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STATUTORY INSTRUMENTS

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**2016 No. 680**

**The Financial Services and Markets Act  
2000 (Market Abuse) Regulations 2016**

**PART 3**

Other amendments to legislation

CHAPTER 2

Amendments to secondary legislation

**Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001**

16. In paragraph 7A(10) of the Schedule to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 <sup>M1</sup>, in the definition of “the relevant articles”, for paragraph (a) substitute—

“(a) Articles 17, 18 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse.”.

**Marginal Citations**

**M1** [S.I. 2001/995](#); [paragraph 7A\(10\)](#) of the Schedule was inserted by [S.I. 2006/3386](#) and 2011/1043.

**Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001**

17. The Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001 <sup>M2</sup> is revoked.

**Marginal Citations**

**M2** [S.I. 2001/996](#).

**Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001**

18.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 <sup>M3</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the appropriate place insert—

- ““market abuse regulation information” means confidential information received by the FCA in the course of discharging its functions as a competent authority under the market abuse regulation<sup>M4</sup> or any directly applicable EU regulation made under the market abuse regulation;”;
- (b) in the definition of “EEA competent authority”<sup>M5</sup>, for “or the EMIR regulation” substitute “, the EMIR regulation or the market abuse regulation ”;
- (c) in the definition of “single market restrictions”<sup>M6</sup>—
- (i) at the end of paragraph (l)<sup>M7</sup> omit “and”; and
  - (ii) at the end of paragraph (m)<sup>M8</sup> insert—  
“; and  
(n) article 27 of the market abuse regulation;”.
- (3) In regulation 8 (application of this Part)—
- (a) at the end of paragraph (c)<sup>M9</sup> omit “and”; and
  - (b) at the end of paragraph (d)<sup>M10</sup> insert—  
“; and  
(e) market abuse regulation information”.
- (4) In regulation 9 (disclosure by regulators or regulator workers to certain other persons)—
- (a) in paragraph (1)<sup>M11</sup>, after “(3F)” insert “, (3G) ”;
  - (b) in paragraph (2)<sup>M12</sup>, for “or in paragraph (2C)” substitute “, (2C) or (2D) ”;
  - (c) after paragraph (2C)<sup>M13</sup> insert—  
“(2D) The conditions in this paragraph are that—
    - (a) the disclosure is provided for by a cooperation agreement of the kind referred to in Article 26 of the market abuse regulation; and
    - (b) where the disclosure is of personal data, as defined in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, it is in accordance with Article 29(1) and (2) of the market abuse regulation.”; and  - (d) after paragraph (3F)<sup>M14</sup> insert—  
“(3G) Paragraph (1) does not permit disclosure of market abuse regulation information to a person specified in the first column of Schedule 1 in contravention of Article 27 of the market abuse regulation.”
- (5) In regulation 11 (application of this Part), after paragraph (g)<sup>M15</sup> insert—  
“(h) market abuse regulation information.”.

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**Marginal Citations**

**M3** [S.I. 2001/2188](#).

**M4** OJ No L 173, 14.04.2014, p31.

**M5** The definition of “EEA competent authority” was amended by [S.I. 2003/2066](#), 2006/3413 and 2013/504.

**M6** The definition of “single market restrictions” was inserted by [S.I. 2012/996](#).

**M7** Sub-paragraph (l) was amended by [S.I. 2014/3348](#).

- M8** Sub-paragraph (m) was inserted by S.I. 2014/3348.
- M9** Regulation 8(c) was inserted by S.I. 2013/509 and amended by 2014/3348.
- M10** Regulation 8(d) was inserted by S.I. 2014/3348.
- M11** Regulation 9(1) was amended by S.I. 2015/910, there are other amending instruments but none is relevant.
- M12** Regulation 9(2) was amended by S.I. 2013/1773 and 2014/3348.
- M13** Regulation 9(2C) was inserted by S.I. 2014/3348.
- M14** Regulation 9(3F) was inserted by S.I. 2015/910.
- M15** Regulation 11(g) was inserted by S.I. 2014/3348.

### Investment Recommendation (Media) Regulations 2005

19. The Investment Recommendation (Media) Regulations 2005<sup>M16</sup> are revoked.

#### Marginal Citations

- M16** S.I. 2005/382.

