

SCHEDULE 1

Regulation 6

REMIT

1.—(1) Article 1 of REMIT (subject matter, scope and relation with other Union legislation) is amended as follows.

(2) In the heading, omit “Union”.

(3) In paragraph 1, for the words from “by the Agency” to the end, substitute “by the national regulatory authority”.

(4) In paragraph 2—

(a) for “financial instruments and to which Article 9 of [Directive 2003/6/EC](#) applies” substitute “relevant financial instruments”;

(b) for “Directives [2003/6/EC](#) and [2004/39/EC](#)” substitute “the Market Abuse Regulation and relevant law on markets in financial instruments”;

(c) omit “European”.

(5) In paragraph 3—

(a) for the words from the beginning to “shall cooperate”, substitute—

“The national regulatory authority, the FCA and, where appropriate, the CMA must cooperate”;

(b) for “financial instruments to which Article 9 of [Directive 2003/6/EC](#) applies” substitute “relevant financial instruments”.

(6) Omit paragraphs 4 and 5.

2.—(1) Article 2 (definitions) is amended as follows.

(2) In point (1) (definition of “inside information”), in the second paragraph—

(a) in subparagraph (a)—

(i) for “Regulations [\(EC\) No 714/2009](#) and [\(EC\) No 715/2009](#)” substitute “the Electricity Regulation or the Gas Regulation”;

(ii) after “adopted” insert “, or regulations made,”;

(b) in subparagraph (c), omit “at Union or national level”.

(3) In point (4) (definition of “wholesale energy products”), for “the Union” in each place that it occurs, substitute “the United Kingdom or the EU”.

(4) In point (6) (definition of “wholesale energy market”), for “the Union” substitute “the United Kingdom or the EU”.

(5) Omit point (9).

(6) For points (10), (11) and (12) (definitions of “national regulatory authority”, “transmission system operator” and “parent undertaking”) substitute—

“(10) ‘the national regulatory authority’ means—

(a) the GB Authority in relation to Great Britain;

(b) the NI Authority in relation to Northern Ireland;

(10A) ‘the GB Authority’ means the Gas and Electricity Markets Authority;

(10B) ‘the NI Authority’ means the Northern Ireland Authority for Utility Regulation;

(10C) ‘national regulatory authorities of member States’ means authorities designated as national regulatory authorities by a member State in accordance with Article 35(1) of

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[Directive 2009/72/EC](#) of the European Parliament and of the Council concerning common rules for the internal market in electricity(1) or Article 39(1) of [Directive 2009/73/EC](#) of the European Parliament and of the Council concerning common rules for the internal market in natural gas(2);

(11) ‘transmission system operator’ has the meaning set out in Article 2 of the Electricity Regulation(3) in relation to electricity, and has the meaning set out in Article 2 of the Gas Regulation(4) in relation to gas;

(12) ‘parent undertaking’ has the meaning given in section 1162 of the Companies Act 2006(5);”.

(7) For points (14) and (15) (definitions of “distribution of natural gas” and “distribution of electricity”) substitute—

“(14) ‘distribution of natural gas’ has the meaning given to “distribution” in Article 2 of the Gas Regulation(6);

(15) ‘distribution of electricity’ has the meaning given to “distribution” in Article 2 of the Electricity Regulation(7);”.

(8) After point (15) insert—

“(16) ‘the Electricity Regulation’ means Regulation (EC) No 714/2009 of the European Parliament and of the Council on conditions for access to the network of cross-border exchanges in electricity(8);

(17) ‘the Gas Regulation’ means Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks(9);

(18) ‘the Market Abuse Regulation’ means Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse(10);

(19) ‘relevant law on markets in financial instruments’ means—

(a) Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments(11); and

(b) any law relied upon immediately before exit day to implement [Directive 2014/65/EU](#) of the European Parliament and of the Council on markets in financial instruments(12) in the United Kingdom—

(i) as it is in force on exit day, in the case of rules made by the FCA or the Prudential Regulation Authority under the Financial Services and Markets Act 2000(13);

(ii) as amended from time to time in all other cases;

(20) ‘the REMIT Implementing Regulation’ means Commission Implementing Regulation (EU) No 1348/2014 on data reporting;

(1) O.J. L 211, 14.8.2009, p. 55.

(2) O.J. L 211, 14.8.2009, p. 94.

