



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVIII

#### [<sup>F1</sup>RECOGNISED INVESTMENT EXCHANGES, CLEARING HOUSES AND CSDS]

##### Textual Amendments

- F1** Pt. 18 heading substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(8)** (with regs. 7(4), 9(1))

##### Modifications etc. (not altering text)

- C1** Pt. 18 applied in part (with modifications) (12.12.2011) by [The Recognised Auction Platforms Regulations 2011 \(S.I. 2011/2699\)](#), **reg. 7, Sch. 2** (as amended (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), reg. 1, **Sch. para. 37** (with regs. 7(4), 9(1)))

### CHAPTER I

#### EXEMPTION

##### *General*

#### **285** [<sup>F2</sup>Exemption for recognised bodies etc.]

(1) In this Act—

(a) “recognised investment exchange” means an investment exchange in relation to which a recognition order is in force;

[<sup>F3</sup>(b) “recognised clearing house” means—

(i) a central counterparty in relation to which a recognition order is in force (in this Part referred to as a “recognised central counterparty”),  
or

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- (ii) a clearing house which provides clearing services in the United Kingdom without doing so as a central counterparty, and in relation to which a recognition order is in force;
- <sup>F4</sup>(c) .....
- (d) [<sup>F5</sup>“third country central counterparty” means a person established in a country other than the United Kingdom who has been recognised by the Bank of England as a central counterparty pursuant to Article 25 of the EMIR Regulation;]
- <sup>F6</sup>(e) “recognised CSD” means a central securities depository in relation to which a recognition order is in force;
- <sup>F7</sup>(g) “third country CSD” means a central securities depository, established in a country other than the United Kingdom, which is recognised by the Bank of England pursuant to Article 25 of the CSD regulation.]]
- (2) A recognised investment exchange is exempt from the general prohibition as respects any regulated activity—
- (a) which is carried on as a part of the exchange’s business as an investment exchange; or
- <sup>F8</sup>(b) which is carried on for the purposes of, or in connection with, the provision by the exchange of services designed to facilitate the provision of clearing services by another person.]
- (3) [<sup>F9</sup>A recognised clearing house which is not a recognised central counterparty] is exempt from the general prohibition as respects any regulated [<sup>F10</sup>activity—
- (a) which is carried on for the purposes of, or in connection with, the provision of clearing services by the clearing house, or
- (b) which is carried on for the purposes of, or in connection with, the provision by the clearing house of services designed to facilitate the provision of clearing services by another person.]
- <sup>F11</sup>(3ZA) Subsections (2) and (3) do not apply in respect of the regulated activity specified in article 63S of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (administering a benchmark).]
- <sup>F12</sup>(3A) A recognised central counterparty is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services or activities specified in its recognition order.
- <sup>F13</sup>(3B) .....
- (3C) A third country central counterparty is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services or activities specified in its recognition by [<sup>F14</sup>the Bank of England] pursuant to Article 25 of the EMIR regulation.]
- <sup>F15</sup>(3D) A recognised CSD is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with—
- (a) the core services listed in Section A of the Annex to the CSD regulation which the central securities depository is authorised to provide pursuant to Article 16 or 19(1)(a) or (c) of that regulation, or
- (b) any non-banking-type ancillary services listed in or permitted under Section B of that Annex which the central securities depository is authorised to provide, including services notified under Article 19 of the CSD regulation.

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<sup>F16</sup>(3E) .....

<sup>F16</sup>(3F) .....

(3G) A third country CSD is exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, the services and activities covered by its recognition by [<sup>F17</sup>the Bank of England] pursuant to Article 25 of the CSD regulation.

(3H) But a recognised CSD <sup>F18</sup>... or a third country CSD is not exempt from the general prohibition as respects any regulated activity which is carried on for the purposes of, or in connection with, any banking-type ancillary service listed in or permitted under Section C of the Annex to the CSD regulation.]

[<sup>F19</sup>(4) The Treasury may by order amend paragraph (b) of subsection (2) or (3).]

#### Textual Amendments

- F2** S. 285 heading substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(9)(a)** (with regs. 7(4), 9(1))
- F3** S. 285(1)(b)-(d) substituted for s. 285(1)(b) and word (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(3)(a)** (with regs. 52-58)
- F4** S. 285(1)(c) omitted (31.12.2020) by virtue of The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(2)(a)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 285(1)(d) substituted (31.12.2020) by The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(2)(b)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 285(1)(e)-(g) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(9)(b)(ii)** (with regs. 7(4), 9(1))
- F7** S. 285(1)(g) substituted for s. 285(1)(f)(g) (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 285(2)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 28(2)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F9** Words in s. 285(3) substituted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(3)(b)** (with regs. 52-58)
- F10** Words in s. 285(3) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 28(3)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F11** S. 285(3ZA) inserted (27.2.2018) by The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018 (S.I. 2018/135), regs. 1(2), **45**
- F12** S. 285(3A)-(3C) inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(3)(c)** (with regs. 52-58)
- F13** S. 285(3B) omitted (31.12.2020) by virtue of The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(3)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- F14** Words in s. 285(3C) substituted (31.12.2020) by The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **3(4)** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F15** S. 285(3D)-(3H) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(9)(c)** (with regs. 7(4), 9(1))
- F16** S. 285(3E)(3F) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in s. 285(3G) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in s. 285(3H) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** S. 285(4) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 28(4)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.

## **[<sup>F20</sup>285A]<sup>F21</sup>Powers exercisable in relation to recognised bodies]**

- (1) For the purposes of this Part, the FCA is “the appropriate regulator” in relation to recognised investment exchanges.
- (2) For the purposes of this Part, the Bank of England is “the appropriate regulator” in relation to recognised clearing houses [<sup>F22</sup>and recognised CSDs].
- (3) In Schedule 17A—
  - (a) Part 1 makes provision for a memorandum of understanding between the appropriate regulators [<sup>F23</sup>, and between the FCA and the PRA,] with respect to the exercise of their functions in relation to recognised [<sup>F24</sup>bodies];
  - (b) Part 2 applies certain provisions of this Act in relation to the Bank of England in consequence of the conferring of functions on the Bank under this Part of this Act;
  - (c) Part 3 makes provision relating to the winding up, administration or insolvency of [<sup>F25</sup>recognised clearing houses][<sup>F26</sup>and recognised CSDs]; and
  - (d) Part 4 makes provision about fees.]

### **Textual Amendments**

- F20** S. 285A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), **ss. 29(1)**, 122(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F21** S. 285A heading substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(10)(a)** (with regs. 7(4), 9(1))
- F22** Words in s. 285A(2) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in s. 285A(3)(a) substituted (1.3.2017) by Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 43** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F24** Word in s. 285A(3)(a) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(10)(c)(i)** (with regs. 7(4), 9(1))

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- F25** Words in s. 285A(3)(c) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(4)** (with regs. 52-58)
- F26** Words in s. 285A(3)(c) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(10)(c)(ii)** (with regs. 7(4), 9(1))

## 286 Qualification for recognition.

- (1) The Treasury may make regulations setting out the requirements—
  - (a) which must be satisfied by an investment exchange [<sup>F27</sup>, clearing house or central securities depository] if it is to qualify as a body in respect of which [<sup>F28</sup>the appropriate regulator] may make a recognition order under this Part; and
  - (b) which, if a recognition order is made, it must continue to satisfy if it is to remain a recognised body.
- (2) But if regulations contain provision as to the default rules of an investment exchange [<sup>F29</sup>, clearing house or central securities depository], or as to proceedings taken under such rules by such a body, they require the approval of the Secretary of State.
- (3) “Default rules” means rules of an investment exchange [<sup>F30</sup>, clearing house or central securities depository] which provide for the taking of action in the event of a person’s appearing to be unable, or likely to become unable, to meet his obligations in respect of one or more market contracts connected with the exchange [<sup>F30</sup>, clearing house or central securities depository].
- (4) “Market contract” means—
  - (a) a contract to which Part VII of the <sup>M1</sup>Companies Act 1989 applies as a result of section 155 of that Act or a contract to which Part V of the <sup>M2</sup>Companies (No. 2)(Northern Ireland) Order 1990 applies as a result of Article 80 of that Order; and
  - (b) such other kind of contract as may be prescribed.

<sup>F31</sup>(4A) .....

<sup>F31</sup>(4B) .....

<sup>F31</sup>(4C) .....

<sup>F31</sup>(4D) .....

<sup>F31</sup>(4E) .....

[<sup>F32</sup>(4F) Regulations under subsection (1) may confer power on the appropriate regulator to make rules for the purposes of the regulations or of any specified provision made by the regulations.]

- (5) Requirements resulting from this section are referred to in this Part as “recognition requirements”.

[<sup>F33</sup>(6) In the case of an investment exchange, requirements resulting from this section are in addition to requirements which must be satisfied by the exchange as a result of section 290(1A) before [<sup>F34</sup>the FCA] may make a recognition order declaring the exchange to be a recognised investment exchange.]

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### Textual Amendments

- F27** Words in s. 286(1)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(11)(a)** (with regs. 7(4), 9(1))
- F28** Words in s. 286(1)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 2(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F29** Words in s. 286(2) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(11)(b)** (with regs. 7(4), 9(1))
- F30** Words in s. 286(3) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(11)(c)** (with regs. 7(4), 9(1))
- F31** S. 286(4A)-(4E) omitted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 29** (with reg. 7)
- F32** S. 286(4F) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), ss. 30, 122(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.
- F33** S. 286(6) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 2**
- F34** Words in s. 286(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 2(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

### Marginal Citations

- M1** 1989 c. 40.  
**M2** S.I. 1990/1504 (N.I. 10).

## *Applications for recognition*

### 287 Application by an investment exchange.

- (1) Any body corporate or unincorporated association may apply to [<sup>F35</sup>the FCA] for an order declaring it to be a recognised investment exchange for the purposes of this Act.
- (2) The application must be made in such manner as [<sup>F36</sup>the FCA] may direct and must be accompanied by—
  - (a) a copy of the applicant’s rules;
  - (b) a copy of any guidance issued by the applicant;
  - (c) the required particulars; and
  - (d) such other information as [<sup>F36</sup>the FCA] may reasonably require for the purpose of determining the application.
- (3) The required particulars are—
  - (a) particulars of any arrangements which the applicant has made, or proposes to make, for the provision [<sup>F37</sup>by another person] of clearing services in respect of transactions effected on the exchange;
  - (b) if the applicant proposes to provide [<sup>F38</sup>services falling within section 285(2)(b)] in respect of transactions other than those effected on the exchange,

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particulars of the criteria which the applicant will apply when determining to whom it will provide those services [<sup>F39</sup>;

- (c) a programme of operations which includes the types of business the applicant proposes to undertake and the applicant's proposed organisational structure;
- (d) such particulars of the persons who effectively direct the business and operations of the exchange as [<sup>F40</sup>the FCA] may reasonably require;
- (e) such particulars of the ownership of the exchange, and in particular of the identity and scale of interests of the persons who are in a position to exercise significant influence over the management of the exchange, whether directly or indirectly, as [<sup>F41</sup>the FCA] may reasonably require.]

[<sup>F42</sup>(4) Subsection (3)(c) to (e) does not apply to an application by an overseas applicant.]

#### Textual Amendments

- F35** Words in s. 287(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by *Financial Services Act 2012* (c. 21), s. 122(3), **Sch. 8 para. 3(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F36** Words in s. 287(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by *Financial Services Act 2012* (c. 21), s. 122(3), **Sch. 8 para. 3(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F37** Words in s. 287(3)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by *Financial Services Act 2012* (c. 21), s. 122(3), **Sch. 8 para. 3(3)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F38** Words in s. 287(3)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by *Financial Services Act 2012* (c. 21), s. 122(3), **Sch. 8 para. 3(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F39** S. 287(3)(c)-(e) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by *The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007* (S.I. 2007/126), regs. 1(2), 3(2), **Sch. 2 para. 3(a)**
- F40** Words in s. 287(3)(d) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by *Financial Services Act 2012* (c. 21), s. 122(3), **Sch. 8 para. 3(3)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F41** Words in s. 287(3)(e) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by *Financial Services Act 2012* (c. 21), s. 122(3), **Sch. 8 para. 3(3)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F42** S. 287(4) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by *The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007* (S.I. 2007/126), regs. 1(2), 3(2), **Sch. 2 para. 3(b)**

#### Commencement Information

- I1** S. 287 wholly in force at 3.9.2001; s. 287 not in force at Royal Assent see s. 431(2); s. 287(2) in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; s. 287 in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2, **Sch. Pt. 2**

<sup>F43</sup>**287A Application by an investment exchange: persons connected with an applicant**

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### Textual Amendments

- F43** S. 287A omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **5(4)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## 288 Application by a clearing house.

