

STATUTORY INSTRUMENTS

2019 No. 632

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

PART 3

Amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

Modifications etc. (not altering text)

- C1** Pts. 3-6 modified in part (31.12.2020) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(2), **11(1)(4)(5)** (with reg. 11(8)-(10)) (as amended by [S.I. 2020/1301](#), regs. 1, 3, Sch. para. 40(f)); 2020 c. 1, Sch. 5 para. 1(1)

Introduction

120. The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ^{F1} is amended as follows.

- F1** [S.I. 2001/544](#).

Commencement Information

- 11** Reg. 120 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)

Article 3 (interpretation)

121.—(1) In article 3 (interpretation) paragraph (1) is amended as set out in paragraphs (2) to (13).

(2) Omit the definitions of—

^{F2} ...

^{F2} ...

“EEA AIFM” ^{F3},

“credit institution” ^{F4},

^{F2} ...

^{F2} ...

“investment services and activities” ^{F5},

^{F2} ...

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

F2
...

“UCITS”^{F6}, and

“UK AIF”^{F7}.

(3) In the definition of “contract of insurance”^{F8}, for paragraph (f) substitute—

“(f) contracts relating to the length of human life that are regulated by or under any enactment relating to social security, in so far as they are effected or carried out at their own risk by undertakings with permission to effect or carry out contracts of long-term insurance as principals;”.

(4) In the definition of “financial instrument”^{F9}, for “Section C of Annex I to the markets in financial instruments directive (the text of which is set out in Part 1 of Schedule 2)” substitute “Part 1 of Schedule 2”.

(5) Omit the definition of “home Member State”^{F10} and insert in the appropriate place—

““home State”—

- (a) in relation to a qualifying credit institution, means the State in which the institution has been granted authorisation;
- (b) in relation to a legal person (other than a qualifying credit institution) that has a registered office under the person's national law, means the State in which that office is located;
- (c) in relation to any other person, means the State in which the person's head office is located;”.

(6) For the definition of “investment firm”^{F11} substitute—

““investment firm” means a person whose regular occupation or business is the provision or performance of investment services and activities on a professional basis, other than—

- (a) a person excluded by Schedule 3, read with the Commission Regulation and with Commission Delegated Regulation (EU) 2017/592 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business;
- (b) a person whose home State is not the United Kingdom and who would be excluded by Schedule 3, read with the Commission Regulation and with Commission Delegated Regulation (EU) 2017/592, if the person's registered office (or head office, in the case of a person that is not a body corporate or a person that is a body corporate but has no registered office) was in the United Kingdom;”.

(7) For the definition of “management company”^{F12} substitute—

““management company” has the meaning given by section 237(2) of the Act;”.

(8) For the definition of “market operator”^{F13} substitute—

““market operator” means—

- (a) a person that manages or operates the business of a UK regulated market (including a person who does so as the UK regulated market itself), or
- (b) a person that would fall within paragraph (a) if the person had its registered office (or, if it does not have one, its head office) in the United Kingdom,

other than a person falling within paragraph (1A);”.

(9) For the definition of “multilateral trading facility”^{F14} substitute—

““multilateral trading facility” or “MTF” means—

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- (a) a UK multilateral trading facility (within the meaning of Article 2.1.14A of the markets in financial instruments regulation) operated by an investment firm, a qualifying credit institution or a market operator, or
 - (b) a facility which—
 - (i) is operated by an investment firm, qualifying credit institution or market operator whose home State is not the United Kingdom, and
 - (ii) if its operator's home State was the United Kingdom, would be a UK multilateral trading facility (within the meaning of Article 2.1.14A of the markets in financial instruments regulation);”.
- (10) For the definition of “organised trading facility”^{F15} substitute—
- ““organised trading facility” or “OTF” means—
- (a) a UK organised trading facility (within the meaning of Article 2.1.15A of the markets in financial instruments regulation) operated by an investment firm, a qualifying credit institution or a market operator, or
 - (b) a facility which—
 - (i) is operated by an investment firm, qualifying credit institution or market operator whose home State is not the United Kingdom, and
 - (ii) if its operator's home State was the United Kingdom, would be a UK organised trading facility (within the meaning of Article 2.1.15A of the markets in financial instruments regulation);”.
- (11) At the appropriate places insert—
- ““portfolio management” has the meaning given by Article 2.7 of the Commission Regulation;”;
- ““qualifying credit institution” means a credit institution which—
- (a) is a person who—
 - (i) has Part 4A permission to carry on the regulated activity of accepting deposits, or
 - (ii) satisfies the conditions for being given permission under Part 4A to carry on that activity, or
 - (iii) is a body corporate incorporated in the United Kingdom and would satisfy those conditions—
 - (aa) were its head office in the United Kingdom, or
 - (bb) if it has a registered office, were its registered office, or its registered office and its head office, in the United Kingdom,
 - (b) is not a friendly society,
 - (c) is not a society registered as a credit union under—
 - (i) the Co-operative and Community Benefit Societies Act 2014 ^{F16},
 - (ii) the Credit Unions (Northern Ireland) Order 1985 ^{F17}, or
 - (iii) the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 ^{F18}, and
 - (d) is not a person excluded from the definition of “investment firm” by Schedule 3, read with the Commission Regulation and with Commission Delegated Regulation (EU) 2017/592 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and the Council with regard to regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business;”.

Status: This version of this part contains provisions that are prospective.

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(12) In the definition of “trade repository”^{F19}, for “ESMA” in all four places substitute “ the FCA ”.

(13) At the appropriate places insert—

““UK regulated market” has the meaning given by Article 2.1.13A of the markets in financial instruments regulation;”;

““UK UCITS” has the meaning given by section 237(3) of the Act;”.

(14) After paragraph (1) of article 3 insert—

“(1A) A person falls within this paragraph if—

- (a) the person is excluded from the definition of “investment firm” by Schedule 3, read with the Commission Regulation and with Commission Delegated Regulation (EU) 2017/592 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business, or
- (b) the person is one whose home State is not the United Kingdom and who would be excluded from that definition by Schedule 3, read with the Commission Regulation and with Commission Delegated Regulation (EU) 2017/592, if the person had its registered office (or, if it does not have one, its head office) in the United Kingdom.”.

