
STATUTORY INSTRUMENTS

2017 No. 701

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

PART 4

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

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) [^{F1}M is established in] the United Kingdom;
- [^{F2}(b) M falls within paragraph (1A) of regulation 30; and]
- (c) M does not have a Part 4A permission [^{F3}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 [^{F4}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
- (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.

Changes to legislation: The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017, Section 32 is up to date with all changes known to be in force on or before 03 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) View outstanding changes

(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 [F5UK 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; F6 ...

F7(b)

(9) M must arrange for—

- (a) records to be kept on the matters referred to in [F8 paragraphs (4), (5), and (7)]; and
- (b) records to be kept to enable M to meet any requirement imposed on them under regulation [F933].

(10) In this regulation the provision of direct electronic access is in accordance with the [F10law 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 M1.

[F11(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

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

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- F7** 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)
- F8** 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)**
- F9** 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)**
- F10** 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)
- F11** 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

- M1** S.I. 2001/544; article 72 was amended by S.I. 2003/1476, 2006/2383 and 3384, 2009/1342, 2013/504 and 2015/910.

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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\(4\)](#)