
STATUTORY INSTRUMENTS

2020 No. 1385

The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020

PART 2

Transitional and saving provisions concerning the SFT Regulation

CHAPTER 3

Temporary registration for run-off period

Temporary deemed registration under the SFT Regulation for run-off period

11.—(1) A person to whom this regulation applies is to be treated as if the person is registered as a trade repository under Chapter III of the SFT Regulation.

(2) Reference in an enactment to a person registered as a trade repository under that Chapter, however expressed, is to be read, unless the contrary intention appears, as including a person treated as being so registered by virtue of this regulation.

Application of regulation 11

12. Regulation 11 applies to a person—

- (a) who satisfies the condition in regulation 13;
- (b) for the period determined in accordance with regulation 14.

Condition to be satisfied for regulation 11 to apply

13. The condition is that the FCA has determined that regulation 6 should cease to apply to a person in accordance with regulation 10, or that the FCA has withdrawn registration of a person to whom regulation 6 applies in accordance with Article 10 of the SFT Regulation.

Period during which regulation 11 is to apply

14. For the purposes of regulation 12(b), the period is a period of one year beginning with the day on which the condition in regulation 13 is satisfied, or such shorter period as the FCA may determine in a particular case.

Transitional arrangements during the run-off period

15.—(1) The FCA may make such transitional arrangements imposing requirements in respect of the registration of a person to whom regulation 11 applies as it considers necessary or expedient.

(2) A requirement may, in particular, be imposed—

- (a) so as to require the person concerned to take specified action, including to make arrangements for the transfer of data stored by the person to whom regulation 6 or 11

applies or a person which is registered as a trade repository under Chapter III of the EU SFT Regulation; or

- (b) so as to require the person concerned to refrain from taking specified action.
- (3) A requirement may be imposed by reference to the person's relationship with—
 - (a) the person's group; or
 - (b) other members of the person's group.

Notification of a decision to impose requirements under regulation 15

16.—(1) This regulation applies to an exercise of the FCA's power to impose a requirement in respect of the registration of a person ("P") in accordance with regulation 15.

- (2) The imposition of the requirement takes effect—
 - (a) immediately, if the notice given under paragraph (4) states that that is the case,
 - (b) on such date as may be specified in the notice, or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer subject to review.

(3) The imposition of a requirement may be expressed to take effect immediately, or on a specified date, only if the FCA, having regard to the ground on which it is exercising its power, reasonably considers that it is necessary for the imposition of the requirement to take effect immediately, or on that date.

- (4) If the FCA proposes to impose, or imposes, a requirement it must give P written notice.

- (5) The notice must—
 - (a) give details of the requirement;
 - (b) state the reasons for the imposition of the requirement;
 - (c) inform P that P may make representations to the FCA, within a period specified in the notice, whether or not P has referred the matter to the Tribunal;
 - (d) inform P of when the imposition of the requirement takes effect; and
 - (e) inform P of their right to refer the matter to the Tribunal.

- (6) The FCA may extend the period allowed under the notice for making representations.

- (7) If, having considered any representations made by P, the FCA decides—

- (a) to impose a requirement in the way proposed, or
 - (b) if the requirement has been imposed, not to rescind the imposition of the requirement,

it must give P written notice.

- (8) If, having considered any representations made by P, the FCA decides—

- (a) not to impose a requirement in the way proposed,
 - (b) to impose a different requirement, or
 - (c) to rescind a requirement which has effect,

it must give P written notice.

- (9) A notice under paragraph (7) must inform P of P's right to refer the matter to the Tribunal.

- (10) A notice under paragraph (8)(b) must comply with paragraph (5).

(11) If a notice informs P of P's right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.

Right to refer to the Tribunal

17. P may refer to the Tribunal any decision by the FCA to impose a requirement under this Chapter.

Application of Part 9 of the Financial Services and Markets Act 2000

18.—(1) Part 9 of the Financial Services and Markets Act 2000⁽¹⁾ (“the Act”) (hearings and appeals) applies in respect of a reference to the Tribunal under regulation 17 as it applies in respect of a reference to the Tribunal under the Act but with the following modifications.

- (2) In section 133 (proceedings before the Tribunal: general provisions)—
- (a) in subsection 1—
 - (i) omit “(whether made under this or any other Act)”;
 - (ii) in paragraph (a), omit “or the PRA”;
 - (iii) omit paragraphs (b) and (c);
 - (b) omit subsection (1A);
 - (c) in subsection (2), omit “, (b) or (c)”;
 - (d) omit subsection (5);
 - (e) in subsection (6), for “In any other case, the Tribunal” substitute “The Tribunal”;
 - (f) omit subsection (7A).
- (3) Omit section 133A (proceedings before the Tribunal: decision and supervisory notices, etc).
- (4) In section 133B (offences), in subsection (1)—
- (a) in paragraph (a), omit “or the PRA”;
 - (b) omit paragraphs (b) and (c).

(1) 2000 c.8.