
STATUTORY INSTRUMENTS

2020 No. 1385

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

PART 5

Amendment of secondary legislation

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

40.—(1) Article 3(1) (interpretation) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽¹⁾ is amended as follows.

(2) In the definition of “EU Securitisation Regulation 2017”, at the end insert “as it forms part of retained EU law”.

(3) In the definition of “markets in financial instruments regulation”, at the end insert “as it forms part of retained EU law”.

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

41. In regulation 2 (interpretation) of the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001⁽²⁾, at the end of the list of definitions, for the final “.” substitute—

“, and

any reference to an EU regulation, or part of an EU regulation, is to be read as a reference to that EU regulation, or that part of an EU regulation, as amended from time to time.”.

The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018

42. In regulation 2(1) (interpretation) of the Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018⁽³⁾, in the definition of “the EU Benchmarks Regulation 2016”, at the end insert “as it forms part of retained EU law”.

The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018

43.—(1) The Schedule to the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018⁽⁴⁾ is amended as follows.

(2) In Part 1—

(1) [S.I. 2001/544](#), as amended by [S.I. 2017/488](#) and [2018/1288](#).

(2) [S.I. 2001/2188](#).

(3) [S.I. 2018/135](#).

(4) [S.I. 2018/1115](#), amended by [S.I. 2019/336](#), [394](#), [576](#), [1212](#), [1390](#), [1416](#) and [2020/628](#) and [646](#). Paragraph 11A of the Schedule inserted by [S.I. 2019/1390](#) and paragraph 69G by [S.I. 2020/628](#).

- (a) after paragraph 9 insert—

“**9A.** Commission Delegated Regulation (EU) 2020/447 of 16 December 2019 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of criteria for establishing the arrangements to adequately mitigate counterparty credit risk associated with covered bonds and securitisations, and amending Delegated Regulations (EU) 2015/2205 and (EU) 2016/1178.”;

- (b) after paragraph 11A insert—

“**11B.** Commission Delegated Regulation (EU) 2018/1108 of 7 May 2018 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regulatory technical standards on the criteria for the appointment of central contact points for electronic money issuers and payment service providers and with rules on their functions.”;

- (c) in the heading before paragraph 68, for “Directive” substitute “Regulation”;

- (d) omit paragraphs 68 and 69;

- (e) after paragraph 69G insert—

“**69H.** Commission Delegated Regulation (EU) 2020/1226 of 12 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council and laying down regulatory technical standards specifying the information to be provided in accordance with the STS notification requirements.

69I Commission Implementing Regulation (EU) 2020/1227 of 12 November 2019 laying down implementing technical standards with regard to templates for the provision of information in accordance with the STS notification requirements.

69J. Commission Implementing Regulation (EU) 2020/1228 of 29 November 2019 laying down implementing technical standards with regard to the format of applications for registration as a securitisation repository or for extension of a registration of a trade repository pursuant to Regulation (EU) 2017/2402 of the European Parliament and of the Council.

69K. Commission Delegated Regulation (EU) 2020/1229 of 29 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on securitisation repository operational standards for data collection, aggregation, comparison, access and verification of completeness and consistency.

69L. Commission Delegated Regulation (EU) 2020/1230 of 29 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the application for registration of a securitisation repository and the details of the simplified application for an extension of registration of a trade repository.”.

- (3) In Part 4, after paragraph 174 insert—

“Securitisation Regulation

174ZA. Commission Delegated Regulation (EU) 2020/1224 of 16 October 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information and the details of a securitisation to be made available by the originator, sponsor and SSPE.

174ZB. Commission Implementing Regulation (EU) 2020/1225 of 29 October 2019 laying down implementing technical standards with regard to the format and standardised templates for making available the information and details of a securitisation by the originator, sponsor and SSPE.”.

The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018

44.—(1) The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018⁽⁵⁾ are amended as follows.

(2) In regulation 1(4) (interpretation), in the definition of “the EMIR Regulation”, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) After regulation 9 (revocation of implementing acts made under Article 25.6 of the EMIR Regulation), insert—

“Revocation of delegated acts made under Articles 25.2a, 25a.3 or 25d.3 of the EMIR Regulation

9A. Any delegated acts which have been adopted by the European Commission under Articles 25.2a, 25a.3 or 25d.3 of the EMIR Regulation and are in force immediately before IP completion day are revoked.”.

(4) In regulation 19(6) (cessation of temporary deemed recognition), for “6 months” substitute “18 months”.

The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018

45.—(1) Regulation 3 of the Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018⁽⁶⁾ is amended as follows.

(2) In paragraph (2)—

(a) for sub-paragraph (a) substitute—

“(a) in the definition of “the 2009 European Regulation”, for “2009 European” substitute “2009”.”;

(b) for sub-paragraph (c) substitute—

“(c) for the definition of “the European Regulations” substitute—
““the Regulations” means the 2009 Regulation or the 2012 Regulation;””

(3) For paragraph (3) substitute—

“(3) In regulations 4 to 18—

(a) for “European Regulations” each time it appears, substitute “Regulations”;

(b) for “2012 European Regulation” each time it appears, substitute “2012 Regulation”.”.

(4) Omit paragraph (4).

(5) S.I. 2018/1184, as amended by S.I. 2020/646.

(6) S.I. 2018/1199.

The Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018

46. In regulation 5(5) of the Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018(7), in new regulation 7A, for paragraph (7) substitute—

“(7) The first review carried out in accordance with paragraph (5) must be completed no later than five years after regulation 5 of the Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 comes into force (in accordance with paragraph 1(1) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020).”.

The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018

47.—(1) The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018(8) are amended as follows.