(15) After paragraph (3) of article 3 insert—

“(4) In this Order any reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by the FCA under the Act, as the sourcebook has effect on [F20IP completion day].”.

- F2** Words in reg. 121(2) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(4), **57(2)**
- F3** This definition was inserted by [S.I. 2013/1773](#).
- F4** This definition was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2013/3115](#) and 2017/488.
- F5** This definition was substituted by [S.I. 2012/1906](#) and was amended by [S.I. 2017/488](#).
- F6** This definition was inserted by [S.I. 2013/1773](#).
- F7** This definition was inserted by [S.I. 2013/1773](#).
- F8** This definition was amended by [S.I. 2015/575](#).
- F9** This definition was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).
- F10** This definition was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2013/3115](#), 2015/910 and 2017/488.
- F11** This definition was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).
- F12** This definition was substituted by [S.I. 2011/1613](#).
- F13** This definition was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).
- F14** This definition was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).
- F15** This definition was inserted by [S.I. 2017/488](#).
- F16** [2014 c.14](#).
- F17** [S.I. 1985/1205 \(N.I. 12\)](#).
- F18** [1969 c. 24 \(N.I.\)](#).
- F19** This definition was substituted by [S.I. 2016/715](#).
- F20** Words in reg. 121(15) 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. 33(l)**

Status: This version of this part contains provisions that are prospective.

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Commencement Information

- I2** Reg. 121 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)

Article 4 (specified activities: general)

122.—(1) Article 4 (specified activities: general) is amended as follows.

(2) In paragraph (4) ^{F21}, for “credit institution” (in both places) substitute “ qualifying credit institution ”.

(3) In paragraph (4A) ^{F22}, in sub-paragraph (a), for “an EEA State” substitute “ the United Kingdom ”.

(4) After that paragraph insert—

“(4AA) In its application to any activity relating to a contract of insurance entered into before [^{F23}IP completion day], paragraph (4A)(a) has effect as if “or an EEA State” were inserted after “the United Kingdom.”.

(5) In paragraph (4B) ^{F24}, for “does not fall within Article 3(2) or (3) of the mortgages directive” substitute “ neither relates to an agreement to which section 423A(3) of the Act applies nor falls within the scope of any of the derogations set out in Article 3(3) of the mortgages directive (as it had effect immediately before [^{F25}IP completion day]) ”.

(6) In paragraph (5) ^{F26}—

- (a) in the definition of “ancillary insurance intermediary”, after “Schedule 4” insert “ , read with the modifications set out in paragraph 3 of Part 6 ^{F27} of that Schedule ”;
- (b) in the definition of “insurance distribution”, after “respectively” insert “ , read with the modification set out in paragraph 4 of Part 6 of that Schedule ”;
- (c) in the definition of “reinsurance distribution”, after “respectively” insert “ , read with the modifications set out in paragraphs 2 and 4 of Part 6 of that Schedule ”.

F21 Paragraph (4) was substituted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).

F22 Paragraph (4A) was substituted by [S.I. 2018/546](#).

F23 Words in reg. 122(4) 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. 33\(m\)\(i\)](#)

F24 Paragraph (4B) was inserted by [S.I. 2015/910](#) and was amended by [S.I. 2016/392](#).

F25 Words in reg. 122(5) 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. 33\(m\)\(ii\)](#)

F26 Paragraph (5) was substituted by [S.I. 2018/546](#).

F27 Part 6 is inserted by these Regulations.

Commencement Information

- I3** Reg. 122 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)

Article 6 (sums paid by certain persons)

123.—(1) In article 6 (sums paid by certain persons) paragraph (1)(a) is amended as follows.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

(2) In paragraph (i) omit “, the central bank of an EEA State other than the United Kingdom, or the European Central Bank”.

(3) Omit paragraph (x) ^{F28}.

F28 Paragraph (x) was amended by [S.I. 2011/1043](#).

Commencement Information

I4 Reg. 123 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)

Article 9B (issuing electronic money)

124. In article 9B ^{F29} (issuing electronic money), in paragraph (a), for “credit institution” substitute “qualifying credit institution”.

F29 Article 9B was inserted by [S.I. 2002/682](#) and was amended by [S.I. 2011/99](#).

Commencement Information

I5 Reg. 124 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)

Article 9C (persons certified as small issuers etc)

125. In article 9C ^{F30} (persons certified as small issuers etc), in paragraph (2) omit “as defined in Article 4(1)(1) of the capital requirements regulation”.

F30 Article 9C was inserted by [S.I. 2002/682](#), and paragraph (2) was amended by [S.I. 2013/3115](#).

Commencement Information

I6 Reg. 125 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)

PROSPECTIVE

Article 24A (bidding in emissions auctions)

^{F31} **126.**

F31 Reg. 126 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(4), [57\(3\)\(a\)](#)

Status: This version of this part contains provisions that are prospective.
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PROSPECTIVE

Article 24B (miscellaneous exclusions)

^{F32}127.

F32 Reg. 127 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(4), **57(3)(b)**

Article 33B (provision of information – contracts of insurance)

128.—(1) Article 33B ^{F33} (provision of information – contracts of insurance) is amended as follows.

(2) In paragraph (4)—

(a) for the definition of “insurance intermediary” substitute—

““insurance intermediary” means a person other than—

- (a) an insurance or reinsurance undertaking or an employee of such an undertaking, or
- (b) an ancillary insurance intermediary,

who, for remuneration, takes up or pursues the activity of insurance distribution; ”;

(b) for the definition of “reinsurance intermediary” substitute—

““reinsurance intermediary” means a person other than—

- (a) a reinsurance undertaking, or
- (b) an employee of a reinsurance undertaking,

who, for remuneration, takes up or pursues the activity of reinsurance distribution; ”.

(3) After that paragraph insert—

“(5) In paragraph (4)—

“ancillary insurance intermediary”, “insurance distribution” and “reinsurance distribution” have the same meaning as in article 4;

“remuneration” means any commission, fee, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given.”.

F33 Article 33B was inserted by [S.I. 2018/546](#).

Commencement Information

I7 Reg. 128 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)

Article 35 (international securities self-regulating organisations)

129.—(1) In article 35 (international securities self-regulating organisations) paragraph (3) is amended as follows.