(3) The definition of ‘transmission system operator’ is inserted in Article 2 of the Electricity Regulation by S.I. 2019/xxx.

(4) The definition of ‘transmission system operator’ is inserted in Article 2 of the Gas Regulation by S.I. 2019/xxx.

(5) 2006 c. 46.

(6) The definition of ‘distribution’ is inserted in Article 2 of the Gas Regulation by S.I. 2019/xxx.

(7) The definition of ‘distribution’ is inserted in Article 2 of the Electricity Regulation by S.I. 2019/xxx.

(8) The Electricity Regulation is amended by S.I. 2018/1286 and S.I. 2019/xxx.

(9) The Gas Regulation is amended by S.I. 2018/1286 and S.I. 2019/xxx.

(10) The Market Abuse Regulation is amended by S.I. 201x/xxx.

(11) Regulation (EU) No 600/2014 is amended by S.I. 201x/xxx.

(12) O.J. L 173, 12.6.2014, p. 349.

(13) 2000 c. 8.

(21) ‘the Agency’ means the Agency for the Cooperation of Energy Regulators established under Regulation (EC) No 713/2009 of the European Parliament and of the Council (as it applies in EU law)(14);

(22) ‘the CMA’ means the Competition and Markets Authority;

(23) ‘the FCA’ means the Financial Conduct Authority;

(24) ‘industry code’ means a document maintained in accordance with a licence condition;

(25) ‘licence condition’ means a condition of a licence under—

(a) section 7, 7ZA or 7A of the Gas Act 1986(15) or section 6 of the Electricity Act 1989(16) in relation to Great Britain; or

(b) Article 10 of the Electricity (Northern Ireland) Order 1992(17) or Article 8 of the Gas (Northern Ireland) Order 1996(18) in relation to Northern Ireland;

(26) ‘relevant financial instrument’ means a financial instrument to which Article 2(1)(a) or (d) of the Market Abuse Regulation(19) applies, with Article 2(1)(d) being read for this purpose as if the references to “point (a), (b) or (c)” and to “those points” were references to “point (a)”;

(27) ‘the SEM’ means the Single Electricity Market as defined in the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007(20).”.

3.—(1) Article 3 (prohibition of insider trading) is amended as follows.

(2) In paragraph 3, for the words from “obligations under” to the end substitute—

“obligations under any provision of a licence condition or industry code—

(a) which, immediately before exit day, implemented points (d) and (e) of Article 12 of Directive 2009/72/EC or points (a) and (c) of Article 13(1) of Directive 2009/73/EC; or

(b) which would, if it had existed immediately before exit day, have implemented any of those provisions”.

(3) In paragraph 4—

(a) in subparagraph (b), omit “Agency and the”;

(b) in subparagraph (c), for “a Member State” substitute “the United Kingdom”.

4.—(1) Article 4 (obligation to publish inside information) is amended as follows.

(2) In paragraph 2, omit “Agency and the relevant”.

(3) In paragraph 4—

(a) for “Regulation (EC) No 714/2009 or (EC) No 715/2009” substitute “the Electricity Regulation or the Gas Regulation”;

(b) after “adopted”, insert “or regulations made”.

(4) In paragraph 5, for “Regulation (EC) No 714/2009 or (EC) No 715/2009” substitute “the Electricity Regulation or the Gas Regulation”.

(14) O.J. L 211, 14.8.2009, p. 1.

(15) 1986 c. 44. Section 7 was substituted and section 7A was inserted by the Gas Act 1995 (c. 45), sections 5 and 6. Section 7ZA was inserted by the Energy Act 2004 (c. 20), section 149.

(16) 1989 c. 29. Section 6 was substituted by the Utilities Act 2000 (c. 27), section 30.

(17) S.I. 1992/231 (N.I. 1).

(18) S.I. 1996/275 (N.I. 2).

(19) Article 2(1) of the Market Abuse Regulation is amended by S.I. 201x/xxx.

(20) S.I. 2007/913 (N.I. 7). The definition of “the SEM” in Article 2 of the Order was substituted by S.R. 2016 No. 129.

(5) In paragraph 6, for the words from “the obligations” to “those Directives and Regulations” substitute “the EU-derived obligations of market participants”.

