
STATUTORY INSTRUMENTS

2017 No. 701

**The Financial Services and Markets Act 2000
(Markets in Financial Instruments) Regulations 2017**

PART 1

Introductory provisions

Citation and commencement

1.—(1) These Regulations may be cited as the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.

(2) These Regulations come into force on 29th June 2017 —

(a) to enable the following to be done under the Act, as amended and applied by these Regulations—

- (i) rules to be made under section 137R ^{M1} (financial promotion rules) of the Act;
- (ii) rules to be made under sections 213 ^{M2} (the compensation scheme) or 214 ^{M3} (general) of the Act;
- (iii) rules to be made under paragraph 23 of Schedule 1ZA ^{M4} (the Financial Conduct Authority) to the Act, including rules that may be made as a result of amendments by these Regulations to the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013 ^{M5};
- (iv) fees to be charged under any rules that are made by virtue of paragraph (iii); and
- ^{F1}(v)

(b) to enable rules to be made under regulation 11 (FCA rules) of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 ^{M6}.

(3) These Regulations come into force on 3rd July 2017—

(a) to enable—

- (i) applications to be made under regulation 4;
- (ii) directions to be given under regulation 16(1) to establish position limits applying on or after 3rd January 2018;
- (iii) applications to be made, directions to be given, and requirements to be imposed, under regulation 17;
- (iv) requirements to be imposed and directions to be given under regulation 27;
- (v) requirements to be imposed under regulations 31 and 33; and
- (vi) the FCA and the PRA to prepare and issue a statement of policy under paragraph 14 of Schedule 1; and

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- (b) to enable notifications to be given, reports or applications to be made, directions to be given, and requirements to be imposed under regulation 47 for the purposes of—
 - (i) [F²any UK legislation which was relied on by the United Kingdom before IP completion day to implement] the markets in financial instruments directive, including any [F³retained EU law] made under the directive, as it has effect on or after 3rd January 2018; and
 - (ii) the markets in financial instruments regulation, including any [F³retained EU law] made under that regulation, as it applies under Article 55^{M7} of that regulation; and
- (c) for the purposes of—
 - (i) paragraphs 6, 7, 16, 19, 20, 22, 23 and 28 of Schedule 1; and
 - (ii) paragraphs 25 and 26 of that Schedule in so far as they relate to a matter referred to in sub-paragraph (a) or (b) or in paragraph (i) of this sub-paragraph.
- (4) These Regulations come into force on 31st July 2017 —
 - (a) to enable the following to be done under the Act, as amended and applied by these Regulations—
 - (i) notices to be given or sent under section 312A(1)(b)^{M8} (exercise of passport rights by EEA market operator) or 312C^{M9} (exercise of passport rights by recognised investment exchange) of the Act;
 - (ii) entries to be added, removed, or altered in the record the FCA maintains under section 347(1)^{M10} of the Act;
 - (iii) notices relating to any relevant regulated activity to be given or received under paragraph 13(1)^{M11}, (1B)^{M12}, or (1C)^{M13} of Schedule 3 to the Act ;
 - (iv) the PRA to give consent under paragraph 13(1D)^{M14} of that Schedule;
 - (v) preparations to be made under paragraph 13(1E)^{M15} or (1F)^{M16} of that Schedule;
 - (vi) notices relating to any relevant regulated activity to be given or received under paragraph 14(1)(ba)^{M17}, (1B)^{M18}, or (1C)^{M19} of that Schedule ;
 - (vii) preparations to be made under paragraph 14(1D)^{M20} or 14(1E)^{M21} of that Schedule; and
 - (viii) notices relating to any relevant regulated activity to be given or received under paragraph 19(2)^{M22}, (4)^{M23}, (7B)^{M24}, (8)^{M25}, (11)^{M26}, or (12)^{M27}, or paragraph 20(1)^{M28}, (3)^{M29}, or (4)^{M30} of that Schedule; and
 - (b) to enable notices to be given under the following provisions of the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001^{M31} for the purposes of Schedule 3 to the Act, as amended and applied by these Regulations—
 - (i) regulation 4^{M32} (management companies, credit institutions and financial institutions: changes);
 - (ii) regulation 4A^{M33} (investment firms: changes to branch details);
 - (iii) regulation 5A^{M34} (investment firms: changes to services);
 - (iv) regulation 11^{M35} (UK management companies, credit institutions and financial institutions);
 - (v) regulation 11A^{M36} (UK investment firms: changes to branch details); and
 - (vi) regulation 12A^{M37} (UK investment firms: changes to services).

(5) In paragraph (4) “relevant regulated activity” means a regulated activity which relates to any specified activity or specified investment in Part 2 or 3 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001^{M38} that was amended or inserted by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017^{M39}.

(6) These Regulations come into force for all other purposes on 3rd January 2018.

Textual Amendments

- F1** Reg. 1(2)(a)(v) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **6(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in reg. 1(3)(b)(i) inserted (31.12.2020) by S.I. 2018/1403, **reg. 6(b)(ii)** (as substituted by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(2), **16(3)** (as amended by The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301), regs. 1, 3, **Sch. para. 43(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F3** Words in reg. 1(3)(b) substituted (31.12.2020) by S.I. 2018/1403, **reg. 6(b)(i)** (as substituted by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(2), **16(3)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Marginal Citations

- M1** Section 137R was inserted by section 24(1) of the Financial Services Act 2012.
- M2** Section 213 was amended by S.I. 2011/1613 and paragraph 1 and 3 of Schedule 10 to the Financial Services Act 2012.
- M3** Section 214 was amended by section 174(1) of the Banking Act 2009 (c.1) and paragraph 1 and 4 of Schedule 10 to the Financial Services Act 2012
- M4** Schedule IZA was inserted by paragraph 1 of Schedule 3 to the Financial Services Act 2012.
- M5** S.I. 2013/419.
- M6** S.I. 2001/995, to which there are amendments not relevant to these Regulations.
- M7** Article 55 was amended by Article 1.14 of Regulation (EU) No 2016/1033 of the European Parliament and of the Council of 23 June 2016 amending Regulation (EU) no 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories (OJ L 175, 30.6.2016, p. 1).
- M8** Section 312A(1)(b) was inserted by S.I. 2007/126 and amended by paragraph 33 of Schedule 8 to the Financial Services Act 2012.
- M9** Section 312C was inserted by S.I. 2007/126 and amended by paragraph 35 of Schedule 8 to the Financial Services Act 2012.
- M10** Section 347(1) was amended by S.I. 2007/126, 2013/1388, and 2015/910.
- M11** Paragraph 13(1) was amended by S.I. 2003/1473 and 2015/910.
- M12** Paragraph 13 (1B) was inserted by paragraph 2(3) of Schedule 4 to the Financial Services Act 2012.
- M13** Paragraph 13(1C) was inserted by paragraph 2(3) of Schedule 4 to the Financial Services Act 2012.
- M14** Paragraph 13(1D) was inserted by paragraph 2(3) of Schedule 4 to the Financial Services Act 2012.
- M15** Paragraph 13(1E) was inserted by paragraph 2(3) of Schedule 4 to the Financial Services Act 2012.
- M16** Paragraph 13(1F) was inserted by paragraph 2(3) of Schedule 4 to the Financial Services Act 2012.
- M17** Paragraph 14(1)(ba) was inserted by S.I. 2007/126 and amended by paragraph 3(2) of Schedule 4 to the Financial Services Act 2012.
- M18** Paragraph 14(1B) was inserted by paragraph 3(3) of Schedule 4 to the Financial Services Act 2012.
- M19** Paragraph 14(1C) was inserted by paragraph 3(3) of Schedule 4 to the Financial Services Act 2012.
- M20** Paragraph 14(1D) was inserted by paragraph 3(3) of Schedule 4 to the Financial Services Act 2012.
- M21** Paragraph 14(1E) was inserted by paragraph 3(3) of Schedule 4 to the Financial Services Act 2012.
- M22** Paragraph 19(2) was amended by paragraph 10(2) of Schedule 4 to the Financial Services Act 2012.

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- M23** Paragraph 19(4) was amended by was amended by paragraph 10(2) of Schedule 4 to the Financial Services Act 2012.
- M24** Paragraph 19(7B) was inserted by [S.I. 2007/126](#) and amended by paragraph 10(2) of Schedule 4 to the Financial Services Act 2012.
- M25** Paragraph 19(8) was amended by paragraph 10(2) of Schedule 4 to the Financial Services Act 2012.
- M26** Paragraph 19(11) was amended by paragraph 10(2) of Schedule 4 to the Financial Services Act 2012.
- M27** Paragraph 19(12) was amended by [S.I. 2003/2066](#), [paragraph 10\(2\)](#) of Schedule 4 to the Financial Services Act 2012, and [S.I. 2013/3115](#).
- M28** Paragraph 20(1) was amended by [S.I. 2007/3253](#), [paragraph 11\(2\)](#) of Schedule 4 to the Financial Services Act 2012, [S.I. 2013/1773](#), and [S.I. 2015/575](#).
- M29** Paragraph 20(3) was amended by [S.I. 2003/2066](#), [S.I. 2007/126](#), paragraph 11(2) of Schedule 4 to the Financial Services Act 2012, [S.I. 2013/3115](#), and [S.I. 2015/910](#).
- M30** Paragraph 20(4) was amended by [S.I. 2001/1376](#) and paragraph 11(2) of Schedule 4 to the Financial Services Act 2012
- M31** [S.I. 2001/2511](#).
- M32** Regulation 4 was amended by [S.I. 2003/2066](#), [2006/3385](#), and [2013/642](#).
- M33** Regulation 4A was inserted by [S.I. 2006/3385](#).
- M34** Regulation 5A was inserted by [S.I. 2006/3385](#).
- M35** Regulation 11 was amended by [S.I. 2006/3385](#), [2003/2066](#), [2013/642](#), and [2013/3115](#).
- M36** Regulation 11A was inserted by [S.I. 2006/3385](#) and amended by [S.I. 2013/642](#).
- M37** Regulation 12A was inserted by [S.I. 2006/3385](#) and amended by [S.I. 2013/642](#).
- M38** [S.I. 2001/544](#).
- M39** [S.I. 2017/488](#).

