrangements for managing operational risk and complexity or other factors creating significant undue risks;
- b the conditions under which access shall be granted, including confidentiality of information provided regarding financial instruments during the development phase and the non-discriminatory and transparent basis as regards fees related to access;
- c the conditions under which granting access will threaten the smooth and orderly functioning of the markets, or would adversely affect systemic risk;

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Textual Amendments

- F254** Words in Art. 36(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(3)(a)**
- F255** Art. 36(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(3)(b)**
- F256** Words in Art. 36(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **31(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F257** Words in Art. 36(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(3)(c)**
- F258** Words in Art. 36(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(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F259** Art. 36(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(3)(d)(i)**
- F260** Words in Art. 36(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(3)(d)(ii)**
- F261** Art. 36(5) 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(3)(e)**
- F262** Words in Art. 36(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **31(2)(e)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F263** Art. 36(6)(d) 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(3)(e)**
- F264** Words in Art. 36(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(2)(e)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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Article 37

Non-discriminatory access to and obligation to licence benchmarks

1 Where the value of any financial instrument is calculated by reference to a benchmark, a person with proprietary rights to the benchmark shall ensure that CCPs and trading venues are permitted, for the purposes of trading and clearing, non-discriminatory access to:

- a relevant price and data feeds and information on the composition, methodology and pricing of that benchmark for the purposes of clearing and trading; and
- b licences.

A licence including access to information shall be granted on a fair, reasonable and non-discriminatory basis within three months following the request by a CCP or a trading venue.

Access shall be given at a reasonable commercial price taking into account the price at which access to the benchmark is granted or the intellectual property rights are licensed on equivalent terms to another CCP, trading venues or any related persons for the purposes of clearing and trading. Different prices can be charged to different CCPs, trading venues or any related persons only where objectively justified having regard to reasonable commercial grounds such as the quantity, scope or field of use demanded.

2 Where a new benchmark is developed after [F²⁵³ 3 January 2018] the obligation to licence starts no later than 30 months after a financial instrument referencing that benchmark commenced trading or was admitted to trading. Where a person with proprietary rights to a new benchmark owns an existing benchmark, that person shall establish that compared to any such existing benchmark the new benchmark meets the following cumulative criteria:

- a the new benchmark is not a mere copy or adaptation of any such existing benchmark and the methodology, including the underlying data, of the new benchmark is meaningfully different from any such existing benchmark; and
- b the new benchmark is not a substitute for any such existing benchmark.

This paragraph shall be without prejudice to the application of competition rules ^{F²⁶⁵}....

3 No CCP, trading venue or related entity may enter into an agreement with any provider of a benchmark the effect of which would be either:

- a to prevent any other CCP or trading venue from obtaining access to such information or rights as referred to in paragraph 1; or
- b to prevent any other CCP or trading venue from obtaining access to such a licence, as referred to in paragraph 1.

4 [F²⁶⁶ The FCA and the Bank of England may make] technical standards to specify:

- a the information through licensing to be made available under paragraph 1(a) for the sole use of the CCP or trading venue;
- b other conditions under which access is granted, including confidentiality of information provided;
- c the standards guiding how a benchmark may be proven to be new in accordance with paragraph 2(a) and (b).

F²⁶⁷ ...

F²⁶⁷ ...

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

Textual Amendments

- F25** 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).
- F265** Words in Art. 37(2) 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(3)(a)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/628, regs. 1(3), **7(3)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F266** Words in Art. 37(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **31(3)(b)(i)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/628, regs. 1(3), **7(3)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F267** Words in Art. 37(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), **31(3)(b)(ii)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/628, regs. 1(3), **7(3)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 38

Access for third-country CCPs and trading venues

1 A trading venue established in a third country may request access to a CCP established in the [F268 United Kingdom] only if [F269 the Treasury has made regulations] in accordance with Article 28(4) relating to that third country. A CCP established in a third country may request access to a trading venue in the [F268 United Kingdom] subject to that CCP being recognised under Article 25 of Regulation (EU) No 648/2012 CCPs and trading venues established in third countries shall only be permitted to make use of the access rights in Articles 35 to 36 provided that [F269 the Treasury has made regulations] in accordance with paragraph 3 that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third country.

2 CCPs and trading venues established in third countries may only request a licence and the access rights in accordance with Article 37 provided that [F270 the Treasury has made regulations under paragraph 3 of this Article determining] that the legal and supervisory framework of that third country is considered to provide for an effective equivalent system under which CCPs and trading venues authorised in foreign jurisdictions are permitted access on a fair reasonable and non-discriminatory basis to:

- a relevant price and data feeds and information of composition, methodology and pricing of benchmarks for the purposes of clearing and trading; and
- b licences,

from persons with proprietary rights to benchmarks established in that third country.

3 [F271 The Treasury may by regulations determine] that the legal and supervisory framework of a third country ensures that a trading venue and CCP authorised in that third country complies with legally binding requirements which are equivalent to the requirements referred to in paragraph 2 of this Article and which are subject to effective supervision and enforcement in that third country.

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

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- a trading venues in that third country are subject to authorisation and to effective supervision and enforcement on an ongoing basis;
- b it provides for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third country;
- c the legal and supervisory framework of that third country provides for an effective equivalent system under which CCPs and trading venues authorised in foreign jurisdictions are permitted access on a fair reasonable and non discriminatory basis to:
 - (i) relevant price and data feeds and information of composition, methodology and pricing of benchmarks for the purposes of clearing and trading; and
 - (ii) licences,

from persons with proprietary rights to benchmarks established in that third country.

Textual Amendments

- F268** Words in [Art. 38\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F269** Words in [Art. 38\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F270** Words in [Art. 38\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(b)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/628, regs. 1(3), **7(3)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F271** Words in [Art. 38\(3\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(c)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/628, regs. 1(3), **7(3)(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**

TITLE VII

SUPERVISORY MEASURES ON PRODUCT INTERVENTION AND POSITIONS

CHAPTER 1

Product monitoring and intervention

Article 39

Market monitoring

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^{F272}₂

3 [^{F273}The FCA] shall monitor the market for financial instruments and structured deposits which are marketed, distributed or sold in or from [^{F274}the United Kingdom].

