

Status: Point in time view as at 06/04/2021.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Information gathering and investigations is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 17A

FURTHER PROVISION IN RELATION TO EXERCISE OF PART 18 FUNCTIONS BY BANK OF ENGLAND

Textual Amendments

- F1** Sch. 17A 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(2), 122(3), Sch. 7 (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.

PART 2

APPLICATION OF PROVISIONS OF THIS ACT IN RELATION TO BANK OF ENGLAND

Information gathering and investigations

- 11 (1) The powers conferred by section 165(1) and (3) (power to require information) are exercisable by the Bank or (as the case may be) its officers to impose requirements on—
- (a) a recognised clearing house;
 - [a recognised CSD;
 - ^{F2}(aa)
 - ^{F3}(ab) a third country CSD, in relation to any services referred to in the Annex to the CSD regulation which the third country CSD provides in the United Kingdom;]
 - [a third country central counterparty and any person to whom that central
 - ^{F4}(ac) counterparty has outsourced operational functions, services or activities.]
 - (b) a person who for the purposes of section 165 is connected with a recognised clearing house [^{F5}, a third country central counterparty][^{F6}^{F7}or a recognised CSD] (as the case may be)].
- (2) The information or documents that the Bank may require to be provided or produced are limited to—
- (a) information or documents reasonably required in connection with the exercise by the Bank of functions conferred on it by or under this Part of this Act;
 - (b) information or documents reasonably required in connection with the exercise by the Bank of any of its other functions in pursuance of its financial stability objective; ^{F8} ...

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- (c) information or documents which the Bank reasonably considers may enable or assist the FCA in discharging functions conferred on the FCA by or under this Act ^[F9]; and
- ^[F10](d) information or documents reasonably required in connection with the exercise by the Bank of its functions—
- (i) under—
 - (aa) the EMIR regulation,
 - (bb) the CSD regulation,
 - (cc) any EU regulation originally made under the CSD Regulation which is retained direct EU legislation, or
 - (dd) any subordinate legislation made under the CSD Regulation on or after IP completion day;
 - (ii) in connection with Article 4 or 15 of the SFT regulation; or
 - (iii) under any subordinate legislation made under the SFT regulation on or after IP completion day.]
- (3) In consequence of the provision made by sub-paragraph (2), section 165(4) is not to apply in relation to section 165(1) and (3) as applied by this paragraph.]

Textual Amendments

- F2** Sch. 17A para. 11(1)(aa)(ab) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, 2(39)(c)(i) (with regs. 7(4), 9(1))
- F3** Sch. 17A para. 11(1)(ab) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **116(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Sch. 17A para. 11(1)(ac) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2020 \(S.I. 2020/646\)](#), regs. 1(3), **2(5)(a)(i)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F5** Sch. 17A para. 11(2)(d) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **116(b)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 33(j)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in Sch. 17A para. 11(1)(b) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, 2(39)(c)(ii) (with regs. 7(4), 9(1))
- F7** Words in Sch. 17A para. 11(1)(b) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **116(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Word in Sch. 17A para. 11(2)(b) omitted (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(16)(a)(i)** (with regs. 52-58)
- F9** Sch. 17A para. 11(2)(d) and word 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(16)(a)(ii)** (with regs. 52-58)
- F10** Sch. 17A para. 11(2)(d) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **116(b)** (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 33(j)); 2020 c. 1, Sch. 5 para. 1(1)

- 12 The power conferred by section 166 (reports by skilled person) is exercisable by the Bank as if references in that section to an authorised person were to a ^[F11]recognised clearing house, third country central counterparty or a recognised CSD].

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Textual Amendments

F11 Words in Sch. 17A para. 12 substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), **reg. 13(1)** (as substituted by [S.I. 2020/646](#), **regs. 1(2)(c), 11(3)**) (with savings in [S.I. 2019/680](#), **reg. 11** as amended by [S.I. 2020/646](#), **reg. 12**)

13 (1) The powers conferred by section 167 (appointment of persons to carry out general investigations) are exercisable by the Bank as if references in that section to an authorised person were to any recognised clearing house other than an overseas clearing house ^{F12}or to any Tier 2 third country central counterparty^{F13}or to any recognised CSD].

^{F14}(1A)

(2) In addition to the powers conferred by section 171, a person conducting an investigation under section 167 as a result of this paragraph is to have the powers conferred by sections 172 and 173 (and for this purpose the references in those sections to an investigator are to be read accordingly).

Textual Amendments

F12 Words in Sch. 17A para. 13(1) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2020 \(S.I. 2020/646\)](#), **regs. 1(3), 2(5)(b)** (with savings in [S.I. 2019/680](#), **reg. 11** as amended by [S.I. 2020/646](#), **reg. 12**)

F13 Words in Sch. 17A para. 13(1) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), **regs. 1, 2(39)(e)(i)** (with **regs. 7(4), 9(1)**)

F14 Sch. 17A para. 13(1A) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), **regs. 1(3), 13(2)** (with savings in [S.I. 2019/680](#), **reg. 11**); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

14 (1) The power conferred by section 168(5) (appointment of persons to carry out investigations in particular cases) is exercisable by the Bank.

(2) That power is exercisable if it appears to the Bank that there are circumstances suggesting that—

- (a) a clearing house ^{F15}or a central securities depository] may be guilty of an offence under section 398(1) or an offence under prescribed regulations relating to money laundering;
- (b) a clearing house ^{F15}or a central securities depository] may have contravened a rule made by the Bank under this Part of this Act;
- (c) a clearing house ^{F15}or a central securities depository] may have contravened the recognition requirements;
- (d) a clearing house ^{F15}or a central securities depository] may have contravened any ^{F16}qualifying provision] that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order;
- (e) a clearing house ^{F15}or a central securities depository] may have breached the general prohibition.

^{F17}(f)

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- [a third country central counterparty may be guilty of an offence under
^{F18}(g) section 398(1);
 (h) a Tier 2 third country central counterparty may have contravened the requirements of the EMIR regulation.]

- (3) In addition to the powers conferred by section 171, a person conducting an investigation under section 168(5) as a result of this paragraph is to have the powers conferred by sections 172 and 173 (and for this purpose the references in those sections to an investigator are to be read accordingly).

Textual Amendments

- F15** Words in Sch. 17A para. 14(2)(a)-(e) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, 2(39)(f)(i) (with regs. 7(4), 9(1))
- F16** Words in Sch. 17A para. 14(2)(d) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **13(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Sch. 17A para. 14(2)(f) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **13(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Sch. 17A para. 14(2)(g)(h) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2020 \(S.I. 2020/646\)](#), regs. 1(3), **2(5)(c)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)

- 15 An overseas regulator may, in accordance with section 169, request the Bank to exercise the power conferred by section 165 (as applied by paragraph 11 of this Schedule).
- 16 The power to give information under section 176(1) (entry of premises under warrant) is exercisable by the Bank, or an investigator appointed by the Bank, as if the reference to the second set of conditions were omitted.]

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