Status: This version of this part contains provisions that are prospective.

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(2) In sub-paragraph (ba) ^{F34} omit “an EEA central counterparty (as defined in section 285(1)(c) of the Act) or”.

(3) In sub-paragraph (bb) ^{F35} omit “an EEA CSD (as defined in section 285(1)(f) of the Act) or”.

F34 Sub-paragraph (ba) was inserted by [S.I. 2013/504](#).

F35 Sub-paragraph (bb) was inserted by [S.I. 2017/1064](#).

Commencement Information

I8 Reg. 129 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)

Article 35A (trade repositories)

130. At the end of article 35A ^{F36} (trade repositories), the existing text of which becomes paragraph (1), insert—

“(2) The reference in paragraph (1)(a) to Regulation (EU) 648/2012 is a reference to that instrument as it has effect at the beginning of the day on which the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 are made (but see regulation 2 of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) Regulations 2019 ^{F37}, which may further update the reference).”

F36 Article 35A was inserted by [S.I. 2013/504](#) and has been amended by [S.I. 2016/715](#).

F37 [S.I. 2019/628](#).

Commencement Information

I9 Reg. 130 in force at 23.3.2019, see reg. 1(2)(e)

Article 42A (depositaries of UCITS and AIFs)

131.—(1) Article 42A ^{F38} (depositaries of UCITS and AIFs) is amended as follows.

(2) In the heading, for “UCITS” substitute “ UK UCITS ”.

(3) In paragraph (a), for “a UCITS” substitute “ a UK UCITS ”.

F38 Article 42A was inserted by [S.I. 2013/1773](#).

Commencement Information

I10 Reg. 131 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)

Article 51ZA (managing a UCITS)

132.—(1) Article 51ZA ^{F39} (managing a UCITS) is amended as set out in paragraphs (2) to (4).

(2) In the heading and in paragraph (1), for “a UCITS” substitute “ a UK UCITS ”.

(3) For paragraph (2) substitute—

“(2) A person manages a UK UCITS when the person carries on collective portfolio management of it.

Status: This version of this part contains provisions that are prospective.

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(2A) In paragraph (2) “collective portfolio management” includes investment management, administration and marketing; and “administration” here means—

- (a) legal and fund management accounting services;
- (b) customer inquiries;
- (c) valuation and pricing (including tax returns);
- (d) regulatory compliance monitoring;
- (e) maintenance of unit-holder register;
- (f) distribution of income;
- (g) unit issues and redemptions;
- (h) contract settlements (including certificate dispatch);
- (i) record keeping.””

(4) In paragraph (3), for “a UCITS” substitute “ a UK UCITS ”.

(5) In consequence of the amendments made by paragraphs (2) to (4)—

- (a) in article 72H ^{F40}, in paragraph (2)(m), for “a UCITS” substitute “ a UK UCITS ”;
- (b) omit Schedule 6.

F39 Article 51ZA was inserted by [S.I. 2013/1773](#).

F40 Article 72H was inserted by [S.I. 2014/366](#).

Commencement Information

I11 Reg. 132 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)

Article 51ZB (acting as trustee or depositary of a UCITS)

133.—(1) In article 51ZB ^{F41} (acting as trustee or depositary of a UCITS), in the heading and in paragraph (1), for “a UCITS” substitute “ a UK UCITS ”.

(2) In consequence of the amendments made by paragraph (1), in article 72H, in paragraph (2) (n), for “a UCITS” substitute “ a UK UCITS ”.

F41 Article 51ZB was inserted by [S.I. 2013/1773](#).

Commencement Information

I12 Reg. 133 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)

Article 51ZD (acting as trustee or depositary of an AIF)

134.—(1) Article 51ZD ^{F42} (acting as trustee or depositary of an AIF) is amended as follows.

(2) In paragraph (2) omit sub-paragraph (b) and the preceding “or”.

(3) In paragraph (3), for sub-paragraph (a) substitute—

“(a) a person appointed as a depositary by the AIFM in compliance with a requirement imposed by rule 3.11.10, 3.11.12 or 3.11.33 of the Investment Funds sourcebook; or”.

F42 Article 51ZD was inserted by [S.I. 2013/1773](#).

Status: This version of this part contains provisions that are prospective.

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Commencement Information

I13 Reg. 134 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)

Article 51ZG (operating a collective investment scheme in relation to a UCITS or an AIF)

135.—(1) Article 51ZG ^{F43} (operating a collective investment scheme in relation to a UCITS or an AIF) is amended as follows.

(2) In the heading and in paragraph (1)(a), for “a UCITS” substitute “a UK UCITS”.

(3) In paragraph (2)(b) and (c), for “the UCITS or AIF” substitute “the UK UCITS or the AIF”.

F43 Article 51ZG was inserted by [S.I. 2013/1773](#).

Commencement Information

I14 Reg. 135 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)

Article 53DA (advising on regulated credit agreements for the acquisition of land)

136. In article 53DA ^{F44} (advising on regulated credit agreements for the acquisition of land), for paragraph (2) substitute—

“(2) In this article—

(a) a reference to any land or building—

(i) in relation to an agreement entered into before [^{F45}IP completion day], is a reference to any land or building in the United Kingdom or within the territory of an EEA State;

(ii) in relation to an agreement entered into on or after [^{F45}IP completion day], is a reference to any land or building in the United Kingdom;

(b) “regulated credit agreement” has the meaning given by article 60B(3).”

F44 Article 53DA was inserted by [S.I. 2015/910](#) and was amended by [S.I. 2016/392](#).

F45 Words in reg. 136 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. 33\(n\)](#)

Commencement Information

I15 Reg. 136 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)

Article 54 (advice given in newspapers etc)

137.—(1) In article 54 (advice given in newspapers etc), in paragraph (1)(b)(va) ^{F46}, after “land” and after “building” insert “in the United Kingdom”.

(2) The amendment made by paragraph (1) does not apply in relation to any advice published or given before [^{F47}IP completion day].

F46 Paragraph (1)(b)(va) was inserted by [S.I. 2015/910](#).

Status: This version of this part contains provisions that are prospective.