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

Textual Amendments

- F272** Art. 39(1)(2) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F273** Words in Art. 39(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(1)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F274** Words in Art. 39(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(1)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F275}Article 40

ESMA temporary intervention powers

Textual Amendments

- F275** Art. 40 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F276}Article 41

EBA temporary intervention powers

Textual Amendments

- F276** Art. 41 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 42

Product intervention by competent authorities

1 ^[F277]The FCA] may prohibit or restrict the following in or from ^[F278]the United Kingdom]:

- a the marketing, distribution or sale of certain financial instruments or structured deposits or financial instruments or structured deposits with certain specified features; or
- b a type of financial activity or practice.

2 ^[F279]The FCA] may take the action referred to in paragraph 1 if it is satisfied on reasonable grounds that:

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- a either
 - (i) a financial instrument, structured deposit or activity or practice gives rise to significant investor protection concerns or poses a threat to the orderly functioning and integrity of financial markets or commodity markets or to the stability of whole or part of the financial system [F280 within the United Kingdom]; or
 - (ii) a derivative has a detrimental effect on the price formation mechanism in the underlying market;
- b existing regulatory requirements under [F281 the law of the United Kingdom (or any part of the United Kingdom)] applicable to the financial instrument, structured deposit or activity or practice do not sufficiently address the risks referred to in point (a) and the issue would not be better addressed by improved supervision or enforcement of existing requirements;
- c the action is proportionate taking into account the nature of the risks identified, the level of sophistication of investors or market participants concerned and the likely effect of the action on investors and market participants who may hold, use or benefit from the financial instrument, structured deposit or activity or practice; [F282 and]
- F283 d
 - F283 e
 - f it has properly consulted public bodies [F284 in the United Kingdom] competent for the oversight, administration and regulation of physical agricultural markets under Regulation (EC) No 1234/2007, where a financial instrument or activity or practice poses a serious threat to the orderly functioning and integrity of the physical agricultural market.

Where the conditions set out in the first subparagraph are fulfilled, the [F285 FCA] may impose the prohibition or restriction referred to in paragraph 1 on a precautionary basis before a financial instrument or structured deposit has been marketed, distributed or sold to clients.

A prohibition or restriction may apply in circumstances, or be subject to exceptions, specified by the [F285 FCA].

[F2863 Subject to paragraph 4, the FCA must not impose a prohibition or restriction under this Article unless not less than one month before the measure is due to take effect, it has published details of the decision to impose the prohibition or restriction on its website in accordance with paragraph 5.]

4 In exceptional cases where the [F287 FCA] deems it necessary to take urgent action under this Article in order to prevent detriment arising from the financial instruments, structured deposits, practices or activities referred to in paragraph 1, the [F287 FCA] may take action on a provisional basis F288 ... provided that all the criteria in this Article are met and that, in addition, it is clearly established that [F289 waiting for one month] would not adequately address the specific concern or threat. The [F287 FCA] shall not take action on a provisional basis for a period exceeding three months.

5 The [F290 FCA] shall publish on its website notice of any decision to impose any prohibition or restriction referred to in paragraph 1. The notice shall specify details of the prohibition or restriction, a time after the publication of the notice from which the measures will take effect and the evidence upon which it is satisfied each of the conditions in paragraph 2 are met. The prohibition or restriction shall only apply in relation to actions taken after the publication of the notice.

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6 The ^{F291}FCA] shall revoke a prohibition or restriction if the conditions in paragraph 2 no longer apply.

7 ^{F292}The Treasury may by regulations specify] criteria and factors to be taken into account by ^{F293}the FCA] in determining when there is a significant investor protection concern or a threat to the orderly functioning and integrity of financial markets or commodity markets or to the stability of the of the financial system within ^{F294}the United Kingdom] referred to in paragraph 2(a).

Those criteria and factors shall include:

- a the degree of complexity of a financial instrument or structured deposit and the relation to the type of client to whom it is marketed, distributed and sold;
- b the degree of innovation of a financial instrument or structured deposit, an activity or a practice;
- c the leverage a financial instrument or structured deposit or practice provides;
- d in relation to the orderly functioning and integrity of financial markets or commodity markets, the size or the notional value of an issuance of financial instruments or structured deposits.

Textual Amendments

- F277** Words in [Art. 42\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F278** Words in [Art. 42\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F279** Words in [Art. 42\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(b)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F280** Words in [Art. 42\(2\)\(a\)\(i\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(b)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F281** Words in [Art. 42\(2\)\(b\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(b)(i)(cc)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F282** Word in [Art. 42\(2\)\(c\)](#) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(b)(i)(dd)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F283** [Art. 42\(2\)\(d\)\(e\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(b)(i)(ee)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F284** Words in [Art. 42\(2\)\(f\)](#) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(b)(i)(ff)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F285** Word in [Art. 42\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F286** [Art. 42\(3\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(c)** (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. (See end of Document for details) View outstanding changes

- F287** Word in Art. 42(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(d)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F288** Words in Art. 42(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), **32(3)(d)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F289** Words in Art. 42(4) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(d)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F290** Word in Art. 42(5) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F291** Word in Art. 42(6) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F292** Words in Art. 42(7) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(f)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F293** Words in Art. 42(7) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(f)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F294** Words in Art. 42(7) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(f)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F295}Article 43

Coordination by ESMA and EBA

Textual Amendments

- F295** Art. 43 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 2

Positions

^{F296}Article 44

Coordination of national position management measures and position limits by ESMA

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

Textual Amendments

F296 Art. 44 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **32(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F297}Article 45

Position management powers of ESMA

Textual Amendments

F297 Art. 45 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **32(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

TITLE VIII

PROVISION OF SERVICES AND PERFORMANCE OF ACTIVITIES BY THIRD-COUNTRY FIRMS FOLLOWING AN EQUIVALENCE [^{F298}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 [^{F299}Part 2 of Schedule 1 to this Regulation][^{F300}in the United Kingdom] without the establishment of a branch where it is registered in the register of third-country firms kept by [^{F301}the FCA] in accordance with [^{F302}Article 48].

