

## STATUTORY INSTRUMENTS

# 2019 No. 632

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

### PART 5

#### Amendments to other secondary legislation

##### 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)

#### The Financial Services and Markets Act 2000 (Exemption) Order 2001

**177.**—(1) The Financial Services and Markets Act 2000 (Exemption) Order 2001 <sup>F1</sup> is amended as follows.

(2) In Part 1 of the Schedule <sup>F2</sup> (persons exempt in respect of any regulated activity other than insurance business) omit paragraphs 2 to 6.

(3) In Part 4 of the Schedule (persons exempt in respect of particular regulated activities), in paragraph 48 (social housing)—

- (a) in sub-paragraph (1A)(b)(i), for “the mortgages directive does not apply by virtue of Article 3(2) of that directive” substitute “section 423A(3) of the Act applies”;
- (b) in sub-paragraph (4), in the definition of “bridging loan”, for “Article 4(23) of the mortgages directive” substitute “article 60G(9) of the Regulated Activities Order”.

**F1** [S.I. 2001/1201](#).

**F2** Part 1 was amended by [S.I. 2003/47](#), 2009/118 and 2011/1043.

##### Commencement Information

- I1** Reg. 177 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

#### The Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001

**178.**—(1) The Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001 <sup>F3</sup> are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2) <sup>F4</sup> omit the definitions of “EEA credit institution” and “EEA investment firm”.

(3) In regulation 2 (descriptions of business for which appointed representatives are exempt)—

**Changes to legislation:** The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 5 is up to date with all changes known to be in force on or before 05 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

- <sup>F5</sup>(a) .....
- (b) in paragraph (1A) <sup>F6</sup>, for “a person who has a Part 4A permission for the purposes of the capital requirements directive or the markets in financial instruments directive, an EEA investment firm, or an EEA credit institution,” substitute “ a CRR firm, or a relevant investment firm or credit institution, ”;
- (c) for paragraph (1B) <sup>F7</sup> substitute—
- “(1B) In paragraph (1A)—
- “clients” has the meaning given in Article 2.1.7 of the markets in financial instruments regulation;
- “CRR firm” has the meaning given in Article 4.1.2A of the capital requirements regulation, except that it does not include an investment firm;
- “financial instruments” has the meaning given in Article 2.1.9 of the markets in financial instruments regulation;
- “relevant investment firm or credit institution” means a person falling within Article 1.2(a)(i) of the markets in financial instruments regulation.”.
- (4) In regulation 3 (requirements applying to contracts between authorised persons and appointed representatives)—
- (a) in paragraph (1) <sup>F8</sup>, for the words before “must” substitute “ It is a prescribed requirement for the purposes of section 39(1)(a)(ii) of the Act that a contract between a principal and a representative ”;
- (b) omit paragraph (1A) <sup>F9</sup>;
- (c) in paragraph (6) <sup>F10</sup>—
- (i) in the words before sub-paragraph (a) omit “, except where paragraph (1A) applies,”;
- (ii) in sub-paragraph (a), for “Article 4.1.29 (definitions) of the markets in financial directive” substitute “ Part 3 of Schedule 2 to the Regulated Activities Order <sup>F11</sup> ”;
- (iii) in sub-paragraph (b), for “Article 4.1.43 of that directive” substitute “ Article 2.1.23 of the markets in financial instruments regulation ”.

**F3** [S.I. 2001/1217](#).

**F4** Regulation 1(2) was amended by [S.I. 2003/1475](#), 2003/1476, 2004/453, 2006/2383, 2006/3414, 2013/3115 and 2017/488.

**F5** Reg. 178(3)(a) 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)(e)**

**F6** Regulation 2(1A) was inserted by [S.I. 2006/3414](#) and amended by [S.I. 2017/488](#) and 2017/701.

**F7** Regulation 2(1B) was inserted by [S.I. 2006/3414](#) and amended by [S.I. 2017/701](#).

**F8** Regulation 3(1) was amended by [S.I. 2006/3414](#).

**F9** Regulation 3(1A) was inserted by [S.I. 2006/3414](#).

**F10** Regulation 3(6) was inserted by [S.I. 2017/701](#).

**F11** [S.I. 2001/544](#).

#### Commencement Information

**I2** Reg. 178 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## The Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001

**179.**—(1) The Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001 <sup>F12</sup> is amended as follows.

<sup>F13</sup>(2) .....