(2) In regulation 4 (interpretation), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) For regulation 20 (misleading the FCA: criminal offence), substitute—

“20. Section 398 of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases)(9) applies to a requirement to provide information in accordance with—

- (a) a direction under regulation 5(2)(b) or 17(2)(b),
- (b) regulation 21, or
- (c) a written notification under regulation 21A,

as it applies to a requirement falling within subsection (1A) of that section.”.

(4) After regulation 20, insert—

“Further information to be supplied

20A. Subject to regulation 21A(7), regulations 21 and 21A apply to a person who, before IP completion day—

- (a) has submitted an advance application to the FCA in accordance with regulation 5, and has not been notified by the FCA of its decision in respect of the application in accordance with regulation 7;
- (b) has notified the FCA in accordance with regulation 17, and has not received a response from the FCA in accordance with regulation 19; or
- (c) has been notified by the FCA of a decision to register in accordance with regulation 7 or a decision to confirm the notification in accordance with regulation 19.”.

(5) For regulation 21 (further information to be supplied by a person to whom regulation 9 or 14 applies), including the heading, substitute—

“Duty to disclose information

21. A person to whom this regulation applies must notify the FCA without delay if—

(7) S.I. 2018/1285.

(8) S.I. 2018/1318, as amended by S.I. 2019/1416 and 2020/646.

(9) 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c. 21), S.I. 2013/1773, S.I. 2015/1882, S.I. 2016/680, S.I. 2017/701, S.I. 2018/135, S.I. 2018/698, S.I. 2019/362, and S.I. 2019/1043.

- (a) any information contained in, or accompanying—
 - (i) an advance application submitted in accordance with regulation 5, or
 - (ii) a notification made in accordance with regulation 17, changes; or
- (b) there are any material changes which affect or may affect compliance by that person with the conditions for registration set out in Title 7 of the European Market Infrastructure Regulation.

FCA power to require information from a person to whom this regulation applies

21A.—(1) The FCA may, by notice in writing given to a person to whom this regulation applies, require that they—

- (a) provide information specified or information of a description specified by the FCA; or
 - (b) produce documents specified or documents of a description specified by the FCA.
- (2) The information or documents must be provided or produced—
- (a) before the end of such reasonable period, and
 - (b) at such place,

as may be specified.

(3) The powers conferred by paragraphs (1) and (2) apply only to information and documents reasonably required—

- (a) in connection with the exercise by the FCA of functions conferred on it by or under these Regulations; and
- (b) in anticipation of the exercise by the FCA of the functions conferred on it by or under the European Market Infrastructure Regulation and the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019/335 on IP completion day.

(4) An officer who has written authorisation from the FCA to do so may request that a person to whom this regulation applies without delay—

- (a) provide the officer with specified information or information of a specified description; or
- (b) produce to the officer specified documents or documents of a specified description.

(5) The FCA may require any information provided under this regulation to be provided in such form as it may reasonably require.

(6) The FCA may require—

- (a) any information provided, whether in a document or otherwise, to be verified in such manner, or
- (b) any document produced to be authenticated in such manner,

as it may reasonably require.

(7) The FCA may also impose requirements under paragraphs (1) to (4) on related third parties, to whom a person to whom this regulation applies has outsourced operational functions or activities, to provide all information that is necessary in order to carry out the duties of the person to whom this regulation applies.

(8) In this regulation, “officer” means an officer of the FCA and includes a member of the FCA’s staff or an agent of the FCA.”.

The Capital Requirements (Amendment) (EU Exit) Regulations 2018

48.—(1) The Capital Requirements (Amendment) (EU Exit) Regulations 2018⁽¹⁰⁾ are amended as follows.

(2) In regulation 66 (Article 4A and 4B (insertion of new paragraphs)), in new Article 4A, paragraph 2, for “Articles 4(1)(25), 11(5), 81(1)(ii), 82(a)(ii) and 336(4)(c),” substitute “Articles 4(1)(25), 11(2) and (6), 81(1)(ii), 82(a)(ii), 336(4)(c), 468(4) and 473a(7a)”.

(3) Omit—

- (a) regulation 72 (Article 11 (general treatment));
- (b) regulation 119 (Article 124 (exposures secured by mortgages on immovable property));
- (c) regulation 133 (Article 164 (loss given default)).

The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

49.—(1) The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018⁽¹¹⁾ are amended as follows.

(2) In regulation 24 (Markets in Financial Instruments Regulation), before “is amended in accordance with this Part” insert “, as it forms part of retained EU law,”.

(3) In regulation 28 (transparency for systematic internalisers and investment firms trading OTC), after paragraph (4), insert—

“(4A) In Article 17a, first paragraph, for “Article 49 of [Directive 2014/65/EU](#)” substitute “paragraph 3G of Schedule 1 to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001⁽¹²⁾, as if that paragraph applied to the systemic internaliser in the course of its operations as such and sub-paragraph (1A) were omitted”.

(4) In regulation 30(3) (derivatives), for sub-paragraph (a) substitute—

“(a) in the first subparagraph—

- (i) for “ESMA shall develop draft regulatory” substitute “The appropriate regulator may make”; and
- (ii) at the end insert “For cases other than CCPs, technical standards may also specify the types of indirect clearing service arrangements that meet conditions for reasonable and transparent commercial terms.”.

(5) In regulation 33(2)(c) (provision of services and performance of activities by third-country firms following an equivalence decision), after sub-paragraph (ii), insert—

“(iii) after “paragraph 1” insert “or in retained EU law by a decision made by the Commission under paragraph 1 as it had effect in EU law before IP completion day”.

(6) In regulation 37 (transfer of functions), in paragraph 44(a) of the new Schedule 3 to be inserted, for “sections 7A.3 and 7A.4” substitute “sections 7A.3, 7A.4 and 7A.5”.