2 [^{F303}The FCA] shall register a third-country firm that has applied for the provision of investment services or performance of activities [^{F304}in the United Kingdom] in accordance with paragraph 1 only where the following conditions are met:

- [^{F305}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 [^{F306}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).
- [^{F307}d the firm has established the necessary arrangements and procedures to provide the information required by rules made under paragraph 6B of this Article;

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- e the firm has established the necessary arrangements and procedures to comply with requirements imposed under Article 48A.]

^{F308}3

4 The third-country firm referred to in paragraph 1 shall submit its application to [^{F309}the FCA] after the [^{F310}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).]

[^{F311}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 [^{F312}the FCA] with all [^{F313}further] information necessary for its registration. Within 30 working days of receipt of the application, [^{F312}the FCA] shall assess whether the application is complete. If the application is not complete, [^{F312}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, [^{F314}the FCA] shall inform the applicant third-country firm in writing with a fully reasoned explanation whether the registration has been granted or refused.

^{F315} ...

5 Third-country firms providing services in accordance with this Article shall inform clients established in the [^{F316}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 [^{F316}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 [^{F317}in writing, in a prominent way and in such form as the FCA may direct].

^{F318}... Where an eligible counterparty or professional client within [^{F319}Part 2 of Schedule 1 to this Regulation] established or situated in the [^{F316}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.

[^{F320}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 [^{F321}United Kingdom], offer to submit any disputes relating to those services or activities to the jurisdiction of a court or arbitral tribunal in [^{F322}the United Kingdom].

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

^{F323}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.]

^{F324}7

Textual Amendments

- F299** 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)
- F300** 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)
- F301** 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)
- F302** 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)
- F303** 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)
- F304** 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)
- F305** 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)
- F306** 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)
- F307** 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)
- F308** 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)
- F309** 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)
- F310** 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)
- F311** 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)
- F312** 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)

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- F313** 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)
- F314** 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)
- F315** 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)
- F316** 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)
- F317** 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)
- F318** 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)
- F319** 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)
- F320** 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)
- F321** 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)
- F322** 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)
- F323** 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)
- F324** 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)

Article 47

Equivalence [^{F325}determination]

[^{F326}1 The Treasury may by regulations determine that the legal and supervisory arrangements of a third country ensure all of the following—

- a that firms authorised in that third country to provide investment services or perform investment activities comply with legally binding prudential, organisational and business conduct requirements which have equivalent effect to the relevant UK requirements,
- b that such firms are subject to effective supervision and enforcement ensuring compliance with the applicable legally binding prudential, organisational and business conduct requirements, and
- c that the legal framework of that third country provides for an effective equivalent system for the recognition of investment firms authorised under third country legal regimes.

1A. For the purposes of paragraph 1(a), the relevant UK requirements are the following, as they apply on the day on which the Treasury makes the regulations—

- a the requirements set out in this Regulation;

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- b the requirements set out in Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;
- c the requirements set out in CRR rules (as defined in section 144A of FSMA);
- d the requirements set out in Part 9C rules (as defined in section 143F of FSMA);
- e the requirements set out in Directive 2013/36/EU UK law and Directive 2014/65/EU UK law.

1B. The prudential, organisational and business conduct framework of a third country may be considered to have equivalent effect where that framework fulfils all of the following conditions—

- a firms providing investment services or performing investment activities in that third country are subject to authorisation and to effective supervision and enforcement on an on-going basis;
- b such firms are subject to sufficient capital requirements and, in particular, where they provide services or carry out the activities referred to in paragraph 3 or 6 of Part 3 of Schedule 2 to the Regulated Activities Order they are subject to comparable capital requirements to those that would apply if they were established in the United Kingdom;
- c such firms are subject to appropriate requirements applicable to shareholders and members of their management body;
- d such firms are subject to adequate business conduct and organisational requirements;
- e market transparency and integrity is ensured by preventing market abuse in the form of insider dealing and market manipulation.

1C. When making regulations under paragraph 1, the Treasury must take into account whether the third country is a high-risk third country within the meaning of regulation 33 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692).]

2 [F³²⁷The FCA] shall establish cooperation arrangements with the relevant competent authorities of third countries whose legal and supervisory frameworks have been recognised as effectively equivalent in accordance with paragraph 1 [F³²⁸or in retained EU law by a decision made by the Commission under paragraph 1 as it had effect in EU law before IP completion day]. Such arrangements shall specify at least:

- a the mechanism for the exchange of information between [F³²⁷the FCA] and the competent authorities of third countries concerned, including access to all information regarding the [F³²⁹non-United Kingdom] firms authorised in third countries that is requested by [F³²⁷the FCA];
- b the mechanism for prompt notification to [F³²⁷the FCA] where a third-country competent authority deems that a third-country firm that it is supervising and [F³²⁷the FCA] has registered in the register provided for in Article 48 infringes the conditions of its authorisation or other law to which it is obliged to adhere;

F³³⁰c

- [F³³¹d the procedures concerning the coordination of investigations and on-site inspections that the FCA considers necessary for the purposes of carrying out its functions under this Regulation, which must include a requirement for the FCA to give prior notice to the competent authority of the third country;
- e the procedures concerning the coordination of other supervisory activities;
- f the procedures concerning a request for data by the FCA under Article 46(6A)(b);
- g the mechanism for the FCA to obtain from a third-country firm providing services or performing activities in accordance with Article 46 further information in respect of the

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firm's operations by making a request to the competent authority of the third country concerned.]

