STATUTORY INSTRUMENTS

2023 No. 472

FINANCIAL SERVICES

The Pension Fund Clearing Obligation Exemption and Intragroup Transaction Transitional Clearing and Risk-Management Obligation Exemptions (Extension and Amendment) Regulations 2023

Made - - - -	*26th April 2023*
Laid before Parliament	*27th April 2023*
Coming into force - -	*12th June 2023*

The Treasury make these Regulations in exercise of the powers conferred by Article 89(1) of Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories(**1**) ("UK EMIR") and by regulation 84(1) of the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019(**2**).

In accordance with the fourth subparagraph of Article 89(1) of Regulation (EU) 648/2012, the Treasury have concluded for the purposes of extending the exemption in the first subparagraph of Article 89(1) of that Regulation that no appropriate technical solution has been developed for the transfer by pension scheme arrangements and EEA pension scheme arrangements of cash and non-cash collateral as variation margins and that the adverse effect of centrally clearing derivative contracts on the retirement benefits of future pensioners remains.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pension Fund Clearing Obligation Exemption and Intragroup Transaction Transitional Clearing and Risk-Management Obligation Exemptions (Extension and Amendment) Regulations 2023.

(2) These Regulations come into force on 12th June 2023.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(**1**) EUR 2012/648, amended by S.I. 2019/1416; there are other amending instruments but none is relevant.
(**2**) S.I. 2019/335, amended by S.I. 2020/1385.

Extension of the pension fund exemption to the clearing obligation provided for in Article 89 of Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories

2. In Article 89(1) (transitional provisions) of Regulation (EU) 648/2012, the exemption in the first subparagraph is extended by two years so that it ends on 18th June 2025.

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

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

(2) In regulation 81, for paragraphs (1)(b) and (2)(b) substitute—

“(b) in respect of any third country in which a non-UK counterparty is established, 31st December 2026.”.

(3) In regulation 83, for paragraphs (1)(b) and (2)(b) substitute—

“(b) in respect of any third country in which a non-UK counterparty is established, 31st December 2026.”.

Scott Mann
Steve Double
Two of the Lords Commissioners of His Majesty’s Treasury

26th April 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend the transitional provision in Article 89 of Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ("UK EMIR") which exempts certain pension fund transactions from the clearing obligation provided for in Article 4 of UK EMIR. Regulation 2 provides that this exemption, in the first subparagraph of Article 89(1) of UK EMIR, is extended by two years, so that it ends on 18th June 2025.

These Regulations also extend the transitional exemption for certain intragroup transactions from certain clearing and risk-management obligations in the Over-the-Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335) (the "2019 Regulations"). Regulation 3 amends regulations 81 and 83 of the 2019 Regulations, extending these exemptions by three years.

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. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.