Interpretation

2.—(1) In these Regulations—

“the Act” means the Financial Services and Markets Act 2000 ^{M40};

[^{F4}“algorithmic trading” means trading in financial instruments where a computer algorithm automatically determines individual parameters of orders such as whether to initiate the order, the timing, price or quantity of the order or how to manage the order after its submission, with limited or no human intervention, and does not include any system that is only used for the purpose of routing orders to one or more trading venues or for the processing of orders involving no determination of any trading parameters or for the confirmation of orders or the post-trade processing of executed transactions;]

[^{F5}“ancillary services” means any of the services and activities listed in Part 3A of Schedule 2 to the Regulated Activities Order;]

[^{F6}“appropriate regulator” has the meaning given in section 55A of the Act;]

“authorised person” has the same meaning as in section 31(2) (authorised persons) of the Act;

“branch” has the meaning given by [^{F7}Article 2.1.20 of the markets in financial instruments regulation];

“client” has the meaning given by [^{F8}Article 2.1.7 of the markets in financial instruments regulation];

“the Commission” means the Commission of the European Union;

“commodity derivative” has the meaning given by [^{F9}Article 2.1.30 of the markets in financial instruments regulation];

[^{F10}“competent authority” means the authority designated by regulation 3;]

“credit institution” has the meaning given by [F11 Article 2.1.19 of the markets in financial instruments regulation];

[F12 “derivative” means a financial instrument referred to in paragraphs 4 to 10 of Part 1 of Schedule 2 to the Regulated Activities Order;]

[F13 “direct electronic access” means an arrangement where a member or participant or client of a trading venue permits a person to use its trading code so the person can electronically transmit orders relating to a financial instrument directly to the trading venue and includes arrangements which involve the use by a person of the infrastructure of the member or participant or client, or any connecting system provided by the member or participant or client, to transmit the orders (direct market access) and arrangements where such an infrastructure is not used by a person (sponsored access);]

“EEA” means the European Economic Area created by the EEA agreement;

“emission allowance” means an emission allowance as described in [F14 paragraph 11 of Part 1 of Schedule 2 to the Regulated Activities Order];

F15
...

“the FCA” means the Financial Conduct Authority;

[F16 “financial instrument” means those instruments specified in Part 1 of Schedule 2 to the Regulated Activities Order, read with Part 2 of that Schedule;]

[F17 “high-frequency algorithmic trading technique” means an algorithmic trading technique characterised by—

- (a) infrastructure intended to minimise network and other types of latencies, including at least one of the following facilities for algorithmic order entry—
 - (i) co-location;
 - (ii) proximity hosting; or
 - (iii) high-speed direct electronic access;
- (b) system-determination of order initiation, generation, routing or execution without human intervention for individual trades or orders; and
- (c) high message intraday rates which constitute orders, quotes or cancellations;]

“investment activity” means an activity listed in [F18 Part 3 of Schedule 2 to the Regulated Activities Order] relating to a financial instrument;

“investment firm” has the meaning given by [F19 Article 2.1A of the markets in financial instruments regulation];

“investment service” means any service listed in [F20 Part 3 of Schedule 2 to the Regulated Activities Order] relating to a financial instrument;

“investment services and activities” means any of the services and activities listed in [F21 Part 3 of Schedule 2 to the Regulated Activities Order] relating to a financial instrument;

“market abuse” means a contravention of Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or 15 (prohibition of market manipulation) of the market abuse regulation;

“market abuse regulation” means Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) ^{M41};

“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) ^{M42};

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“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^{M43},

[^{F22}“multilateral trading facility” or “MTF”, “UK multilateral trading facility” or “UK MTF” and “EU multilateral trading facility” or “EU MTF” have the meanings given in Article 2.1.14, 2.1.14A and 2.1.14B respectively of the markets in financial instruments regulation;]

“the PRA” means the Prudential Regulation Authority;

“Part 4A permission” has the meaning given by section 55A(5)^{M44} (application for permission) of the Act;

“recognised investment exchange” has the meaning given by section 285(1)(a)^{M45} (exemption for recognised investment exchanges and clearing houses) of the Act;

“regulated activity” has the meaning given by section 22^{M46} (regulated activities) of the Act;

[^{F23}“Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001];

[^{F23}“Regulation (EU) 2017/578” means Commission Delegated Regulation (EU) 2017/578 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying the requirements on market making agreements and schemes;]

[^{F23}“Regulation (EU) 2017/589” means Commission Delegated Regulation (EU) 2017/589 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading;]

[^{F23}“Regulation (EU) 2017/591” means Commission Delegated Regulation (EU) 2017/591 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives;]

[^{F23}“SME growth market” means a MTF that is registered as an SME growth market in accordance with Part 5.10 of the Market Conduct sourcebook containing rules made by the FCA under the Act;]

[^{F24}“regulated market”, “UK regulated market” and “EU regulated market” have the meanings given in Article 2.1.13, 2.1.13A and 2.1.13B respectively of the markets in financial instruments regulation;]

[^{F25}“trading venue”, “UK trading venue” and “EU trading venue” have the meanings given in Article 2.1.16, 2.1.16A and 2.1.16B respectively of the markets in financial instruments regulation;]

“the Tribunal” means the Upper Tribunal.

(2) In these Regulations any reference to the markets in financial instruments directive or the markets in financial instruments regulation includes any EU legislation made under the directive or the regulation.

[^{F26}(3) Unless the context otherwise requires, all references in these Regulations to—

- (a) a trading venue are to a UK trading venue;
- (b) a regulated market are to a UK regulated market;
- (c) an MTF are to a UK MTF;
- (d) an OTF are to a UK OTF; and

(e) an EU regulated market, EU MTF or EU OTF include EU regulated markets, MTFs and OTFs in EEA countries.

(4) References in these Regulations to a “third country” (including in expressions including the words “third country”) are, except where the context otherwise requires, to be read as references to a country other than the United Kingdom.

(5) Any reference in these Regulations to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by the FCA under the Act, as the sourcebook has effect on IP completion day.]

Textual Amendments

- F4** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 2(1) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(f)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(g)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(h)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(j)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(k)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in reg. 2(1) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(l)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in reg. 2(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(1)(m)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

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- F17** Words in reg. 2(1) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(n)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in reg. 2(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(o)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in reg. 2(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(p)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Words in reg. 2(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(q)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in reg. 2(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(r)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in reg. 2(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(s)** (with savings in S.I. 2019/680, reg. 11) (as amended by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(2), **16(4)(a)(b)**); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in reg. 2(1) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(t)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in reg. 2(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(u)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in reg. 2(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(1)(v)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Reg. 2(3)-(5) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **7(2)** (with savings in S.I. 2019/680, reg. 11) (as amended by The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301), regs. 1, 3, **Sch. para. 12(b)**); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M40** 2000 c.8.
- M41** OJ No L 173, 12.06.2014, p.1.
- M42** OJ No L 173, 12.06.2014, p.349; the Directive was amended by Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 (OJ No L 257, 28.8.2014 p.1) and Directive (EU) 2016 of the European Parliament and of the Council of 23 June 2016 (OJ No L 175 30.6.2016 p.8).
- M43** OJ No L 173, 12.06.2014, p.84.
- M44** Section 55A(5) was inserted by section 11(2) of the Financial Services Act 2012.
- M45** Section 285(1)(a) was amended by [S.I. 2013/504](#).
- M46** Section 22 was amended by section 7(1)(a) to (d) of the Financial Services Act 2012.

[^{F27}References to EU Regulations etc

2A. Any reference in these Regulations to any EU Regulation, EU decision or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation, EU decision or EU tertiary legislation as it [^{F28}forms part of retained EU law].]

Textual Amendments

- F27** Reg. 2A inserted (20.12.2018) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(2), 2
- F28** Words in reg. 2A substituted (31.12.2020 immediately before IP completion day) by [S.I. 2018/1403](#), regs. 1(2), 2 (as amended by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), reg. 1(4), **Sch. para. 1(1)(2)(I)**)

Designation of competent authorities

3.—^{F29}(1) The FCA is designated to carry out all the functions of a competent authority provided for in—

- (a) the Act;
- (b) the markets in financial instruments regulation; and
- (c) rules made under section 137A (the FCA general rules) of the Act or any other subordinate legislation conferring functions on the FCA made under the Act.]

