
STATUTORY INSTRUMENTS

2020 No. 1385

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

PART 5

Amendment of secondary legislation

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⁽¹⁾ 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⁽²⁾.”.

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

“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⁽³⁾, 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,

⁽¹⁾ S.I. 2019/542, as amended by S.I. 2019/1416 and 2020/646.

⁽²⁾ 2000 c. 8.

⁽³⁾ S.I. 2020/XXX.

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.”.