[<sup>F44</sup>(A1) This section applies only in relation to an application by a clearing house.]

[<sup>F45</sup>(1) A body corporate or unincorporated association which is established in the United Kingdom may, where it intends to provide clearing services as a central counterparty, apply to the Bank of England in accordance with Article 17 of the EMIR regulation for an order granting authorisation for the purposes of that Article and declaring it to be a recognised central counterparty for the purposes of this Act.

(1A) A body corporate or unincorporated association may, where it intends to provide clearing services in the United Kingdom without doing so as a central counterparty, apply to the Bank of England for an order declaring it to be for the purposes of this Act a recognised clearing house which is not a recognised central counterparty.]

(2) [<sup>F46</sup>An application under subsection (1A)] must be made in such manner as [<sup>F47</sup>the Bank of England] may direct and must be accompanied by—

- (a) a copy of the applicant's rules;
- (b) a copy of any guidance issued by the applicant;
- (c) the required particulars; and
- (d) such other information as [<sup>F48</sup>the Bank] may reasonably require for the purpose of determining the application.

(3) The required particulars are—

- (a) if the applicant makes, or proposes to make, clearing arrangements with a recognised investment exchange, particulars of those arrangements;
- (b) if the applicant proposes to provide clearing services [<sup>F49</sup>or services falling within section 285(3)(b)] for persons other than recognised investment exchanges, particulars of the criteria which it will apply when determining to whom it will provide those services.

### Textual Amendments

- F44** S. 288(A1) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017](#) (S.I. 2017/1064), regs. 1, **2(12)** (with regs. 7(4), 9(1))
- F45** S. 288(1)(1A) substituted for s. 288(1) (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013](#) (S.I. 2013/504), regs. 1(2), **3(5)(a)** (with regs. 52-58)
- F46** Words in s. 288(2) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013](#) (S.I. 2013/504), regs. 1(2), **3(5)(b)** (with regs. 52-58)
- F47** Words in s. 288(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012](#) (c. 21), s. 122(3), **Sch. 8 para. 4(3)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.



*Status: Point in time view as at 29/06/2023.*

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**F48** Words in s. 288(2)(d) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 4(3)(b)** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

**F49** Words in s. 288(3)(b) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 4(4)** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### Commencement Information

**I2** S. 288 wholly in force at 3.9.2001; s. 288 not in force at Royal Assent see s. 431(2); s. 288(2) in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); s. 288 in force in so far as not already in force at 3.9.2001 by [S.I. 2001/2632](#), art. 2 [Sch. Pt. 2](#)

### [<sup>F50</sup>288A] Application by a central securities depository

Where a legal person which is established in the United Kingdom intends—

(a) to operate a securities settlement system referred to in point (3) of Section A of the Annex to the CSD regulation, and

(b) to provide at least one other core service listed in Section A of that Annex,

it may apply to the Bank of England in accordance with Article 17 of the CSD regulation [<sup>F51</sup>, and any technical standards originally made or adopted under that Article which are retained direct EU legislation and any technical standards made under that Article by the Bank on or after IP completion day,] for an order granting authorisation for the purposes of Article 16 of that regulation and declaring it to be a recognised CSD for the purposes of this Act.]

#### Textual Amendments

**F50** S. 288A inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(13)** (with regs. 7(4), 9(1))

**F51** Words in s. 288A substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(5)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 37(b)**) (with savings in [S.I. 2019/680](#), **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

### 289 Applications: supplementary.

(1) At any time after receiving an application and before determining it, [<sup>F52</sup>the appropriate regulator] may require the applicant to provide such further information as it reasonably considers necessary to enable it to determine the application.

(2) Information which [<sup>F53</sup>the appropriate regulator] requires in connection with an application must be provided in such form, or verified in such manner, as [<sup>F53</sup>the appropriate regulator] may direct.

(3) Different directions may be given, or requirements imposed, by [<sup>F54</sup>the appropriate regulator] with respect to different applications.

[<sup>F55</sup>(4) In relation to an application under section 288(1), this section does not apply to information which can be required under Article 17 of the EMIR regulation.]

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- [<sup>F56</sup>(5) In relation to an application under section 288A, this section applies only in relation to information which the Bank of England may require in connection with recognition requirements which do not [<sup>F57</sup>derive from any of the following—
- (a) the CSD Regulation;
  - (b) any EU regulation, originally made under the CSD regulation, which is retained direct EU legislation;
  - (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the CSD regulation on or after IP completion day.]]

#### Textual Amendments

- F52** Words in s. 289(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 5](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F53** Words in s. 289(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 5](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F54** Words in s. 289(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 5](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F55** S. 289(4) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013](#) (S.I. 2013/504), regs. 1(2), [3\(6\)](#) (with regs. 52-58)
- F56** S. 289(5) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017](#) (S.I. 2017/1064), regs. 1, [2\(14\)](#) (with regs. 7(4), 9(1))
- F57** Words in s. 289(5) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), [5\(6\)](#) (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 37\(b\)](#)) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## 290 Recognition orders.

- [<sup>F58</sup>(1) If it appears to the appropriate regulator that the applicant satisfies the recognition requirements applicable in its case, the regulator may—
- (a) where the application is made under section 287, make a recognition order declaring the applicant to be a recognised investment exchange;
  - (b) where the application is made under section 288(1) and Article 17 of the EMIR regulation allows authorisation to be granted, make a recognition order (“a central counterparty recognition order”) granting authorisation for the purposes of that Article and declaring the applicant to be a recognised central counterparty; <sup>F59</sup> ...
  - (c) where the application is made under section 288(1A), make a recognition order declaring the applicant to be a recognised clearing house which is not a recognised central counterparty [<sup>F60</sup>; or
  - (d) where the application is made under section 288A, make a recognition order (a “CSD recognition order”) granting authorisation for the purposes of Article 16 of the CSD regulation and declaring the applicant to be a recognised CSD].]

[<sup>F61</sup>[<sup>F62</sup>(1A) In the case of an application for an order declaring the applicant to be a recognised investment exchange, the reference in subsection (1) to the recognition requirements

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applicable in its case includes a reference to requirements contained in any of the following—

- (a) any EU regulation, originally made under the markets in financial instruments directive, which is retained direct EU legislation;
- (b) any EU regulation, originally made under the markets in financial instruments regulation, which is retained direct EU legislation;
- (c) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the markets in financial instruments regulation on or after IP completion day.]

(1B) In the case mentioned in subsection (1A), the application must be determined by [<sup>F63</sup>the FCA] before the end of the period of six months beginning with the date on which it receives the completed application.

(1C) Subsection (1B) does not apply in the case of an application by an overseas applicant.]

[<sup>F64</sup>(1D) A central counterparty recognition order must specify the services or activities linked to clearing which the applicant may provide or perform and the classes of financial instruments covered by the order.]

[<sup>F65</sup>(1E) A CSD recognition order must specify—

- (a) the core services listed in Section A of the Annex to the CSD regulation which the applicant is authorised to provide pursuant to Article 16 or 19(1)(a) or (c) of that regulation, and
- (b) any non-banking-type ancillary services listed in or permitted under Section B of that Annex which the applicant is authorised to provide, including services notified under Article 19 of the CSD regulation.

(1F) A CSD recognition order must also record the terms of any of the following authorisations granted to the CSD under the CSD regulation or notifications made by the CSD under that regulation—

- (a) an authorisation under Article 19(1) of the CSD regulation to outsource a core service under Article 30 of that regulation,
- (b) an authorisation under Article 19(1)(d) of the CSD regulation (settlement of cash leg of securities settlement system in the books of another settlement agent),
- (c) an authorisation under Article 19(1)(e) of the CSD regulation (setting up interoperable link),
- (d) a notification under Article 19(5) of the CSD regulation (other CSD links),
- (e) an authorisation under Article 54 or 56 of the CSD regulation to provide (in accordance with Article 54(2)(a) or (b)) any banking-type ancillary service listed in or permitted under Section C of the Annex to that regulation, and
- (f) an authorisation to provide investment services and activities in addition to the services explicitly listed in Sections A and B of the Annex to the CSD regulation.]

<sup>F66</sup>(2) .....

(3) In considering an application [<sup>F67</sup>made under section 287 or 288(1A)], [<sup>F68</sup>the appropriate regulator] may have regard to any information which it considers is relevant to the application.

(4) A recognition order must specify a date on which it is to take effect.

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- [<sup>F69</sup>(4A) If the Bank of England has not made a decision in relation to an application under section 288A within six months of that application being complete, the applicant may refer the matter to the Tribunal.
- (4B) For the purposes of subsection (4A), an application is “complete” when the Bank of England informs the applicant that it is complete pursuant to Article 17(3) of the CSD regulation.]
- (5) Section 298 has effect in relation to a decision to refuse to make a recognition order [<sup>F70</sup>in respect of an investment exchange or a clearing house which is not a central counterparty]—
- (a) as it has effect in relation to a decision to revoke such an order; and
  - (b) as if references to a recognised body were references to the applicant.
- [<sup>F71</sup>(5A) Section 298 has effect in relation to a decision to refuse an application under section 288A—
- (a) as it has effect in relation to a decision to make a revocation order under section 297(1B); and
  - (b) as if references to a recognised body were references to the applicant.]
- <sup>F72</sup>(6) . . . . .
- [<sup>F73</sup>(7) Where—
- (a) a body corporate or unincorporated association has made an application under section 288(1), and
  - (b) the Bank of England has determined that application in accordance with Article 17 of the EMIR regulation,
- any previous recognition order under section 290(1)(c) or 292(2)(b) shall cease to be valid.]

#### Textual Amendments

- F58** S. 290(1) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(a)** (with regs. 52-58)
- F59** Word in s. 290(1)(b) omitted (28.11.2017) by virtue of [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(a)(i)** (with regs. 7(4), 9(1))
- F60** S. 290(1)(d) and word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(a)(ii)** (with regs. 7(4), 9(1))
- F61** S. 290(1A) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(7)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 37(b)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F62** S. 290(1A)-(1C) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 4**
- F63** Words in s. 290(1B) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 6(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F64** S. 290(1D) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(b)** (with regs. 52-58)

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- F65** S. 290(1E)(1F) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(b)** (with regs. 7(4), 9(1))
- F66** S. 290(2) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 6(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F67** Words in s. 290(3) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(c)** (with regs. 52-58)
- F68** Words in s. 290(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 6(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F69** S. 290(4A)(4B) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(c)** (with regs. 7(4), 9(1))
- F70** Words in s. 290(5) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(d)** (with regs. 52-58)
- F71** S. 290(5A) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(15)(d)** (with regs. 7(4), 9(1))
- F72** S. 290(6) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 6(6)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F73** S. 290(7) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(7)(e)** (with regs. 52-58)

#### Commencement Information

- I3** S. 290 wholly in force at 1.12.2001; s. 290 not in force at Royal Assent see s. 431(2); s. 290 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), art. 2(2), **Sch. Pt. 2**; s. 290 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

#### [<sup>F74</sup>290ZA] Variation of central counterparty recognition order

- (1) On an application made to it in accordance with Article 15 of the EMIR regulation, the Bank of England may in accordance with Article 17 of that regulation vary a central counterparty recognition order by specifying an additional service or activity or class of financial instruments.
- (2) Where Article 20(5) of the EMIR regulation applies, the Bank of England may vary a central counterparty recognition order by removing a service or activity or class of financial instruments from those specified in the order.
- (3) The Bank of England may at any time vary a central counterparty recognition order for the purpose of correcting an error in, or omission from, the order.]

#### Textual Amendments

- F74** S. 290ZA inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(8)** (with regs. 52-58)

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### **[<sup>F75</sup>290ZB] Variation of CSD recognition order**

- (1) Where the Bank of England—
  - (a) grants an authorisation in accordance with Article 19(1), 54 or 56 of the CSD regulation,
  - (b) receives a notification under Article 19 of that regulation, or
  - (c) decides to withdraw authorisation for a service, activity or financial instrument in accordance with Article 20(4) or 57(4) of that regulation,
 the Bank of England must vary the CSD recognition order accordingly.
- (2) Where an authorisation to provide investment services and activities in addition to the services explicitly listed in Sections A and B of the Annex to the CSD regulation is granted, varied or withdrawn, the Bank of England must vary the CSD recognition order accordingly.
- (3) The Bank of England may at any time vary a CSD recognition order for the purpose of correcting an error in, or omission from, the order.]

