

2020 No. 117

FINANCIAL SERVICES

The Financial Services and Markets Act 2000 (Central Counterparties, Investment Exchanges, Prospectus and Benchmarks) (Amendment) Regulations 2020

Made - - - - *3rd February 2020*

Laid before Parliament *5th February 2020*

Coming into force in accordance with regulation 1(2)

The Treasury make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Treasury are a government department designated(b) for the purposes of section 2(2) of the European Communities Act 1972 in relation to financial services.

PART 1

General provision

Citation and commencement

1.—(1) These Regulations may be cited as the Financial Services and Markets Act 2000 (Central Counterparties, Investment Exchanges, Prospectus and Benchmarks) (Amendment) Regulations 2020.

(2) Subject to paragraph (3), these Regulations come into force at the end of the period of twenty-five days beginning with the day on which these Regulations are made.

(3) Regulation 4 comes into force on 26th March 2020.

(a) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.

(b) S.I. 2012/1759.

PART 2

Amendment of primary legislation

The Financial Services and Markets Act 2000

2. In section 313(1) (interpretation of Part 18) of the Financial Services and Markets Act 2000^(a), in the definition of “the EMIR regulation”^(b), after “trade repositories” insert “as last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019”.

PART 3

Amendment of secondary legislation

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

3. In article 35A (trade repositories) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001^(c), in paragraph (2), for “the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No.2) Regulations 2019” substitute “the Financial Services and Markets Act 2000 (Central Counterparties, Investment Exchanges, Prospectus and Benchmarks) (Amendment) Regulations 2020”.

The Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001

4.—(1) Paragraph 3G (tick size regimes) of Schedule 1 to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001^(d) is amended as follows.

(2) In sub-paragraph (1), for “The exchange” substitute “Subject to sub-paragraph (1A), the exchange”.

(3) After sub-paragraph (1), insert—

“(1A) The application of tick sizes shall not prevent the exchange from matching orders that are large in scale (as determined in accordance with Article 4 of the markets in financial instruments regulation) at the mid-point within the current bid and offer prices.”.

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

5. In article 1 (citation, commencement and interpretation) of the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013^(e), for paragraph (3A) substitute—

“(3A) In this Order references to the EU Benchmarks Regulation 2016, the EU Prospectus Regulation and the European market infrastructure regulation are to be treated as a reference to the respective EU regulation as it has effect at the beginning of the day on which Financial Services and Markets Act 2000 (Central Counterparties, Investment Exchanges, Prospectus and Benchmarks) (Amendment) Regulations 2020 are made (but see regulation 2 of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) (EU Exit) Regulations 2019, which may further update the reference).”.

(a) 2000 c. 8.

(b) The definition of “the EMIR Regulation” inserted by S.I. 2013/504 and amended by S.I. 2019/662.

(c) S.I. 2001/544. Article 35A inserted by S.I. 2013/504 and amended by S.I. 2016/715 and 2019/632 and 1416.

(d) S.I. 2001/995.

(e) S.I. 2013/419.

The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013

6. In regulation 2 (interpretation) of the Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013(a), for “as amended by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019”, substitute “as last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019”.

The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017

7. In paragraph 1 of Schedule 1 (interpretation of Schedule 1) to the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017(b), in the definition of “the EMIR Regulation”, after “trade repositories” insert “as last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019”.

The Financial Services and Markets Act 2000 (Prospectus) Regulations 2019

8. In Part 1 of the Financial Services and Markets Act 2000 (Prospectus) Regulations 2019(c), after regulation 2 (designation of competent authority), insert—

“Designation of supervisory authority for the purposes of Article 1(6a)(b) of the EU Prospectus Regulation

2A.—(1) The FCA is designated as the “supervisory authority”, under Article 1(6a)(b) of the EU Prospectus Regulation, for the purpose of issuing prior approval of the documents referred to in Article 1(4)(f) and (5)(e) of that Regulation.

(2) The FCA may issue, under Article 1(6a)(b) of that Regulation, prior approval of the documents referred to in Article 1(4)(f) and (5)(e) of that Regulation.”.

*Mike Freer
Rebecca Harris*

3rd February 2020

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 2(2) of the European Communities Act 1972 (c. 68) to implement EU obligations.

Regulations 2, 3 and 5 to 7 make amendments to UK financial services law to update references to Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, such that these include changes made by Regulation (EU) 2019/2099.

Regulation 4 makes an amendment to Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (S.I. 2001/995) to take into account an update to the tick-size regime in Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets

(a) S.I. 2013/504. Regulation 2 amended by S.I. 2019/1031.
(b) S.I. 2017/701.
(c) S.I. 2019/1043.

in financial instruments made by Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms.

Regulation 5 also makes a change to UK financial services law to update a reference to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, to include amendments made by Regulation (EU) 2019/2089.

Regulation 8 makes an amendment to the Financial Services and Markets Act 2000 (Prospectus) Regulations 2019 (S.I. 2019/1043), providing that the Financial Conduct Authority is the supervisory authority for issuing prior approval of documents for the purposes of exemptions under Article 1(4)(f) and (5)(e) of Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, as amended by Regulation (EU) 2019/2115.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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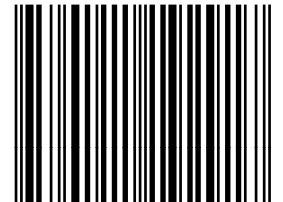
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