(3) In article 8 <sup>F14</sup>, for “(d)”, substitute “ (da) to (de) ”.

**F12** [S.I. 2001/1227](#).

**F13** Reg. 179(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)(f)**

**F14** Article 8 was amended by [S.I. 2002/682](#).

### Commencement Information

**I3** Reg. 179(1)(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(3)

**I4** Reg. 179(3) in force at 23.3.2019, see reg. 1(2)(g)

## The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001

**180.**—(1) The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 <sup>F15</sup> are amended as follows.

(2) In regulation 1(2) <sup>F16</sup> (interpretation) omit the definition of “host state regulator”.

(3) In regulation 6 <sup>F17</sup> (deemed service), in paragraph (1), in the table for “in any EEA State (other than the United Kingdom)” substitute “ outside the United Kingdom ”.

(4) Omit regulation 11 (day of service on a host state regulator).

**F15** [S.I. 2001/1420](#).

**F16** Regulation 1(2) was amended by [S.I. 2013/472](#) and 2014/549.

**F17** Regulation 6 was amended by [S.I. 2005/274](#) and 2013/472.

### Commencement Information

**I5** Reg. 180 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## The Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001

**181.**—(1) The Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001 <sup>F18</sup> is amended as follows.

(2) In article 2A (non-EEA insurers: specified regulator), in the heading, for “Non-EEA” substitute “ Non-UK ”.

(3) In article 3 <sup>F19</sup> (non-EEA insurers)—

(a) in paragraph (1), for “non-EEA” substitute “ non-UK ”;

(b) omit paragraph (2);

(c) in the heading, for “Non-EEA” substitute “ Non-UK ”.

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**F18** [S.I. 2001/2507](#) as amended by [S.I. 2005/680](#) and [S.I. 2013/472](#).

**F19** Article 3 was amended by [S.I. 2005/680](#) and 2013/472.

#### Commencement Information

**I6** Reg. 181 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

### The Financial Services and Markets Act 2000 (Own-initiative Power) (Overseas Regulators) Regulations 2001

**182.** In the Financial Services and Markets Act 2000 (Own-initiative Power) (Overseas Regulators) Regulations 2001 <sup>F20</sup>, omit regulation 3 (Duty to consider EU obligation).

**F20** [S.I. 2001/2639](#); as amended by [S.I. 2011/1265](#), 2011/1043 and 2013/472.

#### Commencement Information

**I7** Reg. 182 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

### The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001

**183.**—(1) The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 <sup>F21</sup> are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) omit the definitions of “State of the commitment” and “State in which the risk is situated”.

(3) Omit regulation 2 (meaning of “commitment”).

(4) For regulation 3(2)(a) (transfer of an insurance business) substitute—

“(a) published in—

(i) the London, Edinburgh and Belfast Gazettes, and

(ii) two national newspapers in the United Kingdom;”.

(5) In regulation 4 (transfer of an insurance business)—

(a) in paragraph (2) for “regulation 3(2)(a)(ii), (iii) and (iv), (b) and (c)” substitute “regulation 3(2)(a)(ii), (b) and (c)”;

(b) omit paragraph 3.

**F21** [S.I. 2001/3625](#); as amended by [S.I. 2007/3255](#), 2008/1467, 2009/1390, 2011/1265, 2013/472 and 2015/575.

#### Commencement Information

**I8** Reg. 183 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

**Changes to legislation:** The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 5 is up to date with all changes known to be in force on or before 05 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

## The Financial Services and Markets Act 2000 (Control of Business Done at Lloyd's) Order 2001

**184.**—(1) The Financial Services and Markets Act 2000 (Control of Business Done at Lloyd's) Order 2001 <sup>F22</sup> is amended as follows.

- (2) In article 3(a) for “114A” substitute “ 113 ”.
- (3) In article 4(a) for “an EEA State” substitute “ the United Kingdom [<sup>F23</sup>or Gibraltar] ”.
- (4) In article 5—
  - (a) omit paragraph (2);
  - (b) in paragraph (2A) for “Paragraphs 2, 3, 4 and 5 of Part 1 of Schedule 12” substitute “ Paragraph 2 of Part 1 of Schedule 12 ”.