The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019

50.—(1) The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019⁽¹³⁾ are amended as follows.

⁽¹⁰⁾ S.I. 2018/1401, as amended by S.I. 2019/1232.

⁽¹¹⁾ S.I. 2018/1403.

⁽¹²⁾ S.I. 2001/995, paragraph 3G inserted by S.I. 2017/701 and amended by S.I. 2019/662 and 2020/117.

⁽¹³⁾ S.I. 2019/266.

(2) In each of the following provisions, for “credit rating agency”, in each place it occurs, substitute “person”—

- (a) regulation 7(1) (financial penalties);
- (b) regulation 8(7) (statement of policy);
- (c) regulation 9(6) (statement of policy: procedure);
- (d) regulation 10 (public censure);
- (e) regulation 11(1) (warning notice);
- (f) regulation 12(1) (decision notice);
- (g) regulation 15 (right to refer a decision to the Upper Tribunal);
- (h) in regulation 17 (application to a court for an injunction)—
 - (i) paragraph (1)(a) and (b);
 - (ii) paragraph (2);
 - (iii) paragraph (3).

(3) In regulation 18 (information gathering and investigations)—

- (a) in paragraph (1), for “in respect of a credit rating agency as it applies in respect of an authorised person under the Act, subject as follows” substitute “as if references to an authorised person also included references to a person subject to requirements under these Regulations or the CRA Regulation, and subject to the following further modifications”;
- (b) in paragraph (2)(b), in new paragraph (b)(iv), for “credit rating agency” substitute “person”;
- (c) in paragraph (3), in the new subsection (1A), for “credit rating agency” substitute “person”.

(4) For regulation 45 (misleading the FCA: criminal offence), substitute—

“**45.** Section 398 of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases) applies to a requirement to provide information in accordance with—

- (a) a direction under regulation 24(3), 36(2) or 42(2),
- (b) regulation 24(2) or 47,
- (c) a written notification under regulation 47A, or

as it applies to a requirement falling within subsection (1A) of that section.”.

(5) After regulation 46 (offence by bodies corporate) insert—

“Further information to be supplied

46A. Subject to regulation 47A(7), regulations 47 and 47A apply to any person who, before IP completion day—

- (a) has submitted an advance application to the FCA in accordance with regulation 24, and has not been notified by the FCA of its decision in respect of the application in accordance with regulation 26;
- (b) has notified the FCA in accordance with regulation 36, and has not received a response from the FCA in accordance with regulation 38;
- (c) has notified the FCA in accordance with regulation 42, and who has not received a response from the FCA in accordance with regulation 44; or
- (d) has been notified by the FCA of a decision to register in accordance with regulation 26 or a decision to confirm the notification in accordance with regulations 38 or 44.”.

(6) For regulation 47 (further information to be supplied by a person to whom regulation 28, 33 or 39 applies), including the heading, substitute—

“Duty to disclose information

- 47.** A person to whom this regulation applies must notify the FCA without delay if—
- (a) any information contained in, or accompanying—
 - (i) an advance application submitted in accordance with regulation 24, or
 - (ii) a notification made in accordance with regulations 36 or 42, changes; or
 - (b) there are any material changes which affect or may affect compliance by that person with the conditions for registration set out in Title 3 of the CRA Regulation.

FCA power to require information from a person to whom this regulation applies

47A.—(1) The FCA may, by notice in writing given to a person to whom this regulation applies, require that they—

- (a) provide information specified or information of a description specified by the FCA; or
 - (b) produce documents specified or documents of a description specified by the FCA.
- (2) The information or documents must be provided or produced—
- (a) before the end of such reasonable period, and
 - (b) at such place,

as may be specified.

(3) The powers conferred by paragraphs (1) and (2) apply only to information and documents reasonably required—

- (a) in connection with the exercise by the FCA of functions conferred on it by or under these Regulations; and
- (b) in anticipation of the exercise by the FCA of their functions under the CRA Regulation and these Regulations which are conferred on them on IP completion day.

(4) An officer who has written authorisation from the FCA to do so may request that a person to whom this regulation applies without delay—

- (a) provide the officer with specified information or information of a specified description; or
- (b) produce to the officer specified documents or documents of a specified description.

(5) The FCA may require any information provided under this regulation to be provided in such form as it may reasonably require.

(6) The FCA may require—

- (a) any information provided, whether in a document or otherwise, to be verified in such manner, or
- (b) any document produced to be authenticated in such manner,

as it may reasonably require.

(7) The FCA may also impose requirements under paragraphs (1) and (4) on related third parties, to whom a person to whom this regulation applies has outsourced operational functions

or activities, to provide all information that is necessary in order to carry out the duties of the person to whom this regulation applies.

(8) In this regulation, “officer” means an officer of the FCA and includes a member of the FCA’s staff or an agent of the FCA.”.

The Market Abuse (Amendment) (EU Exit) Regulations 2019

51.—(1) The Market Abuse (Amendment) (EU Exit) Regulations 2019⁽¹⁴⁾ are amended as follows.

(2) In regulation 5 (amendment of the Financial Services and Markets Act 2000)—

- (a) omit paragraph (7);
- (b) in paragraph (8), omit sub-paragraph (b);
- (c) in paragraph (9), omit sub-paragraphs (b) to (d);
- (d) in paragraph (10), omit sub-paragraph (b);
- (e) in paragraph (11), omit sub-paragraph (b);
- (f) in paragraph (12), omit sub-paragraphs (a) and (b);
- (g) in paragraph (14)(b), omit paragraph (iii).