#### **Textual Amendments**

**F75** S. 290ZB inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(16)** (with regs. 7(4), 9(1))

### **[<sup>F76</sup>290A] Refusal of recognition on ground of excessive regulatory provision**

- (1) [<sup>F77</sup>The appropriate regulator must] not make a recognition order if it appears to [<sup>F78</sup>it that] an existing or proposed regulatory provision of the applicant in connection with—
  - (a) the applicant's business as an investment exchange, <sup>F79</sup>...
  - (b) the provision by the applicant of clearing services, [<sup>F80</sup>or
  - (c) the provision by the applicant of services falling within section 285(2)(b) or (3)(b),]
 imposes or will impose an excessive requirement on the persons affected (directly or indirectly) by it.
- (2) The reference in section 290(1) (making of recognition order) to satisfying the applicable recognition requirements shall be read accordingly.
- (3) Expressions used in subsection (1) above that are defined for the purposes of section 300A (power of [<sup>F81</sup>appropriate regulator] to disallow excessive regulatory provision) have the same meaning as in that section.
- (4) The provisions of section 300A(3) and (4) (determination whether regulatory provision excessive) apply for the purposes of this section as for the purposes of section 300A.
- (5) Section 298 has effect in relation to a decision under this section to refuse a recognition order—
  - (a) as it has effect in relation to a decision to revoke such an order, and
  - (b) as if references to a recognised body were references to the applicant.

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[<sup>F82</sup>(6) This section does not apply to an application for recognition as an overseas investment exchange, an overseas clearing house [<sup>F83</sup>, a recognised central counterparty or a recognised CSD].]

#### Textual Amendments

- F76** S. 290A inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), **ss. 4, 5(2)**
- F77** Words in s. 290A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F78** Words in s. 290A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F79** Word in s. 290A(1)(a) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F80** S. 290A(1)(c) and word inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(2)(d)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F81** Words in s. 290A(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 7(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F82** S. 290A(6) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(9)** (with regs. 52-58)
- F83** Words in s. 290A(6) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(17)** (with regs. 7(4), 9(1))

## 291 Liability in relation to recognised body's regulatory functions.

- (1) A recognised body and its officers and staff are not to be liable in damages for anything done or omitted in the discharge of the recognised body's regulatory functions unless it is shown that the act or omission was in bad faith.
- (2) But subsection (1) does not prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the <sup>M3</sup>Human Rights Act 1998.
- (3) "Regulatory functions" means the functions of the recognised body so far as relating to, or to matters arising out of, the obligations to which the body is subject under or by virtue of this Act.

#### Modifications etc. (not altering text)

- C2** S. 291 modified (22.2.2008) by [The Northern Rock plc Transfer Order 2008 \(S.I. 2008/432\)](#), **art. 20**
- C3** S. 291 modified (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **art. 39**

#### Marginal Citations

- M3** 1998 c. 42.

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**F84 292 Overseas investment exchanges and overseas clearing houses.**

- (1) An application under section 287 or [F85 288(1A)] by an overseas applicant must contain the address of a place in the United Kingdom for the service on the applicant of notices or other documents required or authorised to be served on it under this Act.
- (2) If it appears to [F86 the appropriate regulator] that an overseas applicant satisfies the requirements of subsection (3) it may make a recognition order declaring the applicant to be—
  - (a) a recognised investment exchange;
  - (b) a recognised clearing house [F87 which is not a central counterparty].
- (3) The requirements are that—
  - [F88 (a) investors are afforded protection equivalent to that which they would be afforded if the body concerned were required to comply with—
    - (i) recognition requirements, other than any such requirements which are expressed in regulations under section 286 not to apply for the purposes of this paragraph, and
    - (ii) [F89 requirements contained in any of the following—
      - (aa) any EU regulation, originally made under the markets in financial instruments directive, which is retained direct EU legislation;
      - (bb) any EU regulation, originally made under the markets in financial instruments regulation, which is retained direct EU legislation;
      - (cc) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the markets in financial instruments regulation on or after IP completion day;]]
  - (b) there are adequate procedures for dealing with a person who is unable, or likely to become unable, to meet his obligations in respect of one or more market contracts connected with the investment exchange or clearing house;
  - (c) the applicant is able and willing to co-operate with [F90 the appropriate regulator] by the sharing of information and in other ways;
  - (d) adequate arrangements exist for co-operation between [F91 the appropriate regulator] and those responsible for the supervision of the applicant in the country or territory in which the applicant's head office is situated.
- (4) In considering whether it is satisfied as to the requirements mentioned in subsection (3)
  - (a) and (b), [F92 the appropriate regulator] is to have regard to—
    - (a) the relevant law and practice of the country or territory in which the applicant's head office is situated;
    - (b) the rules and practices of the applicant.
- (5) In relation to an overseas applicant and a body or association declared to be a recognised investment exchange or recognised clearing house by a recognition order made by virtue of subsection (2)—
  - (a) the reference in section 313(2) to recognition requirements is to be read as a reference to matters corresponding to the matters in respect of which provision is made in the recognition requirements;
  - (b) sections 296(1) and 297(2) have effect as if the requirements mentioned in section 296(1)(a) and section 297(2)(a) were those of subsection (3)(a), (b), and (c) of this section;



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- (c) section 297(2) has effect as if the grounds on which a recognition order may be revoked under that provision included the ground that in the opinion of [<sup>F93</sup>the appropriate regulator] arrangements of the kind mentioned in subsection (3) (d) no longer exist.

[<sup>F94</sup>(6) Where a recognised clearing house is <sup>F95</sup>... recognised as a third country central counterparty, any previous recognition order under section 290(1)(c) or 292(2)(b) shall cease to be valid.]

#### Textual Amendments

- F84** S. 292 amendment to earlier affecting provision S.I. 2019/710, reg. 38 (31.12.2020) by The Financial Services and Economic and Monetary Policy (Consequential Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1301), regs. 1, 3, **Sch. para. 43(k)**
- F85** Word in s. 292(1) substituted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(10)(a)** (with regs. 52-58)
- F86** Words in s. 292(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F87** Words in s. 292(2)(b) inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(10)(b)** (with regs. 52-58)
- F88** S. 292(3)(a) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 2 para. 32** (with reg. 7)
- F89** S. 292(3)(a)(ii) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(8)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 37(b)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F90** Words in s. 292(3)(c) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F91** Words in s. 292(3)(d) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F92** Words in s. 292(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F93** Words in s. 292(5)(c) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F94** S. 292(6) inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(10)(c)** (with regs. 52-58)
- F95** Words in s. 292(6) omitted (31.12.2020) by virtue of The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(2), **4** (with arts. 11-20) (as amended by: S.I. 2019/405, reg. 8; S.I. 2020/56, reg. 7; and S.I. 2020/646, reg. 4; and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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#### Modifications etc. (not altering text)

- C4** S. 292 excluded in part (30.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/710), regs. 1(2), **38** (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 43\(k\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### Commencement Information

- I4** S. 292 wholly in force at 1.12.2001; s. 292 not in force at Royal Assent see s. 431(2); s. 292(1) in force and s. 292(2)-(5) in force specified purposes at 3.9.2001 by [S.I. 2001/2632](#), art. 2(2), [Sch. Pt. 2](#); s. 292 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

### *<sup>F96</sup>Publication of information by recognised investment exchange*

#### Textual Amendments

- F96** S. 292A and cross-heading inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007](#) (S.I. 2007/126), regs. 1(2), 3(2), [Sch. 2 para. 5](#)

## 292A Publication of information by recognised investment exchange

- (1) A recognised investment exchange must as soon as practicable after a recognition order is made in respect of it publish such particulars of the ownership of the exchange as the [<sup>F97</sup>FCA] may reasonably require.
- (2) The particulars published under subsection (1) must include particulars of the identity and scale of interests of the persons who are in a position to exercise significant influence over the management of the exchange, whether directly or indirectly.
- (3) If an ownership transfer takes place in relation to a recognised investment exchange, the exchange must as soon as practicable after becoming aware of the transfer publish such particulars relating to the transfer as the [<sup>F98</sup>FCA] may reasonably require.
- (4) "Ownership transfer", in relation to an exchange, means a transfer of ownership which gives rise to a change in the persons who are in a position to exercise significant influence over the management of the exchange, whether directly or indirectly.
- (5) A recognised investment exchange must publish such particulars of any decision it makes to suspend or remove a financial instrument from trading on a regulated market operated by it as the [<sup>F99</sup>FCA] may reasonably require.
- (6) The [<sup>F100</sup>FCA] may determine the manner of publication under subsections (1), (3) and (5) and the timing of publication under subsection (5).
- (7) This section does not apply to an overseas investment exchange.]

#### Textual Amendments

- F97** Word in s. 292A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 8 para. 9](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)

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- F98** Word in s. 292A(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 9](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F99** Word in s. 292A(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 9](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F100** Word in s. 292A(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 9](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)

## Supervision

### 293 Notification requirements.

- (1) The [<sup>F101</sup>appropriate regulator] may make rules requiring a recognised body to give it—
    - (a) notice of such events relating to the body as may be specified; and
    - (b) such information in respect of those events as may be specified.
  - (2) The rules may also require a recognised body to give the [<sup>F101</sup>appropriate regulator], at such times or in respect of such periods as may be specified, such information relating to the body as may be specified.
  - (3) An obligation imposed by the rules extends only to a notice or information which the [<sup>F101</sup>appropriate regulator] may reasonably require for the exercise of its functions under this Act [<sup>F102</sup>or [<sup>F103</sup>for the purposes of] [Directive 2016/1148/EU](#) of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security network and information systems across the Union][<sup>F104</sup>as that directive had effect immediately before IP completion day].
  - (4) The rules may require information to be given in a specified form and to be verified in a specified manner.
  - (5) If a recognised body—
    - (a) alters or revokes any of its rules or guidance, or
    - (b) makes new rules or issues new guidance,it must give written notice to the [<sup>F105</sup>appropriate regulator] without delay.
- [<sup>F106</sup>(5A) In relation to a recognised CSD, in subsection (5), “guidance” means guidance issued, or any recommendation made, in writing or other legible form and intended to have continuing effect, by the recognised CSD to—
- (a) all or any class of its members, or
  - (b) persons using or seeking to use its services,
- with respect to any of the services or activities specified in its recognition order.]
- (6) If a recognised investment exchange makes a change—
    - (a) in the arrangements it makes for the provision [<sup>F107</sup>by another person] of clearing services in respect of transactions effected on the exchange, or
    - (b) in the criteria which it applies when determining to whom it will provide [<sup>F108</sup>services falling within section 285(2)(b)],it must give written notice to [<sup>F109</sup>the FCA and the Bank of England] without delay.

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- (7) If a recognised clearing house makes a change—
- (a) in the recognised investment exchanges for whom it provides clearing services [F110 or services falling within section 285(3)(b)], or
  - (b) in the criteria which it applies when determining to whom (other than recognised investment exchanges) it will provide clearing services [F111 or services falling within section 285(3)(b)],
- it must give written notice to [F112 the Bank of England and the FCA] without delay.
- [F113(7A) In subsections (1) and (2), “recognised body” includes [F114 a third country CSD, in relation to any services referred to in the Annex to the CSD regulation which the third country CSD provides in the United Kingdom].]
- (8) Subsections (5) to (7) do not apply to an overseas investment exchange or an overseas clearing house.
- (9) “Specified” means specified in [F115 the appropriate regulator's] rules.

#### Textual Amendments

- F101** Words in s. 293(1)-(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 10\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F102** Words in s. 293(3) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(18\)\(a\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F103** Words in s. 293(3) substituted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\), regs. 1\(2\), 67](#)
- F104** Words in s. 293(3) inserted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\), regs. 1\(3\), 5\(9\)\(a\)](#) (with savings in [S.I. 2019/680, reg. 11](#)) (as amended by [S.I. 2020/1301, regs. 1, 3, Sch. para. 37\(b\)](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F105** Words in s. 293(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 10\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F106** S. 293(5A) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\), regs. 1, 2\(18\)\(b\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F107** Words in s. 293(6)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 10\(3\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F108** Words in s. 293(6)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 10\(3\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F109** Words in s. 293(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 10\(3\)\(c\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F110** Words in s. 293(7)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 10\(4\)\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F111** Words in s. 293(7)(b) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 10\(4\)\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

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- F112** Words in s. 293(7) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 10(4)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F113** S. 293(7A) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(18)(c)** (with regs. 7(4), 9(1))
- F114** Words in s. 293(3) inserted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(9)(a)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 37(b)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F115** Words in s. 293(9) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 10(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

#### Commencement Information

- I5** S. 293 wholly in force at 1.12.2001; s. 293 not in force at Royal Assent see s. 431(2); s. 293 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; s. 293 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

#### <sup>F116</sup>293A Information: compliance with <sup>F117</sup>specified requirements

- <sup>F118</sup>(1) The appropriate regulator may require a recognised body to give the appropriate regulator such information as the appropriate regulator reasonably requires in order to satisfy itself that the body is complying with any <sup>F119</sup>qualifying provision that is specified, or of a description specified, for the purposes of this section by the Treasury by order.
- <sup>F120</sup>(2) The Bank of England may require <sup>F121</sup>a third country CSD which provides any services referred to in the Annex to the CSD regulation in the United Kingdom to give the Bank reports on those services and statistical information relating to those services, at such times or in respect of such periods as may be specified by the Bank.
- (3) A requirement under subsection (2) extends only to information which the Bank may reasonably require for the exercise of its functions under the CSD regulation or <sup>F122</sup>any EU regulation originally made under the CSD regulation which is retained direct EU legislation, or any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the CSD regulation on or after IP completion day.]]