(2) The PRA is designated to carry out any duty of a competent authority that relates to a PRA authorised person where the PRA has the function of carrying out that duty under—

- (a) these Regulations;
- (b) Parts 4A ^{M47}, 12 to 15, 22, and 25 of the Act ^{F30} ... ; or
- (c) rules made under section 137G ^{M48} (the PRA's general rules) of the Act or any other subordinate legislation conferring functions on the PRA made under the Act.

(3) Where a PRA authorised person is obliged to keep records at the disposal of the competent authority under Article 25 (obligation to maintain records) of the markets in financial instruments regulation both the FCA and PRA are designated as the competent authority.

(4) The Bank of England is designated to carry out any duty of a competent authority that relates to a central counterparty (as defined by section 313(1) ^{M49} (interpretation of Part 18) of the Act) and is provided for in the following provisions of the markets in financial instruments regulation—

- (a) Article 29 (clearing obligation for derivatives traded on regulated markets and timing of acceptance for clearing);
- (b) Article 30 (indirect clearing arrangements);
- (c) Article 35 (non-discriminatory access to a CCP);
- (d) Article 36 (non-discriminatory access to a trading venue);
- (e) Article 37 (non-discriminatory access to and obligation to licence benchmarks); and
- (f) Article 54.2 (transitional provisions).

(5) In this regulation “PRA authorised person” has the meaning given by section 2B(5) ^{M50} (the PRA's general objective) of the Act.

Textual Amendments

- F29** Reg. 3(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(3)(a)** (with savings in [S.I. 2019/680](#), reg. 11); [2020 c. 1](#), Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

F30 Words in reg. 3(2)(b) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **7(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M47 Part 4A was inserted by section 11(2) of the Financial Services Act 2012.

M48 Section 137G was inserted by section 24(1) of the Financial Services Act 2012.

M49 Section 313(1) was amended by [S.I. 2013/504](#); there are other amendments but none is relevant.

M50 Section 2B(5) was inserted by section 6(1) of the Financial Services Act 2012.

PART 2

Exempt and third-country investment firms

CHAPTER 1

Exempt investment firms

Applications to be an exempt investment firm

4.—(1) A person may apply in accordance with section 55A^{M51} (application for permission) of the Act for a Part 4A permission to carry on regulated activities as an exempt investment firm.

(2) An authorised person may become entitled to carry on regulated activities as an exempt investment firm only by applying for a variation of its Part 4A permission in accordance with section 55H^{M52} (variation by FCA) or 55I^{M53} (variation by PRA) of the Act.

(3) A person may only apply for a Part 4A permission as mentioned in paragraph (1), and an authorised person may only apply for a variation of their Part 4A permission as mentioned in paragraph (2), if the person or authorised person has its relevant office in the United Kingdom.

(4) In this regulation “relevant office” means—

- (a) in relation to a body corporate, its registered office or, if it has no registered office, its head office; and
- (b) in relation to a person, or authorised person other than a body corporate, the person's head office.

Marginal Citations

M51 [Section 55A](#) was inserted by section 11(2) of the Financial Services Act 2012.

M52 [Section 55H](#) was inserted by section 11(2) of the Financial Services Act 2012 and amended by [S.I. 2013/1773](#).

M53 [Section 55I](#) was inserted by section 11(2) of the Financial Services Act 2012.

Limitation on exempt investment firms

^{F315}

Textual Amendments

- F31** Reg. 5 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **8(1)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Requirements applying to exempt investment firms

6.—(1) If the appropriate regulator—

- (a) gives to a person who has applied under regulation 4(1) a Part 4A permission to carry on regulated activities as an exempt investment firm; or
- (b) varies the Part 4A permission of an authorised person who has applied as mentioned in regulation 4(2) for a variation to permit them to carry on regulated activities as an exempt investment firm,

the requirements specified in paragraph (3) (“the specified requirements”) shall be treated as being imposed under section 55L^{M54} (imposition of requirements by FCA) (where the FCA is the appropriate regulator) or 55M^{M55} (imposition of requirements by PRA) (where the PRA is the appropriate regulator) of the Act.

(2) Notwithstanding paragraph (1)—

- (a) the treatment of the specified requirement as a requirement imposed under section 55L or 55M of the Act does not—
 - (i) amount for the purpose of section 55X(1)^{M56} (determination of applications: warning notices and decision notices) of the Act to a proposal to exercise the power of the appropriate regulator under section 55L(1) or 55M(1) of the Act;
 - (ii) amount for the purpose of section 55X(4)^{M57} of the Act to a decision to exercise the power of the appropriate regulator under section 55L(1) or 55M(1) of the Act; or
 - (iii) entitle the person to refer a matter under section 55Z3(1)^{M58} (right to refer matters to the Tribunal) of the Act;
- (b) the specified requirements shall not expire until the person ceases to be an exempt investment firm; and
- (c) no application under section 55L(5) or 55M(5) of the Act to vary or cancel any of the specified requirements may be made by the person unless they inform the appropriate regulator when making the application that they wish to cease to be an exempt investment firm.

(3) The requirements are that the person—

- (a) does not hold clients' funds or securities and does not, for that reason, at any time, place themselves in debit with their clients;
- (b) does not provide any investment service other than the—
 - (i) reception and transmission of orders in transferable securities and units in collective investment undertakings; and
 - (ii) provision of investment advice in relation to the financial instruments mentioned in paragraph (i); and
- (c) in the course of providing the investment services mentioned in sub-paragraph (b), transmits orders only to—
 - [^{F32}(i) an investment firm which—

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- (aa) has a Part 4A permission to carry on regulated activities relating to investment services and activities; or
- (bb) is authorised in accordance with the markets in financial instruments directive;]

[^{F33}(ii) a credit institution which—

- (aa) has a Part 4A permission to carry on the regulated activity of accepting deposits and falls within paragraph (3A); or
- (bb) is authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and investment firms;]

[^{F34}(iii) a branch of an investment firm or of a credit institution authorised in a third country and which is subject to, and complies with, prudential rules considered by the appropriate regulator to be at least as stringent as those laid down in the markets in financial instruments directive, the capital requirements regulation, and the solvency 2 directive;]

- (iv) a collective investment undertaking authorised under the law of [^{F35}the United Kingdom or of] an EEA State to market units to the public and to a manager of such an undertaking; or
- (v) an investment company with fixed capital, the securities of which are listed or dealt in on [^{F36}a UK regulated market or] a regulated market in an EEA State.

[^{F37}(3A) A credit institution falls within this paragraph if—

- (a) it has its head office in the United Kingdom; and
- (b) it is not a credit union within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985, or a friendly society within the meaning of section 417(1) of the Act.]

[^{F38}(4) In paragraph (3), “investment company with fixed capital” means a company—

- (a) the exclusive object of which is to invest its funds in various stocks and shares, land or other assets with the sole aim of spreading investment risks and giving its shareholders the benefit of the results of the management of their assets; and
- (b) which offers its own shares for subscription by the public.]

^{F39}(5)

[^{F40}(6) In this regulation—

“appropriate regulator” means the appropriate regulator for the purposes of section 55A in relation to an application under regulation 4(1);

“the capital requirements regulation” means Regulation (EU) No EU 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms; and

“the solvency 2 directive” means [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).]

Textual Amendments

- F32** Reg. 6(3)(c)(i) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F33** Reg. 6(3)(c)(ii) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(2)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Reg. 6(3)(c)(iii) substituted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **14(a)**
- F35** Words in reg. 6(3)(c)(iv) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(2)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F36** Words in reg. 6(3)(c)(v) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(2)(a)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Reg. 6(3A) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F38** Reg. 6(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F39** Reg. 6(5) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F40** Reg. 6(6) inserted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **14(b)**

Marginal Citations

- M54** Section 55L was inserted by section 11(2) of the Financial Services Act 2012.
- M55** Section 55M was inserted by section 11(2) of the Financial Services Act 2012.
- M56** Section 55X(1) was inserted by section 11(2) of the Financial Services Act 2012.
- M57** Section 55X(4) was inserted by section 11(2) of the Financial Services Act 2012.
- M58** Section 55Z3 was inserted by section 11(2) of the Financial Services Act 2012.

Transitional provision: exempt investment firms

- 7.—(1) An authorised person who immediately before 3rd January 2018 was—
- an exempt investment firm by virtue of regulation 9A ^{M59}(transitional provision: exempt investment firms) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007; or
 - permitted to carry on regulated activities as an exempt investment firm in accordance with permission granted in accordance with regulation 4C ^{M60} (requirements to be applied to exempt investment firms) of those Regulations,

becomes an exempt investment firm with effect from that day as if they had applied as mentioned in regulation 4(1) or (2) ^{M61} and had been granted the permission or variation on that day.

Marginal Citations

- M59** S.I. 2007/126; regulation 9A was inserted by S.I. 2007/763.

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- M60** Regulation 4C was inserted by S.I. 2007/263 and was amended by S.I. 2013/472 and 2013/3115.
- M61** Regulation 4(1) and (2) were amended by S.I. 2013/472.

Meaning of “exempt investment firm” in Chapter 1

8. In this Chapter “exempt investment firm” means an authorised person who—
- (a) is an investment firm; and
 - (b) has a Part 4A permission;

[^{F41}but to whom the appropriate regulator has granted exemption from authorisation and operating conditions which usually apply to investment firms.]

