



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVIII

RECOGNISED INVESTMENT EXCHANGES AND CLEARING HOUSES

CHAPTER I

EXEMPTION

General

285 Exemption for recognised investment exchanges and clearing houses.

(1) In this Act—

- (a) “recognised investment exchange” means an investment exchange in relation to which a recognition order is in force; ^[F1F1]...
- (b) “recognised clearing house” means—
 - (i) a central counterparty in relation to which a recognition order is in force (in this Part referred to as a “recognised central counterparty”),
or
 - (ii) a clearing house which provides clearing services in the United Kingdom without doing so as a central counterparty, and in relation to which a recognition order is in force;
- (c) “EEA central counterparty” means a person established in an EEA State other than the United Kingdom who has been authorised by the competent authority of that State as a central counterparty pursuant to Article 17 of the EMIR regulation; and
- (d) “third country central counterparty” means a person established in a State which is not an EEA State who has been recognised by ESMA as a central counterparty pursuant to Article 25 of the EMIR regulation.]

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- (2) A recognised investment exchange is exempt from the general prohibition as respects any regulated activity—
- (a) which is carried on as a part of the exchange’s business as an investment exchange; or
 - [^{F2}(b) which is carried on for the purposes of, or in connection with, the provision by the exchange of services designed to facilitate the provision of clearing services by another person.]
- (3) [^{F3}A recognised clearing house which is not a recognised central counterparty] is exempt from the general prohibition as respects any regulated [^{F4}activity—
- (a) which is carried on for the purposes of, or in connection with, the provision of clearing services by the clearing house, or
 - (b) which is carried on for the purposes of, or in connection with, the provision by the clearing house of services designed to facilitate the provision of clearing services by another person.]
- [^{F5}(3A) A recognised central counterparty is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services or activities specified in its recognition order.
- (3B) An EEA central counterparty is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services or activities specified in its authorisation granted pursuant to Article 17 of the EMIR regulation.
- (3C) A third country central counterparty is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services or activities specified in its recognition by ESMA pursuant to Article 25 of the EMIR regulation.]
- [^{F6}(4) The Treasury may by order amend paragraph (b) of subsection (2) or (3).]

Textual Amendments

- F1** S. 285(1)(b)-(d) substituted for s. 285(1)(b) and word (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(3)(a)** (with regs. 52-58)
- F2** S. 285(2)(b) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 28(2)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F3** Words in s. 285(3) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(3)(b)** (with regs. 52-58)
- F4** Words in s. 285(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 28(3)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F5** S. 285(3A)-(3C) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(3)(c)** (with regs. 52-58)
- F6** S. 285(4) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 28(4)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

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[^{F7}285A Powers exercisable in relation to recognised investment exchanges and clearing houses

- (1) For the purposes of this Part, the FCA is “the appropriate regulator” in relation to recognised investment exchanges.
- (2) For the purposes of this Part, the Bank of England is “the appropriate regulator” in relation to recognised clearing houses.
- (3) In Schedule 17A—
 - (a) Part 1 makes provision for a memorandum of understanding between the appropriate regulators and the PRA with respect to the exercise of their functions in relation to recognised investment exchanges and clearing houses;
 - (b) Part 2 applies certain provisions of this Act in relation to the Bank of England in consequence of the conferring of functions on the Bank under this Part of this Act;
 - (c) Part 3 makes provision relating to the winding up, administration or insolvency of [^{F8}recognised clearing houses]; and
 - (d) Part 4 makes provision about fees.]

Textual Amendments

- F7** S. 285A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), ss. 29\(1\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(b\)](#), [Sch. Pt. 2](#); [S.I. 2013/423, art. 3, Sch.](#)
- F8** Words in s. 285A(3)(c) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), [3\(4\)](#) (with regs. 52-58)

286 Qualification for recognition.

- (1) The Treasury may make regulations setting out the requirements—
 - (a) which must be satisfied by an investment exchange or clearing house if it is to qualify as a body in respect of which [^{F9}the appropriate regulator] may make a recognition order under this Part; and
 - (b) which, if a recognition order is made, it must continue to satisfy if it is to remain a recognised body.
- (2) But if regulations contain provision as to the default rules of an investment exchange or clearing house, or as to proceedings taken under such rules by such a body, they require the approval of the Secretary of State.
- (3) “Default rules” means rules of an investment exchange or clearing house which provide for the taking of action in the event of a person’s appearing to be unable, or likely to become unable, to meet his obligations in respect of one or more market contracts connected with the exchange or clearing house.
- (4) “Market contract” means—
 - (a) a contract to which Part VII of the ^{M1}Companies Act 1989 applies as a result of section 155 of that Act or a contract to which Part V of the ^{M2}Companies (No. 2)(Northern Ireland) Order 1990 applies as a result of Article 80 of that Order; and

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(b) such other kind of contract as may be prescribed.

[^{F10}(4A) If regulations under subsection (1) require an investment exchange to make information available to the public in accordance with—

(a) Article 29.1 of the markets in financial instruments directive and the Commission Regulation, or

(b) Article 44.1 of that directive and that Regulation,

the regulations may authorise [^{F11}the FCA] to waive the requirement in the circumstances specified in the relevant provisions.

(4B) The “relevant provisions” for the purposes of subsection (4A) are—

(a) in a case falling within paragraph (a) of that subsection, Article 29.2 of the markets in financial instruments directive and the Commission Regulation, and

(b) in a case falling within paragraph (b) of that subsection, Article 44.2 of that directive and that Regulation.

(4C) If regulations under subsection (1) require an investment exchange to make information available to the public in accordance with—

(a) Article 30.1 of the markets in financial instruments directive and the Commission Regulation, or

(b) Article 45.1 of that directive and that Regulation,

the regulations may authorise [^{F12}the FCA] to defer the requirement in the circumstances specified, and subject to the requirements contained, in the relevant provisions.

(4D) The “relevant provisions” for the purposes of subsection (4C) are—

(a) in a case falling within paragraph (a) of that subsection, Article 30.2 of the markets in financial instruments directive and the Commission Regulation, and

(b) in a case falling within paragraph (b) of that subsection, Article 45.2 of that directive and that Regulation.

(4E) “The Commission Regulation” means Commission Regulation 1287/2006 of 10 August 2006.]

[^{F13}(4F) Regulations under subsection (1) may confer power on the appropriate regulator to make rules for the purposes of the regulations or of any specified provision made by the regulations.]

(5) Requirements resulting from this section are referred to in this Part as “recognition requirements”.

[^{F14}(6) In the case of an investment exchange, requirements resulting from this section are in addition to requirements which must be satisfied by the exchange as a result of section 290(1A) before [^{F15}the FCA] may make a recognition order declaring the exchange to be a recognised investment exchange.]

Textual Amendments

F9 Words in s. 286(1)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 2\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

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- F10** S. 286(4A)-(4E) inserted (6.12.2006) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (Modification of Powers) Regulations 2006 (S.I. 2006/2975), **reg. 8**
- F11** Words in s. 286(4A) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 2(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F12** Words in s. 286(4C) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 2(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F13** S. 286(4F) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), **ss. 30, 122(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F14** S. 286(6) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(2), **Sch. 2 para. 2**
- F15** Words in s. 286(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 2(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

Marginal Citations

- M1** 1989 c. 40.
M2 S.I. 1990/1504 (N.I. 10).

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