### Money Laundering Regulations 2007

20. In regulation 2(1) (interpretation) of the Money Laundering Regulations 2007<sup>M17</sup> for the definition of “the specified disclosure obligations” substitute—

““the specified disclosure obligations” means—

- (a) disclosure requirements set out in Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse;
- (b) disclosure requirements consistent with Articles 3, 5, 7, 8, 10, 14 and 16 of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading;
- (c) disclosure requirements consistent with Articles 4 to 6, 14, 16 to 19 and 30 of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; or
- (d) disclosure requirements consistent with EU legislation made under the provisions mentioned in sub-paragraphs (a) to (c);”.

#### Marginal Citations

- M17** S.I. 2007/3299; regulation 2(1) was amended by S.I. 2011/1043, there are other amending instruments but none is relevant.

### Recognised Auction Platform Regulations 2011

- 21.—(1) The Recognised Auction Platform Regulations 2011<sup>M18</sup> are amended as follows.
- (2) For regulation 6 (market abuse on auction platforms) substitute—

**“Market abuse regime applicable from July 2016 to January 2018 in relation to auctioned products other than financial instruments**

6.—(1) Schedule 1 (modifications of the Act for the purposes of Articles 37 to 43 of the emission allowance auctioning regulation) has effect.

(2) This regulation and Schedule 1 cease to have effect on 3rd January 2018.”.

(3) For Schedule 1 (modifications of Part 8 of the Act in relation to behaviour related to auction platforms) substitute—

“SCHEDULE 1

Regulation 6

Modifications of the Act for the purposes of Articles 37  
to 43 of the emission allowance auctioning regulation

**The Authority's powers**

1.—(1) Where the Authority exercises functions under the emission allowance market abuse regime the following provisions of the Act apply with the modifications set out in paragraphs 2 to 22—

- (a) Part 8 (provisions relating to market abuse), except for section 122A (power to require information from issuers) and section 122G (publication of information and corrective statements by issuers);
- (b) Part 9 (hearings and appeals);
- (c) Part 11 (information gathering and investigations), except for sections 165 (regulator's power to require information: authorised persons etc) to 167 <sup>M19</sup> (appointment of persons to carry out general investigations);
- (d) Part 14 (disciplinary measures);
- (e) section 300 (extension of functions of Tribunal);
- (f) Part 25 (injunctions and restitution);
- (g) Part 26 (notices); and
- (h) section 417 (definitions) <sup>M20</sup>.

(2) In this paragraph “functions under the emission allowance market abuse regime” means functions which—

- (a) are conferred on the Authority by Article 43.1 of the emission allowance auctioning regulation; and
- (b) relate to Articles 37 to 43 of the emission allowance auctioning regulation as they apply under Article 36.2 of that regulation to auctioned products which are not financial instruments as defined by Article 4.1(17) of the markets in financial instruments directive.

**Modifications of Part 8 of the Act**

2. Section 122B (general power to require information) has effect as if the references in that section to the market abuse regulation or a supplementary EU regulation were to the emission allowance auctioning regulation.

3. Section 122C (power to require information: supplementary) has effect as if—

- (a) in subsection (6)(a) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market

manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation;

- (b) in subsection (6)(b) the reference to a provision of the market abuse regulation or a supplementary EU regulation were to Article 42 of the emission allowance auctioning regulation;
- (c) in subsection (7)(a) the reference to Article 14 or 15 of the market abuse regulation were to Article 38, 39 or 41 of the emission allowance auctioning regulation;
- (d) in subsection (7)(b) in subsection (7)(b) the reference to a provision of the market abuse regulation or a supplementary EU regulation were to Article 42 of the emission allowance auctioning regulation.

4. Section 122D (entry of premises under warrant) has effect as if the references in that section to the market abuse regulation or a supplementary EU regulation were to the emission allowance auctioning regulation.

5. Section 122H(3) (publication of corrective statements generally) has effect as if the reference to the market abuse regulation or a supplementary EU regulation were to the emission allowance auctioning regulation.

6. Part 8 (provisions relating to market abuse) has effect as if for section 122I there were substituted—

**“122I Power to suspend trading in auctioned products**

(1) The FCA may suspend trading in, or the auctioning of, an auctioned product where it considers it necessary for the purposes of the exercise by it of functions under the emission allowances market abuse regime.

(2) A suspension by the FCA takes effect—

- (a) immediately, if the FCA specify that that is the case;
- (b) in any other case, on such date as the FCA specify.