#### Textual Amendments

- F116** S. 293A substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 11** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F117** Word in s. 293A heading substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(10)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F118** S. 293A(1): s. 293A renumbered as s. 293A(1) (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(19)(a)** (with regs. 7(4), 9(1))
- F119** Words in s. 293A(1) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(10)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F120** S. 293A(2)(3) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(19)(b)** (with regs. 7(4), 9(1))

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- F121** Words in s. 293A(2) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), [5\(10\)\(c\)](#) (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F122** Words in s. 293A(3) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), [5\(10\)\(d\)](#) (as amended by [S.I. 2020/1301](#), regs. 1, 3, [Sch. para. 37\(b\)](#)) (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## 294 Modification or waiver of rules.

- (1) The [<sup>F123</sup>appropriate regulator] may, on the application or with the consent of a recognised body, direct that rules made under section 293 or 295—
  - (a) are not to apply to the body; or
  - (b) are to apply to the body with such modifications as may be specified in the direction.
- (2) An application must be made in such manner as the [<sup>F124</sup>appropriate regulator] may direct.
- (3) Subsections (4) to (6) apply to a direction given under subsection (1).
- (4) The [<sup>F125</sup>appropriate regulator] may not give a direction unless it is satisfied that—
  - (a) compliance by the recognised body with the rules, or with the rules as unmodified, would be unduly burdensome or would not achieve the purpose for which the rules were made; and
  - (b) the direction would not result in undue risk to persons whose interests the rules are intended to protect.
- (5) A direction may be given subject to conditions.
- (6) The [<sup>F126</sup>appropriate regulator] may—
  - (a) revoke a direction; or
  - (b) vary it on the application, or with the consent, of the recognised body to which it relates.

[<sup>F127</sup>(7) In this section, “recognised body”, in relation to rules made under section 293, includes [<sup>F128</sup>a third country CSD].]

### Textual Amendments

- F123** Words in s. 294(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F124** Words in s. 294(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F125** Words in s. 294(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F126** Words in s. 294(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 12](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

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**F127** S. 294(7) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(20)** (with regs. 7(4), 9(1))

**F128** Words in s. 294(7) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(11)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**Modifications etc. (not altering text)**

**C5** S. 294 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(10)**; S.I. 2001/3538, **art. 2(1)**

**Commencement Information**

**I6** S. 294 wholly in force at 3.9.2001; s. 294 not in force at Royal Assent see s. 431(2); s. 294(2) in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 294 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, **art. 2 Sch. Pt. 2**

**295 Notification: overseas investment exchanges and overseas clearing houses.**

- (1) At least once a year, every overseas investment exchange and overseas clearing house must provide [<sup>F129</sup>the appropriate regulator] with a report.
- (2) The report must contain a statement as to whether any events have occurred which are [<sup>F130</sup>likely to affect the appropriate regulator's assessment of whether it is satisfied as to the requirements set out in section 292(3)].
- (3) The report must also contain such information as may be specified in rules made by [<sup>F131</sup>the appropriate regulator].

<sup>F132</sup>(4) . . . . .

**Textual Amendments**

**F129** Words in s. 295(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 13(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

**F130** Words in s. 295(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 13(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

**F131** Words in s. 295(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 13(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

**F132** S. 295(4) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 13(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

**Commencement Information**

**I7** S. 295 wholly in force at 1.12.2001; s. 295 not in force at Royal Assent see s. 431(2); s. 295 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 295 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

*Status: Point in time view as at 29/06/2023.*

*Changes to legislation: Financial Services and Markets Act 2000, Part XVIII is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### <sup>F133</sup>295A On-site inspection of <sup>F134</sup>United Kingdom branches of third country] CSDs

(1) For the purposes of <sup>F135</sup>Article 25(11) of the CSD regulation], the Bank of England may, on giving reasonable notice and at any reasonable time, carry out an on-site inspection of any branch maintained by <sup>F136</sup>a third country CSD] in the United Kingdom.

<sup>F137</sup>(2) .....

(3) The Bank of England’s power under subsection (1) is enforceable, on the application of the Bank of England, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

#### Textual Amendments

- F133** S. 295A inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(21)** (with regs. 7(4), 9(1))
- F134** Words in s. 295A heading substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F135** Words in s. 295A(1) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F136** Words in s. 295A(1) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F137** S. 295A(2) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(12)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### 296 <sup>F138</sup>Appropriate regulator’s] power to give directions.

(1) This section applies if it appears to <sup>F139</sup>the appropriate regulator] that a recognised body—

- (a) has failed, or is likely to fail, to satisfy the recognition requirements; or
- (b) has failed to comply with any other obligation imposed on it by or under this Act.

<sup>F140</sup>(1A) This section also applies <sup>F141</sup>if it appears to the appropriate regulator that a recognised body] has failed, or is likely to fail, to comply with any obligation imposed on it by <sup>F142</sup>or under]] <sup>F143</sup>any qualifying provision] specified (or of a description specified) <sup>F144</sup>for the purposes of this subsection] in an order made by the Treasury.]

<sup>F145</sup>(1B) .....

<sup>F146</sup>(1C) This section also applies if it appears to the Bank of England that a Tier 2 third country central counterparty has failed to comply with an obligation imposed on it by or under this Act, or by or under the EMIR regulation.]

(2) <sup>F147</sup>The regulator concerned] may direct <sup>F148</sup>the recognised body <sup>F149</sup>...] to take specified steps for the purpose of securing the body’s compliance with—

- (a) the recognition requirements; or
- (b) any obligation of the kind in question.



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<sup>F150</sup>(2ZA) Where this section applies by virtue of subsection (1C), the Bank of England may direct the Tier 2 third country central counterparty to take specified steps for the purpose of securing compliance with the obligations referred to in that subsection.]

<sup>F151</sup>(2A) In the case of <sup>F152</sup>a recognised body other than an overseas investment exchange or overseas clearing house], those steps may include—

- (a) the granting to <sup>F153</sup>the regulator concerned] of access to the premises of <sup>F154</sup>the body] for the purpose of inspecting—
  - (i) those premises; or
  - (ii) any documents on the premises which appear to <sup>F153</sup>the regulator concerned] to be relevant for the purpose mentioned in subsection (2);
- (b) the suspension of the carrying on of any regulated activity by <sup>F155</sup>the body] for the period specified in the direction.]

<sup>F156</sup>(2B) . . . . .

<sup>F157</sup>(2C) In the case of a Tier 2 third country central counterparty, those steps may include—

- (a) the granting to the Bank of England of access to any premises of the Tier 2 third country central counterparty for the purposes of inspecting—
  - (i) those premises; or
  - (ii) any documents on the premises which appear to the Bank of England to be relevant for the purposes mentioned in subsection (2ZA);
- (b) the suspension for the period specified in the direction of the carrying on in the United Kingdom by the Tier 2 third country central counterparty of any activity in respect of which the third country central counterparty is exempt from the general prohibition.

(2D) The Bank of England may not inspect the premises or documents on the premises of a Tier 2 third country central counterparty without first informing the relevant third country competent authority, and inspections must be conducted in accordance with cooperation arrangements established under Article 25.7 of the EMIR regulation.

(2E) In subsection (2D), relevant third country competent authority means a regulatory authority of a country other than the United Kingdom which is responsible for the authorisation and supervision of central counterparties in its territory.]

(3) A direction under this section <sup>F158</sup>(except a direction made under subsection (2ZA))] is enforceable, on the application of <sup>F159</sup>the regulator concerned], by an injunction or, in Scotland, by an order for specific performance under section 45 of the <sup>M4</sup>Court of Session Act 1988.

(4) The fact that a rule made by a recognised body has been altered in response to a direction given by <sup>F160</sup>an appropriate regulator] does not prevent it from being subsequently altered or revoked by the recognised body.

#### Textual Amendments

**F138** Words in s. 296 heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 14\(8\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(b)(c), [Sch. Pts. 2, 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

**F139** Words in s. 296(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 14\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(b)(c), [Sch. Pts. 2, 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

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- F140** S. 296(1A) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 7(a)**
- F141** Words in s. 296(1A) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 14(3)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F142** Words in s. 296(1A) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(22)(a)** (with regs. 7(4), 9(1))
- F143** Words in s. 296(1A) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(13)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F144** Words in s. 296(1A) inserted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(13)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F145** S. 296(1B) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(13)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F146** S. 296(1C) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2020 \(S.I. 2020/646\)](#), regs. 1(3), **2(3)(a)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F147** Words in s. 296(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 14(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F148** Words in s. 296(2) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(22)(c)** (with regs. 7(4), 9(1))
- F149** Words in s. 296(2) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(13)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F150** S. 296(2ZA) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2020 \(S.I. 2020/646\)](#), regs. 1(3), **2(3)(b)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F151** S. 296(2A) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 7(b)**
- F152** Words in s. 296(2A) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 14(5)(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F153** Words in s. 296(2A)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 14(5)(b)(i)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F154** Words in s. 296(2A)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 14(5)(b)(ii)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F155** Words in s. 296(2A)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 14(5)(c)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F156** S. 296(2B) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(13)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F157** S. 296(2C)-(2E) inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations](#)

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2020 (S.I. 2020/646), regs. 1(3), **2(3)(c)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)

**F158** Words in s. 296(3) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **2(3)(d)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)

**F159** Words in s. 296(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(6)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.

**F160** Words in s. 296(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 14(7)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.

#### Modifications etc. (not altering text)

**C6** S. 296 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2)**, 3(11); S.I. 2001/3538, **art. 2(1)**

**C7** S. 296 applied by 1989 c. 40, s. 169(2A) (as inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(15)(a)** (with regs. 7(4), 9(1)))

#### Marginal Citations

**M4** 1988 c. 36.

### [<sup>F161</sup>296A Additional power to direct [<sup>F162</sup>recognised central counterparties]

- (1) The Bank of England may direct a [<sup>F163</sup>recognised central counterparty] to take, or refrain from taking, specified action if the Bank is satisfied that it is necessary to give the direction, having regard to the public interest in—
  - (a) protecting and enhancing the stability of the UK financial system,
  - (b) maintaining public confidence in the stability of the UK financial system,
  - (c) maintaining the continuity of the <sup>F164</sup>... clearing services provided by the [<sup>F165</sup>recognised central counterparty], and
  - (d) maintaining and enhancing the financial resilience of the [<sup>F165</sup>recognised central counterparty].
- (2) The direction may, in particular—
  - (a) specify the time for compliance with the direction,
  - (b) require the rules of the [<sup>F165</sup>recognised central counterparty] to be amended, and
  - (c) override such rules (whether generally or in their application to a particular case).
- (3) The direction may not require the [<sup>F165</sup>recognised central counterparty]—
  - (a) to take any steps for the purpose of securing its compliance with—
    - (i) the recognition requirements, or
    - (ii) any obligation of a kind mentioned in section 296(1)(b) or (1A), or
  - (b) to accept a transfer of property, rights or liabilities of another [<sup>F165</sup>recognised central counterparty].
- (4) If the direction is given in reliance on section 298(7) the Bank must, within a reasonable time of giving the direction, give the [<sup>F165</sup>recognised central counterparty] a statement of its reasons—

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- (a) for giving the direction, and
  - (b) for relying on section 298(7).
- (5) The direction is enforceable, on the application of the Bank, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (6) The Bank may revoke a direction given under this section.]