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- F47** Words in reg. 137(2) 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. 33\(o\)](#)

Commencement Information

- I16** Reg. 137 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)

Article 60D (exempt agreements: exemption relating to the purchase of land for non-residential purposes)

138. In article 60D (exempt agreements: exemption relating to the purchase of land for non-residential purposes), for paragraph (4) ^{F48} substitute—

- “(4) This article does not apply to an agreement if—
- (a) the agreement is entered into on or after 21st March 2016,
 - (b) under the agreement a mortgage creditor grants or promises to grant a credit in the form of a deferred payment, loan or other similar financial accommodation,
 - (c) the credit is granted or promised to an individual who is acting for purposes outside those of any trade, business or profession carried on by the individual,
 - (d) the purpose of the agreement is to acquire or retain property rights in land or in an existing or projected building, and
 - (e) the agreement does not meet the conditions in paragraphs (i) to (iii) of article 61(3)(a) (regulated mortgage contracts).
- (5) A reference in paragraph (4)(d) to any land or building—
- (a) in relation to an agreement entered into before [^{F49}IP completion day], is a reference to any land or building in the United Kingdom or within the territory of an EEA State;
 - (b) in relation to an agreement entered into on or after [^{F49}IP completion day], is a reference to any land or building in the United Kingdom.”.

- F48** Article 60D was inserted by [S.I. 2013/1881](#), paragraph (4) was inserted by [S.I. 2015/910](#) and was amended by [S.I. 2016/392](#).

- F49** Words in reg. 138 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. 33\(p\)](#)

Commencement Information

- I17** Reg. 138 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)

Article 60E (exempt agreements: exemptions relating to the nature of the lender)

139. In Article 60E ^{F50}, in subsection (6)(a), for “credit institution” substitute “qualifying credit institution”.

- F50** Article 60E was inserted by [S.I. 2013/1881](#).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

Commencement Information

I18 Reg. 139 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)

Article 60G (exempt agreements: exemptions relating to the total charge for credit)

140.—(1) Article 60G ^{F51} (exempt agreements: exemptions relating to the total charge for credit) is amended as follows.

(2) In paragraph (2A)(a) ^{F52}, for “of a type described in Article 3(1) of the mortgages directive” substitute “one to which subsection (2) of section 423A of the Act applies”.

(3) In paragraph (2A)(b)—

- (a) for “of such a type” substitute “one to which that subsection applies”;
- (b) in paragraph (i), for “of a kind to which the mortgages directive does not apply by virtue of Article 3(2) of that directive” substitute “one to which subsection (3) of that section applies”;
- (c) in paragraph (ii) omit “within the meaning of Article 4(23) of the mortgages directive”.

(4) In paragraph (8) ^{F53}, for “of a type described in Article 3(1) of the mortgages directive” substitute “to which subsection (2) of section 423A of the Act applies”.

(5) After that paragraph insert—

“(9) In this article “bridging loan” means a mortgage agreement that—

- (a) is of no fixed duration or is due to be repaid within 12 months, and
- (b) is used by a consumer, within the meaning given by section 423A(4) of the Act, as a temporary financing solution while transitioning to another financial arrangement for the immovable property concerned.”.

F51 Article 60G was inserted by [S.I. 2013/1881](#).

F52 Paragraph (2A) was inserted by [S.I. 2015/910](#) and was amended by [S.I. 2016/392](#).

F53 Paragraph (8) was inserted by [S.I. 2015/910](#) and was amended by [S.I. 2016/392](#).

Commencement Information

I19 Reg. 140 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)

Article 60H (exempt agreements: exemptions relating to the nature of the borrower)

141.—(1) Article 60H ^{F54} (exempt agreements: exemptions relating to the nature of the borrower) is amended as follows.

(2) In paragraph (1)(b)(ii) ^{F55} omit sub-paragraph (bb) and the preceding “or”.

(3) Omit paragraph (2) ^{F56}.

F54 Article 60H was inserted by [S.I. 2013/1881](#).

F55 Paragraph (1) was amended by [S.I. 2015/910](#) and [S.I. 2016/392](#).

F56 Paragraph (2) was inserted by [S.I. 2015/910](#).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

Commencement Information

I20 Reg. 141 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)

Article 60HA (exempt agreements: exemptions not permitted under the mortgages directive)

142.—(1) Article 60HA ^{F57} (exempt agreements: exemptions not permitted under the mortgages directive) is amended as follows.

(2) In the heading, for “exemptions not permitted under the mortgages directive” substitute “provision qualifying articles 60E, 60F and 60H”.

(3) In paragraph (1) ^{F58}, for the words after “article 60E(2) or (5)” substitute “ or 60F(4) if it is a mortgage agreement to which paragraph (2) does not apply ”.

(4) In paragraph (2)—

- (a) after “This paragraph applies” insert “ to an agreement ”;
- (b) omit paragraph (a);
- (c) in paragraph (b), for “of Article 4(23) of the mortgages directive” substitute “ given by article 60G(9) ”.

F57 Article 60HA was inserted by [S.I. 2015/910](#).

F58 Paragraph (1) was amended by [S.I. 2016/392](#).

Commencement Information

I21 Reg. 142 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)

Article 60JA (payment institutions)

143.—(1) Omit article 60JA ^{F59} (payment institutions).

(2) In relation to a person who has transitional authorisation by virtue of paragraph 14 of Schedule 3 to the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 ^{F60} (“the 2018 Regulations”), the amendment made by paragraph (1) does not apply during the transition period (within the meaning given by paragraph 22 of that Schedule).

[^{F61}(2A) In relation to a person who has a continued authorisation for a limited purpose in accordance with paragraph 26 of Schedule 3 to the 2018 Regulations or is exempt from the prohibition in regulation 138(1) of Payment Services Regulations 2017 by virtue of paragraph 36 of Schedule 3 to the 2018 Regulations, the amendment made by paragraph (1) does not apply during the extension period (within the meaning given by paragraph 31 of that Schedule) or the period of exemption (within the meaning given by paragraph 36 of that Schedule).]

(3) Despite the repeal of Schedule 5 to the Payment Services Regulations 2017 ^{F62} by the 2018 Regulations, that Schedule has effect, with any necessary modifications, in relation to a case where the amendment made by paragraph (1) does not apply because of paragraph (2) [^{F63}or (2A)].