Textual Amendments

- F41** Words in reg. 8 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 2

Third country investment firms

Third country firms with an EEA branch: provision of services

^{F42}9.

Textual Amendments

- F42** Reg. 9 omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

FCA power to intervene in relation to third country firms with an EEA branch

^{F43}10.

Textual Amendments

- F43** Reg. 10 omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Third country firms registered with [^{F44}the FCA]: provision of services

11.—[^{F45}(1)] A third country firm registered with [^{F46}the FCA] is not to be regarded as carrying on a regulated activity if it carries on the activity in the course of exercising rights under Article 46.1 (general provisions) of the markets in financial instruments regulation.

[^{F47}(2) For the purposes of this regulation, third country firms which are included on the register with ESMA immediately before IP completion day under Article 46.2 of the markets in financial instruments regulation are to be treated after exit day as being registered with the FCA.]

Textual Amendments

- F44** Words in **reg. 11** heading substituted (31.12.2020) by **The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403)**, regs. 1(3), **8(5)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F45** **Reg. 11** renumbered as reg. 11(1) (31.12.2020) by **The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403)**, regs. 1(3), **8(5)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F46** Words in **reg. 11(1)** substituted (31.12.2020) by **The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403)**, regs. 1(3), **8(5)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F47** **Reg. 11(2)** inserted (31.12.2020) by **The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403)**, regs. 1(3), **8(5)(d)** (with savings in S.I. 2019/680, reg. 11) (as amended by **The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301)**, regs. 1, 3, **Sch. para. 12(c)(i)**); 2020 c. 1, Sch. 5 para. 1(1)

FCA power to intervene in relation to third country firms registered with ^{F48}the FCA]

12.—(1) The FCA may exercise its power of intervention in relation to a third country firm registered ^{F49}with it] where it considers that —

(a) the firm has acted, or is acting, in a manner which is clearly prejudicial to the interests of investors or the orderly functioning of the markets; or

(b) the firm has seriously infringed provisions—

(i) applicable to the firm in the country in which it is established; and

^{F50}(ii) on the basis of which—

(aa) the Commission has adopted a decision in relation to the country under paragraph 1 of Article 47 of the markets in financial instruments regulation before IP completion day; or

(bb) the Treasury have made regulations in relation to the country under that paragraph after IP completion day;]

(2) Section 197 (procedure on exercise of power of intervention) applies to the exercise by the FCA of its power of intervention under paragraph (1) ^{F51}as it applied] to the exercise by the FCA ^{F52}before IP completion day] of its power of intervention under Part 13 of the Act generally.

(3) Where it appears to the FCA that the power of intervention is exercisable under paragraph (1) in relation to a third country firm registered ^{F53}with it] the FCA must give—

^{F54}(a)

(b) the firm written notice of its concerns which—

(i) requires the firm to put an end to the conduct which gives rise to the concern;

(ii) states that the FCA's power of intervention will become exercisable in accordance with this regulation; and

(iii) indicates any requirements that the FCA proposes to impose on the firm in exercise of its power of intervention in the event the power becomes exercisable.

(4) The FCA may then only exercise its power of intervention under paragraph (1) if—

(a) the FCA considers a reasonable time has elapsed since it gave the written ^{F55}notice] under paragraph (3); ^{F56}and]

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

(b) the firm has not put an end to the concerning conduct;

- F57(c)
- F57(d)
- F58(5)
- F58(6)

Textual Amendments

- F48** Words in [reg. 12](#) heading substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(a)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F49** Words in [reg. 12\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(b)(i)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F50** [Reg. 12\(1\)\(b\)\(ii\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(b)(ii)** (with savings in [S.I. 2019/680](#), [reg. 11](#)) (as amended by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), [regs. 1, 3](#), [Sch. para. 12\(c\)\(ii\)](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F51** Words in [reg. 12\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(c)(i)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F52** Words in [reg. 12\(2\)](#) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(c)(ii)** (with savings in [S.I. 2019/680](#), [reg. 11](#)) (as amended by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), [regs. 1, 3](#), [Sch. para. 12\(c\)\(iii\)](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F53** Words in [reg. 12\(3\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(d)(i)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F54** [Reg. 12\(3\)\(a\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(d)(ii)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F55** Word in [reg. 12\(4\)\(a\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(e)(i)(aa)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F56** Word in [reg. 12\(4\)\(a\)](#) inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(e)(i)(bb)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F57** [Reg. 12\(4\)\(c\)\(d\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(e)(ii)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F58** [Reg. 12\(5\)\(6\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(6)(f)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

Third country firms: provision of services to eligible counterparties or clients considered to be professionals

13. A third country firm is not to be regarded as carrying on a regulated activity if it carries on the activity in the course of exercising rights under the third paragraph of Article 46.5 (general provisions) of the markets in financial instruments regulation.

Third country firms: financial promotions

14.—(1) The communication, in the course of business, of an invitation or inducement to engage in investment activity is not to be regarded as a communication for the purposes of section 21(1) (restrictions on financial promotion) of the Act if it is made in the course of exercising rights under Title 8 of the markets in financial instruments regulation.

(2) For the purposes of paragraph (1) a communication is made in the course of exercising rights under Title 8 of the markets in financial instruments regulation if it is made—

- (a) by a third country firm registered with [^{F59}the FCA] to eligible counterparties or to clients considered to be professionals in the course of exercising rights under Article 46.1 (general provisions) [^{F60}of the Regulation]; [^{F61}or]
- (b) by a third country firm to eligible counterparties or to clients considered to be professionals in the course of exercising rights under Article 46.5 of the Regulation provided that—
 - (i) the counterparty or client has initiated at his or her own exclusive initiative the provision by the firm of an investment service or activity under that Article to the counterparty or client; and
 - (ii) the communication is in respect of the investment service or activity; ^{F62}...

^{F63}(c)

(3) An order made by the Treasury under section 21(5) of the Act does not apply to a person who, in the course of business, communicates an invitation or inducement to engage in investment activity if—

- (a) the communication is made in the course of providing investment services or performing investment activities with or without ancillary services to eligible counterparties or clients considered to be professionals; and
- (b) the person is—
 - (i) established in a country which is subject to an equivalence [^{F64}determination]; or
 - (ii) permitted to provide those services under Article 46.5 of the markets in financial instruments regulation.

(4) For the purposes of paragraph (3)—

[^{F65}(a) “equivalence determination” means—

- (i) a decision adopted by the Commission in relation to a country under paragraph 1 of Article 47 of the markets in financial instruments regulation before IP completion day which has not been withdrawn by a subsequent decision adopted by the Commission under that Article before exit day; or
- (ii) regulations made by the Treasury in relation to a country under that paragraph after IP completion day which have not subsequently been revoked;]

[^{F66}(b) a country is subject to an equivalence determination if a period of more than three years has elapsed since—

- (i) the adoption of the decision by the Commission, beginning on the day after the date of the adoption of the decision; or

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- (ii) the making of the regulations by the Treasury, beginning on the day after the day on which the regulations were made;]

Textual Amendments

- F59** Words in reg. 14(2)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(7)(a)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F60** Words in reg. 14(2)(a) inserted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **18(a)**
- F61** Word in reg. 14(2)(a) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(7)(a)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F62** Word in reg. 14(2)(b) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(7)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F63** Reg. 14(2)(c) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(7)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F64** Word in reg. 14(3)(b)(i) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(7)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F65** Reg. 14(4)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(7)(c)(i)** (with savings in S.I. 2019/680, reg. 11) (as amended by The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301), regs. 1, 3, **Sch. para. 12(c)(iv)**); 2020 c. 1, Sch. 5 para. 1(1)
- F66** Reg. 14(4)(b) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(7)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation of Chapter 2

15. In this Chapter—

“clients considered to be professionals” means professional clients (as defined by [F67 Article 2(1)(8) of the markets in financial instruments regulation]) who fall within [F68 Part 2 of Schedule 1 to that regulation];

[F69 “power of intervention” means the power of the regulator to impose any requirement in relation to the firm in respect of which the power is exercisable which the regulator could impose if—

- (a) the firm's permission was a Part 4A permission, within the meaning of the Act; and
- (b) the regulator was entitled to exercise its power under section 55L(3) or 55M(3) of the Act;]

“third country firm” has the same meaning as in [F70 Article 2.1.42 of the markets in financial instruments regulation];

“third country firm registered with [F71 the FCA]” means a third country firm which—

- (a) is registered in the register of third-country firms kept by [F71 the FCA] in accordance with [F72 Article 48 (register) of the markets in financial instruments regulation]; and

- (b) has the right under Article 46.1 (general provisions) ^{F73}of the markets in financial instruments regulation] to provide investment services or perform investment activities with or without any ancillary services to eligible counterparties and to clients considered to be professionals;

F74 ...

Textual Amendments

- F67** Words in reg. 15 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(8)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F68** Words in reg. 15 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(8)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F69** Words in reg. 15 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(8)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F70** Words in reg. 15 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(8)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F71** Words in reg. 15 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(8)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F72** Words in reg. 15 substituted (2.1.2018) by virtue of The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **19(a)**
- F73** Words in reg. 15 inserted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **19(b)**
- F74** Words in reg. 15 omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(8)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

PART 3

Position limits and position management controls in commodity derivatives

FCA duty to establish position limits

16.—(1) The FCA must, by giving directions, establish position limits in respect of commodity derivatives traded on trading venues in the United Kingdom and economically equivalent over the counter contracts.