#### Textual Amendments

- F161** S. 296A inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 31**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F162** Words in s. 296A heading substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), **regs. 1(2)**, 3(11)(a) (with regs. 52-58)
- F163** Words in s. 296A(1) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), **regs. 1(2)**, 3(11)(b)(i) (with regs. 52-58)
- F164** Words in s. 296A(1)(c) omitted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), **regs. 1(2)**, 3(11)(b)(ii) (with regs. 52-58)
- F165** Words in s. 296A(1)-(4) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), **regs. 1(2)**, 3(11)(c) (with regs. 52-58)

#### 297 Revoking recognition.

- (1) A recognition order [<sup>F166</sup>in respect of a recognised investment exchange or in respect of a recognised clearing house which is not a recognised central counterparty] may be revoked by an order made by [<sup>F167</sup>the appropriate regulator] at the request, or with the consent, of the recognised body concerned.
- [<sup>F168</sup>(1A) A central counterparty recognition order may be revoked by an order made by the Bank of England in accordance with Article 20 of the EMIR regulation.]
- [<sup>F169</sup>(1B) A CSD recognition order may be revoked by an order made by the Bank of England in accordance with Article 20 of the CSD regulation.]
- (2) If it appears to [<sup>F170</sup>the appropriate regulator] that a recognised body [<sup>F171</sup>which is not a recognised central counterparty][<sup>F172</sup>or a recognised CSD]—
- (a) is failing, or has failed, to satisfy the recognition requirements, or
  - (b) is failing, or has failed, to comply with any other obligation imposed on it by or under this Act,
- it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.
- [<sup>F173</sup>(2A) If it appears to [<sup>F174</sup>the appropriate regulator] that a recognised body [<sup>F175</sup>which is not a recognised central counterparty][<sup>F176</sup>or a recognised CSD]<sup>F177</sup> ...—
- (a) has not carried on the business of an investment exchange [<sup>F178</sup>or (as the case may be) of a clearing house] during the period of twelve months beginning with the day on which the recognition order took effect in relation to it,

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- (b) has not carried on the business of an investment exchange [<sup>F179</sup>or (as the case may be) of a clearing house] at any time during the period of six months ending with the relevant day, or
  - (c) has failed, or is likely to fail, to comply with any obligation imposed on it by [<sup>F180</sup>any qualifying provision] specified (or of a description specified) [<sup>F181</sup>for the purposes of this subsection] in an order made by the Treasury,  
it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.
- (2B) The “relevant day”, for the purposes of paragraph (b) of subsection (2A), is the day on which the power to make an order under that subsection is exercised.
- (2C) Subsection (2A) does not apply to an overseas investment exchange [<sup>F182</sup>or overseas clearing house].]
- [<sup>F183</sup>(2D) If it appears to the Bank of England that a recognised central counterparty [<sup>F184</sup>or a recognised CSD] has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.]
- (3) An order under this section (“a revocation order”) must specify the date on which it is to take effect.
  - (4) In the case of a revocation order made under subsection (2) [<sup>F185</sup>or (2A)], the specified date must not be earlier than the end of the period of three months beginning with the day on which the order is made.
  - (5) A revocation order may contain such transitional provisions as [<sup>F186</sup>the appropriate regulator] thinks necessary or expedient.
- [<sup>F187</sup>(6) .....

#### Textual Amendments

- F166** Words in s. 297(1) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(a)** (with regs. 52-58)
- F167** Words in s. 297(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F168** S. 297(1A) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(b)** (with regs. 52-58)
- F169** S. 297(1B) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(23)(a)** (with regs. 7(4), 9(1))
- F170** Words in s. 297(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(2)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F171** Words in s. 297(2) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(c)** (with regs. 52-58)
- F172** Words in s. 297(2) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(23)(b)** (with regs. 7(4), 9(1))

**Status:** Point in time view as at 29/06/2023.

**Changes to legislation:** *Financial Services and Markets Act 2000, Part XVIII is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F173** S. 297(2A)-(2C) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 8(a)**
- F174** Words in s. 297(2A) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(3)(a)(i)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F175** Words in s. 297(2A) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(12)(d)** (with regs. 52-58)
- F176** Words in s. 297(2A) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(23)(b)** (with regs. 7(4), 9(1))
- F177** Words in s. 297(2A) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(3)(a)(ii)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F178** Words in s. 297(2A)(a) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F179** Words in s. 297(2A)(b) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(3)(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F180** Words in s. 297(2A)(c) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(14)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F181** Words in s. 297(2A)(c) inserted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(14)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F182** Words in s. 297(2C) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(4)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F183** S. 297(2D) inserted (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), reg. 1(2), **Sch. 1 para. 1(2)**
- F184** Words in s. 297(2D) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(23)(b)** (with regs. 7(4), 9(1))
- F185** Words in s. 297(4) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(2), **Sch. 2 para. 8(b)**
- F186** Words in s. 297(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 15(5)** (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.
- F187** S. 297(6) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **5(14)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**Modifications etc. (not altering text)**

- C8** S. 297 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(11)**; S.I. 2001/3538, **art. 2(1)**

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## 298 Directions and revocation: procedure.

- (1) Before giving a direction under section 296 [<sup>F188</sup>or 296A], or making a revocation order under section [<sup>F189</sup>297(1B), (2),][<sup>F190</sup>(2A) or (2D)], [<sup>F191</sup>the appropriate regulator] must—
  - (a) give written notice of its intention to do so to the recognised body concerned;
  - <sup>F192</sup>(b) .....
  - <sup>F193</sup>(c) .....
- (2) A notice under subsection (1) must—
  - (a) state why [<sup>F194</sup>the appropriate regulator] intends to give the direction or make the order; and
  - (b) draw attention to the right to make representations conferred by subsection (3).
- (3) Before the end of the period for making representations—
  - (a) the recognised body,
  - <sup>F195</sup>(b) .....
  - <sup>F196</sup>(c) .....may make representations to [<sup>F197</sup>the appropriate regulator].
- <sup>F198</sup>(4) The period for making representations is such period as is specified in the notice (which may, in any particular case, be extended by the appropriate regulator).]
- (5) In deciding whether to—
  - (a) give a direction, or
  - (b) make a revocation order,[<sup>F199</sup>the appropriate regulator] must have regard to any representations made in accordance with subsection (3).
- (6) When [<sup>F200</sup>the appropriate regulator] has decided whether to give a direction under section 296 [<sup>F201</sup>or 296A] or to make the proposed revocation order, it must—
  - (a) give the recognised body written notice of its decision; <sup>F202</sup>... [<sup>F203</sup>and
  - (aa) in the case of a direction under section 296 given to a recognised CSD <sup>F204</sup>... or a revocation order under section 297(1B), give the recognised CSD <sup>F204</sup>... reasons for its decision.]
  - <sup>F202</sup>(b) .....
- <sup>F205</sup>(6A) If the appropriate regulator—
  - (a) gives a direction under section 296 to a recognised body because it has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation;
  - [ gives any other direction under section 296 to a recognised CSD;
  - <sup>F206</sup>(aa) .....
  - <sup>F207</sup>(ab) .....
  - (ac) makes a revocation order under section 297(1B);]
  - (b) makes a revocation order under section 297(2A)(c) because a recognised body has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation; or
  - (c) makes a revocation order under section 297(2D),  
the body concerned may refer the matter to the Tribunal.]

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- (7) If [<sup>F208</sup>the appropriate regulator][<sup>F209</sup>reasonably considers it necessary] to do so, it may give a direction under section 296 [<sup>F210</sup>or 296A]—
- (a) without following the procedure set out in this section; or
  - (b) if [<sup>F208</sup>the appropriate regulator] has begun to follow that procedure, regardless of whether the period for making representations has expired.
- [<sup>F211</sup>(7A) Subsection (7) does not apply in relation to a direction given to a recognised CSD  
<sup>F212</sup>... under section 296.
- <sup>F213</sup>(7B) .....
- (8) If [<sup>F214</sup>the appropriate regulator] has, in relation to a particular matter, followed the procedure set out in subsections (1) to (5), it need not follow it again if, in relation to that matter, it decides to take action other than that specified in its notice under subsection (1).
- <sup>F215</sup>(9) .....

#### Textual Amendments

- F188** Words in s. 298(1) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 16\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F189** Word in s. 298(1) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), [regs. 1, 2\(24\)\(a\)](#) (with [regs. 7\(4\), 9\(1\)](#))
- F190** Words in s. 298(1) substituted (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), [reg. 1\(2\)](#), [Sch. 1 para. 1\(3\)\(a\)](#)
- F191** Words in s. 298(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F192** S. 298(1)(b) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(2\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F193** S. 298(1)(c) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(2\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F194** Words in s. 298(2)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F195** S. 298(3)(b) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(3\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F196** S. 298(3)(c) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(3\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F197** Words in s. 298(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F198** S. 298(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 32\(4\)](#), 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F199** Words in s. 298(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F200** Words in s. 298(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 16\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)



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- F201** Words in s. 298(6) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 16(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F202** S. 298(6)(b) and word omitted (1.4.2013) by virtue of Financial Services Act 2012 (c. 21), **ss. 32(5), 122(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F203** S. 298(6)(aa) and word inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(24)(b)** (with regs. 7(4), 9(1))
- F204** Words in s. 298(6)(aa) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F205** S. 298(6A) inserted (13.7.2016) by The Financial Services and Markets Act 2000 (Transparency of Securities Financing Transactions and of Reuse) Regulations 2016 (S.I. 2016/715), reg. 1(2), **Sch. 1 para. 1(3)(b)**
- F206** S. 298(6A)(aa)-(ac) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(24)(c)** (with regs. 7(4), 9(1))
- F207** S. 298(6A)(ab) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F208** Words in s. 298(7) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 16(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F209** Words in s. 298(7) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 32(6), 122(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F210** Words in s. 298(7) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 16(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F211** S. 298(7A)(7B) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(24)(d)** (with regs. 7(4), 9(1))
- F212** Words in s. 298(7A) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F213** S. 298(7B) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F214** Words in s. 298(8) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 8 para. 16(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F215** S. 298(9) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **5(15)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Modifications etc. (not altering text)

- C9** S. 298 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(11)**; S.I. 2001/3538, **art. 2(1)**
- C10** S. 298 applied (with modifications) by 1998 c. 40, s. 170B(9) (as inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), reg. 1(2), **s. 170B(9)** (with regs. 52-58))
- C11** S. 298 applied by S.I. 2014/2879, reg. 5M(4) (as inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **5(9)** (with regs. 7(4), 9(1)))

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### Commencement Information

- I8** S. 298 wholly in force at 1.12.2001; s. 298 not in force at Royal Assent see s. 431(2); s. 298 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2 Sch. Pt. 2](#); s. 298 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

### 299 Complaints about recognised bodies.

- (1) The [<sup>F216</sup>appropriate regulator] must make arrangements for the investigation of any relevant complaint about a recognised body.
- (2) “Relevant complaint” means a complaint which the [<sup>F217</sup>appropriate regulator] considers is relevant to the question of whether the body concerned should remain a recognised body.

### Textual Amendments

- F216** Words in s. 299(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 17](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F217** Words in s. 299(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 17](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

### 300 Extension of functions of Tribunal.

- (1) If the Treasury are satisfied that the condition mentioned in subsection (2) is satisfied, they may by order confer functions on the Tribunal with respect to disciplinary proceedings—
  - (a) of one or more investment exchanges in relation to which a recognition order under section 290 is in force or of such investment exchanges generally, <sup>F218</sup>...
  - (b) of one or more clearing houses in relation to which a recognition order under that section is in force or of such clearing houses generally [<sup>F219</sup>or
  - (c) of one or more central securities depositories in relation to which a recognition order under that section is in force or of such central securities depositories generally].
- (2) The condition is that it is desirable to exercise the power conferred under subsection (1) with a view to ensuring that—
  - (a) decisions taken in disciplinary proceedings with respect to which functions are to be conferred on the Tribunal are consistent with—
    - (i) decisions of the Tribunal in cases arising under Part VIII; and
    - (ii) decisions taken in other disciplinary proceedings with respect to which the Tribunal has functions as a result of an order under this section; or
  - (b) the disciplinary proceedings are in accordance with the Convention rights.
- (3) An order under this section may modify or exclude any provision made by or under this Act with respect to proceedings before the Tribunal.
- (4) “Disciplinary proceedings” means proceedings under the rules of an investment exchange [<sup>F220</sup>, clearing house or central securities depository] in relation to [<sup>F221</sup>a

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contravention of Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation by a person subject to the rules].

- (5) “The Convention rights” has the meaning given in section 1 of the <sup>M5</sup>Human Rights Act 1998.

#### Textual Amendments

- F218** Word in s. 300(1)(a) omitted (28.11.2017) by virtue of [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(25)(a)(i)** (with regs. 7(4), 9(1))
- F219** S. 300(1)(c) and word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(25)(a)(ii)** (with regs. 7(4), 9(1))
- F220** Words in s. 300(4) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(25)(b)** (with regs. 7(4), 9(1))
- F221** Words in s. 300(4) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **10(13)**

#### Marginal Citations

- M5** 1998 c. 42.

