
STATUTORY INSTRUMENTS

2017 No. 488

**The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment) Order 2017**

Amendments to article 3 of the Order: interpretation

2.—(1) Article 3(1) of the Order(1) (interpretation) is amended as follows.

(2) In the definition of “the Commission Regulation” for “1287/2006 of 10 August 2006” substitute “Commission Delegated Regulation of 25.4.2016 supplementing [Directive 2014/65/EU](#) of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive”(2).

(3) In the definition of “credit institution”—

(a) in paragraph (a), for “(the text of which is set out in Schedule 3)” substitute “(the text of which is set out in Part 1 of Schedule 3) read with any directly applicable EU regulation made under Article 2.3 or 2.4 of the markets in financial instruments directive (and the text of Article 4 of the Commission Regulation is set out in Part 2 of Schedule 3)”;

(b) in paragraph (b), after “markets in financial instruments directive” insert “read with any directly applicable EU regulation made under Article 2.3 or 2.4 of that directive”.

(4) In the definition of “financial instrument” for “Chapter VI” substitute “Articles 5 to 8, 10 and 11”.

(5) In the definition of “home Member State” for “Article 4.1.20” substitute “Article 4.1.55(a)”.

(6) In the definition of “investment firm”—

(a) in paragraph (a), for “(the text of which is set out in Schedule 3)” substitute “(the text of which is set out in Part 1 of Schedule 3) read with any directly applicable EU regulation made under Article 2.3 or 2.4 of the markets in financial instruments directive (and the text of Article 4 of the Commission Regulation is set out in Part 2 of Schedule 3)”;

(b) in paragraph (c), after “that directive” insert “read with any directly applicable EU regulation made under Article 2.3 or 2.4 of the markets in financial instruments directive”.

(7) In the definition of “investment services and activities”, in paragraph (a) for “Article 52 of Commission [Directive 2006/73/EC](#) of 10 August 2006” substitute “Article 9 of the Commission Regulation”.

(8) In the definition of “market operator”—

(a) for “Article 4.1.13” substitute “Article 4.1.18”;

(b) in paragraph (a), for “(the text of which is set out in Schedule 3)” substitute “(the text of which is set out in Part 1 of Schedule 3) read with any directly applicable EU regulation

(1) The definition of “the Commission Regulation” was inserted by [S.I. 2006/3384](#). The definitions of “credit institution”, “financial instrument”, “investment firm”, “market operator” and “multilateral trading facility” were inserted by [S.I. 2006/3384](#). The definition of “home Member State” was inserted by [S.I. 2006/3384](#) and amended by [S.I. 2013/3115](#) and [2015/910](#). The definition of “investment services and activities” was inserted by [S.I. 2006/3384](#) and substituted by [S.I. 2012/1906](#). The definition of “overseas person” was amended by [S.I. 2003/1475](#) and [1476, 2006/2383](#) and [3384, 2009/1342](#) and [2013/1773](#).

(2) The Commission Delegated Regulation has been adopted but has not yet been published in the Official Journal of the European Union. A copy is available at http://ec.europa.eu/finance/securities/docs/isd/mifid/160425-delegated-regulation_en.pdf.

made under Article 2.3 or 2.4 of the markets in financial instruments directive (and the text of Article 4 of the Commission Regulation is set out in Part 2 of Schedule 3”);

(c) in paragraph (b), after “that directive” insert “read with any directly applicable EU regulation made under Article 2.3 or 2.4 of the markets in financial instruments directive”.

(9) In the definition of “multilateral trading facility” for “Article 4.1.15” in both places substitute “Article 4.1.22”.

(10) In the definition of “overseas person” after “25D,” insert “25DA,”.

(11) In the definition of “security” after “82” insert “or by article 82B”.

(12) At the appropriate places insert—

““alternative investment fund managers directive” means [Directive 2011/61/EU](#) of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers⁽³⁾;

“markets in financial instruments directive” means [Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (recast)⁽⁴⁾;

“markets in financial instruments regulation” means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments⁽⁵⁾;

“organised trading facility” means—

(a) an organised trading facility (within the meaning of Article 4.1.23 of the markets in financial instruments directive) operated by an investment firm, a credit institution or a market operator; or

(b) a facility which—

(i) is operated by an investment firm, a credit institution or a market operator which does not have a home Member State; and

(ii) if its operator had a home Member State, would be an organised trading facility within the meaning of Article 4.1.23 of the markets in financial instruments directive;

“structured deposit” means a deposit which is fully repayable at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as—

(a) an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as Euribor or Libor;

(b) a financial instrument or combination of financial instruments;

(c) a commodity or combination of commodities or other physical or non-physical non-fungible assets; or

(d) a foreign exchange rate or combination of foreign exchange rates;”.

(3) OJ L174, 1/7/2011, p.1.

(4) OJ L173, 12/6/2014, p.349.

(5) OJ L173, 12/6/2014, p.84.