
STATUTORY INSTRUMENTS

2018 No. 1320

The Central Securities Depositories (Amendment) (EU Exit) Regulations 2018

PART 3

Amendment of retained direct EU legislation

Definitions

6.—(1) Article 2 is amended as follows.

(2) In paragraph 1—

(a) for point (1) substitute—

“(1) ‘central securities depository’ or ‘CSD’ means a legal person established in the United Kingdom that operates a securities settlement system referred to in point (3) of Section A of the Annex and provides at least one other core service listed in Section A of the Annex;”;

(b) for point (3) substitute—

“(3) ‘immobilisation’ means the act of concentrating the location of physical securities in a CSD or third-country CSD in a way that enables subsequent transfers to be made by book entry;”;

(c) in point (5), after “another CSD” insert “ or third-country CSD ”;

(d) for point (6) substitute—

“(6) ‘requesting CSD’ means the CSD or third-country CSD which requests access to the services of a CSD through a CSD link;”;

(e) for points (8) to (10) substitute—

“(8) ‘financial instruments’ or ‘securities’ means financial instruments as specified in Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ^{F1};

(9) ‘transfer order’ means a transfer order as defined in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 ^{F2} at paragraph (b) of the definition thereof;

(10) ‘securities settlement system’ means a system in relation to which a designation order made under regulation 4 of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 ^{F3} is in force that is not operated by a recognised clearing house whose activity consists of the execution of transfer orders;

(10A) ‘SSS’ means a securities settlement system or a similar service operated by a CSD or third-country CSD;”;

(f) in point (11) omit “, including one authorised in accordance with Directive 2013/36/EU or with Directive 2014/65/EU,”;

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- (g) for point (14) substitute—

“(14) ‘business day’ shall cover both day and night-time settlements and shall encompass all events happening during the business cycle of a securities settlement system;”;
- (h) after point (16) insert—

“(16A) ‘UK CCP’ means a recognised central counterparty as defined in section 285 of FSMA ^{F4};”;
- (i) for point (17) substitute—

“(17) ‘competent authority’ means the authority designated by regulation 2 of the Central Securities Depositories Regulations 2014;”;
- (j) omit point (18);
- (k) for point (19) substitute—

“(19) ‘participant’ means any participant as defined in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 ^{F5};”;
- (l) for points (21) and (22) substitute—

“(21) ‘control’ means the relationship between two undertakings as described in section 1162 of the Companies Act 2006 ^{F6}, together with Schedule 7 to that Act;

“(22) ‘subsidiary’ means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006, together with Schedule 7 to that Act;”;
- (m) omit points (23) and (24);
- (n) for point (25) substitute—

“(25) ‘branch’ means a place of business in the United Kingdom other than a head office which is a part of a CSD or third-country CSD which has no legal personality and which provides CSD services for which the CSD has been authorised or the third-country CSD has been recognised;”;
- (o) for point (26) substitute—

“(26) ‘default’ in relation to a participant means a situation where insolvency proceedings within the meaning of regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 are opened against that participant;”;
- (p) for points (29) to (33) substitute—

“(29) ‘CSD link’ means an arrangement between CSDs or third-country CSDs whereby a CSD or third-country CSD becomes a participant in the SSS of a CSD or third-country CSD in order to facilitate the transfer of securities from the participants of the latter CSD or third-country CSD to the participants of the former CSD or third-country CSD or an arrangement whereby a CSD or third-country CSD accesses a CSD or third-country CSD indirectly via an intermediary. CSD links include standard links, customised links, indirect links, and interoperable links;

“(30) ‘standard link’ means a CSD link whereby a CSD or third-country CSD becomes a participant in the SSS of a CSD or third-country CSD under the same terms and conditions as applicable to any other participant in the SSS operated by the latter;

“(31) ‘customised link’ means a CSD link whereby a CSD or third-country CSD that becomes a participant in the SSS of a CSD or third-country CSD is provided with additional specific services to the services normally provided by that CSD or third-country CSD to participants in the SSS;

(32) ‘indirect link’ means an arrangement between a CSD or third-country CSD and a third party other than a CSD or third-country CSD, that is a participant in the SSS of a CSD or third-country CSD. Such a link is set up by a CSD or third-country CSD in order to facilitate the transfer of securities to its participants from the participants of another CSD or third-country CSD;