*<sup>F222</sup>Power to disallow excessive regulatory provision*

#### Textual Amendments

- F222** S. 300A and cross-heading inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), ss. 1, 5(2) (with s. 5(3))

### **300A Power of [<sup>F223</sup>appropriate regulator] to disallow excessive regulatory provision**

- (1) This section applies where a recognised body proposes to make any regulatory provision in connection [<sup>F224</sup>with—
- (a) its business as an investment exchange,
  - (b) the provision by it of clearing services, or
  - (c) the provision by it of services falling within section 285(2)(b) or (3)(b).]
- (2) If it appears to the [<sup>F225</sup>appropriate regulator]—
- (a) that the proposed provision will impose a requirement on persons affected (directly or indirectly) by it, and
  - (b) that the requirement is excessive,
- the [<sup>F225</sup>appropriate regulator] may direct that the proposed provision must not be made.
- (3) A requirement is excessive if—
- (a) it is not required under <sup>F226</sup>... any enactment or rule of law in the United Kingdom, and
  - (b) either—
    - (i) it is not justified as pursuing a reasonable regulatory objective, or
    - (ii) it is disproportionate to the end to be achieved.

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- (4) In considering whether a requirement is excessive the [F227 appropriate regulator] must have regard to all the relevant circumstances, including—
- (a) the effect of existing legal and other requirements,
  - (b) the global character of financial services and markets and the international mobility of activity,
  - (c) the desirability of facilitating innovation, and
  - (d) the impact of the proposed provision on market confidence.
- (5) In this section “requirement” includes any obligation or burden.
- (6) Any provision made in contravention of a direction under this section is of no effect.]

#### Textual Amendments

- F223** Words in s. 300A heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 18\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F224** Words in s. 300A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 18\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F225** Words in s. 300A(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 18\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F226** Words in s. 300A(3)(a) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\), regs. 1\(3\), 5\(16\)](#) (with savings in [S.I. 2019/680, reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F227** Words in s. 300A(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 18\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)

#### [F228] **300B Duty to notify proposal to make regulatory provision**

- (1) A recognised body that proposes to make any regulatory provision must give written notice of the proposal to the [F229 appropriate regulator] without delay.
- (2) The [F229 appropriate regulator] may by rules under section 293 (notification requirements)—
- (a) specify descriptions of regulatory provision in relation to which, or circumstances in which, the duty in subsection (1) above does not apply, or
  - (b) provide that the duty applies only to specified descriptions of regulatory provision or in specified circumstances.
- (3) The [F229 appropriate regulator] may also by rules under that section—
- (a) make provision as to the form and contents of the notice required, and
  - (b) require the body to provide such information relating to the proposal as may be specified in the rules or as the [F229 appropriate regulator] may reasonably require.

*Status: Point in time view as at 29/06/2023.*

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#### Textual Amendments

- F228** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), [ss. 2, 3, 5\(2\)](#) (with [s. 5\(3\)](#))
- F229** Words in s. 300B substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 19](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

### 300C Restriction on making provision before [<sup>F230</sup>appropriate regulator] decides whether to act

- (1) Where notice of a proposal to make regulatory provision is required to be given to the [<sup>F231</sup>appropriate regulator] under section 300B, the provision must not be made—
  - (a) before that notice is given, or
  - (b) subject to the following provisions of this section, before the end of the initial period.
- (2) The initial period is—
  - (a) the period of 30 days beginning with the day on which the [<sup>F232</sup>appropriate regulator] receives notice of the proposal, or
  - (b) if any consultation period announced by the body in relation to the proposal ends after that 30-day period, the end of the consultation period.
- (3) If before the end of the initial period the [<sup>F233</sup>appropriate regulator] notifies the body that it is calling in the proposal, the provisions of section 300D (consideration by [<sup>F233</sup>appropriate regulator] whether to disallow proposed provision) apply as to when the provision may be made.
- (4) If—
  - (a) before the end of the initial period the [<sup>F234</sup>appropriate regulator] notifies the body that it is not calling in the proposal, or
  - (b) the initial period ends without the [<sup>F235</sup>appropriate regulator] having notified the body that it is calling in the proposal,the body may then make the proposed provision.
- (5) Any provision made in contravention of this section is of no effect.

#### Textual Amendments

- F228** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), [ss. 2, 3, 5\(2\)](#) (with [s. 5\(3\)](#))
- F230** Words in s. 300C heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F231** Words in s. 300C(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F232** Words in s. 300C(2)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

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- F233** Words in s. 300C(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F234** Words in s. 300C(4)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F235** Words in s. 300C(4)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 8 para. 20](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)

### **300D Consideration by [<sup>F236</sup>appropriate regulator] whether to disallow proposed provision**

- (1) This section applies where the [<sup>F237</sup>appropriate regulator] notifies a recognised body that it is calling in a proposal to make regulatory provision.
- (2) The [<sup>F237</sup>appropriate regulator] must publish a notice—
  - (a) giving details of the proposed provision,
  - (b) stating that it has called in the proposal in order to consider whether to disallow it, and
  - (c) specifying a period during which representations with respect to that question may be made to it.
- (3) The [<sup>F237</sup>appropriate regulator] may extend the period for making representations.
- (4) The [<sup>F237</sup>appropriate regulator] must notify the body of its decision whether to disallow the provision not later than 30 days after the end of the period for making representations, and must publish the decision and the reasons for it.
- (5) The body must not make the provision unless and until—
  - (a) the [<sup>F238</sup>appropriate regulator] notifies it of its decision not to disallow it, or
  - (b) the 30-day period specified in subsection (4) ends without the [<sup>F239</sup>appropriate regulator] having notified any decision.
- (6) If [<sup>F240</sup>the appropriate regulator] notifies the body of its decision to disallow the provision and that decision is questioned in legal proceedings—
  - (a) the body must not make the provision until those proceedings, and any proceedings on appeal, are finally determined,
  - (b) if [<sup>F241</sup>the appropriate regulator's] decision is quashed and the matter is remitted to it for reconsideration, the court may give directions as to the period within which [<sup>F242</sup>the regulator concerned] is to complete its reconsideration, and
  - (c) the body must not make the provision until—
    - (i) [<sup>F243</sup>the appropriate regulator] notifies it of its decision on reconsideration not to disallow the provision, or
    - (ii) the period specified by the court ends without [<sup>F244</sup>the appropriate regulator] having notified any decision.
- (7) Any provision made in contravention of subsection (5) or (6) is of no effect.

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### Textual Amendments

- F228** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), [ss. 2, 3, 5\(2\)](#) (with [s. 5\(3\)](#))
- F236** Words in s. 300D heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F237** Words in s. 300D(1)-(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F238** Words in s. 300D(5)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F239** Words in s. 300D(5)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F240** Words in s. 300D(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F241** Words in s. 300D(6)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(3\)\(b\)\(i\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F242** Words in s. 300D(6)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(3\)\(b\)\(ii\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F243** Words in s. 300D(6)(c)(i) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(3\)\(c\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F244** Words in s. 300D(6)(c)(ii) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 8 para. 21\(3\)\(c\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

### 300E Power to disallow excessive regulatory provision: supplementary

- (1) In sections 300A to 300D—
- “regulatory provision” means any rule, guidance, arrangements, policy or practice, and
  - references to making provision shall be read accordingly as including, as the case may require, issuing guidance, entering into arrangements or adopting a policy or practice.
- (2) For the purposes of those sections a variation of a proposal is treated as a new proposal.
- (3) Those sections do not apply to an overseas investment exchange [<sup>F245</sup>, overseas clearing house [<sup>F246</sup>, recognised central counterparty or recognised CSD]].]

### Textual Amendments

- F228** Ss. 300B-300E inserted (20.12.2006) by [Investment Exchanges and Clearing Houses Act 2006 \(c. 55\)](#), [ss. 2, 3, 5\(2\)](#) (with [s. 5\(3\)](#))

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- F245** Words in s. 300E(3) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **3(13)** (with regs. 52-58)
- F246** Words in s. 300E(3) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(26)** (with regs. 7(4), 9(1))

### *Other matters*

## **301 Supervision of certain contracts.**

- (1) The Secretary of State and the Treasury, acting jointly, may by regulations provide for—
  - (a) Part VII of the <sup>M6</sup>Companies Act 1989 (financial markets and insolvency), and
  - (b) Part V of the <sup>M7</sup>Companies (No. 2)(Northern Ireland) Order 1990,
 to apply to relevant contracts as it applies to contracts connected with a recognised body.
- (2) “Relevant contracts” means contracts of a prescribed description in relation to which settlement arrangements are provided by a person for the time being included in a list (“the list”) maintained by [<sup>F247</sup>the Bank of England] for the purposes of this section.
- (3) Regulations may be made under this section only if the Secretary of State and the Treasury are satisfied, having regard to the extent to which the relevant contracts concerned are contracts of a kind dealt in by persons supervised by [<sup>F248</sup>the FCA or the Bank of England], that it is appropriate for the arrangements mentioned in subsection (2) to be supervised by [<sup>F249</sup>the Bank].
- (4) The approval of the Treasury is required for—
  - (a) the conditions set by the [<sup>F250</sup>Bank of England] for admission to the list; and
  - (b) the arrangements for admission to, and removal from, the list.
- (5) If the Treasury withdraw an approval given by them under subsection (4), all regulations made under this section and then in force are to be treated as suspended.
- (6) But if—
  - (a) the [<sup>F251</sup>Bank of England] changes the conditions or arrangements (or both), and
  - (b) the Treasury give a fresh approval under subsection (4),
 the suspension of the regulations ends on such date as the Treasury may, in giving the fresh approval, specify.
- (7) The [<sup>F252</sup>Bank of England] must—
  - (a) publish the list as for the time being in force; and
  - (b) provide a certified copy of it to any person who wishes to refer to it in legal proceedings.
- (8) A certified copy of the list is evidence (or in Scotland sufficient evidence) of the contents of the list.
- (9) A copy of the list which purports to be certified by or on behalf of the [<sup>F253</sup>Bank of England] is to be taken to have been duly certified unless the contrary is shown.
- (10) Regulations under this section may, in relation to a person included in the list—



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- (a) apply (with such exceptions, additions and modifications as appear to the Secretary of State and the Treasury to be necessary or expedient) such provisions of, or made under, this Act as they consider appropriate;
- (b) provide for the provisions of Part VII of the <sup>M8</sup>Companies Act 1989 and Part V of the <sup>M9</sup>Companies (No. 2)(Northern Ireland) Order 1990 to apply (with such exceptions, additions or modifications as appear to the Secretary of State and the Treasury to be necessary or expedient).

#### Textual Amendments

- F247** Words in s. 301(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 22\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F248** Words in s. 301(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 22\(3\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F249** Words in s. 301(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 22\(3\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F250** Words in s. 301(4)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 22\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F251** Words in s. 301(6)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 22\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F252** Words in s. 301(7) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 22\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F253** Words in s. 301(9) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 22\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)

#### Marginal Citations

- M6** 1989 c. 40.
- M7** [S.I. 1990/1504 \(N.I. 10\)](#).
- M8** 1989 c. 40.
- M9** [S.I. 1990/1504 \(N.I. 10\)](#).

## [<sup>F254</sup>CHAPTER 1A

### CONTROL OVER RECOGNISED INVESTMENT EXCHANGE

#### Textual Amendments

- F254** Pt. 18 Ch. 1A substituted (21.3.2009) by virtue of [The Financial Services and Markets Act 2000 \(Controllers\) Regulations 2009 \(S.I. 2009/534\)](#), [reg. 5](#), [Sch. 2](#) (with [reg. 8](#))

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### *Notices of acquisitions of control over recognised investment exchanges*

#### **301A Obligation to notify [<sup>F255</sup>the FCA]: acquisitions of control**

- (1) A person who decides to acquire or increase control over a recognised investment exchange must give [<sup>F256</sup>the FCA] notice in writing before making the acquisition.
- (2) A person who acquires or increases control over a recognised investment exchange in circumstances where notice is not required under subsection (1) must give [<sup>F257</sup>the FCA] notice in writing before the end of 14 days beginning with—
  - (a) the day the person acquired or increased the control; or
  - (b) if later, the day on which the person first became aware that the control had been acquired or increased.
- (3) For the purposes of calculations relating to this section, the holding of shares or voting power by a person (“A1”) includes any shares or voting power held by another (“A2”) if A1 and A2 are acting in concert.
- (4) A notice given under this section is a “section 301A notice” and a person giving notice is a “section 301A notice-giver”.

[<sup>F258</sup>(5) Nothing in this Chapter applies to an overseas investment exchange.]