**F22** [S.I. 2001/3626](#); as amended by [S.I. 2008/1725](#), 2013/472, 2013/1765.

**F23** Words in reg. 184(3) inserted (31.12.2020 immediately before IP completion day) by [The Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/680\)](#), regs. 1(3), 9(7); 2020 c. 1, Sch. 5 para. 1(1)

### Commencement Information

**I9** Reg. 184 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009

**185.** In the Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 <sup>F24</sup>, in article 2 (interpretation), in the definition of “relevant UK authorised person”<sup>F25</sup>, for paragraphs (a) to (c) substitute—

- “(a) a credit institution which has permission under Part 4A of the Act to carry on the regulated activity of accepting deposits;
- (b) an investment firm (as defined in section 424A of the Act);
- (c) a management company (as defined in section 237(2) of the Act);”.

**F24** [S.I. 2009/774](#).

**F25** The definition of “relevant UK authorised person” in Article 2 was amended by [S.I. 2011/1613](#) and 2013/3115.

### Commencement Information

**I10** Reg. 185 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## The Financial Services and Markets Act 2000 (Prescribed Financial Institutions) Order 2013

**186.**—(1) The Financial Services and Markets Act 2000 (Prescribed Financial Institutions) Order 2013 <sup>F26</sup> is amended as follows.

- (2) In article 1(2) <sup>F27</sup> (interpretation)—
  - (a) for the definition of “insurance holding company” substitute—  
““insurance holding company” has the same meaning as in regulation 2(1) of the Solvency 2 Regulations 2015 <sup>F28</sup>;”;

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- (b) for the definition of “mixed financial holding company” substitute—  
 ““mixed financial holding company” has the meaning given in regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004 <sup>F29</sup>,”; and
- (c) omit the following definitions—
  - (i) “credit institution”;
  - (ii) “insurance undertaking”;
  - (iii) “reinsurance undertaking”;
  - (iv) “third-country insurance undertaking”;
  - (v) “third-country reinsurance undertaking”.
- (3) In article 2 <sup>F30</sup> (prescribed financial institutions)—
  - (a) in paragraph (4) <sup>F31</sup> omit “(within the meaning given in Article 32.4 of the recovery and resolution directive)”; and
  - (b) after paragraph (4) insert—  
 “(4A) For the purposes of paragraph (4) a company is failing or likely to fail where, if the company were a bank (within the meaning given in section 2 of the Banking Act 2009 <sup>F32</sup>), it would be failing or likely to fail by virtue of meeting any of the circumstances in section 7(5C)(b) to (e) of that Act.”.

**F26** [S.I. 2013/165](#).

**F27** Article 1(2) was amended by [S.I. 2013/3115](#) and 2014/3348.

**F28** [S.I. 2015/575](#), prospectively amended by [S.I. 2019/407](#).

**F29** [S.I. 2004/1862](#).

**F30** Article 2 was amended by [S.I. 2014/3348](#).

**F31** Paragraph (4) was inserted by [S.I. 2014/3348](#).

**F32** [2009 c.1](#). Relevant amendments to section 2 were made by [S.I. 2011/2832](#) and by paragraph 3 of Schedule 17 to the Financial Services Act 2012. Section 7(5C) was inserted by [S.I. 2014/3329](#), and was amended by [S.I. 2016/1239](#).

#### Commencement Information

**I11** Reg. 186 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

### The Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013

**187.**—(1) The Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013 <sup>F33</sup> is amended as follows.

(2) In the title and in article 1(1) (citation) for “(Qualifying EU Provisions)” substitute “(Qualifying Provisions)”.

(3) In article 1, after paragraph (2) <sup>F34</sup> (interpretation) insert—

“(3) In this Order a reference to a specific EU regulation is to be treated as a reference to that EU regulation 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 <sup>F35</sup>, which may further update the reference).

(4) In this Order a reference to any directly applicable regulation made under an EU directive (“the parent EU Directive”) is a reference to—

- (a) any EU regulation, originally made under the parent EU Directive, which is retained direct EU legislation,
- (b) any technical standards made in relation to the parent EU Directive in accordance with Chapter 2A of Part 9A of the Act <sup>F36</sup>, and
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978 <sup>F37</sup>) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under the parent EU Directive by regulations made under section 8 of the European Union (Withdrawal) Act 2018.