F59 Article 60JA was inserted by [S.I. 2014/366](#) and was amended by [S.I. 2017/752](#).

F60 [S.I. 2018/1201](#).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

- F61** Reg. 143(2A) inserted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1212), regs. 1(3), **8(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F62** S.I. 2017/752.
- F63** Words in reg. 143(3) inserted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1212), regs. 1(3), **8(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I22** Reg. 143 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)

Article 60JB (electronic money institutions)

144.—(1) Omit article 60JB ^{F64} (electronic money institutions).

(2) In relation to a person who has transitional authorisation by virtue of paragraph 2 of Schedule 3 to the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (“the 2018 Regulations”), the amendment made by paragraph (1) does not apply during the transition period (within the meaning given by paragraph 10 of that Schedule).

[^{F65}(2A) In relation to a person who has continued authorisation for limited purposes in accordance with paragraph 12B of Schedule 3 to the 2018 Regulations or is exempt from the prohibition in regulation 63(1) of Electronic Money Regulations 2011 by virtue of paragraph 12L of Schedule 3 to the 2018 Regulations, the amendment made by paragraph (1) does not apply during the extension period (within the meaning given by paragraph 12G of that Schedule) or the period of exemption (within the meaning given by paragraph 12L of that Schedule).]

(3) Despite the repeal of Schedule 2A to the Electronic Money Regulations 2011 ^{F66} by the 2018 Regulations, that Schedule has effect, with any necessary modifications, in relation to a case where the amendment made by paragraph (1) does not apply because of paragraph (2) [^{F67}or (2A)].

- F64** Article 60JB was inserted by [S.I. 2014/366](#) and was amended by [S.I. 2017/752](#).
- F65** Reg. 144(2A) inserted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1212), regs. 1(3), **8(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F66** S.I. 2011/99.
- F67** Words in reg. 144(3) inserted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1212), regs. 1(3), **8(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I23** Reg. 144 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)

Article 61 (regulated mortgage contracts)

145.—(1) Article 61 (regulated mortgage contracts) is amended as follows.

(2) In paragraph (3)(a)(ii) ^{F68} omit “in the EEA”.

(3) In paragraph (4), after sub-paragraph (a) insert—
“(aa) “land”—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

- (i) in relation to a contract entered into before [^{F69}IP completion day], means land in the United Kingdom or within the territory of an EEA State;
- (ii) in relation to a contract entered into on or after [^{F69}IP completion day], means land in the United Kingdom.”.

- F68** Paragraph (3)(a) was substituted by [S.I. 2015/910](#) and amended by [S.I. 2016/392](#).
- F69** Words in reg. 145(3) 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. 33\(q\)](#)

Commencement Information

- I24** Reg. 145 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)

Article 61A (mortgage contracts which are not regulated mortgage contracts)

146.—(1) In article 61A ^{F70} (mortgage contracts which are not regulated mortgage contracts) paragraph (6) is amended as follows.

(2) In the definition of “bridging loan”, for “Article 4(23) of the mortgages directive” substitute “article 60G(9) ”.

(3) In the definition of “exempt consumer buy-to-let mortgage contract”, in paragraph (a), for “of a kind to which the mortgages directive does not apply by virtue of Article 3(2) of that directive” substitute “ an agreement to which section 423A(3) of the Act applies ”.

(4) In the definition of “exempt housing authority loan”^{F71}, in paragraph (b)—

(a) for sub-paragraph (i) substitute—

“(i) is an agreement to which section 423A(3) of the Act applies,”;

(b) in sub-paragraph (iii), for “exemptions not permitted under the mortgages directive” substitute “ provision qualifying articles 60E, 60F and 60H ”.

- F70** Article 61A was inserted by [S.I. 2105/910](#), and the definition of “exempt housing authority loan” was inserted by [S.I. 2016/392](#).
- F71** This definition was inserted by [S.I. 2016/392](#).

Commencement Information

- I25** Reg. 146 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)

Article 72 (overseas persons)

147.—(1) Article 72 (overseas persons) is amended as follows.

(2) In paragraph (8) ^{F72}, for “credit institution” substitute “ qualifying credit institution ”.

(3) In paragraphs (8)(b) and (10) ^{F73} omit “Member”.

(4) In paragraph (9A) ^{F74}—

(a) in sub-paragraph (a) omit “23(2) or”;

(b) omit sub-paragraph (b) and the preceding “or”.

(5) After paragraph (10) insert—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

“(10A) This article does not apply in the following two cases.”

(6) In paragraph (11) ^{F75}, for “This Article does not apply” substitute “ The first case is ”.

(7) After paragraph (11) insert—

“(11A) The second case is where the overseas person is—

- (a) a third-country firm, as defined by Article 2.1.42 of the markets in financial instruments regulation;
- (b) established in a county that is the subject of [^{F76}an equivalence determination]; and
- (c) carrying on an activity a third country firm established in that third country may carry on, by virtue of the [^{F77}equivalence determination], under—
 - (i) Article 46.1 of the markets in financial instruments regulation, if it is registered by the FCA in the register of third country firms established in accordance with Article 48 of that regulation, or
 - (ii) Article 46.5 of that regulation.”.

(8) In paragraph (12) ^{F78}—

- (a) for “paragraph (11)” substitute “ paragraphs (11) and (11A) ”;
- (b) in sub-paragraph (a)—
 - (i) after “by the Commission”, in both places, insert “ before [^{F79}IP completion day]”;
 - (ii) omit the “and” at the end;
- (c) after sub-paragraph (b) insert—

[^{F80}“(c) “equivalence determination” means a determination made by the Treasury—

 - (i) in regulations under Article 47.1 of the markets in financial instruments regulation and not revoked; or
 - (ii) by direction under regulation 2 of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 and not revoked;]

[^{F81}(d) a country is the subject of an equivalence determination if a period of more than three years has elapsed since—

 - (i) the date on which the equivalence determination came into force, or
 - (ii) where two or more equivalence determinations have been made in succession in relation to the country concerned, the date on which the first equivalence determination came into force;

(e) for the purposes of sub-paragraph (d), an equivalence determination is not made in succession to an earlier determination if the earlier determination ceased to have effect before the later determination came into force.”].