(2) The FCA must establish position limits under paragraph (1) on the basis of all positions held by a person in the contract to which the limit relates and those held on the person's behalf at an aggregate group level in order to—

- (a) prevent market abuse; and
- (b) support orderly pricing and settlement conditions, which includes, but is not restricted to—
 - (i) preventing market distorting positions; and

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

(ii) ensuring convergence between prices of commodity derivatives in the delivery month and spot prices for the underlying commodity without prejudice to price discovery on the market for the underlying commodity.

(3) The FCA must determine if a position is held at an aggregate group level for the purpose of paragraph (2) in accordance with the relevant methods.

(4) Position limits established by the FCA under this regulation must be published in a manner the FCA considers appropriate.

(5) In this regulation—

[^{F75c} group ” means a parent undertaking and all its subsidiary undertakings, and for these purposes, “parent undertaking” and “subsidiary undertaking” have the same meanings as in section 420 of the Act;]

“the relevant methods” means the methods determined by [^{F76}Article 4 of Regulation (EU) 2017/591.]

Textual Amendments

F75 Words in [reg. 16\(5\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(9\)\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)

F76 Words in [reg. 16\(5\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(9\)\(b\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)

Exemption for non-financial entities

17.—(1) The calculation of the size of a position a person holds for the purposes of regulation 16(2) must not include a position which is—

- (a) held by or on behalf of a non-financial entity;
- (b) objectively measurable as reducing risks directly relating to the commercial activity of that non-financial entity; and
- (c) approved by the FCA in accordance with—
 - (i) the relevant criteria and methods; and
 - (ii) the relevant procedure.

(2) An application to the FCA for approval under paragraph (1)(c) must—

- (a) be made in such manner as the FCA may direct; and
- (b) contain or be accompanied by such information as the FCA may reasonably require for the purpose of determining the application.

(3) At any time after receiving an application and before determining it the FCA may require the applicant to provide the FCA with such further information as the FCA reasonably considers necessary to enable the FCA to determine the application.

(4) The FCA may give different directions, and may impose different requirements, in relation to different applications.

(5) In this regulation—

“the relevant criteria and methods” means the criteria and methods determined by [^{F77}Article 7 of Regulation (EU) 2017/591; and]

“the relevant procedure” means the procedure determined by [^{F78}Article 8 of Regulation (EU) 2017/591.]

Textual Amendments

- F77** Words in reg. 17(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(10)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F78** Words in reg. 17(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(10)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Content of position limits

18. A position limit established by the FCA under regulation 16 must specify clear quantitative thresholds for the maximum size of a position in a commodity derivative that a person can hold.

FCA duty to use [^{F79}Regulation (EU) 2017/591] to establish position limits and to review if market changes

19.—(1) The FCA must, unless regulation 25 applies, establish position limits under regulation 16 in accordance with [^{F80}Regulation (EU) 2017/591].

- (2) The FCA must review a position limit it has established under regulation 16 where there is—
 - (a) a significant change in deliverable supply or open interest; or
 - (b) any other significant change on the market, based on the FCA's determination of deliverable supply or open interest.

(3) Where following a review the FCA believes that the position limit should be reset it must establish a new position limit under regulation 16.

Textual Amendments

- F79** Words in reg. 19 heading substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(11)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F80** Words in reg. 19(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(11)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

ESMA opinions on position limits

^{F81}**20.**

Textual Amendments

- F81** Regs. 20-22 omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **8(12)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

Position limits affecting multiple EEA jurisdictions

^{F81}21.

Textual Amendments

F81 Regs. 20-22 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **8(12)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Cooperation with other competent authorities regarding position limits affecting multiple EEA jurisdictions

^{F81}22.

Textual Amendments

F81 Regs. 20-22 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **8(12)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

General requirements for position limits

- 23.** Position limits established by the FCA under regulation 16 must be—
- (a) transparent and non-discriminatory;
 - (b) specify how they apply to persons; and
 - (c) take account of the nature and composition of market participants and of the use those market participants make of the contracts admitted to trading.

FCA duty to notify ESMA of established position limits and position management controls

^{F82}24.

Textual Amendments

F82 Reg. 24 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **8(12)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Procedure in exceptional cases

- 25.—**(1) The FCA may establish a position limit under regulation 16 which is more restrictive than would be permitted by [^{F83}Regulation (EU) 2017/591] (“a more restrictive position limit”) in exceptional cases, if the position limit is objectively justified and proportionate taking into account—
- (a) the liquidity of the specific market; and
 - (b) the orderly functioning of that market.
- (2) Where the FCA establishes a more restrictive position limit the FCA must publish that position limit on its website.

(3) The FCA must not impose a more restrictive position limit for a period of more than six months from the day it is published under paragraph (2).

(4) But the FCA may impose the more restrictive position limit for further periods of no more than six months each if the position limit continues to be objectively justified and proportionate taking into account the matters mentioned in paragraph (1)(a) and (b).

- F84(5)
- F84(6)
- F84(7)

Textual Amendments

F83 Words in [reg. 25\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(13)(a)** (as amended by [S.I. 2019/710](#), [regs. 1\(2\)](#), [16\(5\)](#) and with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

F84 [Reg. 25\(5\)-\(7\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(13)(b)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Effect of position limits established by the FCA ^{F85}...

26.—(1) A person must not hold a position which is in excess of a position limit established under regulation 16, regardless as to whether the person is in the United Kingdom or not.

- F86(2)

Textual Amendments

F85 Words in [reg. 26](#) heading omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(14)(a)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

F86 [Reg. 26\(2\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **8(14)(b)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

FCA power to require information

27.—(1) The FCA may, in such manner as it may direct, require a person to provide information on, or concerning—

- (a) a position the person holds in a relevant commodity derivative or over the counter contract; or
- (b) trades a person has undertaken, or intends to undertake, in a relevant commodity derivative or over the counter contract.

(2) The FCA may, in such manner as it may direct, require the operator of a trading venue to provide information on, or concerning, trades a person has undertaken, or intends to undertake in a relevant commodity derivative or over the counter contract.

- (3) In this regulation a commodity derivative or over the counter contract is relevant if the FCA—
 - (a) has established a position limit under regulation 16 in respect of that derivative or contract; or

Status: Point in time view as at 31/12/2020.

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- (b) is considering whether it is required to establish or modify a position limit in respect of that derivative or contract under regulation 16.

FCA power to intervene

28.—(1) If the FCA considers it necessary for the purpose of the exercise by the FCA of functions under [^{F87}these Regulations] or the markets in financial instruments regulation the FCA may—

- (a) limit the ability of a person to enter into a contract for a commodity derivative;
- (b) restrict the size of a position a person may hold; or
- (c) require a person to reduce the size of a position held.

(2) The FCA may exercise the power under paragraph (1) notwithstanding that the limitation, restriction, or reduction would be more restrictive than a position limit established by the FCA under regulation 16 ^{F88} ...

(3) Paragraph (1) applies regardless as to whether the person is in the United Kingdom or not where the position relates to a commodity derivative traded on a trading venue established in the United Kingdom or an economically equivalent over the counter contract.

(4) If the FCA imposes a limitation, restriction, or requirement under paragraph (1) it must issue a notice to the person.

(5) A person on whom a limitation, restriction or reduction has been imposed under paragraph (1) may refer that matter to the Tribunal.

Textual Amendments

F87 Words in [reg. 28\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **8(15)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F88 Words in [reg. 28\(2\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **8(15)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Cooperation with ESMA and other competent authorities in respect of interventions to restrict, reduce, or limit positions

^{F89}**28A.**

Textual Amendments

F89 [Reg. 28A](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **8(16)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation of Part 3

29.—(1) In this Part an over the counter contract is economically equivalent to a commodity derivative if it satisfies the criteria set out in [^{F90}Article 6 of Regulation (EU) 2017/591.]

(2) In this Part—

^{F91} ...

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

F92
...

“position” means a net position in a commodity derivative traded on a trading venue in an EEA State and any economically equivalent over the counter contract that has been calculated in accordance with the methodology determined by [F93Articles 3 and 4 of Regulation (EU) 2017/591;]

“position limit” means a limit on the maximum size of a position which a person may hold at any time; and

[F94“significant volumes” has the meaning given by [F95Article 5 of Regulation (EU) 2017/591].]

“trading venue” has the meaning given in regulation 2 but also includes a facility mentioned in—

- (a) paragraph (b) of the definition of “multilateral trading facility” in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ^{M62}; or
- (b) paragraph (b) of the definition of “organised trading facility” in that article.

Textual Amendments

- F90** Words in [reg. 29\(1\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(17\)\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F91** Words in [reg. 29\(2\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(17\)\(b\)\(i\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F92** Words in [reg. 29\(2\)](#) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(17\)\(b\)\(ii\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F93** Words in [reg. 29\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(17\)\(b\)\(iii\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F94** Words in [reg. 29\(2\)](#) inserted (2.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), [regs. 2\(a\)](#), [25](#)
- F95** Words in [reg. 29\(2\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), [8\(17\)\(b\)\(iv\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Marginal Citations

- M62** [S.I. 2001/544](#); article 3(1) was amended by [S.I. 2006/3384](#), there are other amendments but none is relevant.