(5) In this Order a reference to any directly applicable regulation (or EU regulation) made under an EU regulation (“the parent Regulation”) is a reference to—

- (a) any EU regulation, originally made under the parent Regulation, which is retained direct EU legislation;
- (b) technical standards made in relation to the parent Regulation in accordance with Chapter 2A of Part 9A of the Act, and
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under the parent Regulation by regulations made under section 8 of the European Union (Withdrawal) Act 2018.

(6) In this Order a reference to any directly applicable regulation made under Article 4(9) or 4(10) of the SFT Regulation <sup>F38</sup> is a reference to—

- (a) any EU regulation, originally made under those Articles, which is retained direct EU legislation;
- (b) technical standards made in relation to those Articles in accordance with Chapter 2A of Part 9A of the Act, and
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under those Articles by regulations made under section 8 of the European Union (Withdrawal) Act 2018.

(7) In articles 2(2)(m), 3(2)(p) and (3)(n), 5(2)(p) and (5)(o) and 6(2)(r) the reference to any directly applicable decision made under an EU regulation is a reference to—

- (a) a decision made under that regulation which is retained direct EU legislation, and
- (b) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable decision under that regulation by regulations made under section 8 of the European Union (Withdrawal) Act 2018.”.

(4) In the following provisions for “qualifying EU provisions” substitute “qualifying provisions”

- (a) in article 2 <sup>F39</sup> (qualifying EU provisions: general), in that heading and in paragraphs (1), (3), (4A), (5), (7) and (9) to (11);
- (b) in article 3 <sup>F40</sup> (qualifying EU provisions: disciplinary measures), in that heading and in paragraphs (1) and (3);
- (c) in article 4 <sup>F41</sup> (qualifying EU provisions etc), in that heading and in paragraphs (4), (6), (8) and (10) to (12);
- (d) in article 5 <sup>F42</sup> (qualifying EU provisions: injunctions and restitution), in that heading and in paragraphs (1), (3), (4A) and (6); and

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- (e) in article 6<sup>F43</sup> (qualifying EU provisions: fees), in that heading and in paragraphs (1), (3) and (5).
- (5) In article 2(12)<sup>F44</sup> and (13)<sup>F45</sup> for “qualifying EU provision” substitute “qualifying provision”.
- (6) In article 5 at the end insert—
  - “(7) In paragraphs (2)(n) and (5)(m) the reference to any directly applicable measure of the EU Benchmarks Regulation 2016 is a reference to—
    - (a) any measure, originally adopted under that regulation, which is retained direct EU legislation,
    - (b) technical standards made under that regulation in accordance with Chapter 2A of Part 9A of the Act, and
    - (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to adopt a measure under that regulation by regulations made under section 8 of the European Union (Withdrawal) Act 2018.”.
- (7) In article 6—
  - (a) in paragraph (1) after “Act” insert “and regulation 206(1)(a) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019;
  - (b) in paragraph (3) after “Act” insert “and regulation 206(1)(a) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019;
  - (c) in paragraph (5) after “Act” insert “and regulation 206(1)(a) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019.

**F33** [S.I. 2013/419](#).

**F34** Article 1(2) was amended by [S.I. 2013/1773](#), 2014/3348, 2015/1882, 2017/1127, 2018/134, 2018/135 and 2018/698.

**F35** [S.I. 2019/628](#).

**F36** Chapter 2A was inserted by [S.I. 2018/1115](#).

**F37** [1978 c.30](#).

**F38** OJ No L 337, 23.12.2015, p1.

**F39** Article 2 was amended by [S.I. 2013/1773](#), 2014/2879, 2014/3348, 2015/1882, 2016/680, 2016/715, 2016/936, 2016/1023, 2017/701, 2017/1127, 2018/135, 2018/546, 2018/698.

**F40** Article 3 was amended by [S.I. 2013/1773](#), 2014/2879, 2014/3348, 2015/1882, 2016/715, 2016/936, 2017/701, 2017/1127, 2018/135, 2018/546 and 2018/698.

**F41** Article 4 was amended by [S.I. 2014/2879](#), 2016/680, 2016/715, 2017/701, 2017/1064, and 2018/135.

**F42** Article 5 was amended by [S.I. 2013/1773](#), 2014/2879, 2014/3348, 2015/1882, 2016/680, 2016/715, 2016/936, 2017/701, 2017/1127, 2018/135, 2018/546 and 2018/698.