(3) In regulation 9(2)(a) (general provisions: subject matter and scope), omit paragraph (ii).

(4) In regulation 10(2) (general provisions: definitions), omit sub-paragraph (m).

(5) In regulation 11(2) (inside information, insider dealing, unlawful disclosure of inside information and market manipulation), omit sub-paragraph (a).

(6) In regulation 12 (disclosure requirements)—

- (a) in paragraph (2)(d), omit paragraph (ii);
- (b) in paragraph (3)(f)—
 - (i) in the opening words, omit “and 10”;
 - (ii) re-number the second inserted paragraph as paragraph 9A.

(7) In regulation 13 (ESMA and competent authorities)—

- (a) in paragraph (2)(c), omit paragraph (iii);
- (b) in paragraph (5)(b), omit paragraph (ii)(bb).

(8) In regulation 16 (final provisions), for paragraph (1) substitute—

“(1) Omit Article 38.”.

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019

52.—(1) The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019⁽¹⁵⁾ are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “the EMIR regulation”, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

⁽¹⁴⁾ S.I. 2019/310.

⁽¹⁵⁾ S.I. 2019/335, as amended by S.I. 2019/1416 and 2020/646.

(3) In regulation 14(4) (clearing obligation), in the words to be substituted for paragraph 4 of Article 4 of 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, for the second subparagraph, substitute—

“The Bank of England may make technical standards in relation to CCPs specifying the types of indirect contractual arrangements that meet the conditions referred to in the second sub-paragraph of paragraph 3.

The FCA may make technical standards for cases other than CCPs specifying the types of indirect contractual arrangements that meet—

- (a) the conditions referred to in the second sub-paragraph of paragraph 3; and
 - (b) conditions for reasonable and transparent commercial terms.”.
- (4) For regulation 42 (segregation and portability), including the heading, substitute—

“Segregation and portability

42. In Article 39—

- (a) in paragraph 8, for the words from “Article 2(1)(c)” to “collateral arrangements” substitute “regulation 3(1) of the Financial Collateral Arrangements (No.2) Regulations 2003(16)”; and
- (b) omit paragraph 11.”.

(5) In regulation 59(4)(b) (transitional and final provisions), in new paragraph 5A, for “2020” substitute “2021”.

- (6) After regulation 64 (interpretation of Part 4) insert—

“CHAPTER 1A

SUPERVISION OF TRADE REPOSITORIES

Supervision of trade repositories

64A.—(1) If the FCA considers that—

- (a) a trade repository has contravened, or is likely to contravene, a requirement imposed by or under this Part, the EMIR Regulation or the TRATP Regulations, or
- (b) it is desirable to exercise the power in order to advance one or more of its operational objectives set out in section 1B(3) of FSMA,

it may impose, for such period as it considers appropriate, such requirements in relation to the carrying on of trade repository activities as it considers necessary or expedient.

(2) A requirement may, in particular, be imposed so as to require a trade repository to take, or refrain from taking, specified action.

(3) The FCA may—

- (a) withdraw a requirement; or
- (b) vary a requirement so as to reduce the period for which it has effect or otherwise to limit its effect.

(4) The imposition of the requirement takes effect—

- (a) immediately, if the notice given under paragraph (6) states that that is the case; or

(b) on such date as may be specified in the notice.

(5) 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.

(6) If the FCA proposes to impose, or imposes a requirement, it must give the trade repository written notice.

(7) The notice must—

- (a) give details of the requirement;
- (b) state the FCA's reasons for imposition of the requirement;
- (c) inform the trade repository that it may make representations to the FCA within such period as may be specified in the notice, whether or not the trade repository has referred the matter to the Tribunal;
- (d) inform the trade repository of when the imposition of the requirement takes effect; and
- (e) inform the trade repository of its right to refer the matter to the Tribunal.

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

(9) If, having considered any representations made by the trade repository, the FCA decides—

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

it must give the trade repository written notice.

(10) If, having considered any representations made by the trade repository, the FCA decides—

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

it must give the trade repository written notice.

(11) A notice under paragraph (9) must inform the trade repository of its right to refer the matter to the Tribunal.

(12) A notice under paragraph (10)(b) must comply with paragraph (7).

(13) If a notice informs the trade repository of its right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.

(14) A trade repository may refer to the Tribunal the FCA's decision to impose a requirement under this regulation.”.

(7) In regulation 74 (application of Part 9A FSMA), after paragraph (7) insert—

“(7A) In section 138H (verification of rules)—

- (a) each reference to a regulator is a reference to the FCA;
- (b) each reference to either regulator is a reference to the FCA only.”.

(8) In regulation 79(3) (interpretation), for “exit day” substitute “IP completion day”.

(9) In regulation 80 (continuation of exemptions from certain clearing obligations and risk-management obligations)—