F72 Paragraph (8) was inserted by [S.I. 2006/3384](#).

F73 Paragraph (10) was inserted by [S.I. 2015/910](#).

F74 Paragraph (9A) was inserted by [S.I. 2017/1064](#).

F75 Paragraph (11) was inserted by [S.I. 2017/488](#).

F76 Words in reg. 147(7) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **19(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F77 Words in reg. 147(7) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), **19(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

- F78** Paragraph (12) was inserted by [S.I. 2017/488](#).
- F79** Words in reg. 147(8)(b)(i) 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. 33\(r\)](#)
- F80** Words in reg. 147(8)(c) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), [19\(3\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F81** Words in reg. 147(8)(c) substituted (31.12.2020 immediately before IP completion day) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(2), [19\(3\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I26** Reg. 147 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)

Article 72AA (managers of UCITS and AIFs)

148.—(1) In Article 72AA ^{F82} (managers of UCITS and AIFs)—

- (a) in the heading, for “UCITS” substitute “ UK UCITS ”;
- (b) in paragraph (2), for “a UCITS” substitute “ a UK UCITS ”.

(2) In consequence of the amendments made by paragraph (1), for “UCITS” substitute “ UK UCITS ” in the following provisions—

- (a) article 9AA ^{F83};
- (b) article 12A ^{F84};
- (c) article 20 ^{F85};
- (d) article 24;
- (e) article 36(1), (2) and (3);
- (f) article 39;
- (g) article 39C ^{F86};
- (h) article 44;
- (i) article 50;
- (j) article 51A ^{F87};
- (k) article 52A ^{F88};
- (l) article 55(1) and (2);
- (m) article 58A ^{F89};
- (n) article 60A ^{F90};
- (o) article 63A ^{F91};
- (p) article 63E ^{F92};
- (q) article 63I ^{F93};
- (r) article 63M ^{F94}.

F82 Article 72AA was inserted by [S.I. 2013/1773](#).

F83 Article 9AA was inserted by [S.I. 2002/1776](#) and was amended by [S.I. 2013/1773](#).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

- F84** Article 12A was inserted by [S.I. 2002/1776](#) and was amended by [S.I. 2013/1773](#).
F85 Article 20 was amended (so far as relevant) by [S.I. 2014/366](#).
F86 Article 39C was inserted by [S.I. 2003/1476](#) and was amended (so far as relevant) by [S.I. 2013/1773](#).
F87 Article 51A was inserted by [S.I. 2002/1776](#) and was amended (so far as relevant) by [S.I. 2013/1773](#).
F88 Article 52A was inserted by [S.I. 2002/1776](#) and was amended by [S.I. 2013/1773](#) and 2014/366.
F89 Article 58A was inserted by [S.I. 2002/1776](#) and was amended by [S.I. 2013/1773](#).
F90 Article 60A was inserted by [S.I. 2002/1776](#) and was amended by [S.I. 2013/1773](#).
F91 Article 63A was substituted by [S.I. 2003/1475](#) and was amended by [S.I. 2013/1773](#) and 2014/366.
F92 Article 63E was inserted by [S.I. 2006/2383](#) and was amended by [S.I. 2013/1773](#) and 2014/366.
F93 Article 63I was inserted by [S.I. 2006/2383](#) and was amended by [S.I. 2013/1773](#) and 2014/366.
F94 Article 63M was inserted by [S.I. 2009/1342](#) and was amended by [S.I. 2014/366](#).

Commencement Information

- I27** Reg. 148 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)

Article 72D (large risks contracts where risk situated outside the EEA)

149.—(1) Article 72D ^{F95} (large risks contracts where risk situated outside the EEA) is amended as set out in paragraphs (2) to (4).

(2) In the heading, for “the EEA” substitute “ the United Kingdom ”.

(3) In paragraph (1), for “an EEA State” substitute “ the United Kingdom ”.

(4) In paragraph (4) omit “(within the meaning of the Seventh Company Law Directive)”.

(5) In consequence of the amendments made by paragraphs (2) and (3), for “outside the EEA” substitute “ outside the United Kingdom ” in the following provisions—

- (a) article 24 ^{F96};
- (b) article 36(1) ^{F97};
- (c) article 39C ^{F98};
- (d) article 55(1) ^{F99}.

- F95** Article 72D was inserted by [S.I. 2003/1476](#).
F96 Article 24 was amended by [S.I. 2013/1476](#), 2013/1773 and 2014/366.
F97 Article 36 was inserted by [S.I. 2003/1475](#) and was amended by [S.I. 2003/1476](#), 2013/1773 and 2014/366.
F98 Article 39C was inserted by [S.I. 2003/1476](#) and was amended by [S.I. 2013/1773](#) and 2014/366.
F99 Article 55 was inserted by [S.I. 2003/1475](#) and was amended by [S.I. 2003/1476](#), 2013/1773 and 2014/366.

Commencement Information

- I28** Reg. 149 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)

Article 72E (Business Angel-led Enterprise Capital Funds)

150. In article 72E ^{F100} (Business Angel-led Enterprise Capital Funds), in paragraph (8)—

- (a) for “in accordance with the law of an EEA State” substitute “ under the law of any part of the United Kingdom ”;
- (b) for “within the territory of an EEA State” substitute “ in the United Kingdom ”.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

F100 Article 72E was inserted by [S.I. 2005/1518](#).

Commencement Information

I29 Reg. 150 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)

Article 72G (local authorities)

151.—(1) Article 72G ^{F101} (local authorities) is amended as follows.

(2) In paragraph (3B)(b), for paragraph (i) substitute—

“(i) is an agreement to which section 423A(3) of the Act applies;”.

(3) In paragraph (4)(a), in paragraph (ii), for the words after “a credit agreement” substitute “falling within paragraph (6A) or within section 423A(2)(a) or (b) or (3)(b), (d), (e) or (f) of the Act;”.

(4) In paragraph (4)(b), for paragraph (i) substitute—

“(i) it is an agreement to which section 423A(3) of the Act applies;”.

