

Changes to legislation: Financial Services Act 2021, Cross Heading: Provision of services by third-country firms following equivalence determination is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

SCHEDULES

SCHEDULE 10

AMENDMENTS OF THE MARKETS IN FINANCIAL INSTRUMENTS REGULATION

Provision of services by third-country firms following equivalence determination

4 In the heading of Title 8, for “DECISION” substitute “ DETERMINATION ”.

Commencement Information

II Sch. 10 para. 4 in force at 1.7.2021 by S.I. 2021/739, reg. 3(o)

5 (1) Article 46 (general provision about provision of services etc by third-country firms following an equivalence decision) is amended as follows.

(2) In paragraph 1, for “Article 47” substitute “ Article 48 ”.

(3) In paragraph 2—

(a) for point (a) substitute—

“(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;”, and

(b) after point (c) insert—

“(d) the firm has established the necessary arrangements and procedures to provide the information required by rules made under paragraph 6B of this Article;

(e) the firm has established the necessary arrangements and procedures to comply with requirements imposed under Article 48A.”

(4) Omit paragraph 2A.

(5) In paragraph 4—

(a) in the first subparagraph, for the words from “adoption” to the end substitute “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).”;

(b) after the first subparagraph insert—

“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.”, and

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- (c) in the following subparagraph, after “all” insert “ further ”.
- (6) In paragraph 5, in the second subparagraph, for “in writing and in a prominent way” substitute “ in writing, in a prominent way and in such form as the FCA may direct ”.
- (7) After paragraph 5 insert—
- “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.”
- (8) After paragraph 6 insert—
- “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.”
- (9) Omit paragraph 7.

Commencement Information

I2 Sch. 10 para. 5 in force at 1.7.2021 by S.I. 2021/739, reg. 3(o)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2021/671, reg. 5 by [S.I. 2021/1163 reg. 2](#)