(a) in paragraph (1)(c)—

- (i) in paragraph (i)—
 - (aa) for “exit day”, in each place it occurs, substitute “21 December 2020”;
 - (bb) in sub-paragraph (cc), omit “or”;
- (ii) omit paragraph (ii);
- (b) in paragraph (2)(c)—
 - (i) for “exit day”, in each place it occurs, substitute “IP completion day”;
 - (ii) in paragraph (ii), for “the 2016 Regulation” substitute “Regulation 2016/2251”.
- (10) In regulation 81(1) and (2) (relevant day for the purposes of regulation 80), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (11) In regulation 82 (new exemptions from certain clearing obligations and risk-management obligations)—
 - (a) in paragraph (2), for “exit day” substitute “IP completion day”;
 - (b) for paragraph (5) substitute—
 - “(5) Paragraph (8) applies where one or both of the counterparties—
 - (a) in relation to an exemption from an obligation as specified in paragraph (6)—
 - (i) has applied before 21 December 2020 to a competent authority for an exemption; or
 - (ii) has before 21 December 2020 notified a competent authority of its intention to apply an exemption; or
 - (b) in relation to an exemption from an obligation as specified in paragraph (7)—
 - (i) has applied before IP completion day to a competent authority for an exemption; or
 - (ii) has before IP completion day notified a competent authority of its intention to apply an exemption.”;
 - (c) in paragraph (6)—
 - (i) in sub-paragraph (a)—
 - (aa) in each place it occurs, for “exit day” substitute “21 December 2020”;
 - (bb) in sub-paragraph (iii), omit “or”;
 - (ii) omit sub-paragraph (b);
 - (d) in paragraphs (7) and (8), for “exit day”, in each place it occurs, substitute “IP completion day”.
- (12) In regulation 83(1) and (2) (relevant day for the purposes of regulation 82), for “exit day”, in each place it occurs, substitute “IP completion day”.

The Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019

53. In regulation 12(2)(c) (final provisions) of the Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019(17), for new paragraph 3 substitute—

“**3.**—(1) In this Article, “UK UCITS” and “EEA UCITS” have the meanings given in section 237(3) of FSMA.

(2) Where an EEA UCITS is recognised under section 272 of FSMA, the management company referred to in paragraph 1(b) or the investment company referred to in paragraph 1(d) above must comply with duties corresponding to those that, if the United Kingdom were a UCITS host Member State for the purposes of the UCITS Directive, would be imposed on the EEA UCITS in accordance with Article 94 of that Directive, to the extent it applies to key investor information.

(3) For the purposes of this Article, Article 94 is to be read as if—

- (a) references to the UCITS host member State, or to a member State where the UCITS markets its units, were references to the United Kingdom;
- (b) references to the competent authority of the UCITS host member State or of the member State where the UCITS markets its units were references to the FCA.”.

The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019

54.—(1) The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019(18) are amended as follows.

(2) For regulation 1(2) (citation and commencement) substitute—

“(2) Subject to paragraph (3), these Regulations come into force on IP completion day.

(3) This regulation and regulations 14 to 16 come into force on the day after the day on which the Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 are made.”.

(3) In regulation 8 (supervision), in paragraph (3), in new regulation 4B(6), for “100” substitute “85”.

(4) In regulation 11 (amendments of Commission Delegated Regulation (EU) No 2015/35)—

- (a) in paragraph (92), in new Article 378A, omit new paragraphs 5 to 9;
- (b) in paragraph (96), in new Article 380A, omit new paragraphs 4 to 7.

(5) After regulation 12 (transitional provision in relation to approval of temporary models), insert—

“Transitional provision in relation to group supervision

13.—(1) This regulation applies where—

- (a) in accordance with regulation 26 of the Solvency 2 Regulations 2015 (as amended by these Regulations), the Prudential Regulation Authority (“PRA”) is the group supervisor of a group; but
- (b) in accordance with regulations 26 and 27 of the Solvency 2 Regulations 2015 (as they were in force immediately before IP completion day), the group supervisor would be a supervisory authority of an EEA State, which is not the PRA.

(2) Where this regulation applies, regulations 15(1), 24(1) and (2), 25, 28(2) and 36(4) of the Solvency 2 Regulations 2015 which impose requirements on the PRA as group supervisor do not apply for a period of two years beginning with IP completion day—

- (a) unless the PRA decides that it is appropriate for these regulations to be applied in a particular case; or
- (b) unless or until the group ceases to be supervised by a group supervisor of an EEA State.

Transitional regime for temporary equivalence under Article 172 of the Solvency 2 Directive

14.—(1) Subject to paragraphs (2) and (3), where before IP completion day the European Commission has under Article 172 of the Solvency 2 Directive determined that the solvency regime of a third country that applies to reinsurance activities of undertakings with their head office in that third country is temporarily equivalent to that laid down in Title I of that Directive (“the determination”), the Treasury may by regulations extend the date on which that determination would otherwise end.

- (2) An extension under paragraph (1)—
- (a) ceases to have effect on whichever is the earlier of—
 - (i) 31st December 2021; or
 - (ii) the date on which, in accordance with paragraph 1 of Article 378A of Delegated Regulation (EU) 2015/35(19), the supervisory regime of that third country has been determined to be equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive;
 - (b) only has effect so far as determining that the solvency regime of a third country that applies to reinsurance activities of undertakings with their head office in that third country is temporarily equivalent to that laid down in Title I of the Solvency 2 Directive as it applied to the United Kingdom immediately before IP completion day.
- (3) The PRA must publish and keep up to date on its website a list of all third countries in respect of which the Treasury have made regulations under paragraph (1).
- (4) Where, in accordance with paragraph (1), the determination has been extended, reinsurance contracts concluded with undertakings having their head office in that third country shall be treated in the same manner as reinsurance contracts concluded with undertakings authorised in accordance with the UK law implementing the Solvency 2 Directive.

Transitional regime for temporary equivalence under Article 260 of the Solvency 2 Directive

15.—(1) Subject to paragraphs (2) and (3), where before IP completion day the European Commission has under Article 260 of the Solvency 2 Directive determined that the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office in that third country is temporarily equivalent to that laid down in Title I of that Directive (“the determination”), the Treasury may by regulations extend the date on which that determination would otherwise end.

- (2) An extension under paragraph (1)—
- (a) ceases to have effect on whichever is the earlier of—
 - (i) 31st December 2021; or
 - (ii) the date on which, in accordance with paragraph 1 of Article 380A of Delegated Regulation (EU) 2015/35(20), the prudential regime of that third country has been determined to be equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive;
 - (b) only has effect so far as determining that that the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office in that

(19) Article 378A will be inserted into Delegated Regulation (EU) 2015/35 by regulation 11(92) of [S.I. 2019/407](#) on IP completion day.

