
STATUTORY INSTRUMENTS

2022 No. 1252

FINANCIAL SERVICES

**The Financial Services and Markets Act 2000
(Qualifying Provisions) (Amendment) Order 2022**

<i>Made</i>	- - - -	<i>29th November 2022</i>
<i>Laid before Parliament</i>		<i>30th November 2022</i>
<i>Coming into force</i>	- -	<i>1st January 2023</i>

The Treasury, in exercise of the powers conferred by the following sections of the Financial Services and Markets Act 2000⁽¹⁾: 1A(6)(d); 1L(2)(b); 2AB(3)(d); 39(4)(b); 66A(4)(b); 66B(4)(b); 168(4)(k); 204A(2)(b); 293A(1); 296(1A); 297(2A)(c); 312E(2)(c); 312E(3)(c); 380(6)(a)(i); 382(9)(a)(i); 384(7)(a); 428; by paragraph 23(2) of Schedule 1ZA, paragraph 31(2) of Schedule 1ZB and paragraphs 14(2)(d), 26(2)(c), 30(c) and 36(2)(b) of Schedule 17A to that Act⁽²⁾; and by regulation 206(1)(a) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019⁽³⁾, makes the following Order:

Citation, commencement and extent

1. This Order may be cited as the Financial Services and Markets Act 2000 (Qualifying Provisions) (Amendment) Order 2022 and comes into force on 1st January 2023.

2. This Order extends to England and Wales, Scotland and Northern Ireland.

Amendment of the Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013

3.—(1) The Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013⁽⁴⁾ is amended as follows.

(2) In Article 1 (Citation, commencement and interpretation)—

-
- (1) [2000 c. 8](#). Sections 1A to 3S, 39(4)(b), 168, 204A(2)(b), 293A, 296, 297, 312E, 380(6)(a)(i), 382(9)(a)(i), and 384(7)(a) were inserted or amended by the Financial Services Act 2012 ([c. 21](#)) and relevant amendments were made by [S.I. 2007/126](#), [S.I. 2013/504](#), [S.I. 2017/1064](#), [S.I. 2019/632](#) and [S.I. 2019/662](#). Sections 66A(4)(b) and 66B(4)(b) were inserted by the Financial Services (Banking Reform) Act 2013 ([c. 33](#)) and relevant amendments were made by [S.I. 2019/632](#).
- (2) Schedules 1ZA and 1ZB were inserted by Schedule 3 to the Financial Services Act 2012 ([c. 21](#)), and relevant amendments were made by [S.I. 2019/632](#). Schedule 17A was inserted by Schedule 7 to that Act, and relevant amendments were made by [S.I. 2017/1064](#), [S.I. 2019/632](#) and [S.I. 2019/662](#).
- (3) [S.I. 2019/632](#).
- (4) [S.I. 2013/419](#), amended by [S.I. 2017/701](#) and [S.I. 2019/632](#).

- (a) in paragraph (2), in the appropriate place, insert—
 - ““markets in financial instruments regulation” means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012;”;
 - (b) in paragraph (5), at the beginning, for “In” substitute “Subject to paragraph (5A), in”; and
 - (c) after paragraph (5), insert—
 - “(5A) In this Order a reference to any directly applicable regulation (or EU regulation) made under the PRIIPs regulation, the markets in financial instruments regulation or the European market infrastructure regulation (“the parent Regulation”) is a reference to—
 - (a) any EU regulation, originally made under the parent Regulation, which is retained direct EU legislation;
 - (b) technical standards made in relation to the parent Regulation in accordance with Chapter 2A of Part 9A of the Act;
 - (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) which is made under a power substituted for a power of an EU entity to make a directly applicable regulation under the parent Regulation by regulations made under section 8 of the European Union (Withdrawal) Act 2018, and
 - (d) rules made under the parent Regulation.”.
- (3) In Articles 3(2)(aa) and 5(2)(aa), at the end, insert “, except for Title VIII (Provision of services and performance of activities by third-country firms following an equivalence determination with or without a branch) and any directly applicable EU regulation made under that title”.

29th November 2022

Amanda Solloway
Andrew Stephenson
Two of the Lords Commissioners of His
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013 (“QUPO”). The Financial Services Act 2021 (c. 22) inserted regulator rule-making powers into Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (“PRIIPs regulation”), Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (“markets in financial instruments regulation”) and Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (“European market infrastructure regulation”). Rules made under these powers do not fall within the scope of QUPO and therefore enforcement powers are not currently available to the regulators.

As a result of article 3(2), any rules made under the PRIIPs regulation, the markets in financial instruments regulation or the European market infrastructure regulation are specified as qualifying provisions for the purposes of various provisions of the Financial Services and Markets Act 2000. This means that the appropriate regulator may use powers in the Financial Services and Markets Act 2000 to bring enforcement action for any breach. Article 3(2) also establishes the definition for the markets in financial instruments regulation. Article 3(3) excludes Title VIII of the markets in financial instruments regulation for the purposes of sections 204A(2), 380(6)(a), 382(9)(a) and 384(7)(a) of the Financial Services and Markets Act 2000.

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.