(6) After paragraph 6 insert—

“**6A.** In paragraph 6, “EU-derived obligations” means obligations under—

- (a) any legislation, licence condition or industry code which, immediately before exit day, implemented [Directive 2009/72/EC](#) or [2009/73/EC](#);
- (b) the Electricity Regulation or the Gas Regulation; or
- (c) any network codes or guidelines adopted, or regulations made, under the Electricity Regulation or the Gas Regulation.”

(7) In paragraph 7—

- (a) for “their country” substitute “the United Kingdom”;
- (b) at the end, insert as a new subparagraph—

“For the purposes of this paragraph, Article 2 of Council [Directive 2008/114/EC](#) is to be read as if, in point (a), the references to ‘Member States’ and ‘a Member State’ were references to the United Kingdom.”

5.—(1) Article 7 (market monitoring) is amended as follows.

(2) In paragraph 1, in the first sentence, for “The Agency” substitute “The national regulatory authority”.

(3) For paragraph 2 substitute—

“**2.** The GB Authority and the NI Authority must, where appropriate, cooperate with each other in carrying out the monitoring of wholesale energy markets referred to in paragraph 1.”

(4) Omit paragraph 3.

6.—(1) Article 8 (data collection) is amended as follows.

(2) In paragraph 1, in the first sentence, for “Market participants” substitute “To the extent required by Chapter II of the REMIT Implementing Regulation, market participants”.

(3) In paragraph 3, in the first subparagraph—

- (a) for “[Directive 2004/39/EC](#)” substitute “relevant law on markets in financial instruments”; and
- (b) for “Union legislation” substitute “retained EU law”.

(4) In paragraph 4—

- (a) in point (e), for “Union legislation” substitute “retained EU law”; and
- (b) in point (f), for the words from “Article 25(3) to the end, substitute “Article 26(1) and (2) of Regulation (EU) No 600/2014”**(21)**.

(5) In paragraph 5, in the first sentence, for “Market participants” substitute “To the extent required by Chapter III of the REMIT Implementing Regulation, market participants”.

7.—(1) Article 9 (registration of market participants) is amended as set out in subparagraphs (2) to (7).

(2) In paragraph 1—

- (a) in the first subparagraph—

(21) Article 26(1) and (2) of Regulation (EU) No 600/2014 are amended by S.I. 201x/xxx.

- (i) for “transactions which are required to be reported to the Agency in accordance with Article 8(1)” substitute “reportable transactions”;
- (ii) for the words from “the Member State” to “a Member State” substitute “each part of the United Kingdom”; and
- (iii) at the end, insert—
 - “For this purpose—
 - (a) “part of the United Kingdom” means Great Britain or Northern Ireland; and
 - (b) all market participants entering into transactions in the SEM are to be treated as being active in Northern Ireland.”;
- (b) for the second subparagraph substitute—

“A market participant entering into reportable transactions which relate, or might relate, to the trading or transportation of electricity between Great Britain and the SEM must register with both the GB Authority and the NI Authority.”.
- (3) After paragraph 1 insert—
 - “**1A.** The GB Authority may direct that the obligation in paragraph 1 to register with it does not apply to market participants which are already registered with the NI Authority, or with a national regulatory authority of a member State under this Regulation as it applies in EU law.
 - “**1B.** The NI Authority may direct that the obligation in paragraph 1 to register with it does not apply to market participants which are already registered with the GB Authority, or with a national regulatory authority of a member State under this Regulation as it applies in EU law.
 - “**1C.** A direction under paragraph 1A or 1B—
 - (a) may have effect generally or in specified cases;
 - (b) may be made for a specified period; and
 - (c) may be varied or cancelled by the national regulatory authority which made the direction.”.
- (4) In paragraph 2, for the words from the beginning to “national registers”, substitute “The GB Authority and the NI Authority must each establish a register”.
- (5) Omit paragraph 3.
- (6) In paragraph 4, for the words from “a transaction” to the end, substitute “a reportable transaction”.
- (7) At the end, insert—

“**6.** For the purposes of this Article, “reportable transaction” means a transaction which is required to be reported to the national regulatory authority under Article 8(1), or which would be required to be reported if the national regulatory authority had established a data reporting system under Article 10A of the REMIT Implementing Regulation.”.
- (8) Subparagraph (9) applies to a market participant which—
 - (a) enters into a reportable transaction on or after exit day but before 27th April 2019;
 - (b) would, but for subparagraph (9), be required by Article 9(4) of REMIT to submit a registration form to the GB Authority or to the NI Authority (“the relevant authority”) before entering into that transaction; and

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(c) immediately before exit day, was not required by Article 9 of REMIT to be registered with that authority.