(3) The FCA may—

- (a) cancel a suspension under subsection (1); and
- (b) impose such conditions for the cancellation to take effect as it considers appropriate.”.

7. Section 123(1) (power to impose penalties or issue censure) has effect as if—

- (a) in paragraph (a) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation;
- (b) in paragraph (b) the reference to a provision of the market abuse regulation or a supplementary EU regulation were to Article 42 of the emission allowance auctioning regulation; and
- (c) in paragraph (c)(ii) the reference to the market abuse regulation or a supplementary EU regulation were to the emission allowance market abuse regime.

8. Section 123A (power to prohibit individuals from managing or dealing) has effect as if—

- (a) in subsection (1)—
  - (i) in paragraph (a) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation; and
  - (ii) in paragraph (b) the reference to a provision of the market abuse regulation or a supplementary EU regulation were to Article 42 of the emission allowance auctioning regulation; and
- (b) in subsection (2)—
  - (i) in paragraph (b) the reference to financial instruments were to auctioned products; and
  - (ii) after paragraph (b) there were inserted—
    - “(c) a temporary prohibition on the individual making a bid, on his or her own account or the account of a third party, directly or indirectly, at an auction conducted by a recognised auction platform.”; and
- (c) in subsection (3) the reference to Article 14 or 15 of the market abuse regulation <sup>M21</sup> were to Article 38, 39 or 41 of the emission allowance auctioning regulation.

**9.** Section 123B(1) (suspending permission to carry on regulated activities etc) has effect as if —

- (a) in paragraph (a) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation; and
- (b) in paragraph (b) the reference to a provision of the market abuse regulation or a supplementary EU regulation were to Article 42 of the emission allowance auctioning regulation.

**10.** In section 124(10) (statement of policy) the definition of “relevant person” has effect as if —

- (a) in paragraph (a) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation;
- (b) in paragraph (b) the reference to a provision of the market abuse regulation or a supplementary EU regulation were to Article 42 of the emission allowance auctioning regulation; and
- (c) in paragraph (c)(ii) the references to the market abuse regulation were to the emission allowance market abuse regime.

**11.** Section 129 (power of court to impose a penalty, prohibition, suspension, or restriction in cases of market abuse) has effect as if—

- (a) in subsection (1) the reference to a market abuse requirement were to an emission allowance market abuse regime requirement;
- (b) in subsection (3) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation;
- (c) in subsection (7)—
  - (i) the definition of “market abuse requirement” were omitted; and
  - (ii) at the appropriate place there were inserted—

““emission allowance market abuse regime requirement” means a requirement imposed by the emission allowance market abuse regime which is a relevant requirement for the purposes of section 380 or 382 (as the case may be);”;
  - (iii) in paragraph (ii) of the definition of “temporary prohibition” the reference to financial instruments were to auctioned products;
  - (iv) after paragraph (ii) of the definition of “temporary prohibition” there were inserted—

“(iii) making a bid, on his or her own account or the account of a third party, directly or indirectly, at an auction conducted by a recognised auction platform.”.

**12.** Section 130(1)(a) (guidance) has effect as if the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation.

**13.** Section 131A(2) (protected disclosures) has effect as if the reference in the closing words to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation.

**14.** Section 131AB (interpretation) has effect as if at the appropriate places there were inserted—

- (a) ““auctioned product” has the meaning given in Article 4 of the emission allowance auctioning regulation;”;
- (b) ““emission allowance market abuse regime” means Articles 37 to 43 of the emission allowance auctioning regulation as they apply to auctioned products which are not financial instruments;”.

**15.** Section 131AE (liability for contraventions of Article 14 or 15 of the market abuse regulation) has effect as if the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation.

### **Other modifications of the Act**

**16.** Section 139A(4) (power of the FCA to give guidance) has effect as if the reference to the market abuse regulation or a directly applicable EU regulation made under the market abuse regulation were to the emission allowance market abuse regime.

**17.** Section 168 (appointment of persons to carry out investigations in particular cases) has effect as if—

- (a) in subsection (2)(d) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation; and
- (b) in subsection (4)(jb) the reference to the market abuse regulation were to the emission allowance market abuse regime.

**18.** Section 169(2A)(b) (investigations etc in support of overseas regulator) has effect as if the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation.

**19.** Section 174(3A) (admissibility of statements made to investigators) has effect as if the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation.

