
STATUTORY INSTRUMENTS

2017 No. 701

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

PART 2

Exempt and third-country investment firms

CHAPTER 2

Third country investment firms

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 [^{F1}the FCA] to eligible counterparties or to clients considered to be professionals in the course of exercising rights under Article 46.1 (general provisions) [^{F2}of the Regulation]; [^{F3}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; ^{F4}...

^{F5}(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 [^{F6}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)—

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017, Section 14 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F7}(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;]
- [^{F8}(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
 - (ii) the making of the regulations by the Treasury, beginning on the day after the day on which the regulations were made;]

- F1** 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)
- F2** 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)**
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 15A inserted by [2023 c. 29 Sch. 2 para. 45](#)
- reg. 16(1A)(1B) omitted by [2023 c. 29 Sch. 2 para. 46\(4\)](#)