(5) After paragraph (4) insert—

“(4A) A reference in paragraph (4) to any land or building—

(a) in relation to an agreement entered into before [^{F102}IP completion day], is a reference to any land or building in the United Kingdom or within the territory of an EEA State;

(b) in relation to an agreement entered into on or after [^{F102}IP completion day], is a reference to any land or building in the United Kingdom.”.

(6) After paragraph (6) insert—

“(6A) The following credit agreements fall within this paragraph—

- (a) an agreement involving a total amount of credit of less than 200 euro;
- (b) an agreement that involves a total amount of credit of more than 75,000 euro, other than an unsecured credit agreement the purpose of which is the renovation of a residential immovable property;
- (c) a hiring or leasing agreement under which an obligation to purchase the object of the agreement is not laid down either by the agreement itself or by any separate agreement;
- (d) an agreement under which the credit is granted free of interest and without any other charges;
- (e) an agreement under which the credit has to be repaid within three months and only insignificant charges are payable;
- (f) an agreement concluded with an investment firm or a credit institution for the purposes of allowing an investor to carry out a transaction relating to one or more of the instruments listed in Part 1 of Schedule 2, where the investment firm or credit institution granting the credit is involved in that transaction;
- (g) an agreement under which the consumer's liability is strictly limited to an item that the consumer is requested to deposit, upon the conclusion of the agreement, as security in the creditor's safe-keeping;
- (h) an agreement that relates to a restricted public loan.

(6B) For the purposes of subsection (6A)(c), an obligation to purchase the object of the agreement is deemed to exist if the creditor decides that it does.”

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

(7) In paragraph (7)—

- (a) in the definition of “bridging loan”, for “Article 4(23) of the mortgages directive” substitute “ article 60G(9) ”;
- (b) at the appropriate place insert—
““consumer” means an individual who is acting for purposes outside those of any trade, business or profession carried on by the individual;”;
- (c) omit the definition of “consumer credit directive”.

F101 Article 72G was inserted by [S.I. 2014/366](#); paragraph (3B) and (7) were inserted, and paragraph (4) substituted, by [S.I. 2015/910](#); paragraphs (3B) and (4) were amended by [S.I. 2016/392](#).

F102 Words in reg. 151(5) 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. 33\(s\)](#)

Commencement Information

I30 Reg. 151 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)

Article 77A (alternative finance investment bonds)

152.—(1) Article 77A ^{F103} (alternative finance investment bonds) is amended as follows.

(2) In paragraph (2), for sub-paragraph (f) ^{F104} substitute—

“(f) the arrangements are—

- (i) a security that is admitted to the official list in accordance with Part 6 of the Act,
- (ii) a security that is admitted to an official list in the EEA (in accordance with the provisions of Directive [2001/34/EC](#) of the European Parliament and of the Council on the admission of securities to official stock exchange listing and on information to be published on those securities) and has been so admitted since before [^{F105}IP completion day],
- (iii) a security that is admitted to trading on a recognised investment exchange or a UK trading venue, or
- (iv) a security that is admitted to trading on an EU trading venue and has been so admitted since before [^{F105}IP completion day].”.

(3) After paragraph (3) insert—

“(3A) In sub-paragraph (2)(f)—

“EU trading venue” has the meaning given by Article 2.1.16B of the markets in financial instruments regulation;

“UK trading venue” has the meaning given by Article 2.1.16A of that regulation.”.

F103 Article 77A was inserted by [S.I. 2010/86](#).

F104 Paragraph (2)(f) was amended by [S.I. 2018/831](#).

F105 Words in reg. 152(2) 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. 33\(t\)](#)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

Commencement Information

I31 Reg. 152 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)

Article 78 (government and public securities)

153. In article 78 (government and public securities), in paragraph (1)(g)(i) and (ii) omit “or another EEA State”.

Commencement Information

I32 Reg. 153 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)

PROSPECTIVE

Article 82A (greenhouse gas emissions allowances)

^{F106}**154.**

F106 Reg. 154 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(4), **57(3)(c)**

Article 82B (emission allowances)

155.—(1) Article 82B ^{F107} (emission allowances) is amended as follows.

^{F108}(2)

(3) In paragraph (2), for sub-paragraphs (a) to (d) substitute—

- “(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis,
- (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule,
- (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule, or
- (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.”.

F107 Article 82B was inserted by [S.I. 2017/488](#).

F108 Reg. 155(2) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), regs. 1(4), **57(3)(d)**

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

Commencement Information

I33 Reg. 155 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)

Article 83 (options)

156.—(1) Article 83 (options) is amended as follows.

(2) In paragraph (1)(e) ^{F109}, for the words after “an option to which” substitute “ paragraph 5, 6, 7 or 10 of Part 1 of Schedule 2 (read with Articles 5, 6, 7, and 8 of the Commission Regulation) applies ”.

(3) In paragraph (2)(d) ^{F110}—

- (a) in paragraph (i) omit “Section C of Annex I to the markets in financial instruments directive, the text of which is set out in”;
- (b) in paragraph (ii), for “Section C of Annex I to the markets in financial instruments directive” substitute “ Part 1 of that Schedule ”.

(4) In paragraph (3)(c) ^{F111}, for “Section C of Annex I to the markets in financial instruments directive” substitute “ Part 1 of Schedule 2 ”.

(5) In paragraph (4) ^{F112}, for sub-paragraphs (a) to (d) substitute—

- “(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis,
- (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule,
- (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule, or
- (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.”.

(6) Omit paragraph (5) ^{F113}.

F109 Paragraph (1)(e) was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).

F110 Paragraph (2) was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).

F111 Paragraph (3) was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).

F112 Paragraph (4) was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2011/1613](#) and [S.I. 2017/488](#).

F113 Paragraph (5) was inserted by [S.I. 2006/3384](#).

Commencement Information

I34 Reg. 156 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)

Article 84 (futures)

157.—(1) Article 84 (futures) is amended as follows.

(2) In paragraph (1A)(d), (1B)(e) and (1C)(c) ^{F114}, for “Section C of Annex I to the markets in financial instruments directive” substitute “ Part 1 of Schedule 2 ”.