^{F332}3

4 A third-country firm may no longer use the rights under Article 46(1) where [^{F333}the Treasury revokes regulations made] under paragraph 1 of this Article in relation to that third country.

[^{F334}5 The FCA must—

- a monitor the regulatory and supervisory developments, the enforcement practices and other relevant market developments in third countries for which determinations made by the Treasury in accordance with paragraph 1 are in force in order to verify that the conditions on the basis of which those determinations were made are still fulfilled, and
- b provide a report of its findings to the Treasury on request.

6 In this Article, “Directive 2013/36/EU UK law” and “Directive 2014/65/EU UK law” mean the law of the United Kingdom which was relied on by the United Kingdom before IP completion day to implement Directive 2013/36/EU or Directive 2014/65/EU (as appropriate), as amended from time to time.]

Textual Amendments

- F325** Word in [Art. 47](#) heading substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **33(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F326** [Art. 47\(1\)-\(1C\)](#) substituted for [Art. 47\(1\)](#) (1.7.2021) by [Financial Services Act 2021](#) (c. 22), s. 49(5), **Sch. 10 para. 6(2)**; S.I. 2021/739, reg. 3(o)
- F327** Words in [Art. 47\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **33(2)(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F328** Words in [Art. 47\(2\)](#) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **33(2)(c)(iii)** (with savings in S.I. 2019/680, **reg. 11**) (as inserted by S.I. 2020/1385, regs. 1(4), **49(5)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F329** Words in [Art. 47\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **33(2)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F330** [Art. 47\(2\)\(c\)](#) omitted (1.7.2021) by virtue of [Financial Services Act 2021](#) (c. 22), s. 49(5), **Sch. 10 para. 6(3)(a)**; S.I. 2021/739, reg. 3(o)
- F331** [Art. 47\(2\)\(d\)-\(g\)](#) inserted (1.7.2021) by [Financial Services Act 2021](#) (c. 22), s. 49(5), **Sch. 10 para. 6(3)(b)**; S.I. 2021/739, reg. 3(o)
- F332** [Art. 47\(3\)](#) 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(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F333** Words in [Art. 47\(4\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **33(2)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F334** [Art. 47\(5\)\(6\)](#) inserted (1.7.2021) by [Financial Services Act 2021](#) (c. 22), s. 49(5), **Sch. 10 para. 6(4)**; S.I. 2021/739, reg. 3(o)

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Article 48

Register

[^{F335}The FCA] shall keep a register of the third-country firms allowed to provide investment services or perform investment activities in [^{F336}the United Kingdom] in accordance with Article 46. The register shall be publicly accessible on the website of [^{F335}the FCA] and shall contain information on the services or activities which the third-country firms are permitted to provide or perform and the reference of the competent authority responsible for their supervision in the third country.

Textual Amendments

- F335** Words in [Art. 48](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **33(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F336** Words in [Art. 48](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **33(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[^{F337}Article 48A

Requirements

1 The Treasury may by regulations impose requirements on third-country firms providing investment services, or performing investment activities, in accordance with Article 46 or on a description of such firms specified in the regulations.

2 In making regulations under this Article, the Treasury must have regard to the requirements imposed on UK firms by or under this Regulation.

3 Regulations under this Article may describe requirements by reference to—

- a rules made or to be made by the FCA, or
- b other enactments.

4 The power under paragraph 3 includes power to make provision by reference to rules or other enactments as amended from time to time.

5 The FCA may make, amend or revoke a rule if it considers it necessary or appropriate to do so for the purposes of a requirement imposed (or varied or withdrawn) by regulations under this Article which is described by reference to a rule made or to be made by the FCA.

6 If, for the purposes of a requirement imposed (or varied or withdrawn) by regulations under this Article which is described by reference to a rule made or to be made by the FCA, the Treasury consider that it is necessary or appropriate for the FCA to make, amend or revoke a rule, they may direct the FCA to do so.

7 If the Treasury give a direction under paragraph 6, the FCA must comply with the direction within such time as the Treasury may specify in the direction.

8 The references in paragraphs 5 and 6 to the amendment or revocation of rules are to the amendment or revocation of rules made by the FCA.

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- 9 In this Article—
- “enactment” includes—
- (a) retained direct EU legislation,
 - (b) an enactment comprised in subordinate legislation,
 - (c) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru,
 - (d) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (e) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (see section 21 of that Act);
- “UK firm” means—
- (a) a credit institution providing investment services or performing investment activities, or
 - (b) an investment firm,
- whose registered office or (if it has no registered office) head office is located in the United Kingdom.]

Textual Amendments

F337 Art. 48A and heading inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), [Sch. 10 para. 7](#); [S.I. 2021/739](#), [reg. 3\(o\)](#)

Article 49

[^{F338}Temporary prohibitions and restrictions and withdrawal of registration]

[^{F339}A1. The FCA may temporarily prohibit a third-country firm from providing investment services, or performing investment activities, in the United Kingdom, or place temporary restrictions on a third-country firm's provision of such services or performance of such activities in the United Kingdom, where the third-country firm—

- b has failed to comply with a request for data made by the FCA under Article 46(6A)(b) in accordance with the cooperation arrangements established under Article 47(2),
- c has failed to provide information in accordance with rules made under Article 46(6B),
- d has failed to provide information requested by the FCA in accordance with the cooperation arrangements established under Article 47(2),
- e has failed to cooperate with an investigation or on-site inspection carried out in accordance with the cooperation arrangements established under Article 47(2), or
- f has failed to comply with a requirement imposed by regulations under Article 48A.

A2. The FCA may impose more than one temporary prohibition or restriction under paragraph A1 in respect of the same failure.]