(20) Article 380A will be inserted into Delegated Regulation (EU) 2015/35 by regulation 11(96) of [S.I. 2019/407](#) on IP completion day.

third country is temporarily equivalent to that laid down in Title I of the Solvency 2 Directive as it applied to the United Kingdom immediately before IP completion day.

(3) The PRA must publish and keep up to date on its website a list of all third countries in respect of which the Treasury have made regulations under paragraph (1).

Interpretation and Regulations

16.—(1) In regulations 14 and 15—

“the PRA” means the Prudential Regulation Authority;

“the Solvency 2 Directive” means [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)(**21**).

(2) Regulations made under regulation 14 or 15 are to be made by statutory instrument.

(3) A statutory instrument which contains regulations under regulation 14 or 15 is subject to annulment in pursuance of a resolution of either House of Parliament.”.

The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019

55. In regulation 1(4)(g) (citation, commencement and interpretation) of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019(**22**), omit “as last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019”.

The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019

56.—(1) The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019(**23**) are amended as follows.

(2) In regulation 7(a), in new sub-paragraph (g), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) After regulation 22(c)(ii) insert—

“(iii) omit the final sub-paragraph.”.

(4) In regulation 24, for “32” substitute “33”.

(5) In regulation 25 (interpretation of Part 4), before the definition of “the TRATP Regulations”, insert—

““the FCA” means the Financial Conduct Authority;

“FSMA” means the Financial Services and Markets Act 2000(**24**);”.

(6) After regulation 25 (interpretation of Part 4) insert—

(21) OJ L 335, 17.12.2009, p. 1.

(22) S.I. 2019/541, as amended by S.I. 2019/710, 1212, 1234, 1390 and 1416, and S.I. 2020/628, 646 and 1055.

(23) S.I. 2019/542, as amended by S.I. 2019/1416 and 2020/646.

(24) 2000 c. 8.

“CHAPTER 1A

SUPERVISION OF TRADE REPOSITORIES

Supervision of trade repositories

25A.—(1) If the FCA considers that—

- (a) a trade repository has contravened, or is likely to contravene, a requirement imposed by or under this Part, the SFT regulation or Part 2 of the Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020(25), or
- (b) it is desirable to exercise the power in order to advance one or more of its operational objectives set out in section 1B(3) of FSMA,

it may impose, for such period as it considers appropriate, such requirements in relation to the carrying on of trade repository activities as it considers necessary or expedient.

(2) A requirement may, in particular, be imposed so as to require a trade repository to take, or refrain from taking, specified action.

(3) The FCA may—

- (a) withdraw a requirement; or
- (b) vary a requirement so as to reduce the period for which it has effect or otherwise to limit its effect.

(4) The imposition of the requirement takes effect—

- (a) immediately, if the notice given under paragraph (6) states that that is the case; or
- (b) on such date as may be specified in the notice.

(5) 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.

(6) If the FCA proposes to impose, or imposes a requirement, it must give the trade repository written notice.

(7) The notice must—

- (a) give details of the requirement;
- (b) state the FCA’s reasons for imposition of the requirement;
- (c) inform the trade repository that it may make representations to the FCA within such period as may be specified in the notice, whether or not the trade repository has referred the matter to the Tribunal;
- (d) inform the trade repository of when the imposition of the requirement takes effect; and
- (e) inform the trade repository of its right to refer the matter to the Tribunal.

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

(9) If, having considered any representations made by the trade repository, the FCA decides—

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

it must give the trade repository written notice.

(10) If, having considered any representations made by the trade repository, the FCA decides—

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

it must give the trade repository written notice.

(11) A notice under paragraph (9) must inform the trade repository of its right to refer the matter to the Tribunal.

(12) A notice under paragraph (10)(b) must comply with paragraph (7).

(13) If a notice informs the trade repository of its right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.

(14) A trade repository may refer to the Tribunal the FCA's decision to impose a requirement under this regulation.”.

(7) In regulation 35 (application of Part 9A FSMA), after paragraph (7) insert—

“(7A) In section 138H (verification of rules)—

- (a) each reference to a regulator is a reference to the FCA;
- (a) each reference to either regulator is a reference to the FCA only.”.

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

57.—(1) The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019(26) are amended as follows.

(2) In regulation 121(2) (Article 3 (interpretation)), omit the references to “aircraft operator”, “auction platform”, “emission allowance auctioning regulation”, “greenhouse gas emissions allowances”, “operator”, “reception”, “transmission” and “submission”.

(3) Omit—

- (a) regulation 126 (Article 24A (bidding in emissions auctions));
- (b) 127 (Article 24B (miscellaneous exclusions));
- (c) regulation 154 (Article 82A (greenhouse gas emissions allowances));
- (d) regulation 155(2) (Article 82B (emission allowances));
- (e) regulation 178(3)(a) (the Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001);
- (f) regulation 179(2) (the Financial Services and Markets Act 2000 (Professions) (Non-exempt Activities) Order 2001).

The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019

58.—(1) The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019(27) are amended as follows.

(2) In regulation 2 (amendment of Regulation (EU) 2016/1011), before “is amended as follows” insert “, as it forms part of retained EU law,”.

(26) [S.I. 2019/632](#).

(27) [S.I. 2019/657](#), as amended by [S.I. 2020/646](#).