#### **Textual Amendments**

- F255** Words in s. 301A heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 23](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3](#), [Sch.](#)
- F256** Words in s. 301A(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 23](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3](#), [Sch.](#)
- F257** Words in s. 301A(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 23](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3](#), [Sch.](#)
- F258** S. 301A(5) inserted (26.8.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(No. 2\) Regulations 2013 \(S.I. 2013/1908\)](#), [regs. 1\(3\)\(c\)](#), [5\(2\)](#)

#### **301B Requirements for section 301A notices**

- (1) A section 301A notice must be in such form, include such information and be accompanied by such documents as the [<sup>F259</sup>FCA] may reasonably require.
- (2) The [<sup>F259</sup>FCA] must publish a list of its requirements as to the form, information and accompanying documents for a section 301A notice.
- (3) The [<sup>F259</sup>FCA] may impose different requirements for different cases and may vary or waive requirements in particular cases.

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#### Textual Amendments

**F259** Word in s. 301B(1)-(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 24](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

### 301C Acknowledgment of receipt

- (1) The [<sup>F260</sup>FCA] must acknowledge receipt of a section 301A notice in writing before the end of the second working day following receipt.
- (2) If the [<sup>F261</sup>FCA] receives an incomplete section 301A notice it must inform the section 301A notice-giver as soon as reasonably practicable.

#### Textual Amendments

**F260** Word in s. 301C(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 25](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

**F261** Word in s. 301C(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 25](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

### *Acquiring and increasing control*

### 301D Acquiring and increasing control

- (1) For the purposes of this Chapter, a person (“A”) acquires control over a recognised investment exchange (“B”) if any of the cases in subsection (2) begin to apply.
- (2) The cases are where A holds—
  - (a) 20% or more of the shares in B or in a parent undertaking of B (“P”);
  - (b) 20% or more of the voting power in B or P; or
  - (c) shares or voting power in B or P as a result of which A is able to exercise significant influence over the management of B.
- (3) For the purposes of this Chapter, a person (“A”) increases control over a recognised investment exchange (“B”) whenever—
  - (a) the percentage of shares which A holds in B or in a parent undertaking of B (“P”) increases from less than 50% to 50% or more;
  - (b) the percentage of voting power A holds in B or P increases from less than 50% to 50% or more; or
  - (c) A becomes a parent undertaking of B.

### 301E Disregarded holdings

- (1) For the purpose of section 301D, shares and voting power that a person holds in a recognised investment exchange (“B”) or in a parent undertaking of B (“P”) are disregarded in the following circumstances.

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- (2) Shares held only for the purposes of clearing and settling within a short settlement cycle are disregarded.
- (3) Shares held by a custodian or its nominee in a custodian capacity are disregarded, provided that the custodian or nominee is only able to exercise voting power represented by the shares in accordance with instructions given in writing.
- (4) Shares representing no more than 5% of the total voting power in B or P held by an investment firm are disregarded, provided that it—
  - (a) holds the shares in the capacity of a market maker (as defined in <sup>F262</sup>Article 2(1)(6) of the markets in financial instruments regulation];
  - <sup>F263</sup>(b) has a Part 4A permission to carry on a regulated activity which is any of the investment services or activities; and]
  - (c) neither intervenes in the management of B or P nor exerts any influence on B or P to buy the shares or back the share price.
- (5) Shares held by a <sup>F264</sup>qualifying credit institution] or investment firm in its trading book are disregarded, provided that—
  - (a) the shares represent no more than 5% of the total voting power in B or P; and
  - (b) <sup>F265</sup>... the voting power is not exercised nor otherwise used to intervene in the management of B or P.
- (6) Shares held by a <sup>F266</sup>qualifying credit institution] or an investment firm are disregarded, provided that—
  - (a) the shares are held as a result of performing the investment services and activities of—
    - (i) underwriting a share issue; or
    - (ii) placing shares on a firm commitment basis <sup>F267</sup>...; and
  - (b) the <sup>F268</sup>qualifying credit institution] or investment firm—
    - (i) does not exercise voting power represented by the shares or otherwise intervene in the management of the issuer; and
    - (ii) retains the holding for a period of less than one year.
- (7) Where a management company (as defined in <sup>F269</sup>section 237(2)) and its parent undertaking both hold shares or voting power, each may disregard holdings of the other, provided that each exercises its voting power independently of the other.
- (8) But subsection (7) does not apply if the management company—
  - <sup>F270</sup>(a) manages holdings for its parent undertaking or a controlled undertaking of the parent undertaking;]
  - (b) has no discretion as to the exercise of the voting power attached to such holdings; and
  - (c) may only exercise the voting power in relation to such holdings under direct or indirect instruction from—
    - (i) the parent undertaking; or
    - <sup>F271</sup>(ii) a controlled undertaking of the parent undertaking.]
- (9) Where an investment firm and its parent undertaking both hold shares or voting power, the parent undertaking may disregard holdings managed by the investment firm on a client by client basis and the investment firm may disregard holdings of the parent undertaking, provided that the investment firm—
  - (a) has permission to provide portfolio management;

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- (b) exercises its voting power independently from the parent undertaking; and
- (c) may only exercise the voting power under instructions given in writing, or has appropriate mechanisms in place for ensuring that individual portfolio management services are conducted independently of any other services.

[<sup>F272</sup>(9A) Shares acquired for stabilisation purposes in accordance with [<sup>F273</sup>the market abuse regulation and Commission Delegated Regulation (EU) No. 1052/2016 of 8 March 2016 supplementing Regulation (EU) No. 596/2014 of the European Parliament and the Council with regard to the regulatory technical standards for conditions applicable to buy-back programmes and stabilisation measures] are disregarded, provided that the voting power attached to those shares is not exercised or otherwise used to intervene in the management of B or P.]

[<sup>F274</sup>(10) For the purposes of this section, an undertaking is a controlled undertaking of the parent undertaking if it is controlled by the parent undertaking; and for this purpose the question of whether one undertaking controls another is to be determined in accordance with section 89J(4) and (5).]

#### Textual Amendments

- F262** Words in s. 301E(4)(a) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **6(2)(a)(i)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F263** S. 301E(4)(b) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **6(2)(a)(ii)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F264** Words in s. 301E(5) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **6(2)(b)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F265** Words in s. 301E(5)(b) omitted (1.11.2015 for specified purposes, 31.5.2016 in so far as not already in force) by virtue of [The Transparency Regulations 2015](#) (S.I. 2015/1755), regs. 1(2)(4), **6(2)(a)**
- F266** Words in s. 301E(6) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **6(2)(c)(i)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F267** Words in s. 301E(6)(a)(ii) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **6(2)(c)(ii)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F268** Words in s. 301E(6)(b) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **6(2)(c)(i)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F269** Words in s. 301E(7) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(3), **6(2)(d)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F270** S. 301E(8)(a) substituted (1.1.2014) by [The Capital Requirements Regulations 2013](#) (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 17(a)**
- F271** S. 301E(8)(c)(ii) substituted (1.1.2014) by [The Capital Requirements Regulations 2013](#) (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 17(b)**
- F272** S. 301E(9A) inserted (1.11.2015 for specified purposes, 31.5.2016 in so far as not already in force) by [The Transparency Regulations 2015](#) (S.I. 2015/1755), regs. 1(2)(4), **6(2)(b)**
- F273** Words in s. 301E(9A) substituted (26.3.2019) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/662), regs. 1(2), **2(a)**

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**F274** S. 301E(10) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), [Sch. 2 para. 17\(c\)](#)

### *Assessment procedure*

#### **301F Assessment: general**

- (1) Where the [<sup>F275</sup>FCA] receives a section 301A notice, it must—
  - (a) determine whether to approve the acquisition to which it relates; or
  - (b) propose to object to the acquisition.
- (2) In making its determination the [<sup>F275</sup>FCA] must—
  - (a) consider the suitability of the section 301A notice-giver and the financial soundness of the acquisition in order to ensure the sound and prudent management of the recognised investment exchange in question; and
  - (b) have regard to the likely influence that the section 301A notice-giver will have on the recognised investment exchange.
- (3) The [<sup>F275</sup>FCA] may only object to an acquisition if it is not satisfied that the approval requirement is met.
- (4) The approval requirement is that the acquisition in question by the notice-giver does not pose a threat to the sound and prudent management of any financial market operated by the recognised investment exchange.

#### **Textual Amendments**

**F275** Word in s. 301F(1)-(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 26](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### **301G Assessment: Procedure**

- (1) The [<sup>F276</sup>FCA] must act under section 301F within a period three months from the date the [<sup>F276</sup>FCA] receives the completed section 301A notice (“the assessment period”).
- (2) The [<sup>F277</sup>FCA] must inform the section 301A notice-giver in writing of—
  - (a) the duration of the assessment period; and
  - (b) its expiry date.
- (3) The [<sup>F277</sup>FCA] must, within two working days of acting under section 301F (and in any event no later than the expiry date of the assessment period)—
  - (a) notify the section 301A notice-giver that it has determined to approve the acquisition; or
  - (b) in the case of a proposed objection to an acquisition, give a warning notice.
- (4) The [<sup>F277</sup>FCA] is treated as having approved the acquisition if, at the expiry of the assessment period, it has neither—
  - (a) given notice under subsection (3); nor
  - (b) informed the section 301A notice-giver that the notice is incomplete.

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- (5) If the [F<sup>277</sup>FCA] decides to object to an acquisition it must give the section 301A notice-giver a decision notice.
- (6) Following receipt of a decision notice under this section, the section 301A notice-giver may refer [F<sup>278</sup>the FCA's] decision to the Tribunal.

#### Textual Amendments

- F276** Word in s. 301G(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 27\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F277** Word in s. 301G(2)-(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 27\(2\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F278** Words in s. 301G(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 27\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

### 301H Duration of approval

- (1) Approval of an acquisition is effective for such period as [F<sup>279</sup>the FCA] may specify in writing.
- (2) Where [F<sup>280</sup>the FCA] has specified a period under subsection (1), it may extend the period.
- (3) Where [F<sup>281</sup>the FCA] has not specified a period, the approval is effective for one year beginning with the date—
  - (a) of the notice given under section 301G(3)(a);
  - (b) on which [F<sup>281</sup>the FCA] is treated as having given approval under section 301G(5); or
  - (c) of a decision on a reference to the Tribunal which results in the person receiving approval.

#### Textual Amendments

- F279** Words in s. 301H(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 28](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F280** Words in s. 301H(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 28](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F281** Words in s. 301H(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 28](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

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### *Enforcement procedures*

#### **301I Objections by the [F282FCA]**

- (1) The [F282FCA] may object to a person's control over a recognised investment exchange in any of the circumstances specified in subsection (2).
- (2) The circumstances are that the [F282FCA] reasonably believes that—
  - (a) the person acquired or increased control without giving notice under section 301A in circumstances where notice was required; and
  - (b) there are grounds for objecting to control on the basis of the approval requirement in section 301F(4).
- (3) If the [F282FCA] proposes to object to a person's control over a recognised investment exchange, it must give that person a warning notice.
- (4) If the [F282FCA] decides to object to a person's control over a UK authorised person, it must give that person a decision notice.
- (5) A person to whom the [F282FCA] gives a decision notice under this section may refer the matter to the Tribunal.

#### **Textual Amendments**

**F282** Word in s. 301I(1)-(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 29](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### **301J Restriction notices**

- (1) The [F283FCA] may give notice in writing (a “restriction notice”) to a person in the following circumstances.
- (2) The circumstances are that—
  - (a) the person has control over a recognised investment exchange by virtue of holding shares or voting power; and
  - (b) in relation to the shares or voting power, the [F284FCA] has given the person a warning notice or a decision notice under section 301G or 301I or a final notice which confirms a decision notice given under section 301G or 301I.
- (3) In a restriction notice, the [F285FCA] may direct that shares or voting power to which the notice relates are, until further notice, subject to one or more of the following restrictions—
  - (a) except by court order, an agreement to transfer or a transfer of any such shares or voting power or, in the case of unissued shares, any agreement to transfer or transfer of the right to be issued with them, is void;
  - (b) no voting power is to be exercisable;
  - (c) no further shares are to be issued in pursuance of any right of the holder of any such shares or voting power or in pursuance of any offer made to their holder;
  - (d) except in a liquidation, no payment is to be made of any sums due from the body corporate on any such shares, whether in respect of capital or otherwise.
- (4) A restriction notice takes effect—



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- (a) immediately; or
  - (b) on such date as may be specified in the notice.
- (5) A restriction notice does not extinguish rights which would be enjoyable but for the notice.
- (6) A copy of the restriction notice must be served on—
- (a) the recognised investment exchange in question; and
  - (b) in the case of shares or voting power held in a parent undertaking of a recognised investment exchange, the parent undertaking.
- (7) A person to whom the [F286FCA] gives a restriction notice may refer the matter to the Tribunal.

