



Financial Services and Markets Act 2023

CHAPTER 29

FINANCIAL SERVICES AND MARKETS ACT 2023

PART 1

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- PART 1 — RETAINED DIRECT PRINCIPAL EU LEGISLATION
- PART 2 — SUBORDINATE LEGISLATION
- PART 3 — EU TERTIARY LEGISLATION ETC
- PART 4 — PRIMARY LEGISLATION
- PART 5 — OTHER EU-DERIVED LEGISLATION

SCHEDULE 2 — Transitional amendments

PART 1 — AMENDMENTS TO THE MARKETS IN FINANCIAL INSTRUMENTS
REGULATION

- 1 Introductory
- 2 Transparency requirements for equities
- 3 For Article 4 substitute— Article 4 Waivers for equity instruments...
- 4 After Article 4 insert— Article 4a Suspension of waivers The FCA may direct that a waiver provided for by...
- 5 Omit Article 5 (volume cap mechanism).
- 6 (1) Article 14 (obligation for systematic internalisers to make public...
- 7 Transparency requirements for fixed income instruments and derivatives etc
- 8 Systematic internalisers and other investment firms
- 9 In Article 17a (tick sizes), in the second paragraph, omit...
- 10 For Article 18 substitute— Article 18 Systematic internalisers: pre-trade transparency...
- 11 For Article 21 substitute— Article 21 Investment firms (including systematic...
- 12 In Article 22 (providing information for the purposes of transparency...
- 13 Share trading obligation
- 14 In Article 1(2E), omit “Article 23,”.
- 15 Derivatives trading obligation
- 16 (1) Article 28 (obligation to trade on regulated markets, MTFs...
- 17 After Article 28 insert— Article 28a Suspension or modification of...
- 18 For Article 31 substitute— Article 31 Risk reduction services The FCA may by rules provide for one or more...
- 19 Consequential amendments relating to this Part
- 20 In Article 12(1) after “accordance with” insert “, or with...
- 21 In Article 13(1) after “accordance with” insert “, or with...
- 22 Omit Article 19.
- 23 In Article 26(3), omit “and Article 21(5)(a)”.
- 24 In Article 47(1A)(a), after “Regulation” insert “or in rules made...
- 25 In Article 50B (FCA directions), omit “Article 5, Article 9...
- 26 (1) Article 50C (other FCA directions) is amended as follows....
- 27 (1) Article 50D (FCA rules) is amended as follows.
 - PART 2 — AMENDMENTS TO THE EUROPEAN MARKET INFRASTRUCTURE
REGULATION
 - 28 Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and...
 - 29 After Article 6a insert— Article 6b Risk reduction services The Bank of England may by rules provide for the...
 - 30 After Article 84b insert— Article 84c Bank of England rules...
 - PART 3 — AMENDMENTS TO THE EU SECURITISATION REGULATION
 - 31 Introductory
 - 32 STS equivalent non-UK securitisations
 - 33 After Article 28 (third party verifying STS compliance) insert—
CHAPTER...