- (3) In regulation 4(b)(i) (scope), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.
- (4) In regulation 5(10) (definitions), omit sub-paragraph (f).
- (5) For regulation 13(3) (code of conduct) substitute—
- “(3) In paragraph 5—
- (a) for “relevant competent authority”, each time it occurs, substitute “FCA”;
- (b) for “application of the decision to include a critical benchmark in the list referred to in Article 20(1)” substitute “the Treasury making regulations under Articles A20(5) or (6), or 20(5) specifying a benchmark as critical”.”.
- (6) In regulation 15 (review of critical benchmarks) in new Article A20—
- (a) in paragraph 1—
- (i) for “review” substitute “proportionate review”;
- (ii) at the end insert “, taking into account information provided to it under paragraph A1 of Article 20”;
- (b) in paragraph 2(a)(ii), for “point” substitute “points”.
- (7) In regulation 16 (critical benchmarks: amendments to Article 20), after paragraph (2) insert—
- “(2A) Before paragraph 1 insert—
- “**A1.** An administrator shall immediately notify the FCA when the administrator’s benchmark:
- (a) exceeds the threshold in paragraph 1(a); or
- (b) fulfils the criterion in paragraph 1(c)(ii) and there is reason to believe that it also fulfils the criterion in paragraph 1(c)(iii).”.”.

The Securitisation (Amendment) (EU Exit) Regulations 2019

59.—(1) The Securitisation (Amendment) (EU Exit) Regulations 2019(**28**) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “the EMIR Regulation”, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) In regulation 4(4)(c) (Article 2 (definitions)), for new point (c) substitute—

“(c) an occupational pension scheme as defined in section 1(1) of the Pension Schemes Act 1993(**29**) that has its main administration in the United Kingdom, or a fund manager of such a scheme appointed under section 34(2) of the Pensions Act 1995(**30**) that, in respect of activity undertaken pursuant to that appointment, is authorised for the purposes of section 31 of the 2000 Act.”

(4) In regulation 15 (Articles 13 to 15 (notification of ESMA decisions relating to registration or extension of registration, powers of ESMA and withdrawal of registration)), in the new Article 15 at paragraph 3(b), insert “Chapter 1A,” before “Chapter 2”.

(28) S.I. 2019/660, as amended by S.I. 2020/646.

(29) 1993 c. 48. The definition of “occupational pension scheme” was inserted by section 239 of the Pensions Act 2004 (c. 35) and amended by S.I. 2007/3014.

(30) 1995 c. 26.

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

60.—(1) The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019⁽³¹⁾ are amended as follows.

(2) In regulation 3 (the Credit Institutions (Reorganisation and Winding Up) Regulations 2004⁽³²⁾), after the words “Gibraltarian credit institutions,” insert “investment firms and group companies”.

(3) In Schedule 1 (modifications to the Insurers (Reorganisation and Winding Up) Regulations 2004⁽³³⁾)—

- (a) at the beginning of paragraph 2, after the words “Regulation 2 applies as if—” insert—
 - “(a) in paragraph (1)—”;
- (b) in paragraph (2), re-number paragraphs (a) to (h) as (i) to (viii);
- (c) at the end of paragraph 2, after sub-paragraph (viii) insert—
 - “(b) in paragraph (2)—
 - (i) in sub-paragraphs (a) and (b), for “the relevant EEA State” both times it occurs, there were substituted “Gibraltar”;
 - (ii) the words after sub-paragraph (b) were omitted.”;
- (d) for paragraph 6 substitute—
 - “**6.** Regulation 10 applies as if—
 - (a) in the heading, for “EEA regulators”, there were substituted “the Gibraltarian regulator”;
 - (b) for “EEA regulators in every EEA State”, both times it occurs, there were substituted “Gibraltarian regulator”.”.

(4) In Schedule 2 (modifications to the Credit Institutions (Reorganisation and Winding Up) Regulations 2004)—

- (a) in paragraph 3, after sub-paragraph (b) insert—
 - “(c) paragraph (7A) were omitted.”;
- (b) in paragraph 6, for “from the purposes of Articles 10” substitute “for the purposes of Articles 10”;
- (c) in paragraph 7, for sub-paragraph (c) substitute—
 - “(c) for paragraph (4), there were substituted—
 - “(4) In this regulation, the “relevant person” means, if the UK credit institution has a branch in Gibraltar, the Gibraltarian regulator.””

The Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019

61.—(1) Regulation 4(2) (the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001) of the Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019⁽³⁴⁾ is amended as follows.

- (2) Omit sub-paragraphs (c) and (d).

⁽³¹⁾ S.I. 2019/680, to which there are amendments not relevant to these Regulations.

⁽³²⁾ S.I. 2004/1045; relevant amending instruments are S.I. 2019/38, and 2019/680.

⁽³³⁾ S.I. 2004/353; relevant amending instruments are S.I. 2019/38 and 2019/680.

⁽³⁴⁾ S.I. 2019/681.

(3) In sub-paragraph (g), in sub-paragraphs (a) and (b)(ii) of the definition of “markets in financial instruments information” omit “(as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018(35))”.

(4) In sub-paragraph (m), in the definition of “retained EU law restrictions”, for “as they had effect immediately before exit day” substitute “, and (excluding those specified at paragraphs (h) and (j) of that definition) as they had effect immediately before IP completion day,”.

(5) Omit sub-paragraph (n).

(6) In sub-paragraph (o), in the definition of “short-selling information” omit “(as amended by the Short Selling (Amendment) (EU Exit) Regulations 2018(36))”.

The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019

62. In paragraph 63(1) of Schedule 1 to the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019(37), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

The Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019

63. Omit regulation 73 (prospectus approved before 21st July 2019 by competent authority of other EEA state) of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019(38).

The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019

64.—(1) The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019(39) are amended as follows.

