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## STATUTORY INSTRUMENTS

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### 2019 No. 680

#### The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019

### PART 3

#### Saving provisions for Gibraltar

##### **Saving for certain financial services legislation relating to Gibraltar**

**11.—**(1) In so far as Regulations specified in paragraph (5)—

- (a) are made before [<sup>F1</sup>IP completion day] under the European Union (Withdrawal) Act 2018, and
- (b) on or after [<sup>F1</sup>IP completion day], amend, repeal or revoke an enactment that, before [<sup>F1</sup>IP completion day], applies to—
  - (i) activities in connection with Gibraltar of a person regulated by the Prudential Regulation Authority, the Bank of England, the Financial Conduct Authority or the Payment Systems Regulator;
  - (ii) Gibraltar trading venue or financial instruments admitted to trading or traded on a Gibraltar trading venue;
  - (iii) activities of a Gibraltar-based firm;
  - (iv) the charging of interchange fees (as defined by Article 2(10) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions) in relation to transactions between the UK and Gibraltar; or
  - (v) functions of the Financial Services Commission of Gibraltar,

the Regulations are to be read as if the amendment, repeal or revocation had not been made in relation to the matters referred to in paragraphs (i) to (v) (“the relevant matters”), and paragraph (4) applies.

(2) In so far as an enactment specified in the Schedule to the Financial Regulators' Powers (Technical Standards etc) (Amendment etc.) (EU Exit) Regulations 2018—

- (a) applies to the relevant matters, and
- (b) has been amended, repealed or revoked under those Regulations,

unless this paragraph is disapplied (in whole or in part) in the instrument which amended, repealed or revoked the enactment, the enactment is to be read if the amendment, repeal or revocation had not been made in relation to the relevant matters, and paragraph (4) applies.

(3) In so far as an enactment specified in paragraph (6)—

- (a) applies to the relevant matters, and
- (b) has been amended, repealed or revoked by regulations made under the European Union (Withdrawal) Act 2018,

the enactment is to be read if the amendment, repeal or revocation had not been made in relation to the relevant matters, and paragraph (4) applies.

(4) If this paragraph applies, an enactment referred to in paragraph (1)(b), (2) or (3) is to be read with any modifications necessary to ensure that the enactment continues to apply to the relevant matters after exit day as it applied to them before [F2IP completion day].

(5) The Regulations are—

- (a) the Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 <sup>F3</sup>;
- (b) the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 <sup>F4</sup>;
- (c) the Central Securities Depositories (Amendment) (EU Exit) Regulations 2018 <sup>F5</sup>;
- (d) the Short Selling (Amendment) (EU Exit) Regulations 2018 <sup>F6</sup>[<sup>F7</sup>(except for regulation 8(1))];
- (e) the Capital Requirements (Amendment) (EU Exit) Regulations 2018 <sup>F8</sup>;
- (f) the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 <sup>F9</sup> (except for Part 2, Chapter 3 of Part 3, and regulations [<sup>F10</sup>28(7), (8)(a) and (c), and (10),] 29(3) and 30(1));
- (g) the Credit Transfers and Direct Debits in Euro (Amendment)(EU Exit) Regulations 2018 <sup>F11</sup> (except for regulation 6(2));
- (h) the Financial Markets and Insolvency (Amendment and Transitional) (EU Exit) Regulations 2019 <sup>F12</sup> (except for regulations 5(7), 8(3)(a), 8(4)(b), 8(6) and 9);
- (i) the Payment Accounts (Amendment) (EU Exit) Regulations 2019 <sup>F13</sup>;
- (j) the Interchange Fee (Amendment) (EU Exit) Regulations 2019 <sup>F14</sup>;
- (k) the Social Entrepreneurship Funds (Amendment) (EU Exit) Regulations 2019 <sup>F15</sup>;
- (l) the Venture Capital Funds (Amendment) (EU Exit) Regulations 2019 <sup>F16</sup>;
- (m) the Long-term Investment Funds (Amendment) (EU Exit) Regulations 2019 <sup>F17</sup>;
- (n) the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 <sup>F18</sup>;
- (o) the Money Market Funds (Amendment) (EU Exit) Regulations 2019 <sup>F19</sup>;
- (p) the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 <sup>F20</sup>;
- (q) the Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 <sup>F21</sup>;
- (r) the Financial Conglomerates and Other Financial Groups (Amendments etc.) (EU Exit) Regulations 2019 <sup>F22</sup>;
- (s) the Securitisation (Amendment) (EU Exit) Regulations 2019 <sup>F23</sup>;
- (t) the Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019 <sup>F24</sup>;
- (u) the Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019 <sup>F25</sup>;
- (v) the Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulations 2019 <sup>F26</sup>;