**F43** Article 6 was amended by [S.I. 2013/1773](#), 2014/2879, 2014/3348, 2015/1882, 2016/680, 2016/715, 2016/936, 2017/701, 2017/1127, 2018/135, 2018/546 and 2018/698.

**F44** Sub-paragraph (12) was inserted by [S.I. 2018/135](#).

**F45** Sub-paragraph (13) was inserted by [S.I. 2018/135](#).

#### Commencement Information

**I12** Reg. 187(3) in force for specified purposes at 23.3.2019, see reg. 1(2)(h)

**I13** Reg. 187(1)(2)(4)-(7) in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

**I14** Reg. 187(3) in force in so far as not already 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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## **The Financial Services and Markets Act 2000 (Exercise of Powers under Part 4A) (Consultation with Home State Regulators) Regulations 2013**

**188.** The Financial Services and Markets Act 2000 (Exercise of Powers under Part 4A) (Consultation with Home State Regulators) Regulations 2013 <sup>F46</sup> are revoked.

**F46** [S.I. 2013/431](#).

### **Commencement Information**

**I15** Reg. 188 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## **The Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013**

**189.**—(1) Article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 <sup>F47</sup> (dealing in investments as principal: designation by the PRA) is amended as follows.

(2) In paragraph (2) <sup>F48</sup>—

- (a) at the end of sub-paragraph (a) insert “ or ”;
- (b) omit sub-paragraph (c) and the preceding “or”.

(3) In paragraph (3) <sup>F49</sup>—

(a) for sub-paragraph (a) <sup>F50</sup> substitute—

“(a) is an investment firm that is required to have initial capital of 730,000 euro or would be required to do so if it had a Part 4A permission,”;

(b) for sub-paragraph (c) substitute—

“(c) is established in a country other than the United Kingdom but would meet the requirement specified in sub-paragraph (a) if P were established in the United Kingdom and had obtained the necessary authorisation in the United Kingdom for its business.”.

**F47** [S.I. 2013/556](#).

**F48** Article 3(2) was amended by [S.I. 2017/701](#).

**F49** Article 3(3) was amended by [S.I. 2013/3115](#).

**F50** Paragraph (3)(a) was substituted by [S.I. 2013/3115](#).

### **Commencement Information**

**I16** Reg. 189 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## **The Financial Services and Markets Act 2000 (Qualifying EU Provisions) (No. 2) Order 2013**

**190.**—(1) The Financial Services and Markets Act 2000 (Qualifying EU Provisions) (No. 2) Order 2013 <sup>F51</sup> is amended as follows.

(2) In the title and in article 1(1) for “(Qualifying EU Provisions)” substitute “ (Qualifying Provisions) ”.

(3) In article 1, after paragraph (2) insert—

“(3) In paragraph (2) the references to the CRA Regulation and the capital requirements regulation are to be treated as references to those regulations as they have effect at the

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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<sup>F52</sup>, which may further update the references).

(4) In paragraph (2) in the definition of “the CRD4 instruments”—

(a) the reference to any directly applicable regulation made under the capital requirements regulation is a reference to—

- (i) any EU regulation, originally made under the capital requirements regulation, which is retained direct EU legislation,
- (ii) any technical standards made in relation to the capital requirements regulation in accordance with Chapter 2A of Part 9A of the Act, and
- (iii) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under the capital requirements regulation by regulations made under section 8 of the European Union (Withdrawal) Act 2018;

(b) the reference to any directly applicable regulation made under the capital requirements directive is a reference to—

- (i) any EU regulation, originally made under the capital requirements directive, which is retained direct EU legislation,
- (ii) any technical standards made in relation to the capital requirements directive in accordance with Chapter 2A of Part 9A of the Act, and
- (iii) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under the capital requirements directive by regulations made under section 8 of the European Union (Withdrawal) Act 2018.”.

(4) In articles 2 and 3<sup>F53</sup> (qualifying EU provisions) and in the heading of article 2 for “qualifying EU provisions” substitute “qualifying provisions”.

(5) In article 2 after “for the purposes of” insert “regulation 206(1)(a) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 and”.