- 34 Minor and consequential amendments
- 35 In Article 4 (requirements for securitisation special purpose entities)—
- 36 (1) Article 5 (due-diligence requirements for institutional investors) is amended...
- 37 (1) Article 46 (Treasury review) is amended as follows.
- 38 In Regulation (EU) No 575/2013 of the European Parliament and...
- 39 In Commission Delegated Regulation (EU) 2015/35 of 10 October 2014...
- 40 In Article 11(1) of Regulation (EU) 2017/1131 of the European...
- 41 The Securitisation Regulations 2018 (S.I. 2018/1288) are amended in accordance...
- 42 In regulation 2 (interpretation), in the definition of “SRUP”, in...
- 43 In regulation 4 (designation of competent authorities), in paragraph (1) (b),...
- PART 4 — AMENDMENTS TO THE FINANCIAL SERVICES AND MARKETS ACT 2000 (MARKETS IN FINANCIAL INSTRUMENTS) REGULATIONS 2017
- 44 Introductory
- 45 Position limits for commodity derivatives
- 46 (1) Regulation 16 (FCA duty to establish position limits) is...
- 47 (1) Regulation 27 (FCA power to require information) is amended...
- 48 (1) Regulation 28 (FCA power to intervene) is amended as...
- 49 In regulation 29 (interpretation of Part 3), in paragraph (2)—...
- 50 Consequential revocations relating to this Part
- PART 5 — AMENDMENTS TO THE CENTRAL COUNTERPARTIES (AMENDMENT, ETC., AND TRANSITIONAL PROVISION) (EU EXIT) REGULATIONS 2018
- 51 (1) Regulation 19B of the Central Counterparties (Amendment, etc., and...
- PART 6 — AMENDMENTS RELATING TO CRITICAL THIRD PARTIES
- 52 The Electronic Money Regulations 2011 (S.I. 2011/99) are amended in...
- 53 In regulation 48 (monitoring and enforcement), after paragraph (1)(a) insert—...
- 54 In regulation 49 (reporting requirements), after paragraph (1) insert—
- 55 In regulation 50 (public censure), after “Regulations” insert “or, in...
- 56 In regulation 51 (financial penalties)— (a) omit “or” at the...
- 57 In regulation 52 (suspending authorisation etc), in paragraph (1) after...
- 58 In regulation 54 (injunctions)— (a) omit “or” at the end...
- 59 In regulation 55 (power to require restitution), in paragraph (1)...
- 60 In regulation 57 (restitution orders), in paragraph (1) after “requirement,”...
- 61 In regulation 58 (complaints), in paragraph (1)—
- 62 In Schedule 3 (application and modification of legislation)—
- 63 The Payment Services Regulations 2017 (S.I. 2017/752) are amended in...
- 64 In regulation 108 (monitoring and enforcement), after paragraph (1)(a) insert—...
- 65 In regulation 109 (reporting requirements), after paragraph (1) insert—
- 66 In regulation 110 (public censure), after “Regulations” insert “or, in...
- 67 In regulation 111 (financial penalties)— (a) omit “or” at the...
- 68 In regulation 113 (injunctions)— (a) omit “or” at the end...
- 69 In regulation 114 (power to require restitution), in paragraph (1)...

- 70 In regulation 116 (restitution orders), in paragraph (1) after “requirement,”...
- 71 In regulation 117 (complaints), in paragraph (1)—
- 72 In Schedule 6 (application and modification of legislation)—

SCHEDULE 3 — New Schedule 6B to FSMA 2000

SCHEDULE 4 — FMI Sandboxes

- 1 Participation
- 2 Technology
- 3 Practices
- 4 Financial instruments
- 5 Settlement of payments
- 6 Requirements
- 7 Cooperation
- 8 Transparency and reporting
- 9 Enforcement

SCHEDULE 5 — Financial promotion: related amendments

- 1 FSMA 2000 is amended as follows.
- 2 In section 1H (further interpretative provisions for sections 1B to...
- 3 In section 25 (contravention of section 21), in subsection (2)(a)...
- 4 In section 55A (application for permission), after subsection (5) insert —...
 - 5 (1) Section 55O (imposition of requirements on acquisition of control)...
 - 6 In section 55R (persons connected with an applicant), in subsection...
 - 7 In section 55U (applications under Part 4A), after subsection (3)...
 - 8 In section 55V (determination of applications), in subsection (5)—
 - 9 (1) Section 55X (determination of applications: warning notices and decision...
- 10 (1) Section 55Y (exercise of own-initiative power: procedure) is amended...
- 11 (1) Section 55Z (cancellation of Part 4A permission: procedure) is...
- 12 In section 55Z3 (right to refer matters to the Tribunal),...

SCHEDULE 6 — Digital settlement assets

PART 1 — AMENDMENTS TO THE BANKING ACT 2009

- 1 The Banking Act 2009 is amended as follows.
- 2 In the heading to Part 5 (payment systems), after “systems”...
- 3 In section 181 (overview), after “services” insert “, including”.
- 4 (1) Section 182 (interpretation of payment system) is amended as...
- 5 (1) Section 183 (interpretation of other expressions) is amended as...
- 6 In the cross-heading before section 184 (recognition order), after “systems”...
- 7 In the heading to section 184 , after “order” insert...
- 8 In section 184, in subsection (4), after “constituting” insert “or...
- 9 After section 184 insert— Recognition order: DSA service provider (1)
The Treasury may by order (“recognition order”) specify a...
- 10 In the heading to section 185 (recognition criteria) after “criteria”...
- 11 After section 185 insert— Recognition criteria: DSA service provider
(1) The Treasury may make a recognition order in respect...
- 12 (1) Section 186 (procedure) is amended as follows.
- 13 (1) Section 186A (amendment of recognition order) is amended as...