PART 4

Algorithmic trading etc by members of trading venues covered by certain exemptions from the markets in financial instruments directive

Algorithmic trading

30.—(1) A member of, or participant in, a regulated market or multilateral trading facility (“M”) that engages in algorithmic trading must comply with the requirements of this regulation if —

Status: Point in time view as at 31/12/2020.

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- (a) [^{F96}M is established in] the United Kingdom;
- [^{F97}(b) M falls within paragraph (1A); and]
- (c) M does not have a Part 4A permission [^{F98}to carry on a regulated activity which is any of the investment services and activities].
- [^{F99}(1A) M falls within this paragraph if M is—

 - (a) the society incorporated by Lloyd's Act 1871 known by the name of Lloyd's;
 - (b) an authorised person with a Part 4A permission to carry on the regulated activity of—
 - (i) effecting or carrying out contracts of insurance under article 10 of the Regulated Activities Order;
 - (ii) insurance risk transformation under article 13A of the Regulated Activities Order;
 - (iii) managing the underwriting capacity of a Lloyd's syndicate under article 57 of the Regulated Activities Order,

when carrying on those activities (and any other activities permitted by rules made by the FCA or the PRA under the Act);
 - (c) an operator (within the meaning of regulation 3(2) of the Greenhouse Gas Emissions Trading Scheme Regulations 2012), subject to compliance obligations under those Regulations who when dealing in emission allowances does not execute client orders and does not provide any investment services or perform any investment activities other than dealing on own account, provided that the operator does not apply a high-frequency algorithmic trading technique;
 - (d) a collective investment undertaking, pension fund or a depositary or manager of such an undertaking;
 - (e) a person (“P”)—
 - (i) dealing on own account, including a market maker, in commodity derivatives or emission allowances or derivatives thereof, excluding a person who deals on own account when executing client orders; or
 - (ii) providing investment services, other than dealing on own account, in commodity derivatives or emission allowances or derivatives thereof to the customers or suppliers of P's main business,

provided that in each case the activity in paragraph (i) or (ii), considered both individually and on an aggregate basis, is an ancillary activity to P's main business, when considered on a group basis, and paragraph (1B) applies.

- (1B) This paragraph applies if—
 - (a) P's main business is not—
 - (i) the provision of investment services;
 - (ii) banking activities requiring permission under Part 4A of the Act (or banking activities which would require such permission if they were carried on in the United Kingdom); or
 - (iii) acting as a market-maker in relation to commodity derivatives;
 - (b) P does not apply a high-frequency algorithmic trading technique; and
 - (c) P notifies the FCA under regulation 47 that P is carrying out the activity described in paragraph (1A)(e)(i) and (ii) as an ancillary activity to P's main business and reports to the FCA upon request the basis on which P considers that this activity is ancillary to P's main business.]

(2) M must have in place effective systems and [^{F100}risk] controls, suitable to the business it operates, to ensure that M's trading systems—

- (a) are resilient and have sufficient capacity;
- (b) are subject to appropriate trading thresholds and limits; and
- (c) prevent the sending of erroneous orders or the systems otherwise functioning in a way that may create or contribute to a disorderly market.

(3) M must have in place effective systems and risk controls to ensure that M's trading systems cannot be used for any purpose that is contrary to—

- (a) the market abuse regulation; or
- (b) the rules of a trading venue to which it is connected.

(4) M must have in place effective business continuity arrangements to deal with any failure of its trading systems.

(5) M must ensure M's systems are fully tested and properly monitored to ensure that they meet the requirements set out in paragraph (2) to (4).

(6) If M engages in algorithmic trading in the United Kingdom [^{F101}or in an EEA state] M must notify the FCA.

^{F102}(7)

(8) M must arrange for records to be kept in relation to the matters referred to in this regulation and ensure that those records are sufficient to enable the FCA to monitor M's compliance with the requirements imposed on M by this regulation.

(9) If M engages in a high-frequency algorithmic trading technique ^{F103}... M must store accurate and time sequenced records of all its placed orders, cancelled orders, executed orders, and quotations on trading venues, in an approved form.

(10) If M engages in algorithmic trading to pursue a market making strategy M must, taking into account the liquidity, scale, and nature of the specific market and the characteristics of any financial instrument traded—

- (a) carry out market making continuously during a specified proportion of the market or facility's trading hours, except under exceptional circumstances, with the result that liquidity is provided on a regular and predictable basis to that market or facility;
- (b) if the specified circumstances arise, enter into a binding written agreement with the market or facility which—
 - (i) specifies the obligations of M under the agreement;
 - (ii) imposes obligations on M that are in accordance with sub-paragraph (a); and
 - (iii) includes the specified content; and
- (c) have in place effective systems and controls to ensure that M meets the obligations under the agreement mentioned in sub-paragraph (b).

(11) In paragraph (10) M pursues a market making strategy if—

- (a) M is a member of, or participant in, one or more regulated markets or multilateral trading facilities;
- (b) M's strategy, when dealing on M's own account, involves posting firm, simultaneous two-way quotes of comparable size and at competitive prices relating to one or more financial instruments on a single regulated market or multilateral trading facility, or across different regulated markets or multilateral trading facilities; and
- (c) as a result the result liquidity is provided on a regular and frequent basis to the overall market.

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

(12) In this regulation—

“approved form” means a form specified as an approved form by [^{F104}Article 28 of Regulation (EU) 2017/589;]

“exceptional circumstances” means circumstances specified in [^{F105}Article 3 of Regulation (EU) 2017/578;]

“the specified circumstances” means the circumstances specified in [^{F106}Article 1 of Regulation (EU) 2017/578; and]

“the specified content” means the content specified by [^{F107}Article 2 of Regulation (EU) 2017/578.]

Textual Amendments

- F96** Words in reg. 30(1)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F97** Reg. 30(1)(b) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F98** Words in reg. 30(1)(c) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F99** Reg. 30(1A)(1B) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F100** Word in reg. 30(2) inserted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **26**
- F101** Words in reg. 30(6) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F102** Reg. 30(7) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(5)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F103** Words in reg. 30(9) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(6)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F104** Words in reg. 30(12) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(7)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F105** Words in reg. 30(12) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(7)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F106** Words in reg. 30(12) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(7)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F107** Words in reg. 30(12) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **9(7)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Provision of information to the FCA concerning algorithmic trading

31.—^{F108}(1) If a member of, or participant in, a regulated market or multilateral trading facility (“M”) is subject to the requirements set out in regulation 30 the FCA may require M to provide the information specified in paragraph (2) on a regular or ad hoc basis.]

- (2) The specified information for the purposes of paragraph (1) is—
 - (a) a description of the nature of M's algorithmic trading strategies;
 - (b) details of the trading parameters or limits to which M's trading systems are subject;
 - (c) information concerning the ^{F109}compliance and risk controls] M has in place to ensure M meets any requirements imposed on M by regulation 30(2) to (4) (“M's ^{F109}compliance and risk controls]”);
 - (d) details of M's testing of M's systems ^{F110}... for the purposes of regulation 30(5);
 - (e) any records M keeps for the purposes of regulation 30(8) and (9); and
 - (f) any further information about M's algorithmic trading and systems used for that trading.

^{F111}(3)

Textual Amendments

F108 Reg. 31(1) substituted (2.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **27(a)**

F109 Words in reg. 31(2)(c) substituted (2.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **27(b)(i)**

F110 Words in reg. 31(2)(d) omitted (2.1.2018) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **27(b)(ii)**

F111 Reg. 31(3) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **9(8)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Direct electronic access

32.—(1) A member of, or participant in, a regulated market or multilateral trading facility that provides direct electronic access to the market or facility (“M”) must comply with the requirements set out in paragraphs (4) to (9) if condition A or B is met.

- (2) Condition A is that—
 - (a) ^{F112}M is established in] the United Kingdom;
 - ^{F113}(b) M falls within paragraph (1A) of regulation 30; and]
 - (c) M does not have a Part 4A permission ^{F114}to carry on a regulated activity which is any of the investment services and activities].

(3) Condition B is that M provides direct electronic access in accordance with the ^{F115}law of the United Kingdom] for the purposes of Article 54.1(transitional provisions) of the markets in financial instruments regulation.