(33) ‘interoperable link’ means a CSD link whereby CSDs or third-country CSDs agree to establish mutual technical solutions for settlement in the SSS that they operate;”;

(q) for point (35) substitute—

“(35) ‘transferable securities’ has the meaning in point (24) of Article 2(1) of Regulation EU (No) 600/2014/EU ^{F7};”;

(r) omit point (36);

(s) for points (37) to (43) substitute—

“(37) ‘money-market instruments’ has the meaning in point (25A) of Article 2(1) of Regulation (EU) No 600/2014;

(38) ‘units in collective investment undertakings’ has the meaning in paragraph 3 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

(39) ‘emission allowance’ has the meaning in paragraph 11 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, excluding derivatives in emission allowances;

(40) ‘regulated market’ has the meaning in point (13) of Article 2(1) of Regulation (EU) No 600/2014;

(41) ‘multilateral trading facility’ or ‘MTF’ has the meaning in point (14) of Article 2(1) of Regulation (EU) No 600/2014;

(42) ‘trading venue’ has the meaning in point (16) of Article 2(1) of Regulation (EU) No 600/2014;

(42A) ‘UK trading venue’ has the meaning in point (16A) of Article 2(1) of Regulation (EU) No 600/2014;

(43) ‘settlement agent’ means settlement agent as defined in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 ^{F8};”;

(t) omit point (44);

(u) in point (45)—

(i) for “national law” substitute “ the law applicable within the United Kingdom or any part of the United Kingdom ” each time it occurs;

(ii) omit “the applicable”;

(v) after point (46), insert—

“(47) ‘financial collateral arrangement’ means a financial collateral arrangement as defined in regulation 3(1) of the Financial Collateral Arrangements (No.2) Regulations 2003 ^{F9};

(48) ‘FCA’ means the Financial Conduct Authority;

(49) ‘PRA’ means the Prudential Regulation Authority;

(50) ‘recognised clearing house’ means a recognised clearing house as defined in section 285(1)(b) of FSMA ^{F10};

(51) ‘FSMA’ means the Financial Services and Markets Act 2000 ^{F11};

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(52) ‘Directive 2013/36/EU UK law’ has the meaning in Article 4(A)(1) of Regulation (EU) No 575/2013 ^{F12};

(53) references to a ‘third country’ (including in expressions including the words “third country”) are to be read as references to a country other than the United Kingdom;

(54) references to ‘the UK law on markets in financial instruments’ are to the law applicable within the United Kingdom or any part of the United Kingdom which was relied on immediately before [^{F13}IP completion day] to implement Directive 2014/65/EU and its implementing measures—

(a) as they have effect on [^{F13}IP completion day], in the case of rules made by the FCA or by the PRA under FSMA, and

(b) as amended from time to time, in all other cases;

(55) references to “data protection legislation” have the meaning in the Data Protection Act 2018 ^{F14}.”.

(3) In paragraph 2, for “The Commission shall be empowered to adopt delegated acts in accordance with Article 67 concerning” substitute “ The Treasury may by regulations specify ”.

- F1** [S.I. 2001/544](#). Part 1 of Schedule 2 was substituted by [S.I. 2006/3384](#) and amended by [S.I. 2017/488](#).
- F2** [S.I. 1999/2979](#).
- F3** Regulation 4 was amended by [S.I. 2010/2993](#), [S.I. 2013/472](#), [S.I. 2015/347](#) and [S.I. 2016/1095](#).
- F4** The definition of “recognised central counterparty” was inserted by [S.I. 2013/504](#).
- F5** The definition of “participant” was amended by [S.I. 2010/2993](#).
- F6** [2006 c.46](#).
- F7** References to Regulation (EU) No 600/2014 are to that Regulation as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations.
- F8** The definition of “settlement agent” was amended by [S.I. 2010/2993](#).
- F9** [S.I. 2003/3226](#).
- F10** The definition of “recognised clearing house” was amended by [S.I. 2013/504](#).
- F11** [2000 c.8](#).
- F12** References to Regulation (EU) No 575/2013 are to that Regulation as amended by the Capital Requirements (Amendment) (EU Exit) Regulations.
- F13** Words in reg. 6(2)(v) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 8\(b\)](#)
- F14** [2018 c.12](#).

Commencement Information

- I1** Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)