- 14 (1) Section 187 (de-recognition) is amended as follows.
- 15 (1) Section 188 (principles) is amended as follows.
- 16 In section 189 (codes of practice)— (a) the words after...
- 17 In section 190 (system rules), in subsection (1)(a)—
- 18 After section 190 insert— Service provider rules (1) The Bank of England may require a recognised DSA...
- 19 (1) Section 191 (directions) is amended as follows.
- 20 After section 192 (role of FCA and PRA), insert— Power...
- 21 (1) Section 193 (inspection) is amended as follows.
- 22 (1) Section 194 (inspection: warrant) is amended as follows.
- 23 (1) Section 195 (independent report) is amended as follows.
- 24 In section 196 (compliance failure)— (a) after first “system” insert...
- 25 In section 197 (publication), in subsection (1)—
- 26 In section 198 (penalty), in subsection (1)—
- 27 (1) Section 199 (closure) is amended as follows.
- 28 (1) Section 200 (management disqualification) is amended as follows.
- 29 (1) Section 201 (warning) is amended as follows.
- 30 In section 202 (appeal), in subsection (2)—
- 31 (1) Section 202A (injunctions) is amended as follows.
- 32 In section 203 (fees), in subsection (1)—
- 33 After section 203B (annual report) insert— Policy statement (1) The Bank of England must prepare a statement of...
- 34 (1) Section 204 (information) is amended as follows.
- 35 (1) Section 205 (pretending to be recognised) is amended as...
- 36 (1) Section 206 (saving for informal oversight) is amended as...
- 37 (1) Section 206A (services forming part of recognised payment systems)...
- 38 After section 206A insert— Service providers connected with a recognised...
- 39 In section 259 (statutory instruments), in the Table in subsection...
- PART 2 — AMENDMENTS TO THE FINANCIAL SERVICES (BANKING REFORM) ACT 2013
- 40 The Financial Services (Banking Reform) Act 2013 is amended as...
- 41 (1) Section 41 (meaning of payment system) is amended as...
- 42 (1) Section 42 (participants in payment systems) is amended as...
- 43 In section 98 (duty of regulators to ensure co-ordinated exercise...
- 44 In section 110 (interpretation of Part), at the appropriate place...
- 45 In section 112 (interpretation: infrastructure companies), after subsection (2)(a) insert—...
- 46 In section 113 (interpretation: other expressions), in subsection (1) at...
- 47 (1) Section 115 (objective of FMI administration) is amended as...
- 48 In section 143 (Parliamentary control of orders and regulations), after...

SCHEDULE 7 — Accountability of the Payment Systems Regulator

- 1 The Financial Services (Banking Reform) Act 2013 is amended as...
- 2 In section 39 (overview)— (a) after subsection (11) insert—
- 3 In section 53 (regulatory principles), in paragraph (c) at the...
- 4 After section 102 (power of PRA to require Regulator to...
- 5 Before section 103 (regulator’s general duty to consult) insert (under...
- 6 In section 104 (consultation in relation to generally applicable requirements)—...
- 7 After section 104 insert— Requirements in connection with public consultations...

- 8 After section 107 insert— International trade obligations (1) This section applies where it appears to the Payment...
- 9 In section 110(1) (interpretation), at the appropriate place insert— “generally...
- 10 In section 143 (orders and regulations: Parliamentary control), in subsection...
- 11 In Schedule 4 (the Payment Systems Regulator), after paragraph 7(2) (b)...
- 12 In Schedule 4, after paragraph 7 insert— Other reports (1) The Treasury may (subject to this paragraph) at any...
- 13 In Schedule 4, after paragraph 14 insert— Engagement with Parliamentary...