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

1 [F340The FCA][F341may] withdraw the registration of a third-country firm in the register established in accordance with Article 48 where:

- [F342a the FCA has well-founded reasons based on documented evidence to believe that—
- i in the provision of investment services and the performance of investment activities in the United Kingdom, the third-country firm is acting in a manner which is clearly prejudicial to the interests of investors or the orderly functioning of markets,
 - ii in the provision of such services and activities in the United Kingdom, the third-country firm has seriously infringed a provision applicable to it in the third country and on the basis of which the Treasury made regulations under Article 47(1),
 - iii in the provision of such services and activities in the United Kingdom, the third-country firm has seriously infringed a requirement imposed under Article 48A, or
 - iv the third-country firm is not maintaining the necessary arrangements and procedures to provide the information required by rules made under Article 46(6B) or to comply with requirements under Article 48A, and]
- c [F340the FCA] has referred the matter to the competent authority of the third country and that third-country competent authority has not taken the appropriate measures needed to protect investors and the proper functioning of the markets in the [F343United Kingdom] or has failed to demonstrate that the third-country firm concerned complies with the requirements applicable to it in the third country; F344 ...
- F344d

[F3451A. In deciding the appropriate action to take under this Article, the FCA must, among other things, take into account the nature and seriousness of the risk posed to the interests of investors and the orderly functioning of markets in the United Kingdom, having regard to—

- a the duration and frequency of the risk arising,
- b whether the risk has revealed serious or systemic weaknesses in the third-country firm's procedures,
- c whether financial crime has been occasioned or facilitated by, or is otherwise attributable to, the risk, and
- d whether the risk has arisen intentionally or negligently.

1B. The FCA must inform the competent authority of the third country in due course of its intention to take action in accordance with paragraph A1 or 1.]

2 [F346 The FCA] shall inform [F347the Treasury] of any measure adopted in accordance with paragraph 1 without delay and shall publish its decision on its website.

3 The [F348Treasury] shall assess whether the conditions under which [F349regulations under Article 47(1) have been made] continue to persist in relation to the third country concerned.

[F3504. In this Article, “documented evidence” includes, but is not limited to, information provided in accordance with rules made under Article 46(6B).]

Textual Amendments

F338 Art. 49 heading substituted (1.7.2021) by [Financial Services Act 2021 \(c. 22\), s. 49\(5\), Sch. 10 para. 8\(2\); S.I. 2021/739, reg. 3\(o\)](#)

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

- F339** Art. 49(A1)(A2) inserted (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 8(3)**; S.I. 2021/739, reg. 3(o)
- F340** Words in Art. 49(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **33(4)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F341** Word in Art. 49(1) substituted (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 8(4)(a)**; S.I. 2021/739, reg. 3(o)
- F342** Art. 49(1)(a) substituted for Art. 49(1)(a)(b) (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 8(4)(b)**; S.I. 2021/739, reg. 3(o)
- F343** Words in Art. 49(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **33(4)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F344** Art. 49(1)(d) and word omitted (1.7.2021) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 8(4)(c)**; S.I. 2021/739, reg. 3(o)
- F345** Art. 49(1A)(1B) inserted (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 8(5)**; S.I. 2021/739, reg. 3(o)
- F346** Words in Art. 49(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **33(4)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F347** Words in Art. 49(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **33(4)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F348** Word in Art. 49(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **33(4)(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F349** Words in Art. 49(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **33(4)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F350** Art. 49(4) inserted (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 8(6)**; S.I. 2021/739, reg. 3(o)

[F351] Article 49A

Temporary prohibitions and restrictions: procedure

- 1 A temporary prohibition or restriction under Article 49(A1) takes effect—
 - a immediately, if the notice given under paragraph 3 states that that is the case,
 - b on such date as may be specified in the notice, or
 - c if no date is specified in the notice, when the matter to which it relates is no longer open to review.
- 2 A temporary prohibition or restriction under Article 49(A1) 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 taking that action, reasonably considers that it is necessary for it to take effect immediately or (as appropriate) on that date.
- 3 The FCA must give written notice to a third-country firm if—
 - a it proposes to take action in relation to the firm under Article 49(A1), or
 - b it takes action in relation to the firm under Article 49(A1) with immediate effect.
- 4 The notice must—
 - a give details of the temporary prohibition or restriction,

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

- b inform the firm when the prohibition or restriction takes effect,
 - c state the FCA's reasons for taking the action and for its determination of when the prohibition or restriction takes effect,
 - d inform the firm that it may make representations to the FCA within such period as may be specified in the notice (whether or not the firm has referred the matter to the Upper Tribunal), and
 - e inform the firm of its right to refer the matter to the Upper Tribunal.
- 5 The FCA may extend the period allowed under the notice for making representations.
- 6 The FCA must give the third-country firm written notice if, having considered any representations made by the firm, the FCA decides—
- a to impose the proposed prohibition or restriction, or
 - b if the prohibition or restriction has been imposed, not to rescind it.
- 7 The FCA must give the third-country firm written notice if, having considered any representations made by the firm, the FCA decides—
- a not to impose the proposed prohibition or restriction,
 - b to impose a different prohibition or restriction, or
 - c to rescind a prohibition or restriction that has been imposed.
- 8 A notice under paragraph 6 must inform the third-country firm of its right to refer the matter to the Upper Tribunal.
- 9 A notice under paragraph 7(b) must comply with paragraph 4.
- 10 If a notice informs a third-country firm of its right to refer a matter to the Upper Tribunal, it must give an indication of the procedure on such a reference.
- 11 A third-country firm that is aggrieved by action taken by the FCA under Article 49(A1) may refer the matter to the Upper Tribunal.
- 12 Part 9 of FSMA (hearings and appeals) applies in relation to references to the Upper Tribunal made under this Article as it applies in relation to references made to that Tribunal under that Act.
- 13 For the purposes of paragraph 1(c), section 391(8) of FSMA (matters open to review) applies as if the notice under paragraph 3 were a supervisory notice (as defined in section 395 of that Act).

Textual Amendments

F351 Arts. 49A-49C inserted (1.7.2021) by [Financial Services Act 2021](#) (c. 22), s. 49(5), [Sch. 10 para. 9](#); [S.I. 2021/739](#), [reg. 3\(o\)](#)

Article 49B

Withdrawal of registration: procedure

- 1 If the FCA decides to withdraw the registration of a third-country firm in that register, it must give the firm a decision notice.

