
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Financial Markets and Insolvency (Amendment
and Transitional Provision) (EU Exit) Regulations 2019**

PART 4

Temporary Designation Regime

Interpretation

13. In this Part—

“designating authority” has the same meaning as in the 1999 Regulations;

“Settlement Finality Directive” means [Directive 98/26/EC](#) of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems⁽¹⁾ as it has effect in EU law as amended from time to time;

“system” has the same meaning as in the 1999 Regulations;

“temporary designation” in respect of a system means that such system is taken to be the subject of a designation order under regulation 4(1) of the 1999 Regulations;

“temporary designation period” means the period determined by regulation 18.

Application of Part 4

14. This Part applies to a system (“S”) and a body corporate or unincorporated body of persons (“P”) that is the operator of S, where—

(a) immediately before exit day, S is specified as a system and P is specified as the system operator in relation to S, by an EEA state (other than the United Kingdom), to be included within the scope of the Settlement Finality Directive in accordance with article 10 of that directive; and

(b) before exit day, P has complied with the notification requirement in regulation 15.

Notification requirement

15.—(1) Where P intends S to have temporary designation, it must notify the designating authority.

(2) For the purposes of paragraph (1), the notification must—

(a) be made no later than exit day;

(b) be made in such manner as the designating authority may direct; and

(c) contain, or be accompanied by, such information as the designating authority may direct.

(3) The designating authority must confirm receipt of the notification promptly to P.

(1) OJ L 166, 11.6.1998, p. 45–50

Effect of acknowledgment of notification

16.—(1) Where P has made a notification under paragraph (1) of regulation 15, which has been acknowledged by the designating authority in accordance with paragraph (3) of regulation 15, S is a temporarily designated system.

(2) A temporarily designated system has temporary designation, from exit day to the end of the temporary designation period.

(3) Regulations 5 (fees) and 10 (provision of information by designated systems) of the 1999 Regulations do not apply to a temporarily designated system until such time as it makes an application under regulation 3 (application for designation) of the 1999 Regulations.

(4) The designating authority must publish on its website a list of temporarily designated systems.

Cessation of temporary designation

17.—(1) A temporarily designated system ceases to be a temporarily designated system where any of the following conditions are met.

(2) The first condition is that P has not submitted an application under regulation 3(1) of the 1999 Regulations, by the end of the period of 6 months beginning on the day after exit day.

(3) The second condition is that the temporarily designated system ceases to be specified as included within the scope of the Settlement Finality Directive in accordance with article 10 of that Directive.

(4) The third condition is that P has submitted an application to the designating authority under regulation 3(1) of the 1999 Regulations and—

- (a) withdraws its application; or
- (b) the application is determined by the designating authority.

(5) The fourth condition is that the Bank of England directs that the system is to cease to be a temporarily designated system.

(6) A direction may only be given under paragraph (5) where—

- (a) the Bank of England considers that there would otherwise be an adverse effect on financial stability in the United Kingdom;
- (b) P has expressly renounced the temporary designation; or
- (c) P has submitted an application to the designating authority under regulation 3(1) of the 1999 Regulations, and has made false statements in relation to the application or has sought to obtain designation by any other irregular means.

Temporary designation period duration

18.—(1) The temporary designation period is the period of 3 years beginning on the day after exit day.

(2) If the Treasury is satisfied that it is necessary and proportionate to avoid disruption to the financial stability of the United Kingdom, it may by regulations amend paragraph (1) to extend the temporary designation period by a period not exceeding 12 months.

(3) If the Treasury is satisfied that the conditions in paragraph (2) are met, it may exercise the power to extend the temporary designation period by regulations as described there on more than one occasion.

Regulations under this Part

19.—(1) Any power to make regulations conferred on the Treasury by this Part is exercisable by statutory instrument.

(2) Such regulations may—

(a) contain incidental, supplemental, consequential and transitional provision; and

(b) make different provision for different purposes.

(3) A statutory instrument containing regulations made under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

Application of the 2000 Act to the Bank of England in relation to its functions under this Part

20. Section 398 (misleading FCA or PRA: residual cases)⁽²⁾ of the 2000 Act applies to information given to the Bank of England in purported compliance with a requirement that is imposed by or under this Part.

(2) Section 398 was 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 and S.I. 2018/135.