- (w) the Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019<sup>F27</sup>[<sup>F28</sup>(except for regulations 7(2) and (3), and 8)];
- (x) the Credit Rating Agencies (Amendments etc) (EU Exit) Regulations 2019<sup>F29</sup>;
- (y) Part 6 of the Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019<sup>F30</sup>;
- (z) regulation 12, and Parts 3 to 6 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (except for [<sup>F31</sup>regulations 126, 127, 154, 179(2), 187 and 190]).
- [<sup>F32</sup>(z1) the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019;
- (z2) the Prospectus (Amendment etc.) (EU Exit) Regulations 2019.]
- [<sup>F33</sup>(z3) the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019 (except for regulation 34(a)(i) and (b));
- (z4) regulations 18 to 21 of the Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020.]
- [<sup>F34</sup>(z5) the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020.]
- (6) The enactments are—
  - (a) paragraphs 15BB and 15C of Schedule 6 to the Insolvency Act 1986;
  - (b) sections 213(10) and (11), 214(5) and 224(4) of the Financial Services and Markets Act 2000;
  - (c) the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001<sup>F35</sup>.
- (7) For the purposes of this regulation—
  - (a) an “enactment” includes an instrument which is direct EU legislation;
  - (b) a “Gibraltar-based firm” has the same meaning as in article 1(2) of the Financial Services and Markets Act 2000 (Gibraltar) Order 2001<sup>F36</sup>;
  - (c) “Gibraltar trading venue” has the meaning given in Article 2 of Regulation (EU) 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse as that regulation forms part of domestic law under section 3 of the European Union (Withdrawal) Act 2018.
- <sup>F37</sup>[<sup>F38</sup>(d) for the purposes of the Regulations specified in sub-paragraphs (5)(a), (b), (p) and (z3) (which amend Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (“EMIR”)), “firm” in paragraph (1)(b)(iii) of this regulation is to include a “pension scheme arrangement” within the meaning given by Article 2(10) of EMIR (as it has effect in EU law and as if the United Kingdom were a Member State);]
- (8) Nothing in this regulation saves any obligation of the Prudential Regulation Authority, the Bank of England, the Financial Conduct Authority or the Payment Systems Regulator after [<sup>F39</sup>IP completion day]—
  - (a) to act in accordance with, or to take any account of—
    - (i) guidelines, guidance, opinions, recommendations or decisions issued by any of the European Supervisory Authorities whether before or after exit day;
    - (ii) technical standards adopted by the European Commission after exit day;
  - (b) to provide information to, or co-operate with—

(i) a European Supervisory Authority or any other EU institution, agency or body (an “EU entity”); or

(ii) a competent authority of a member State.

(9) Where the effect of this regulation would be to make a right or obligation of any person dependent on a decision from an EU entity in circumstances where that right or obligation would after [F40IP completion day], apart from this regulation, be dependent on a decision from a UK regulator, any reference to the EU entity in relation to that decision is to be treated as a reference to the relevant UK regulator.

(10) For the purposes of paragraph (9)—

- (a) “decision” includes any form of permission, authorisation, designation, recognition or registration required for the exercise of the right or the imposition of the obligation;
- (b) “UK regulator” means the Prudential Regulation Authority, the Financial Conduct Authority, the Bank of England, the Payment Systems Regulator or HM Treasury;
- (c) the “relevant UK regulator” is the UK regulator to which the functions of the EU entity in relation to the decision in question have been transferred under the European Union (Withdrawal) Act 2018.

- F1** Words in reg. 11(1)(a)(b) 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. 40(f)(i)**
- F2** Words in reg. 11(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. 40(f)(ii)**
- F3** S.I. 2018/1318.
- F4** S.I. 2018/1184.
- F5** S.I. 2018/1320.
- F6** S.I. 2018/1321.
- F7** Words in reg. 11(5)(d) inserted (31.12.2022 at 11.00 p.m.) by [The Financial Services \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1223\)](#), regs. 1(2), **2(a)**
- F8** S.I. 2018/1401.
- F9** S.I. 2018/1403.
- F10** Words in reg. 11(5)(f) substituted (31.12.2022 at 11.00 p.m.) by [The Financial Services \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1223\)](#), regs. 1(2), **2(b)**
- F11** S.I. 2018/1199.
- F12** S.I. 2019/341.
- F13** S.I. 2019/661.
- F14** S.I. 2019/284.
- F15** S.I. 2019/343.
- F16** S.I. 2019/333.
- F17** S.I. 2019/336.
- F18** S.I. 2019/325.
- F19** S.I. 2019/394.
- F20** S.I. 2019/335.
- F21** S.I. 2019/662.
- F22** S.I. 2019/264.
- F23** S.I. 2019/660.
- F24** S.I. 2019/542.
- F25** S.I. 2019/657.
- F26** S.I. 2019/253.
- F27** S.I. 2019/403.

- F28** Words in reg. 11(5)(w) inserted (31.12.2022 at 11.00 p.m.) by The Financial Services (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/1223), regs. 1(2), **2(c)**
- F29** S.I. 2019/266.
- F30** S.I. 2019/407.
- F31** Words in reg. 11(5)(z) substituted (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), **22(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F32** Reg. 11(5)(z1)(z2) inserted (31.12.2020 immediately before IP completion day) by The Prospectus (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1234), regs. 1(3), **29(2)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1234, reg. 29(2))); 2020 c. 1, Sch. 5 para. 1(1)
- F33** Reg. 11(5)(z3)(z4) inserted (31.12.2020 immediately before IP completion day) by The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/628), regs. 1(3), **13(2)**
- F34** Reg. 11(5)(z5) inserted (25.6.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(2)(c), **12(2)**
- F35** S.I. 2001/1783.
- F36** S.I. 2001/3084; the definition of “Gibraltar-based firm” was substituted by S.I. 2014/1292.
- F37** Reg. 11(7)(d): By The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(2)(c), **12(3)**, it is provided that the words “, (z4) and (z5)” are substituted (31.12.2020) for “and (z4)”
- F38** Reg. 11(7)(d) inserted (31.12.2020 immediately before IP completion day) by The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/628), regs. 1(3), **13(3)**
- F39** Words in reg. 11(8) 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. 40(f)(iii)**
- F40** Words in reg. 11(9) 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. 40(f)(iv)**

#### Commencement Information

- I1** Reg. 11 in force on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

**Changes to legislation:**

There are currently no known outstanding effects for the The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 11.