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

2 A temporary prohibition or restriction under Article 49(A1) 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 taking that action, reasonably considers that it is necessary for it to take effect immediately or (as appropriate) on that date.

3 If the FCA gives a third-country firm a decision notice under paragraph 2, the firm may refer the matter to the Upper Tribunal.

4 Part 9 of FSMA (hearings and appeals) applies in relation to references to the Upper Tribunal made under this Article as it applies in relation to references made to that Tribunal under that Act.

5 Section 387 of FSMA (warning notices) applies in relation to a warning notice given under this Article as it applies to a warning notice given by the FCA under that Act.

6 Section 388 of FSMA (decision notices) applies in relation to a decision notice given under this Article as it applies to a decision notice given by the FCA under that Act, but as if—

- a in subsection (1)(e)(i), for “this Act” there were substituted “Article 49B of the markets in financial instruments regulation”, and
- b subsection (2) were omitted.

7 Section 389 of FSMA (notices of discontinuance) applies in relation to a warning notice or decision notice given under this Article as it applies in relation to a warning notice or decision notice given by the FCA under that Act, but as if subsection (2) were omitted.

8 Section 390 of FSMA (final notices) applies in relation to a decision notice given under this Article as it applies in relation to a decision notice given by the FCA under that Act.

9 Sections 393 and 394 of FSMA (third party rights and access to FCA material) apply in relation to a warning notice or decision notice given under this Article as they apply in relation to a warning notice or decision notice given by the FCA under a provision listed in section 392 of that Act.

Textual Amendments

F351 Arts. 49A-49C inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), [Sch. 10 para. 9](#); [S.I. 2021/739](#), [reg. 3\(o\)](#)

Article 49C

Notices under Articles 49A and 49B

1 The Treasury may by regulations make provision about the procedure to be followed, or rules to be applied, in connection with the giving of notices by the FCA under Article 49A or 49B.

2 The regulations may, among other things, make provision—

- a requiring, or allowing, a notice to be sent electronically;
- b requiring, or allowing, a notice to be given in another manner;
- c as to the address to which a notice must or may be sent;
- d requiring a person to provide an address to which a notice must or may be sent;
- e for treating a notice as having been given, or as having been received, on a date or at a time determined in accordance with the regulations;

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

- f as to what must, or may, be done if the person to whom a notice is required to be given is not an individual;
- g as to what must, or may, be done if the intended recipient of a notice is outside the United Kingdom.

3 Section 7 of the Interpretation Act 1978 (service of notice by post) has effect in relation to notices under Article 49A or 49B subject to any provision made by regulations under this Article.]

Textual Amendments

F351 Arts. 49A-49C inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), [Sch. 10 para. 9](#); [S.I. 2021/739](#), [reg. 3\(o\)](#)

Textual Amendments

F298 Word in [Title 8](#) heading substituted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), s. 49(5), [Sch. 10 para. 4](#); [S.I. 2021/739](#), [reg. 3\(o\)](#)

[^{F352}TITLE IX

REGULATIONS, DIRECTIONS [^{F353}, RULES] AND TRANSFERRED FUNCTIONS

Article 50

Treasury Regulations

1 Any power to make regulations conferred on the Treasury by this Regulation is exercisable by statutory instrument.

- 2 Such regulations may—
- a make incidental, supplemental, consequential or transitional provision; and
 - b make different provision for different purposes.

3 Unless paragraph 5 applies, a statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

- 4 No regulations to which paragraph 5 applies may be made unless—
- a a draft of the instrument containing them has been laid before Parliament and approved by a resolution of each House; or
 - b paragraph 6 applies.

5 This paragraph applies to any regulations made for the purposes set out in paragraphs 2 and 3 of Schedule 3 which contain a statement by the Treasury that, in their opinion, the effect (or one of the effects) of the proposed regulations would be that an activity which is not a regulated activity for the purposes of FSMA would become a regulated activity.

6 This paragraph applies if regulations to which paragraph 5 applies also contain a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.

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

- 7 If paragraph 6 applies, the regulations—
- a must be laid before Parliament after being made; and
 - b cease to have effect at the end of the relevant period unless before the end of that period the regulations are approved by a resolution of each House of Parliament (but without affecting anything done under the regulations or the power to make new regulations).
- 8 The “relevant period” is a period of 28 days beginning with the day on which the regulations are made.
- 9 In calculating the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

Article 50A

Treasury Directions

- 1 Treasury directions under this Regulation may be varied or revoked.
- 2 A direction given by the Treasury must be laid before each House of Parliament and published in a way appearing to the Treasury to be best calculated to bring it to the attention of the public.

Article 50B

FCA Directions [^{F354}identifying relevant area of the UK]

- 1 A direction may only be given, amended or revoked by the FCA under Article 5, Article 9 or Article 14 (“an FCA direction”) with the approval of the Treasury.
- 2 An FCA direction—
- a may specify different countries in relation to different financial instruments;
 - b must specify the date on which the direction comes into effect and the financial instruments or class of instruments to which it applies;
 - c may be amended or revoked.
- 3 The Treasury may refuse to approve an FCA direction if it appears to the Treasury that—
- a the giving of that direction would prejudice any current or proposed negotiations for an international agreement between the United Kingdom and one or more other countries, international organisations or institutions; or
 - b there are grounds under section 410 (international obligations) of FSMA to direct the FCA not to give that direction.
- 4 For the purposes of paragraph 3, “international organisations” includes the European Union.
- 5 The Treasury must notify the FCA in writing whether or not they approve an FCA direction within four weeks from the day on which that direction is submitted to the Treasury for approval (“the relevant period”).
- 6 If the Treasury do not give notice under paragraph 5 before the end of the relevant period the Treasury are deemed to have approved the direction.