(6) In article 3, after “for the purposes of” insert “regulation 206(1)(a) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 and”.

**F51** [S.I. 2013/3116](#).

**F52** [S.I. 2019/628](#).

**F53** Articles 2 and 3 were amended by [S.I. 2016/1023](#).

#### Commencement Information

**I17** Reg. 190(1)(2)(4)-(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\(3\)](#)

**I18** Reg. 190(3) in force for specified purposes at 23.3.2019, see [reg. 1\(2\)\(i\)](#)

**I19** Reg. 190(3) in force in so far as not already in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## The Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014

**191.**—(1) The Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014 <sup>F54</sup> is amended as follows.

(2) In article 1 (interpretation), in paragraph (3), after the definition of “securities” insert—

““UK account” has the meaning given in article 2(3)(ba);

“UK account holder” means the holder of a UK account;”.

(3) In article 2 (circumstances in which accepting a deposit is not a core activity)—

(a) in paragraph (2), in the words before sub-paragraph (a), after “in” insert “ a UK account or ”;

(b) in paragraph (3), after sub-paragraph (b) insert—

“(ba) an account is a UK account if it was opened at a branch of the UK deposit-taker located in the United Kingdom;”.

(4) In article 10 (declaration of eligibility: determining assets held by individual), in paragraph (5) (b), for the words from “Article 4.1(44)” to the end substitute “ Article 2.1(24) of the markets in financial instruments regulation ”.

(5) In article 14 (rules about information to be provided by a non ring-fenced body to individual account-holders), in paragraph (1)—

(a) in sub-paragraph (a), after “open” insert “ a UK account or ”;

(b) in sub-paragraph (b), at the beginning insert “ UK account holders or ”.

**F54** [S.I. 2014/1960](#), amended by [S.I. 2016/1032](#) and 2018/897.

### Commencement Information

**I20** Reg. 191 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

## The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014

**192.**—(1) The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014 <sup>F55</sup> is amended as follows.

(2) In article 1(4) (interpretation)—

(a) for the definition of “alternative investment fund” substitute—

““alternative investment fund” has the meaning given in regulation 3 of the Alternative Investment Fund Managers Regulations 2013 <sup>F56</sup>, but as if in paragraph (1)(b) of that regulation for “UK UCITS” there were substituted “UCITS;”;

(b) for the definition of “alternative investment fund manager” substitute—

““alternative investment fund manager” means a legal person whose regular business is managing one or more alternative investment funds;”;

(c) after the definition of “alternative investment fund manager” insert—

““Annex 1 activities” has the meaning given in article 4.1(26A) of the prudential requirements regulation;”;

(d) for the definition of “derivative instrument” substitute—

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**Changes to legislation:** The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 5 is up to date with all changes known to be in force on or before 05 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

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““derivative instrument” includes any instruments within the meaning of article 2.1(29) of the markets in financial instruments regulation;”;

(e) after the definition of “exposure” insert—

““financial conglomerate” means—

(a) a financial conglomerate within the meaning of regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004 <sup>F57</sup> (but disregarding any decision taken under Article 3(3) of the conglomerates directive <sup>F58</sup> as applied and modified by those Regulations), or

(b) a financial conglomerate within the meaning of Article 2.14 of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate <sup>F59</sup> (but disregarding any decision taken under Article 3(3) of that directive);”;

(f) in the definition of “financial holding company”, for the words from “Annex I” to the end substitute “ the Annex 1 activities ”;

(g) omit the definition of “insurance undertaking”;

(h) in the definition of “liquid assets”, for the words from “delegated acts” to the end substitute “ Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions ”;

(i) for the definition of “management company” substitute—

““management company” means—

(a) an undertaking, within the meaning of section 1161 of the Companies Act 2006 <sup>F60</sup>, whose regular business is the management of UK UCITS, or

(b) a company within the meaning of Article 2.1(b) of the UCITS directive;”;

(j) in the definition of “mixed financial holding company”—

(i) after “insurance undertaking” in each place it occurs insert “ a third country insurance undertaking whose head office is located in an EEA state ”,

(ii) omit the words from “(within” to the end;

(k) in the definition of “payment exposures”, in paragraph (d) omit—

(i) “, an EEA central counterparty”,

(ii) “, an EEA CSD”,

(iii) “, EEA central counterparty”,

(iv) “, EEA CSD”;