(9) Notwithstanding Article 9(4) of REMIT, a market participant to which this paragraph applies need not submit a registration form to the relevant authority before entering into the reportable transaction, but must do so before 27th April 2019.

(10) In subparagraphs (8) and (9)—

- (a) expressions defined in Article 2 of REMIT have the meanings given in that Article;
- (b) “reportable transaction” has the meaning given in Article 9(6) of REMIT.

8. Omit Article 10.

9. For Article 11 (data protection) substitute—

“This Regulation shall be without prejudice to the obligations of public authorities relating to processing of personal data under retained EU law.”.

10.—(1) Article 12 (operational reliability) is amended as follows.

(2) In paragraph 1—

- (a) omit the first subparagraph;
- (b) in the second subparagraph—
 - (i) for the words from the beginning to “ESMA” substitute “The national regulatory authority, the FCA, the CMA”; and
 - (ii) omit “or Article 10”;
- (c) omit the third subparagraph.

(3) In paragraph 2—

- (a) in the first subparagraph, for “the Agency” substitute “the national regulatory authority”;
- (b) omit the second subparagraph;
- (c) in the fourth subparagraph, for “The Agency” substitute “The national regulatory authority”.

11.—(1) Article 13 (implementation of prohibitions against market abuse) is amended as follows.

(2) In paragraph 1—

- (a) in the first paragraph, for “National regulatory authorities shall” substitute “The national regulatory authority must”;
- (b) for the second subparagraph substitute—

“The national regulatory authority must exercise its investigatory and enforcement powers in a proportionate manner.”;
- (c) in the fourth paragraph, for “the national regulatory authorities may exercise their” substitute “the national regulatory authority may exercise its”.

(3) Omit paragraph 2.

12. Omit Article 14.

13.—(1) Article 16 (cooperation at Union and national level) is amended as follows.

(2) In the heading, omit “at Union and national level”.

(3) In paragraph 1—

- (a) omit the first and second subparagraphs;

- (b) in the third subparagraph, for the words from the beginning to “level”, substitute—
“The GB Authority and the NI Authority must cooperate with each other, and may, if they consider it expedient to do so, cooperate with the Agency and national regulatory authorities of member States”.
 - (c) in the fourth subparagraph, for the words from the beginning to “Member State” substitute “The national regulatory authority, the FCA and the CMA”.
- (4) In paragraph 2—
- (a) omit the first subparagraph;
 - (b) in the second subparagraph—
 - (i) for “a national” substitute “the national”;
 - (ii) for “that Member State” substitute “the United Kingdom”;
 - (iii) for “another Member” substitute “a member”;
 - (iv) after “this Article”, in both places in which it occurs, insert “(as it applies in EU law)”;
 - (v) for “financial instruments subject to Article 9 of [Directive 2003/6/EC](#)” substitute “relevant financial instruments”.
- (5) In paragraph 3—
- (a) in subparagraph (a)—
 - (i) for the words from the beginning to “they have” substitute “the national regulatory authority must inform the FCA where it has”;
 - (ii) for the words from “[Directive 2003/6/EC](#)” to the end, substitute “the Market Abuse Regulation and which affect relevant financial instruments”;
 - (b) omit subparagraphs (b) and (c);
 - (c) in subparagraph (d), for the words from the beginning to “they have” substitute “the national regulatory authority must inform the CMA where it has”.
- (6) Omit paragraphs 4 to 6.
- 14.—**(1) Article 17 (professional secrecy) is amended as follows.
- (2) In paragraph 2—
- (a) omit subparagraphs (a) and (b);
 - (b) in subparagraphs (c) and (d), for “national regulatory authorities” substitute “national regulatory authority”.
- (3) In paragraph 3, for “Union legislation” substitute “retained EU law”.
- (4) In paragraph 4—
- (a) in the first sentence, for the words from “the Agency” to “ESMA” substitute “authorities”;
 - (b) in the third sentence, for the words from “national” to “or other” substitute “authorities”.
- (5) In paragraph 5—
- (a) omit “in a Member State”;
 - (b) for “another Member” substitute “a member”;
 - (c) at the end, insert “as it applies in EU law”.
- 15.** Omit Articles 18 and 19.

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16. In the words following Article 22, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.