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

7 Provision of a draft direction to the Treasury for consultation does not amount to submission of the direction for approval.

8 A copy of each FCA direction given under this Article must be must be laid before Parliament and published in a way appearing to the FCA to be best calculated to bring it to the attention of the public.

Textual Amendments

F354 Words in [Article 50B](#) heading inserted (1.7.2021) by [Financial Services Act 2021](#) (c. 22), [s. 49\(5\)](#) [Sch. 10 para. 11](#); [S.I. 2021/739](#), [reg. 3\(o\)](#)

Modifications etc. (not altering text)

C1 [Art. 50B](#) applied (31.12.2020) by [Regulation \(EU\) No. 567/2017](#), [Art. 5\(6\)](#) (as inserted by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), [regs. 1\(3\)](#), [59\(2\)\(e\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

^{F355}Article 50C

Other FCA directions

1 A direction by the FCA under Article 46(4) may make different provision in relation to different applications or categories of application.

2 A direction by the FCA under Article 46(5) may make different provision for different cases or categories of case.

3 A direction by the FCA under Article 46 may be varied or revoked by a further direction under that provision.

4 A direction by the FCA under Article 46 must—

- a be in writing, and
- b be published by the FCA in a manner suitable to bring it to the attention of persons likely to be affected by it.

Textual Amendments

F355 [Arts. 50C, 50D](#) inserted (1.7.2021) by [Financial Services Act 2021](#) (c. 22), [s. 49\(5\)](#), [Sch. 10 para. 12](#) (with [Sch. 10 para. 13](#)); [S.I. 2021/739](#), [reg. 3\(o\)](#)

Article 50D

FCA rules

1 The provisions of Part 9A of FSMA (rules and guidance) listed in paragraph 2 apply in relation to rules made by the FCA under Article 46(6B) or 48A as they apply in relation to rules made by the FCA under that Part of that Act, subject to the modification in paragraph 3.

2 The provisions are—

- a section 137T (general supplementary powers);

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

- b Chapter 2 (modification, waiver, contravention and procedural provisions), with the exception of section 138D (actions for damages);
 - c section 141A (power to make consequential amendments of references to rules etc).
- 3 Section 137T applies as if the reference to authorised persons were a reference to third-country firms providing services or performing activities in accordance with Article 46.]

Textual Amendments

F355 Arts. 50C, 50D inserted (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 12** (with **Sch. 10 para. 13**); S.I. 2021/739, **reg. 3(o)**

Article 51

Transfer of MiFID functions

- 1 The Treasury may make regulations for the purposes specified in Part 1 of Schedule 3 to this Regulation.
- 2 The FCA may make technical standards for the purposes set out in Part 2 of Schedule 3 to this Regulation.
- 3 The FCA may make technical standards for the purposes set out in Part 3 of Schedule 3 to this Regulation applying to authorised persons who are not PRA-authorised persons.
- 4 The PRA may make technical standards for the purposes set out in Part 3 of Schedule 3 to this Regulation applying to authorised persons who are PRA-authorised persons.
- 5 For the purposes of this Article—
“authorised persons” has the meaning given in section 31(2) of FSMA;
“PRA-authorised person” has the meaning given in section 2B(5) of FSMA.]

Textual Amendments

F352 Title 9 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **34** (as amended by S.I. 2019/710, regs. 1(2), **16(16)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F353 Word in Title 9 heading inserted (1.7.2021) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 10 para. 10**; S.I. 2021/739, **reg. 3(o)**

TITLE X

FINAL PROVISIONS

^{F356}Article 52

Reports and review

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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

Textual Amendments

F356 Art. 52 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **35(1)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 53

Amendment of Regulation (EU) No 648/2012

Regulation (EU) No 648/2012 is amended as follows:

- (1) in Article 5(2), the following subparagraph is added:

In the developing of the draft regulatory technical standards under this paragraph ESMA shall not prejudice the transitional provision relating to C6 energy derivative contracts as laid down in Article 95 of Directive 2014/65/EU⁽⁹⁾;

- (2) Article 7 is amended as follows:

- (a) paragraph 1 is replaced by the following:

1. A CCP that has been authorised to clear OTC derivative contracts shall accept clearing such contracts on a non-discriminatory and transparent basis, including as regards collateral requirements and fees related to access, regardless of the trading venue. This in particular shall ensure that a trading venue has the right to non-discriminatory treatment in terms of how contracts traded on that trading venue are treated 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.

A CCP may require that a trading venue comply with the operational and technical requirements established by the CCP, including the risk-management requirements.;

- (b) the following paragraph is added:

6. The conditions laid down in paragraph 1 regarding 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 shall be further specified by the technical standards adopted pursuant to Article 35(6)(e) of Regulation (EU) No 600/2014⁽¹⁰⁾;

- (3) In Article 81(3), the following subparagraph is added:

A trade repository shall transmit data to competent authorities in accordance with the requirements under Article 26 of Regulation (EU) No 600/2014⁽¹⁰⁾

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

^{F357} *Article 54*

Transitional provisions

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Textual Amendments

F357 [Art. 54](#) omitted (1.7.2021) by virtue of [Financial Services Act 2021](#) (c. 22), s. 49(5), [Sch. 10 para. 14](#); [S.I. 2021/739](#), reg. 3(o)

Article 55

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

[^{F25}This Regulation shall apply from 3 January 2018.]

[^{X1}Notwithstanding the second paragraph, Article 1(8) and (9), Article 2(2), Article 4(6), Article 5(6) and (9),] Article 7(2), Article 9(5), Article 11(4), Article 12(2), Article 13(2), Article 14(7), Article 15(5), Article 17(3), Article 19(2) and (3), Article 20(3), Article 21(5), Article 22(4), Article 23(3), Article 25(3), Article 26(9), Article 27(3), Article 28(4), Article 28(5), Article 29(3), Article 30(2), Article 31(4), Article 32(1), (5) and (6), Article 33(2), Article 35(6), Article 36(6), Article 37(4), Article 38(3), Article 40(8), Article 41(8), Article 42(7), Article 45(10), Article 46(7), Article 47(1) and (4), Article 52(10) and (12) and Article 54(1) shall apply immediately following the entry into force of this Regulation.