- (4) M must have in place effective systems and controls which ensure—
 - (a) M conducts an assessment and review of the suitability of clients using the service;
 - (b) clients using the service are prevented from exceeding appropriate pre-set trading and credit thresholds;
 - (c) trading by clients using the service is properly monitored; and

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- (d) risk controls prevent trading by clients which—
- (i) may create risks to M itself;
 - (ii) could create, or contribute to, a disorderly market;
 - (iii) could be contrary to the market abuse regulation; or
 - (iv) could be contrary to the rules of the regulated market or multilateral facility to which M provides direct electronic access.
- (5) M must monitor the transactions made by clients to which it provides direct electronic access to a regulated market or multilateral trading facility to identify—
- (a) infringements of the rules of the regulated market or multilateral trading facility;
 - (b) disorderly trading conditions; or
 - (c) conduct which may involve market abuse.
- (6) If M's monitoring under paragraph (5) identifies an infringement of the rules of a regulated market or multilateral trading facility, disorderly trading conditions, or conduct which may involve market abuse M must notify the FCA.
- (7) M must have a binding written agreement with each client which—
- (a) details the rights and obligations of both parties arising from the provision of the service; and
 - (b) states that M is responsible for ensuring the client complies with the requirements of the [F116UK law on markets in financial instruments] and the rules of the regulated market or a multilateral trading facility; and
- (8) M must notify—
- (a) the FCA that M is providing direct electronic access services; F117 ...
 - F118(b)
- (9) M must arrange for—
- (a) records to be kept on the matters referred to in [F119paragraphs (4), (5), and (7)]; and
 - (b) records to be kept to enable M to meet any requirement imposed on them under regulation [F12033].
- (10) In this regulation the provision of direct electronic access is in accordance with the [F121law of the United Kingdom] for the purposes of Article 54.1 (transitional provisions) of the markets in financial instruments regulation if it is an activity subject to the exclusion in Article 72 (overseas persons) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2000 M63.
- [F122(11) References to “UK law on markets in financial instruments” are to the law of the United Kingdom which was relied on by the United Kingdom immediately before IP completion day to implement Directive 2014/65/EU and its implementing measures—
- (a) as they have effect on IP completion day, in the case of rules made by the FCA or by the PRA under the Act;
 - (b) as amended from time to time, in all other cases.]

Textual Amendments

F112 Words in [reg. 32\(2\)\(a\)](#) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), [regs. 1\(3\)](#), **10(1)(a)(i)** (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#))

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- F113** Reg. 32(2)(b) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F114** Words in reg. 32(2)(c) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F115** Words in reg. 32(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F116** Words in reg. 32(7) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F117** Word in reg. 32(8)(a) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(d)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F118** Reg. 32(8)(b) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(d)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F119** Words in reg. 32(9)(a) substituted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **28(a)**
- F120** Word in reg. 32(9)(b) substituted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **28(b)**
- F121** Words in reg. 32(10) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F122** Reg. 32(11) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(1)(f)** (with savings in S.I. 2019/680, reg. 11) (as amended by The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301), regs. 1, 3, **Sch. para. 12(d)**); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M63** S.I. 2001/544; article 72 was amended by S.I. 2003/1476, 2006/2383 and 3384, 2009/1342, 2013/504 and 2015/910.

Provision of information to the FCA concerning direct electronic access

33.—(1) The FCA may require a member of, or participant in, a regulated market or multilateral trading facility subject to the requirements set out in regulation 32 (“M”) to provide on a regular or ad hoc basis—

- (a) a description of the systems [^{F123}and controls] mentioned in regulation [^{F124}32(4)];
- (b) evidence that those systems [^{F125}and controls] have been applied; and
- (c) the information stored in accordance with regulation 32(9) .

^{F126}(2)

Textual Amendments

- F123** Words in reg. 33(1)(a) inserted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **30(a)(i)**
- F124** Word in reg. 33(1)(a) substituted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **30(a)(ii)**

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

- F125** Words in reg. 33(1)(b) inserted (2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **30(b)**
- F126** Reg. 33(2) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **10(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Acting as a general clearing member

34.—(1) A member of, or participant in, a regulated market or multilateral trading facility that acts as a general clearing member for other persons (“M”) must comply with the requirements set out in paragraph (2) if—

- (a) [^{F127}M is established in] the United Kingdom;
 - [^{F128}(b) M falls within paragraph (1A) of regulation 30; and]
 - (c) M does not have a Part 4A permission [^{F129}to carry on a regulated activity which is any of the investment services and activities].
- (2) M must have in place effective systems and controls to ensure—
- (a) M's clearing services are only provided to persons who —
 - (i) are suitable recipients of those services; and
 - (ii) meet clear criteria applied by those systems and controls regarding which persons are suitable to receive clearing services; and
 - (b) requirements are imposed on the persons to whom clearing services are being provided to reduce risks to M and to the market.

(3) M must have a binding written agreement with any person to whom they are providing clearing services detailing the rights and obligations of both parties arising from the provision of the service.

(4) In this regulation “clearing services” means the services provided by M in the course of acting as a general clearing member for other persons.

Textual Amendments

- F127** Words in reg. 34(1)(a) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **11(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F128** Reg. 34(1)(b) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **11(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F129** Words in reg. 34(1)(c) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **11(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Synchronisation of business clocks

35.—(1) A member of, or participant in, a trading venue (“M”) must comply with the requirement set out in paragraph (2) if—

- (a) [^{F130}M is established in] the United Kingdom;
- [^{F131}(b) M falls within paragraph (1A) of regulation 30; and]
- (c) M does not have a Part 4A permission [^{F132}to carry on a regulated activity which is any of the investment services and activities].

(2) M must synchronise the business clock M uses to record the date and time of any reportable event with the business clock the trading venue uses for that purpose to the level of accuracy specified in [F133 Commission Delegated Regulation (EU) 2017/574 of 7 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the level of accuracy of business clocks.]

Textual Amendments

- F130** Words in reg. 35(1)(a) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **12(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F131** Reg. 35(1)(b) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **12(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F132** Words in reg. 35(1)(c) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **12(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F133** Words in reg. 35(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **12(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

FCA power to impose requirements

36.—(1) The FCA may impose a requirement mentioned in paragraph (2) on a person to whom any of regulations 30 to 35 applies if it appears to the FCA that—

- (a) the person has contravened, or is likely to contravene, a requirement imposed on it by or under these Regulations or the markets in financial instruments regulation;
- (b) the person has, in purported compliance with any requirement imposed on it by or under these Regulations or the markets in financial instruments regulation, knowingly or recklessly given the FCA information which is false or misleading in a material particular; or
- (c) it is desirable to exercise the power in order to advance one or more of the FCA's operational objectives (as defined by section 1B(3) ^{M64} (the FCA's general duties)) of the Act.

(2) For the purposes of paragraph (2) the FCA may impose a requirement that the person—

- (a) take specified action; or
- (b) refrain from taking specified action.

(3) A requirement imposed under paragraph (2) may—

- (a) be imposed by reference to the person's relationship with another person;
- (b) be expressed to expire at the end of such period as the FCA may specify, but the imposition of a requirement that expires at the end of a specified period does not affect the FCA's power to impose a new requirement in accordance with paragraph (2); and
- (c) refer to the past conduct of the person (for example, by requiring the person to review or take remedial action in respect of past conduct).

(4) If the FCA imposes a requirement under this regulation it must issue a notice to the person.

(5) A person on whom a requirement has been imposed under this regulation may refer that matter to the Tribunal.

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

Marginal Citations

M64 Section 1B(3) was inserted by section 6(1) of the Financial Services Act 2012.

Interpretation of Part 4

[^{F134}37. For the purposes of this Part, a person is established in the United Kingdom if the person has its registered office, or (if it has no registered office), its head office, in the United Kingdom.]

Textual Amendments

F134 Reg. 37 substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), 13 (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

PART 5

Removal of persons from the management board of an investment firm, credit institution, or recognised investment exchange

FCA and PRA power to remove a person from a management board

38.—(1) The appropriate regulator may require an investment firm, credit institution, or recognised investment exchange to remove a person from the management board if the regulator considers it necessary for the purpose of the exercise by it of [^{F135}functions under—

- (a) these Regulations;
- (b) the markets in financial instruments regulation;
- (c) EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) made under the markets in financial instruments directive which forms part of retained EU law ; or
- (d) the Act, which correspond to functions under the markets in financial instruments directive.]

(2) For the purposes of this Part “the appropriate regulator” means—

- (a) in a case where an investment firm or credit institution is a PRA-authorised person, the FCA or PRA;
- (b) in any other case, the FCA.

(3) The FCA must consult the PRA before requiring an investment firm or credit institution which is a PRA-authorised person to remove a person from the management board under paragraph (1).

(4) In this regulation “PRA-authorised person” has the same meaning as in section 2B(5) (the PRA's general objective) of the Act.

Textual Amendments

F135 Words in reg. 38(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), 14 (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Right to refer matters to the Tribunal

39. If the appropriate regulator requires an investment firm, credit institution, or recognised investment exchange to remove a person from the management board under regulation 38—

- (a) the firm, credit institution, or exchange may refer the matter to the Tribunal; and
- (b) the person to whom the requirement relates may refer the matter to the Tribunal.

Removal of persons from management boards: procedure

40.—(1) A requirement under regulation 38 may be expressed to come into effect—

- (a) immediately; or
- (b) on a specified date.

(2) The time or date on which a requirement under regulation 38 is expressed to come into effect under paragraph (1) must be a time or date that the appropriate regulator considers it necessary for the requirement to come into effect, having regard to the grounds for imposing the requirement.

(3) If the appropriate regulator proposes to impose a requirement on an investment firm, credit institution, or recognised investment exchange, or imposes such a requirement with immediate effect, it must give written notice—

- (a) to that investment firm, credit institution, or recognised investment exchange, and
- (b) to each person on the management board of the investment firm, credit institution, or recognised investment exchange to whom the requirement relates (“interested party”).

(4) A notice given under paragraph (3) must—

- (a) give details of the requirement;
- (b) identify each interested party;
- (c) give the regulator's reasons for imposing the requirement—
 - (i) in the case of a notice given to the investment firm, credit institution, or recognised investment exchange, in relation to [^{F136}each interested party];
 - (ii) in the case of a notice given to the interested party, in relation to that interested party;
- (d) inform the investment firm, credit institution, or recognised investment exchange and the interested party that each of them may make representations to the regulator within such period as may be specified in the notice (whether or not the matter has been referred ^{F137} ... to the Tribunal);
- (e) state when the requirement takes effect; and
- (f) inform the investment firm, credit institution, or recognised investment exchange and the interested party of their right to refer the matter to the Tribunal.

