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## STATUTORY INSTRUMENTS

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# 2019 No. 1233

## The Risk Transformation and Solvency 2 (Amendment) (EU Exit) Regulations 2019

### PART 2

#### Amendment of subordinate legislation

#### The Risk Transformation Regulations 2017

- 2.—(1) The Risk Transformation Regulations 2017 <sup>F1</sup> are amended as follows.
- (2) In regulation 2, insert at the end—
- “(4) 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 (“the 2018 Act”)), is, unless the contrary intention appears, to be treated as a reference to that EU regulation, EU decision or EU tertiary legislation as it forms part of domestic law by virtue of section 3 of the 2018 Act.”.
- (3) Omit regulation 9.
- (4) In regulation 10—
- (a) in paragraph (1)—
- (i) for sub-paragraph (a), substitute—
- “(a) described in paragraph 3(a) of Schedule 1 to MIFIR;”;
- (ii) for sub-paragraph (b), substitute—
- “(b) recognised by the Financial Conduct Authority (“FCA”) as an eligible counterparty for the purposes of Section 6 of Chapter 3 of the Conduct of Business sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by the FCA under FSMA, as the sourcebook has effect on [<sup>F2</sup>IP completion day]; or”;
- (b) omit paragraph (3);
- (c) in paragraph (4)—
- (i) in sub-paragraph (a) for “Section C of Annex I to MIFID 2 (Financial instruments)” substitute “Part 1 of Schedule 2 to the Regulated Activities Order”;
- (ii) omit sub-paragraphs (b), (c) and (d);
- (iii) before sub-paragraph (e), insert—
- “(da) “MIFIR” means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments; and”.
- (5) In regulation 37(7), for “falling within the meaning” to the end substitute “which meets the requirements set out in Article 26 of Regulation (EU) No 910/2014 of the European Parliament

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and of the Council of 23 July 2014 on electronic identification and trust services for the electronic transactions in the internal market and repealing Directive [1999/93/EC](#) ”.

(6) Omit regulation 38.

**F1** [S.I. 2017/1212](#).

**F2** Words in reg. 2(4)(a)(ii) 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. 47](#)

#### Commencement Information

**I1** Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(4\)](#)

### The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

3. In regulation 4(8) of the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 <sup>F3</sup>, in the substituted Schedule 3, after paragraph 1(b), insert—

“(ba) a person which is a third country insurance or reinsurance undertaking (as defined by regulation 2(1) of the Solvency 2 Regulations 2015 <sup>F4</sup>, as those regulations have been amended under the European Union (Withdrawal) Act 2018) where the undertaking is transferring risk to a transformer vehicle, provided that the assumption of risk by that vehicle is a specified kind of activity within Article 13A of this Order;”.

**F3** [S.I. 2018/1403](#).

**F4** [S.I. 2015/575](#).

#### Commencement Information

**I2** Reg. 3 in force at 31.12.2020 immediately before IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

### The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019

4.—(1) The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019 <sup>F5</sup> are amended as follows.

(2) In regulation 11—

(a) in paragraph (2)(e), after the new paragraph 58D, insert—

“**58E.** ‘special purpose vehicle’ means any undertaking, whether incorporated or not, other than an existing insurance or reinsurance undertaking, which—

- (a) assumes risks from insurance or reinsurance undertakings (or third country insurance or reinsurance undertakings); and
- (b) fully funds its exposure to such risks through the proceeds of a debt issuance or any other financing mechanism where the repayment rights of the providers of such debt or financing mechanism are subordinated to the reinsurance obligations of such an undertaking;

**58F.** in the definition of “aggregate maximum risk exposure” and Chapter XV of Title 1 of this Regulation, reference to an insurance or reinsurance undertaking in connection with—

- (a) the transfer of risk from that undertaking to a special purpose vehicle; or
- (b) the assumption of risk by a special purpose vehicle from the insurance or reinsurance undertaking,

includes a reference to a third country insurance or reinsurance undertaking;”;

(b) in paragraph (2)(f)—

- (i) for “58E (as so inserted)” substitute “ 63 ”;
- (ii) in the new paragraphs 59 to 62 (as so inserted)—
  - (aa) for “59” substitute “ 64 ”;
  - (bb) for “60” substitute “ 65 ”;
  - (cc) for “61” substitute “ 66 ”;
  - (dd) for “62” substitute “ 67 ”.
- (iii) after the new paragraph 67, (as so re-numbered), insert—

“**68.** ‘external credit assessment institution or ‘ECAI’ and ‘nominated ECAI’, have the meaning given in Article 4(98) and (99), respectively, of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.”;

(c) omit paragraphs (28) and (34)(b).

**F5** [S.I. 2019/407](#).

#### Commencement Information

**I3** Reg. 4 in force at 31.12.2020 immediately before IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

### The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019

**5.** In regulation 100 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 <sup>F6</sup>—

- (a) in the opening words, for “4A(6)” substitute “ 4A ”;
- (b) in paragraph (a), for “paragraph (a)” substitute “ sub-paragraph (6)(a) ”;
- (c) in paragraph (b), for “paragraph (b)” substitute “ sub-paragraph (6)(b) ”, and
- (d) after paragraph (b), insert—

“(c) after sub-paragraph (6), insert—

“(7) In paragraph (6)(a), references to undertakings which assume risks from insurance or reinsurance undertakings include references to undertakings which assume risks from third country insurance or reinsurance undertakings and Gibraltarian insurance or reinsurance undertakings; and for these purposes “third country insurance undertakings”, “third country reinsurance

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undertakings”, “Gibraltarian insurance undertakings” and “Gibraltarian reinsurance undertakings” have the same meaning as in the Solvency 2 Regulations 2015 (S.I. 2015/575), as amended under the European Union (Withdrawal) Act 2018 (see, in particular, regulation 2(1)).”

F7

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**F6** [S.I. 2019/632](#).

**F7** Regulation 2(1) of [S.I. 2015/575](#) is substituted as from exit day by [S.I. 2019/407](#), as amended by [S.I. 2019/680](#).

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#### **Commencement Information**

**I4** Reg. 5 in force at 31.12.2020 immediately before 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 power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)