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Editorial Information

X1 Substituted by [Corrigendum to 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](#) (Official Journal of the European Union L 173 of 12 June 2014).

Textual Amendments

F25 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).

F358 Words in [Art. 55](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **35(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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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

Textual Amendments

F359 Words in [Signature](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **35(5)** (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. (See end of Document for details) View outstanding changes

- (1) [^{F10}Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).]
- (2) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).
- (3) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).
- (4) Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003, p. 10).
- (5) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).
- (6) Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p. 1).
- (7) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).
- (8) Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP (OJ L 52, 23.2.2013, p. 11).
- (9) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).’;
- (10) 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 (OJ L 173, 12.6.2014, p. 84)

Textual Amendments

- F10** Inserted 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).

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. 1 para. 4a 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. 1 para. 1 Point (g) 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. 1(2E) words omitted by [2023 c. 29 Sch. 2 para. 14](#)
- Art. 1(3) words substituted by [2023 c. 29 Sch. 2 para. 15](#)
- Art. 1(5) words omitted by [S.I. 2018/1403 reg. 25\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 23 omitted immediately before IP completion day by virtue of S.I. 2019/710, regs. 1(2), 16(10)(b))
- Art. 2 para. 1 Point 36a 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. 2 para. 3 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. 2 para. 1 Point 22a 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. 2 para. 1 Point 34 replacement 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. 2 para. 1 Point 18 replacement 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. 2 para. 1 Point 35 replacement 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. 2 para. 1 Point 36 replacement 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. 4 substituted by [2023 c. 29 Sch. 2 para. 3](#)
- Art. 5 omitted by [2023 c. 29 Sch. 2 para. 5](#)
- Art. 8-11 substituted by [2023 c. 29 Sch. 2 para. 7](#)
- Art. 12(1) words inserted by [2023 c. 29 Sch. 2 para. 20](#)
- Art. 13(1) words inserted by [2023 c. 29 Sch. 2 para. 21](#)
- Art. 14(6A) words omitted by [2023 c. 29 Sch. 2 para. 6\(2\)](#)
- Art. 17a words omitted by [2023 c. 29 Sch. 2 para. 9](#)
- Art. 19 omitted by [2023 c. 29 Sch. 2 para. 22](#)
- Art. 21 substituted by [2023 c. 29 Sch. 2 para. 11](#)
- Art. 22 replacement 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. 22(1) words omitted by [2023 c. 29 Sch. 2 para. 12](#)
- Art. 23 heading substituted by [2023 c. 29 Sch. 2 para. 13\(3\)](#)
- Art. 23(1) omitted by [2023 c. 29 Sch. 2 para. 13\(2\)](#)

- Art. 23(1A) omitted by [2023 c. 29 Sch. 2 para. 13\(2\)](#)
- Art. 23(3) omitted by [2023 c. 29 Sch. 2 para. 13\(2\)](#)
- Art. 23(4) omitted by [2023 c. 29 Sch. 2 para. 13\(2\)](#)
- Art. 23(5) omitted by [2023 c. 29 Sch. 2 para. 13\(2\)](#)
- Art. 23(6) omitted by [2023 c. 29 Sch. 2 para. 13\(2\)](#)
- Art. 26 para. 1 Unnumbered Paragraph 3 replacement 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. 26(3) words omitted by [2023 c. 29 Sch. 2 para. 23](#)
- Art. 26(3) words revoked by [2023 c. 29 Sch. 2 para. 50\(c\)\(i\)](#)
- Art. 27 replacement 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. 28(1) words substituted by [2023 c. 29 Sch. 2 para. 16\(2\)](#)
- Art. 30(2) words substituted by [S.I. 2018/1403 reg. 30\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 30(3)(a) substituted immediately before IP completion day by S.I. 2020/1385, regs. 1(4), 49(4))
- Art. 31 substituted by [2023 c. 29 Sch. 2 para. 18](#)
- Art. 37 omitted by [S.I. 2018/1403 reg. 31\(3\)](#) (This amendment not applied to legislation.gov.uk. Reg. 31(3) substituted immediately before IP completion day by virtue of S.I. 2020/628, regs. 1(2), 7(3)(a))
- Art. 38(2) omitted by [S.I. 2018/1403 reg. 31\(4\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 31(4)(b) substituted immediately before IP completion day by virtue of S.I. 2020/628, regs. 1(2), 7(3)(b))
- Art. 38(3) word substituted by [S.I. 2018/1403 reg. 31\(4\)\(c\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 31(4)(c) substituted immediately before IP completion day by virtue of S.I. 2020/628, regs. 1(2), 7(3)(c))
- Art. 38(3) words substituted by [S.I. 2018/1403 reg. 31\(4\)\(c\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 31(4)(c) substituted immediately before IP completion day by virtue of S.I. 2020/628, regs. 1(2), 7(3)(c))
- Art. 40 para. 6 replacement 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. 41 para. 6 replacement 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. 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)
- Art. 47 para. 6 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. 47 para. 5 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. 47 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. 47 para. 2 Point (a) 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. 47 para. 2 Point (c) 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. 47 para. 1 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. 47(1A)(a) words inserted by [2023 c. 29 Sch. 2 para. 24](#)
- Art. 49 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. 50 para. 5 Sentence 1 replacement 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. 50 para. 2 replacement 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. 50 para. 3 Sentence 1 replacement 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. 50B words omitted by [2023 c. 29 Sch. 2 para. 25](#)
- Art. 50D(2)(b) words inserted by [2023 c. 29 Sch. 2 para. 27\(3\)](#)
- Art. 52 para. 13 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. 52 para. 13 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. 52 para. 14 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. 54 para. 1 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.)

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.)