SCHEDULE 8 — Cash access services

PART 1 — NEW PART 8B OF FSMA 2000

- 1 After Part 8A of FSMA 2000 (short selling) insert— PART...
- PART 2 — CONSEQUENTIAL AMENDMENTS TO FSMA 2000
- 2 FSMA 2000 is amended as follows.
- 3 In section 3D (duty of FCA and PRA to ensure...
- 4 In section 55H (variation by FCA at request of authorised...
- 5 In section 55L (imposition of requirements by FCA), in subsection...
- 6 In section 55T (persons whose interests are protected), after “operational...
- 7 In section 232A (ombudsman scheme operator’s duty to provide information...
- 8 In section 395 (the FCA’s and PRA’s procedures), in subsection...
- 9 In section 429 (Parliamentary control of statutory instruments), in subsection...

SCHEDULE 9 — Wholesale cash distribution

PART 1 — NEW PART 5A OF THE BANKING ACT 2009

- 1 After Part 5 of the Banking Act 2009 (payment systems)...
- PART 2 — AMENDMENTS TO PART 6 OF THE FINANCIAL SERVICES (BANKING REFORM) ACT 2013
- 2 Part 6 of the Financial Services (Banking Reform) Act 2013...
- 3 In section 111 (financial market infrastructure administration), in the heading,...
- 4 (1) Section 112 (interpretation: infrastructure companies) is amended as follows....
- 5 In section 113 (interpretation: other expressions), in subsection (1)—
- 6 In section 115 (objective of FMI administration), after subsection (1A)...
- 7 In section 119 (continuity of supply), in subsection (6), in...
- 8 In section 120 (power to direct FMI administrator), in subsection...
- 9 In section 127 (interpretation of Part), in subsection (1), at...
- PART 3 — CONSEQUENTIAL AMENDMENTS
- 10 Banking Act 2009
- 11 In section 259 (statutory instruments), in subsection (3), in the...
- 12 In section 261 (index of defined terms)—
- 13 Financial Services Act 2012
- 14 (1) Section 85 (relevant functions in relation to complaints scheme)...
- 15 (1) Section 110 (payment to Treasury of penalties received by...
- 16 Financial Services (Banking Reform) Act 2013

SCHEDULE 10 — Performance of functions relating to financial market infrastructure

PART 1 — NEW CHAPTER 2A OF PART 18 OF FSMA 2000

1 In Part 18 of FSMA 2000 (recognised investment exchanges, clearing...

PART 2 — RELATED AMENDMENTS

2 Amendments to FSMA 2000

3 (1) Section 56 (prohibition orders) is amended as follows—

4 (1) Section 57 (prohibition orders: procedure and right to refer...

5 In section 59AB(1) (specifying functions as controlled functions: transitional provision),...

6 In section 133(7A) (proceedings before Tribunal: general provision), after paragraph...

7 In section 138A (modification or waiver of rules), in subsection...

8 (1) Section 168 (appointment of persons to carry out investigations...

9 In the heading of Chapter 3B of Part 18, at...

10 Section 312FA is omitted.

11 In section 313 (interpretation of Part 18), in subsection (1)—...

12 (1) Section 347 (the record of authorised persons etc) is...

13 In section 391 (publication of notices), in subsection (1ZB), after...

14 (1) Section 392 (application of sections 393 and 394) is...

15 In section 395 (the FCA's and PRA's procedures), in subsection...

16 (1) Section 417(1) (interpretation) is amended as follows.

17 In section 429 (Parliamentary control of statutory instruments)

18 (1) Schedule 1ZA (the Financial Conduct Authority) is amended as...

19 In Schedule 2A (Gibraltar-based persons carrying on activities in the...

20 (1) Schedule 17A (further provision in relation to exercise of...