(3) In paragraph (1CA) ^{F115}—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

- (a) for “Section C of Annex I to the markets in financial instruments directive” substitute “Part 1 of Schedule 2”;
- (b) for “the texts of which are set out in Parts 1 and 2 of Schedule 2” substitute “the text of which is set out in Part 2 of Schedule 2”.
- (4) In paragraph (1D) ^{F116}, for sub-paragraphs (a) to (d) substitute—
 - “(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis,
 - (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule,
 - (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule, or
 - (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.”.
- (5) Omit paragraph (1E) ^{F117}.

F114 Paragraph (1A), (1B) and (1C) were inserted by [S.I. 2006/3384](#) and amended by [S.I. 2017/488](#).

F115 Paragraph (1CA) was inserted by [S.I. 2017/488](#).

F116 Paragraph (1D) was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2011/1613](#) and [S.I. 2017/488](#).

F117 Paragraph (1E) was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).

Commencement Information

I35 Reg. 157 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)

Article 85 (contracts for differences etc)

158.—(1) Article 85 (contracts for differences etc) is amended as follows.

(2) In paragraph (3)(b) ^{F118}, for “Section C of Annex I to the markets in financial instruments directive” substitute “Part 1 of Schedule 2”.

(3) In paragraphs (4) ^{F119} and (4B) ^{F120}, for sub-paragraphs (a) to (d) substitute—

- “(a) an investment firm or qualifying credit institution is providing or performing investment services and activities on a professional basis,
- (b) a management company which has a Part 4A permission to do so is providing the investment service specified in paragraph 4 or 5 of Part 3 of Schedule 2 or the ancillary service specified in paragraph 1 of Part 3A of that Schedule,
- (c) a market operator is providing the investment service specified in paragraph 8 or 9 of Part 3 of that Schedule,
- (d) a full-scope UK AIFM which has a Part 4A permission to do so is providing the investment service specified in paragraph 1, 4 or 5 of Part 3 of that Schedule or the ancillary service specified in paragraph 1 of Part 3A of that Schedule.”.

(4) In paragraph (4A)(c) ^{F121}—

- (a) for “Section C of Annex I to the markets in financial instruments directive” substitute “Part 1 of Schedule 2”;

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

(b) for “the texts of which are set out in Parts 1 and 2 of Schedule 2” substitute “ the text of which is set out in Part 2 of Schedule 2 ”.

(5) Omit paragraph (5) ^{F122}.

F118 Paragraph (3) was inserted by [S.I. 2006/3384](#).

F119 Paragraph (4) was inserted by [S.I. 2006/3384](#) and was amended by [S.I. 2017/488](#).

F120 Paragraph (4B) was inserted by [S.I. 2017/488](#).

F121 Paragraph (4A) was inserted by [S.I. 2017/488](#).

F122 Paragraph (5) was inserted by [S.I. 2006/3384](#).

Commencement Information

I36 Reg. 158 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)

Article 95 (exclusion from record where not fit and proper to carry on insurance distribution)

159. In article 95 (exclusion from record where not fit and proper to carry on insurance distribution) omit paragraph (1A) ^{F123}.

F123 Article 95 was inserted by [S.I. 2003/1476](#), and paragraph (1A) was inserted by [S.I. 2018/546](#).

Commencement Information

I37 Reg. 159 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)

Schedule 4 (relevant text of the insurance distribution directive)

160. In Schedule 4 ^{F124} (relevant text of the insurance distribution directive), after Part 5 insert—

“PART 6

Modifications of Article 1.3, 2.1(2) and (4) and 2.2

1. This Part has effect for the purposes of article 4(5).
2. Article 2.1(2) of the insurance distribution directive has effect—
 - (a) as if “within the meaning of the Financial Services and Markets Act 2000” were inserted after “a reinsurance undertaking”, and
 - (b) as if “within the meaning given by article 33B(4) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001” were inserted after “a reinsurance intermediary”.
3. Article 2.1(4) of the insurance distribution directive has effect as if “within the meaning of the Financial Services and Markets Act 2000” were substituted for “as defined in points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council”.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

4. Article 2.2 of the insurance distribution directive has effect as if, at the end, there were inserted—

“In points (b), (c) and (d) “insurance undertaking” and “reinsurance undertaking” have the same meaning as in the Financial Services and Markets Act 2000.””.

F124 Schedule 4 was inserted by [S.I. 2003/1476](#) and was amended by [S.I. 2018/546](#).

Commencement Information

I38 Reg. 160 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)

Schedule 8 (persons excluded from regulated activity of managing an AIF)

161.—(1) Schedule 8 ^{F125} (persons excluded from regulated activity of managing an AIF) is amended as follows.

(2) In paragraph 1, after “the alternative investment fund managers directive” insert “, and not referred to in paragraph 1B, ”.

(3) After paragraph 1 insert—

“**1A.** For the purposes of paragraph 1, in Article 4(1)(o) of the alternative investment fund managers directive (definition of “holding company”) the reference to the Union is to be read as a reference to the United Kingdom.

1B. In this Schedule—

“parent undertaking” has the meaning given by section 1162 of the Companies Act 2006 ^{F126} (read with Schedule 7 to that Act);

“subsidiary” has the meaning given to “subsidiary undertaking” by that section (read with that Schedule)”.

(4) For paragraph 4 substitute—

“**4.** The trustees and managers of an occupational pension scheme within the meaning of section 1(1) of the Pension Schemes Act 1993 ^{F127}.”.

(5) In paragraph 5—

- (a) omit “The European Central Bank,”;
- (b) for “, any other” substitute “ or any other ”;
- (c) omit “or a European Development Finance Institution,”.

(6) In paragraph 11 ^{F128}—

- (a) for “an EEA State” substitute “ the United Kingdom ”;
- (b) for the words after “in accordance with” substitute “ Part 3 of the Alternative Investment Fund Managers Regulations 2013 ^{F129} ”.

F125 Schedule 8 was inserted by [S.I. 2013/1773](#).

F126 [2006 c.46](#).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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

F127 [1993 c.48](#).

F128 Paragraph 11 is prospectively revoked by [S.I. 2013/1797](#).

F129 [S.I. 2013/1773](#).

Commencement Information

I39 Reg. 161 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)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 3 is up to date with all changes known to be in force on or before 08 October 2023. 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.

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Changes and effects yet to be applied to :

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