(2) In regulation 25 (revocation of UK instruments), omit paragraphs (b) and (c).

(3) In regulation 26 (Regulation (EU) 648/2012), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(4) In regulation 33 (revocation of EU Regulations), omit paragraph (b).

(5) Omit regulation 41 (transitional provision: group supervision).

The Capital Requirements (Amendment) (EU Exit) Regulations 2019

65.—(1) The Capital Requirements (Amendment) (EU Exit) Regulations 2019(40) are amended as follows.

(2) Omit—

(a) regulation 14 (Article 11 (general treatment));

(b) regulation 17 (Article 18 (methods of prudential consolidation));

(c) regulation 36 (Article 124 (exposures secured by mortgages on immovable property));

(35) S.I. 2018/1403.

(36) S.I. 2018/1321.

(37) S.I. 2019/685, as amended by S.I. 2019/1416 and 2020/646.

(38) S.I. 2019/707, as amended by S.I. 2019/1234.

(39) S.I. 2019/710, as amended by S.I. 2019/1416 and 2020/646.

(40) S.I. 2019/1232.

(d) regulation 38 (Article 164 (loss given default (LGD))).

(3) In regulation 79 (Article 501a (adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services)), after “Omit” insert “paragraphs 4 and 5 of”.

The Prospectus (Amendment etc.) (EU Exit) Regulations 2019

66.—(1) The Prospectus (Amendment etc.) (EU Exit) Regulations 2019(41) are amended as follows.

(2) In regulation 71 (amendments of Commission Delegated Regulation (EU) 2019/980)—

(a) after paragraph (2), insert—

“(2A) Omit Article 11.”;

(b) omit paragraph (4)(a);

(c) omit paragraph (5)(a).

(3) In the Schedule (amendments of Annexes to Commission Delegated Regulation (EU) 2019/980)—

(a) after paragraph 7, insert—

“7A. Omit Annex 10.”;

(b) in paragraph 19(7)(b), omit “in the second paragraph, in point (a), ”;

(c) in paragraph 20(6)(b), omit “in the second paragraph, in point (a), ”;

(d) omit paragraph 22(8).

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019

67.—(1) The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019(42) are amended as follows.

(2) In regulation 25, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) In regulation 29—

(a) omit paragraph (2)(a);

(b) after paragraph (2) insert—

“(2A) In paragraph 1a, in the fourth sub-paragraph, in point (a) for “Union” substitute “United Kingdom”.

(2B) For paragraph 1d, substitute—

“1d. The trustees or managers of an occupational pension scheme (within the meaning given in section 1(1) of the Pension Schemes Act 1993) shall be responsible, and legally liable, for reporting the details of OTC derivative contracts to which that occupational pension scheme is a counterparty.”.

(4) Omit regulation 32.

(41) S.I. 2019/1234.

(42) S.I. 2019/1416, as amended by S.I. 2020/646.

The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020

68. In regulation 12(4) of the Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020(43), in new regulation 14A(3)(c)(ii) to be inserted by that provision, for “both places” substitute “each place”.

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020

69.—(1) The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020(44) are amended as follows.

(2) In regulation 20 (Article 25: general amendments)—

(a) after subparagraph (9)(c) insert—

“(ca) after the third sub-paragraph insert—

“Recognition under this Article must be granted only for services or activities linked to clearing and the decision granting recognition must specify the services or activities which the CCP is recognised to provide or perform, including the classes of financial instruments covered by the recognition.”;”;

(b) in paragraph (10), in new paragraph 4A, at point (a), for “6 months” substitute “18 months”.

(3) In regulation 30 (Article 81), for the text to be inserted at the end of Article 81(3) of 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, substitute—

“.

(g) the body known as the Panel on Takeovers and Mergers;

(h) the PRA.”.

The Equivalence Determinations for Financial Services (Amendment etc.) (EU Exit) Regulations 2020

70.—(1) The Equivalence Determinations for Financial Services (Amendment etc.) (EU Exit) Regulations 2020(45) are amended as follows.

(2) For regulation 1(2) (citation and commencement) substitute—

“(2) Subject to paragraph (3), these Regulations come into force on the day after the day on which they are made.

(3) Regulations 6A and 8A come into force the day after the day on which the Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 are made.”.

(3) After regulation 6 (application of the 2000 Act to the Bank in relation to its functions under these Regulations), insert—

(43) [S.I. 2020/628](#).

(44) [S.I. 2020/646](#).

(45) [S.I. 2020/1055](#).

“Misleading the FCA: criminal offence

6A. Section 398 (misleading the FCA or PRA: residual cases) of the Financial Services and Markets Act 2000⁽⁴⁶⁾ applies to a requirement to provide information in accordance with these Regulations as it applies to a requirement falling within subsection (1A) of that section.”.

(4) After regulation 8 (effect of applications, equivalence directions and regulatory decisions on or after IP completion day) insert—

“Power for the FCA to establish arrangements for Article 5(7) of CRAR with third country regulators before IP completion day

8A.—(1) Before IP completion day, the FCA may establish arrangements with a third country regulator for the purposes of Article 5(7) of CRAR;

(2) Nothing in this regulation affects the operation or scope of the FCA’s existing powers.

(3) In this regulation, “third country regulator” means a regulator, other than a regulator for the UK or a part of the UK or an EEA regulator, with functions that correspond to those of the FCA in relation to CRAR.”.

Amendments to cross references to retained EU Regulations

71. The Schedule has effect.

⁽⁴⁶⁾ 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c. 21), S.I. 2013/1773, S.I. 2015/1882, S.I. 2016/680, S.I. 2017/701, S.I. 2018/135, S.I. 2018/698, S.I. 2019/362, and S.I. 2019/1043.