21 Financial Services Act 2012

SCHEDULE 11 — Central counterparties

PART 1 — INTRODUCTORY

1 Overview

PART 2 — PRE-RESOLUTION POWERS OF THE BANK OF ENGLAND

2 Removal of impediments to the exercise of stabilisation powers etc

3 Safeguards relating to directions under paragraph 2

PART 3 — RESOLUTION PLANS

4 Resolution plans

PART 4 — REMOVAL OF DIRECTORS AND SENIOR MANAGERS

5 Removal of directors and senior managers

6 Temporary manager

7 Paragraphs 5 and 6: conditions

8 Temporary manager: further provisions in relation to the appointment

9 Temporary manager: instrument of appointment

10 Right to refer matters to the Tribunal

11 Removal of directors and senior managers and appointment of temporary manager: procedure

12 Removal of directors and senior managers and appointment of temporary manager: notice requirements

13 Temporary restriction on remuneration

14 Restriction on remuneration: review and revocation

PART 5 — SPECIAL RESOLUTION ACTION

15 Special resolution objectives

16 Code of Practice

17 General conditions

- 18 Effect on other group members
- 19 Specific conditions: financial assistance cases
- 20 Resolution liaison panel
- 21 Restrictions on use of certain resolution powers
- 22 Pre-resolution valuation
- 23 Replacement of Bank's provisional valuation
- 24 Independent valuer: valuation under paragraph 22 or 23
- 25 Independent valuer: supplemental
- 26 Consequences of a replacement valuation
- 27 Private sector purchaser
- 28 Private sector purchaser: marketing
- 29 Bridge central counterparty
- 30 Transfer of ownership
- 31 Tear-up power
- 32 Cash call power
- 33 Power to reduce variation margin payments
- 34 Write-down power
- 35 Powers in relation to securities
- 36 Report on provisions in write-down instrument
- 37 Priority between creditors
- 38 Power to take control
- 39 Shadow directors etc
- 40 Interpretation: "securities"
- 41 Share transfer instrument
- 42 Effect
- 43 Continuity
- 44 Conversion and delisting
- 45 Directors and senior managers
- 46 Ancillary instruments: production, registration, etc
- 47 Incidental provision
- 48 Procedure: instruments
- 49 Supplemental instruments
- 50 Onward transfer
- 51 Reverse share transfer
- 52 Bridge central counterparties: share transfers
- 53 Bridge central counterparties: reverse share transfer
- 54 Property transfer instrument
- 55 Effect
- 56 Transferable property
- 57 Continuity
- 58 Directors and senior managers
- 59 Recognised central counterparty rules
- 60 Recognised central counterparty membership
- 61 Licences
- 62 Foreign property
- 63 Incidental provision
- 64 Procedure
- 65 Property transfer instrument: delisting
- 66 Transfer of property subsequent to resolution instrument
- 67 Supplemental instruments
- 68 Private sector purchaser: reverse property transfer
- 69 Onward transfer
- 70 Bridge central counterparties: reverse property transfer

71	Transfer of ownership and private sector purchaser: property transfer
72	Transfer of ownership: reverse property transfer
73	Bridge central counterparty: supplemental property transfer powers
74	Bridge central counterparty: supplemental reverse property transfer powers
75	Restriction of partial transfers
76	Power to protect certain interests
77	Creation of liabilities
78	Regulations for safeguarding certain financial arrangements: write-down instruments
79	Resolution instruments: effect and supplementary matters
80	Write-down instruments: supplementary
81	Resolution instruments: procedure
82	Supplemental resolution instruments
83	Directors and senior managers
84	Termination rights etc
85	Deferment
86	Recovery of expenses
87	Compensation scheme
88	Instruments: notification of members and creditors
89	General continuity obligation: property transfers
90	Special continuity obligations: property transfers
91	Continuity obligations: onward property transfers
92	General continuity obligation: share transfers
93	Special continuity obligations: share transfers
94	Continuity obligations: onward share transfers
95	Continuity obligations: consideration and terms
96	Continuity obligations: termination
97	Suspension of obligations
98	Restriction of security interests
99	Suspension of termination rights
100	Suspension: general provision
101	Stay on terminating membership
102	Restriction on remuneration
103	Pensions
104	Disputes
105	Tax
106	Stay or sist of legal proceedings
107	Insolvency proceedings
108	Recognition of transferee company
109	International obligation notice: general
110	International obligation notice: bridge central counterparty
111	Public funds: general
112	Public funds: bridge central counterparty
113	Private sector purchaser: report
114	Bridge central counterparty: report
115	Resolution instruments: report
116	Transfer of ownership: report
117	Sale to commercial purchaser, transfer to bridge central counterparty and transfer of ownership: conditions for group companies
118	Paragraph 117: supplemental
	PART 6 — INFORMATION, INVESTIGATION AND ENFORCEMENT
119	Information