(5) The regulator may extend the period allowed by the notice given under paragraph (3) for making representations.

(6) If, having considered any representations made by a person to whom notice has been given under paragraph (3) (the “original notice”), the regulator decides—

- (a) not to impose the requirement;
- (b) to impose the requirement; or
- (c) not to rescind the imposition of any such requirement which has already taken effect,

the regulator must give written notice to the person to whom the original notice was given.

(7) A notice under paragraph (6)(b) or (c) must inform the person to whom it is given of that person's right to refer the matter to the Tribunal ^{F138}

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

[^{F139}(8) If a notice under paragraph (3) or (6)(b) or (c) informs a person of that person’s right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.]

Textual Amendments

F136 Words in reg. 40(4)(c)(i) substituted (2.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **29(a)(i)**

F137 Words in reg. 40(4)(d) omitted (2.1.2018) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **29(a)(ii)**

F138 Words in reg. 40(7) omitted (2.1.2018) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **29(b)**

F139 Reg. 40(8) inserted (2.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **29(c)**

PART 6

Miscellaneous FCA functions in relation to the markets in financial instruments directive and markets in financial instruments regulation

Provision of FCA record of recognised investment exchanges to ESMA and other competent authorities

^{F140}41.

Textual Amendments

F140 Reg. 41 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(1)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Provision of information to ESMA about multilateral trading facilities etc

^{F141}42.

Textual Amendments

F141 Reg. 42 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(1)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Provision to ESMA of reports by recognised investment exchanges of infringements of the exchange's rules, disorderly trading, suspected market abuse, and systems disruptions

^{F142}43.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

Textual Amendments

F142 Reg. 43 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **15(1)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Authorisation of members of management bodies to hold additional non-executive directorship

44.—(1) Where a relevant recognition requirement limits the number of non-executive directorships a member of the management body of an exchange may hold at the same time, the FCA may authorise that member to hold one additional directorship.

(2) In paragraph (1)—

“management body” has the meaning given by regulation 3 (interpretation) of Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 ^{M65}; and

“relevant recognition requirement” means a requirement set out in paragraph 2B(1)(a)(i) or (ii) of the Schedule to those Regulations.

^{F143}(3)

Textual Amendments

F143 Reg. 44(3) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **15(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M65 S.I. 2001/995; there are amendments to regulation 3 but none is relevant.

Provision of information to ESMA regarding sanctions and measures imposed for the purposes of the markets in financial instruments directive

^{F144}**45.**

Textual Amendments

F144 Reg. 45 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **15(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Provision of information to other competent authorities regarding persons engaged in algorithmic trading or providing direct electronic access

^{F145}**46.**

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

Textual Amendments

F145 Reg. 46 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Notifications, reports, and applications relating to ^{F146}... the markets in financial instruments regulation

47.—(1) The FCA may direct the manner in which a person must—

- (a) notify the FCA, for the purposes of [^{F147}regulation 30(1A)(e)], that the person is making use of the exemption under [^{F148}that regulation];
- (b) report to the FCA, for the purposes of [^{F149}the words after paragraph (ii) of sub-paragraph (e) of regulation 30(1A)], the basis on which a person considers an activity [^{F150}described in paragraphs (i) and (ii) of that sub-paragraph] to be ancillary to that person's main business;
- (c) make an application for—
 - (i) a waiver under Article 4 (waivers for equity instruments) of the markets in financial instruments regulation;
 - (ii) an authorisation under Article 7 (authorisation of deferred publication) of the markets in financial instruments regulation;
 - (iii) a waiver under Article 9 (waivers for non-equity instruments) of the markets in financial instruments regulation; and
 - (iv) an authorisation under Article 11 (authorisation of deferred publication) of the markets in financial instruments regulation.

(2) An application mentioned in paragraph (1)(c) must contain or be accompanied by such information as the FCA may reasonably require for the purpose of determining the application.

(3) At any time after receiving an application mentioned in paragraph (1)(c) and before determining it the FCA may require the applicant to provide the FCA with such further information as the FCA reasonably considers necessary to enable the FCA to determine the application.

(4) The FCA may give different directions, and may impose different requirements, in relation to different applications.

Textual Amendments

F146 Words in reg. 47 heading omitted (31.12.2020) by S.I. 2018/1403, reg. 15(3A) (as inserted by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **16(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1))

F147 Words in reg. 47(1)(a) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(4)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F148 Words in reg. 47(1)(a) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(4)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F149 Words in reg. 47(1)(b) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(4)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F150 Words in reg. 47(1)(b) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(4)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[^{F151}Position management and publication of position reports

47A.—(1) The FCA must maintain a database containing—

- (a) the position limits established by the FCA under regulation 16; and
- (b) the information the FCA receives from—

- (i) market operators operating trading venues summarising the position management controls in effect in relation to trading venues under paragraph 7BA(3) of the Schedule to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (“the Recognition Requirements Regulations”); and
- (ii) firms operating MTF or OTF in the United Kingdom summarising the position management controls in effect in relation to trading venues under rule 10.3.3R of the Market Conduct sourcebook.

(2) The FCA must ensure that the database referred to in paragraph (1) is published on its website.

(3) The FCA must publish all weekly reports it receives from market operators and firms operating trading venues in the United Kingdom under—

- (a) paragraph 7BB(5) of the Schedule to the Recognition Requirements Regulations;
- (b) rule 10.4.3 of the Market Conduct sourcebook.

(4) For the purpose of this regulation, “market operator” has the meaning given in Article 2(1) (10) of the markets in financial instruments regulation.]

Textual Amendments

F151 Reg. 47A inserted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **15(5)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[^{F152}Statements of Policy

47B.—(1) The FCA must prepare and issue a statement of its policy in relation to the exercise of—

- (a) the following functions in the markets in financial instruments regulation—
 - (i) suspending the use of waivers under Article 5(3B);
 - (ii) withdrawing a waiver under Article 9(3);
 - (iii) suspending the obligations referred to in Article 8 under Article 9(4A);
 - (iv) suspending the obligations referred to in Article 10 under Article 11(2A);
 - (v) determining the class to which financial instruments belong under Article 14.6A;
 - (vi) suspending the obligations referred to in Article 21(1) under Article 21(4A); and
- (b) its functions under Article 5(1A) of Commission Delegated Regulation 2017/567/EU supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions.

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 is up to date with all changes known to be in force on or before 17 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)

(2) No statement may be issued under paragraph (1) or amended without the approval of the Treasury.

(3) The Treasury may refuse to approve a statement of policy or amended statement of policy if it appears to the Treasury that—

(a) the issue of that statement would prejudice any current or proposed negotiations for an international agreement between the United Kingdom and one or more other countries, international organisations or institutions; or

(b) they may direct the FCA not to issue the statement of policy under section 410 (international obligations) of the Financial Services and Markets Act 2000.

(4) For the purposes of paragraph (3), “international organisations” includes the European Union.

(5) The Treasury must notify the FCA in writing whether or not they approve a statement of policy within four weeks from the day on which that statement is submitted to the Treasury for approval (“the relevant period”).

(6) Provision of a draft statement of policy to the Treasury for consultation does not amount to submission of the statement for approval.

(7) If the Treasury do not give notice under paragraph (5) before the end of the relevant period, the Treasury is deemed to have approved the statement of policy.

(8) The FCA must publish any statement of policy issued under this Article in the way appearing to the FCA to be best calculated to bring it to the attention of the public.]

Textual Amendments

F152 Reg. 47B inserted (20.12.2018) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(2), **15(5)** (as amended by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **16(6)(b)**); 2020 c. 1, Sch. 5 para. 1(1)

PART 7

Miscellaneous

Refund of fees by the Gambling Commission

48.—(1) The Gambling Commission may refund the whole or part of any fee paid for an operating licence if immediately before 3rd January 2018 the licence authorised a person to carry on an activity which became a regulated activity on 3rd January 2018 by virtue of Article 85(4A) and (4B) ^{M66} (contracts for differences etc.) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

(2) In paragraph (1) “operating licence” means an operating licence issued by the Gambling Commission under Part 5 of the Gambling Act 2005 ^{M67}.

Marginal Citations

M66 [S.I. 2001/544](#); [article 85\(4A\)](#) and (4B) were inserted by [S.I. 2017/488](#).

M67 [2005 c.19](#).

Administration and enforcement of the Regulations

49. Schedule 1 on the administration and enforcement of these Regulations has effect.

Amendments to legislation

50.—(1) Schedule 2, which contains amendments to the Act, has effect.

(2) Schedule 3, which contains amendments to secondary legislation made under the Act, has effect.

(3) Schedule 4, which contains amendments to primary legislation other than the Act, has effect.

(4) Schedule 5, which contains amendments to secondary legislation which was not made under the Act, has effect.

Review

51.—(1) The Treasury must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to how the markets in financial instruments directive and markets in financial instruments regulation are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision made by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations are made.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

David Evennett
Andrew Griffiths
Two Lords Commissioners of Her Majesty's
Treasury

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

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