
STATUTORY INSTRUMENTS

2019 No. 405

The Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019

PART 3

Amendment of the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018

Provision for a contractual run-off regime

8. After regulation 19 of the Central Counterparties (Amendment etc., and Transitional Provision) (EU Exit) Regulations 2018(1) insert—

“Eligibility for run-off regime

19A.—(1) This regulation applies to a central counterparty established in a third country where it—

- (a) meets the conditions in regulation 17(1)(a); and
- (b) is not taken to be recognised pursuant to Article 25 of the EMIR Regulation in accordance with regulation 13 or 17.

(2) This regulation also applies to a central counterparty established in a third country which ceases to be taken to be recognised pursuant to Article 25 of the EMIR Regulation in accordance with regulation 17 where—

- (a) the conditions in regulation 19(2), 19(4), 19(5)(a) or 19(6) apply, or
- (b) the condition in regulation 19(5)(b) applies and the Bank determines that the central counterparty should not be recognised pursuant to Article 25 of the EMIR Regulation.

(3) Where this regulation applies, a central counterparty is to be taken to be recognised pursuant to Article 25 of the EMIR Regulation for the relevant period and in respect of the relevant services, activities and classes of financial instruments.

(4) Article 25.5 of the EMIR Regulation does not apply to a central counterparty which is taken to be recognised pursuant to Article 25 of the EMIR Regulation by virtue of this regulation.

Relevant period for the purposes of regulation 19A

19B.—(1) In relation to a central counterparty within regulation 19A(1), the relevant period for the purposes of regulation 19A(3) is the period of one year beginning with exit day.

(2) In relation to a central counterparty within regulation 19A(2), the relevant period for the purposes of regulation 19A(3) is a period determined by the Bank of England in a particular case being a period of no more than one year beginning with the day on which the central counterparty ceases to be taken to be recognised pursuant to Article 25 of the EMIR regulation in accordance with regulation 17.

(3) Where paragraph (2) applies, the Bank may direct that the central counterparty be subject to such transitional arrangements as it considers necessary or expedient.

Relevant services, activities and financial instruments for the purposes of regulation 19A

19C.—(1) In relation to a central counterparty within regulation 19A(1), the relevant services, activities and classes of financial instruments referred to in regulation 19A(3) are those which meet the conditions in regulation 17(5).

(2) In relation to a central counterparty within regulation 19A(2), the relevant services, activities and classes of financial instruments referred to in regulation 19A(3) are those in respect of which the central counterparty was taken to be recognised pursuant to Article 25 of the EMIR Regulation in accordance with regulation 17 immediately before the central counterparty ceased to be taken to be recognised in accordance with that regulation.

Cessation of eligibility for the run-off regime

19D.—(1) A central counterparty is to cease to be taken to be recognised pursuant to Article 25 of the EMIR regulation in accordance with regulation 19A(3) where the conditions in paragraph (2) or (3) are met.

(2) The first condition is that the central counterparty is recognised by the Bank of England pursuant to Article 25 of the EMIR Regulation.

(3) The second condition is that the Bank of England determines that a central counterparty to which regulation 19A applies shall cease to be taken to be recognised pursuant to Article 25 of the EMIR Regulation in accordance with regulation 19A(3) where the Bank considers that there would otherwise be an adverse effect on the financial stability of the United Kingdom.

(4) Where paragraph (3) applies, the Bank—

- (a) must specify the date on which regulation 19A is to cease to apply to the central counterparty (not being a date which occurs after the end of the relevant period); and
- (b) may direct that the cessation is to have effect subject to such transitional arrangements as it considers necessary or expedient.”

Miscellaneous amendment

9. For regulation 7 (definitions) substitute—

“Definitions

7. In Article 2, after point (31) insert—

“(32) ‘third country’ means a country other than the United Kingdom;

(33) ‘working day’ means any day other than—

- (a) Saturday or Sunday,
- (b) Christmas Day or Good Friday, or

- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom;
- (34) ‘FCA’ means the Financial Conduct Authority;
- (35) ‘PRA’ means the Prudential Regulation Authority.’”