120	Reports by skilled persons
121	Appointment of persons to carry out general investigations
122	Appointment of person to carry out investigations in particular cases
123	Investigations etc in support of foreign resolution authorities
124	Investigations: general
125	Powers of persons appointed under paragraph 121
126	Powers of persons appointed as a result of paragraph 122
127	Admissibility of statements made to investigators
128	Information and documents: supplemental provision
129	Protected items
130	Entry of premises under warrant
131	Retention of documents obtained under paragraph 130
132	Offences etc
133	Prosecution of offences under paragraph 132
134	Offences under paragraph 132 by bodies corporate etc
135	Injunctions to prevent failure to comply with relevant requirement
136	Regulatory sanctions
137	Determination of sanctions
138	Procedure: warning notice
139	Procedure: decision notice
140	Procedure: general
141	Appeals
142	Injunctions: failure to comply with certain paragraph 136 sanctions
143	Publication
144	Co-operation
	PART 7 — THIRD-COUNTRY RESOLUTION ACTIONS
145	Third-country resolution actions
146	Effects of recognition on third-country resolution action
147	Third-country instruments: supplementary provision
	PART 8 — GENERAL
148	Information
149	Restrictions on disclosure of confidential information
150	Remedies on judicial review
151	Giving of notices, documents etc under this Schedule
152	“Financial assistance”
153	Modifications to the law
154	Interpretation
155	Recognised central counterparty
156	Interpretation: “CCP group company”, etc
	PART 9 — TREASURY SUPPORT FOR CCPS
157	Consolidated Fund
158	National Loans Fund
	PART 10 — CONSEQUENTIAL ETC PROVISION
159	Bank of England Act 1998
160	Financial Services and Markets Act 2000
161	Companies Act 2006
162	Banking Act 2009
163	Financial Services Act 2012
164	Financial Services (Banking Reform) Act 2013
165	Modified application of corporate law to CCPs in resolution

SCHEDULE 12 — Write-down orders

 PART 1 — WRITE-DOWN ORDERS: MAIN PROVISIONS

- 1 (1) Part 24 of FSMA 2000 (insolvency) is amended as...
PART 2 — THE MANAGER OF A WRITE-DOWN ORDER
- 2 After Schedule 19 to FSMA 2000 (competition information), insert—
SCHEDULE...
PART 3 — FURTHER PROVISION ABOUT WRITE-DOWN ORDERS
- 3 After Schedule 19A to FSMA 2000 (the manager of a...
PART 4 — WRITE-DOWN ORDERS: FINANCIAL SERVICES COMPENSATION
SCHEME
- 4 Part 15 of FSMA 2000 (the Financial Services Compensation
Scheme)...
- 5 After section 217 (insurers in financial difficulties) insert— Insurers
subject...
- 6 In section 219 (scheme manager’s power to require information), in...
- 7 After section 220 (scheme manager’s power to inspect information
held...
PART 5 — CONSEQUENTIAL AMENDMENTS
- 8 FSMA 2000
- 9 (1) Section 348 (restrictions on disclosure of confidential information
by...
- 10 In section 429 (Parliamentary control of statutory instruments), in
subsection...
- 11 In Schedule 1ZB (the PRA), in paragraph 33(2) (exemption from...
- 12 Financial Services and Markets Act 2000 (Disclosure of Confidential
Information) Regulations 2001

SCHEDULE 13 — Insurers in financial difficulties: enforcement of contracts

PART 1 — NEW SCHEDULE 19C TO FSMA 2000

- 1 (1) Part 24 of FSMA 2000 (insolvency) is amended as...
PART 2 — CONSEQUENTIAL AMENDMENTS
- 2 In section 429 of FSMA 2000 (Parliamentary control of statutory...

SCHEDULE 14 — Credit unions

- 1 Introductory
- 2 Specified financial activities
- 3 After section 1 insert— Specified financial activities (1) The financial
activities specified for the purposes of the...
- 4 In section 2 (supplementary and transitional provisions as to
registration),...
- 5 Shares
- 6 Ancillary services
- 7 Loans
- 8 Conditional sale and hire purchase agreements
- 9 Insurance distribution activities
- 10 Minor and consequential amendments
- 11 In section 23A (power to make provision corresponding to provision...
- 12 In section 29 (orders and regulations), in subsection (2) for...
- 13 (1) Section 31 (interpretation, etc.) is amended as follows.
- 14 In Schedule 1 (matters to be provided for in rules...
- 15 Transitional provision
- 16 The amendment made by paragraph 13(4)(b) does not apply in...