**20.** Section 300(4) (extension of functions of Tribunal) has effect as if the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation.

**21.** Section 381 (injunctions in cases of market abuse) has effect as if—

- (a) in subsection (1)(a) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation; and
- (b) in subsection (1)(b), (2)(a), 3(a) and (b) the reference to Article 14 or 15 of the market abuse regulation were to Article 38, 39 or 41 of the emission allowance auctioning regulation.

**22.** Section 383(1)(a) (restitution orders in cases of market abuse) has effect as if the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation.



**23.** Section 384 (power of FCA to require restitution) has effect as if—

(a) in subsection (2)—

(i) in paragraph (a) the reference to Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation were to Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) or Article 41 (prohibition of market manipulation) of the emission allowance auctioning regulation; and

(ii) in paragraph (b) the reference to Article 14 or 15 of the market abuse regulation were to Article 38, 39 or 41 of the emission allowance auctioning regulation; and

(b) in subsection (3) the references to Article 14 or 15 of the market abuse regulation were to Article 38, 39 or 41 of the emission allowance auctioning regulation.

**24.** Section 417(1) (definitions) has effect as if at the appropriate place there were inserted—

““emission allowance market abuse regime” has the meaning given in section 131AB.””

#### Marginal Citations

**M18** S.I. 2011/2699.

**M19** There are amendments to section 165 to 167 which are not relevant to these Regulations.

**M20** Section 417 was amended by sections 48(1)(d) and (k) of the Financial Services Act 2012, there are other amending instruments but none is relevant.

**M21** OJ No L 173, 14.04.2014, p31.

#### Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013

**22.**—(1) The Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013<sup>M22</sup> is amended as follows.

(2) In article 2 (qualifying EU provisions: general)—

(a) after paragraph (2)(i)<sup>M23</sup> insert—

“(j) the market abuse regulation and any directly applicable regulation made under that Regulation.”;

(b) after paragraph (8)(e)<sup>M24</sup> insert—

“(f) the market abuse regulation and any directly applicable regulation made under that Regulation.”; and

(c) after paragraph (9)<sup>M25</sup> insert—

“(10) The market abuse regulation and any directly applicable regulation made under that Regulation are specified qualifying EU provisions for the purposes of section 66A(4) of the Act.”.

(3) In article 4 (qualifying EU provisions etc.: recognised investment exchanges and clearing houses) after paragraph (9)<sup>M26</sup> insert—

“(10) The market abuse regulation and any directly applicable regulation made under that Regulation are specified qualifying EU provisions for the purposes of sections 296(1A) and 297(2A)(c) of the Act.”.

- (4) In article 5 (qualifying EU provisions: injunctions and restitution)—
- (a) in paragraph (2)(c) after “regulation” insert “ , except for Article 38 (prohibition of insider dealing), Article 39 (other prohibited uses of inside information) and Article 41 (prohibition of market manipulation) of that regulation ”;
  - (b) after paragraph (2)(j) <sup>M27</sup> insert—
    - “(k) the market abuse regulation and any directly applicable regulation made under that Regulation, except for Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) and Article 15 (prohibition of market manipulation) of the market abuse regulation.”; and
  - (c) after paragraph (5)(i) <sup>M28</sup> insert—
    - “(j) in relation to a contravention of the market abuse regulation or any directly applicable regulation made under that Regulation, the FCA.”.
- (5) In article 6 (qualifying EU provisions: fees), after paragraph (2)(l) <sup>M29</sup> insert—
- “(m) the market abuse regulation and any directly applicable regulation made under that Regulation.”.

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#### Marginal Citations

- M22** [S.I. 2013/419](#).
- M23** [Article 2\(2\)\(i\)](#) was inserted by [S.I. 2015/1882](#).
- M24** [Article 2\(8\)\(e\)](#) was inserted by [S.I. 2014/2879](#).
- M25** [Article 2\(9\)](#) was inserted by [S.I. 2014/3348](#).
- M26** There are amendments to article 4(9) which are not relevant to these Regulations.
- M27** [Article 5\(2\)\(j\)](#) was inserted by [S.I. 2015/1882](#).
- M28** [Article 5\(5\)\(i\)](#) was inserted by [S.I. 2015/1882](#).
- M29** [Article 6\(2\)\(l\)](#) was inserted by [S.I. 2015/1882](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Market Abuse) Regulations 2016, CHAPTER 2.