(l) omit the definition of “reinsurance undertaking”;

(m) omit the definition of “solvency II directive”;

(n) in the definition of “third country insurance undertaking”, for the words from “Article” to the end substitute “ regulation 2(1) of the Solvency 2 Regulations 2015 <sup>F61</sup> ”;

(o) in the definition of “third country reinsurance undertaking”, for the words from “Article” to the end substitute “ regulation 2(1) of the Solvency 2 Regulations 2015 ”;

(p) in the definition of “UCITS”, for the words from “Article” to the end substitute “ section 236A of the Act ”;

(q) after the definition of “UK deposit-taker”, insert—

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

- (3) In article 2 (relevant financial institution), in paragraph (3)—
  - (a) in sub-paragraph (c)(ii), omit the words from “other” to the end;
  - (b) in sub-paragraph (e), omit “, EEA central counterparties”;
  - (c) in sub-paragraph (ea), omit “, EEA CSDs”;
  - (d) in sub-paragraph (g), for “EEA firm” in each place it occurs substitute “ undertaking located in an EEA state ”.
- (4) In article 6 (excluded activities: general exceptions), in paragraph (4)—
  - (a) in sub-paragraph (e)(iii), omit “, an EEA central counterparty”;
  - (b) in sub-paragraph (f), omit “or an EEA central counterparty”.
- (5) In article 12 (derivatives: general conditions)—
  - (a) in paragraph (1)(e), for paragraphs (i) and (ii) substitute—
    - “(i) a UK trading venue,
    - (ii) a trading venue in the EEA, or
    - (iii) a non-EEA trading venue.”;
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (c), for the words from “Article 4.1(24)” to the end substitute “ Article 2.1(16) of the markets in financial instruments regulation ”,
    - (ii) after sub-paragraph (c) insert—
      - “(ca) “non-EEA trading venue” means a trading venue—
        - (i) which is not a UK trading venue or a trading venue in the EEA, and
        - (ii) which satisfies paragraph 1(d) of Article 28 of the markets in financial instruments regulation;
      - (cb) “UK trading venue” has the meaning given in Article 2.1(16A) of the markets in financial instruments regulation;”.
  - (6) In article 19A <sup>F62</sup> (financial institution exposures: financing of infrastructure projects), in paragraph (2)(b) after “within” insert “ the United Kingdom or ”.
  - (7) In article 20 (prohibitions: non-EEA branches and subsidiaries)—
    - (a) in the heading, for “Non-EEA” substitute “ Non-UK and non-EEA ”;
    - (b) in paragraph (1)(a), after “not” insert “ the United Kingdom or ”;
    - (c) in paragraph (1)(b)—
      - (i) after “not” insert “ the United Kingdom or ”, and
      - (ii) for “(a “non-EEA undertaking”)” substitute “ (a “non-UK and non-EEA undertaking”) ”;
    - (d) in paragraph (2), after “interest in a” insert “ non-UK and ”.

**F55** [S.I. 2014/2080](#), amended by [S.I. 2016/1032](#) and 2017/1167.

**F56** [S.I. 2013/1773](#), to which there are amendments not relevant to these Regulations.

**F57** [S.I. 2004/1862](#), to which there are amendments not relevant to these Regulations.

**F58** The term “conglomerates directive” is defined in regulation 1(2) of [S.I. 2004/1862](#).

**F59** OJ No. L 35, 11.02.2003, p.1, amended by Directive 2011/89/EU (OJ No. L 326, 8.12.2011, p.113); there are other amending instruments but none is relevant.

**F60** [2006 c.46](#).

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**F61** [S.I. 2015/575](#).

**F62** Article 19A was inserted by [S.I. 2016/1032](#).

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**Commencement Information**

**I21** Reg. 192 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

**The Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015**

**193.** In article 2(2) and (3)(b) of the Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015 <sup>F63</sup> (relevant authorised persons) omit, in both places it occurs, “or resulting from Schedule 3 or 4 to the Act”.

**F63** [S.I. 2015/1865](#).

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**Commencement Information**

**I22** Reg. 193 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

**Changes to legislation:**

The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, PART 5 is up to date with all changes known to be in force on or before 05 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](#)