#### Textual Amendments

- F283** Word in s. 301J(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 30](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F284** Word in s. 301J(2)(b) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 30](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F285** Word in s. 301J(3) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 30](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)
- F286** Word in s. 301J(7) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 8 para. 30](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423, art. 3, Sch.](#)

#### 301K Orders for sale of shares

- (1) The court may, on the application of [F287the FCA], order the sale of shares or the disposition of voting power in the following circumstances.
- (2) The circumstances are that—
  - (a) a person has control over a recognised investment exchange by virtue of holding the shares or voting power; and
  - (b) the acquisition or continued holding of the shares or voting power by that person is in contravention of a final notice which confirms a decision notice given under section 301G or section 301I.
- (3) Where the court orders the sale of shares or disposition of voting power it may—
  - (a) if a restriction notice has been given in relation to the shares or voting power, order that the restrictions cease to apply; and
  - (b) make any further order.
- (4) Where the court makes an order under this section, it must take into account the level of holding that the person would have been entitled to acquire, or to continue to hold, without contravening the final notice.
- (5) If shares are sold or voting power disposed of in pursuance of an order under this section, any proceeds, less the costs of the sale or disposition, must be paid into court

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for the benefit of the persons beneficially interested in them; and any such person may apply to the court for payment of a whole or part of the proceeds.

- (6) The jurisdiction conferred by this section may be exercised by the High Court and the Court of Session.

#### **Textual Amendments**

**F287** Words in s. 301K(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 8 para. 31](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

### *Offences*

#### **301L Offences under this Chapter**

- (1) A person who fails to comply with an obligation to notify [<sup>F288</sup>the FCA] under section 301A(1) or (2) is guilty of an offence.
- (2) A person who gives notice to [<sup>F289</sup>the FCA] under section 301A(1) and makes the acquisition to which the notice relates before the expiry date of the assessment period is guilty of an offence unless [<sup>F289</sup>the FCA] has approved the acquisition.
- (3) A person who makes an acquisition in contravention of a warning notice or a decision notice given under section 301G or a final notice which confirms a decision notice under that section is guilty of an offence.
- (4) A person who makes an acquisition after [<sup>F290</sup>the FCA's] approval for the acquisition has ceased to be effective by virtue of section 301H is guilty of an offence.
- (5) A person who provides information to [<sup>F291</sup>the FCA] which is false in a material particular is guilty of an offence.
- (6) A person who breaches a direction contained in a restriction notice given under section 301J is guilty of an offence.
- (7) A person guilty of an offence under subsection (1), (2) or (4) to (6) is liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (8) A person guilty of an offence under subsection (3) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (9) It is a defence for a person charged with an offence under subsection (1) in relation to section 301A(2) to show that the person had, at the time of the alleged offence, no knowledge of the act or circumstances by virtue of which the duty to notify [<sup>F292</sup>the FCA] arose.

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### Textual Amendments

- F288** Words in s. 301L(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 32(2)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F289** Words in s. 301L(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 32(2)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F290** Words in s. 301L(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 32(3)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F291** Words in s. 301L(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 32(4)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F292** Words in s. 301L(9) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 32(4)** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

## Interpretation

### 301M Interpretation

- (1) In this Chapter—  
“acquisition” means the acquisition of control or of an increase in control over a recognised investment exchange;  
<sup>F293</sup>  
...  
“shares” and “voting power” have the same meaning as in section 422.
- (2) For the purposes of this Chapter, a “working day” is a day other than—  
(a) a Saturday or a Sunday; or  
(b) a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.]

### Textual Amendments

- F293** Words in s. 301M(1) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **6(3)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER II

### COMPETITION SCRUTINY

### <sup>F294</sup>302 Interpretation.

.....

*Status: Point in time view as at 29/06/2023.*

*Changes to legislation: Financial Services and Markets Act 2000, Part XVIII is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, **art. 3**, [Sch.](#)

*Role of [<sup>F295</sup>Office of Fair Trading]*

**Textual Amendments**

**F295** S. 303: cross-heading substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279**, **Sch. 25 para. 40(10)(f)**; S.I. 2003/766, **art. 2**, [Sch.](#) (with [art. 3](#))

<sup>F294</sup>**303 Initial report by [<sup>F296</sup>OFT].**

.....

**Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, **art. 3**, [Sch.](#)

**F296** S. 303: words in sidenote substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279**, **Sch. 25 para. 40(10)(f)**; S.I. 2003/766, **art. 2**, [Sch.](#) (with [art. 3](#))

<sup>F294</sup>**304 Further reports by [<sup>F297</sup>OFT].**

.....

**Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, **art. 3**, [Sch.](#)

**F297** Words in s. 304 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279**, **Sch. 25 para. 40(11)(a)**; S.I. 2003/766, **art. 2**, [Sch.](#) (with [art. 3](#))

<sup>F294</sup>**305 Investigations by [<sup>F298</sup>OFT].**

.....

**Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, **art. 3**, [Sch.](#)

**F298** Words in s. 305 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279**, **Sch. 25 para. 40(12)**; S.I. 2003/766, **art. 2**, [Sch.](#) (with [art. 3](#))

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### *Role of Competition Commission*

#### **F294 306 Consideration by Competition Commission.**

.....

##### **Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a), 122(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

### *Role of the Treasury*

#### **F294 307 Recognition orders: role of the Treasury.**

.....

##### **Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a), 122(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

#### **F294 308 Directions by the Treasury.**

.....

##### **Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a), 122(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

#### **F294 309 Statements by the Treasury.**

.....

##### **Textual Amendments**

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a), 122(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

#### **F294 310 Procedure on exercise of certain powers by the Treasury.**

.....

*Status: Point in time view as at 29/06/2023.*

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#### Textual Amendments

**F294** Pt. 18 Ch. 2 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), **ss. 34(a)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

## [<sup>F299</sup>CHAPTER 2A

### PERFORMANCE OF FUNCTIONS OF RECOGNISED BODIES

#### Textual Amendments

**F299** Pt. 18 Ch. 2A inserted (29.6.2023 for specified purposes) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(1)(e), **Sch. 10 para. 1**

#### *Relevant recognised bodies*

#### **309A Recognised bodies to which this Chapter applies**

- (1) The Treasury may by regulations specify as a “relevant recognised body” for the purposes of this Chapter a type of recognised body mentioned in subsection (2).
- (2) The types of recognised bodies are—
  - (a) recognised investment exchanges;
  - (b) recognised central counterparties;
  - (c) recognised CSDs.
- (3) Before making regulations under subsection (1), the Treasury—
  - (a) must consult the FCA if it proposes to specify recognised investment exchanges (or recognised investment exchanges of a specified description);
  - (b) must consult the Bank of England if it proposes to specify recognised central counterparties or recognised CSDs (or recognised central counterparties or recognised CSDs of a specified description);
  - (c) in any case, must consult such persons as appear to it to be representative of interests likely to be affected by the application of this Chapter to the types, or descriptions, of bodies it proposes to specify.
- (4) In this Chapter, references to “the appropriate regulator” are to be read in accordance with section 285A (accordingly, the appropriate regulator in relation to a recognised investment exchange is the FCA, and in any other case is the Bank of England).
- (5) Nothing in this Chapter applies to overseas investment exchanges.

#### *Prohibition*

#### **309B Part 18 prohibition orders**

- (1) This section applies if it appears to the appropriate regulator that an individual is not a fit and proper person to perform functions in relation to an activity carried on by a relevant recognised body.

*Status: Point in time view as at 29/06/2023.*

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- (2) The appropriate regulator may make an order (a “Part 18 prohibition order”) prohibiting the individual from performing a specified function, any function falling within a specified description or any function.
- (3) A Part 18 prohibition order may relate to—
  - (a) a specified activity, any activity falling within a specified description or all activities (but see subsection (5));
  - (b) all persons falling within subsection (4), or a particular paragraph of that subsection, or all persons within a specified class of person falling within a particular paragraph of that subsection.
- (4) A person falls within this subsection if the person is—
  - (a) a relevant recognised body (whether or not the appropriate regulator making the order is the appropriate regulator in relation to relevant recognised bodies of that type),
  - (b) an authorised person,
  - (c) an exempt person (other than a relevant recognised body), or
  - (d) a person to whom, as a result of Part 20, the general prohibition does not apply in relation to a regulated activity.
- (5) If a Part 18 prohibition order makes provision in relation to a person or persons falling within subsection (4)(b), (c) or (d), subsection (3)(a) applies in relation to such provision as if references to an activity or activities were to a regulated activity or regulated activities.
- (6) In this section, “specified” means specified in the Part 18 prohibition order.

### **309C Procedure for making Part 18 prohibition orders**

- (1) If the appropriate regulator proposes to make a Part 18 prohibition order it must—
  - (a) comply with such consultation requirements as may be prescribed, and
  - (b) give the individual to whom the order would apply a warning notice.
- (2) A warning notice under subsection (1)(b) must set out the terms of the prohibition.
- (3) If the appropriate regulator decides to make a Part 18 prohibition order it must give the individual to whom the order applies a decision notice.
- (4) The decision notice must—
  - (a) name the individual to whom the Part 18 prohibition order applies, and
  - (b) set out the terms of the order.
- (5) If the appropriate regulator decides to make a Part 18 prohibition order, the individual to whom the order applies may refer the matter to the Tribunal.

### **309D Varying and withdrawing Part 18 prohibition orders**

- (1) This section applies where the appropriate regulator has made a Part 18 prohibition order in relation to an individual.
- (2) The appropriate regulator may vary or revoke the Part 18 prohibition order on the application of the individual.

*Status: Point in time view as at 29/06/2023.*

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- (3) Before varying or revoking a Part 18 prohibition order, the appropriate regulator must comply with such consultation requirements as may be prescribed.
- (4) On an application for the variation or revocation of a Part 18 prohibition order—
  - (a) if the appropriate regulator decides to grant the application, it must give the applicant written notice of its decision;
  - (b) if the appropriate regulator proposes to refuse the application, it must give the applicant a warning notice;
  - (c) if the appropriate regulator decides to refuse the application, it must give the applicant a decision notice.
- (5) If the appropriate regulator gives the applicant a decision notice under subsection (4)(c), the applicant may refer the matter to the Tribunal.

### **309E Offence of breaching prohibition**

- (1) An individual who performs a function, or agrees to perform a function, in breach of a Part 18 prohibition order is guilty of an offence.
- (2) An individual who commits an offence under this section is liable—
  - (a) on summary conviction in England and Wales, to a fine;
  - (b) on summary conviction in Scotland, to a fine not exceeding level 5 on the standard scale;
  - (c) on summary conviction in Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (3) In proceedings for an offence under this section, it is a defence for the individual to show that the individual took all reasonable precautions and exercised all due diligence to avoid committing the offence.

### **309F Duty in relation to prohibited individuals**

- (1) A person (“P”) falling within section 309B(4) must take reasonable care to ensure that no function in relation to the carrying on of P’s activities is performed by an individual who is prohibited from performing that function by a Part 18 prohibition order.
- (2) A contravention of subsection (1) is actionable at the suit of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) In prescribed cases, a contravention of subsection (1) which would be actionable at the suit of a private person is actionable at the suit of a person who is not a private person, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (4) In this section “private person” has such meaning as may be prescribed.



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## Approval

### 309G Requirement for approval

- (1) A relevant recognised body must take reasonable care to ensure that a person does not perform a designated senior management function in relation to the carrying on of an activity by the body, unless the person is acting in accordance with an approval given by the appropriate regulator under this section.
- (2) Subsection (1) applies only in relation to a function performed under—
  - (a) an arrangement entered into by the relevant recognised body, or
  - (b) an arrangement entered into by a contractor of the relevant recognised body.
- (3) “Designated senior management function” means a function of a description specified in rules made by the appropriate regulator.
- (4) The appropriate regulator may specify a description of function under subsection (3) only if it is satisfied that the function is a senior management function.
- (5) A function is a “senior management function” in relation to the carrying on of a relevant recognised body’s activities if—
  - (a) the function will require the person performing it to be responsible for managing one or more aspects of the body’s affairs, and
  - (b) those aspects involve, or might involve, a risk of serious consequences—
    - (i) for the body, or
    - (ii) for business or other interests in the United Kingdom.
- (6) In subsection (5)(a), the reference to managing one or more aspects of a relevant recognised body’s affairs includes a reference to taking decisions, or participating in the taking of decisions, about how one or more aspects of those affairs should be carried on.
- (7) In subsection (2), “arrangement”—
  - (a) means any kind of arrangement for the performance of a function of a relevant recognised body which is entered into by the body, or by a contractor of the body, and another person, and
  - (b) includes, in particular, an arrangement under which the other person is appointed to an office, becomes a partner or is employed (whether under a contract of service or otherwise).

### 309H Rules under section 309G(3): transitional provision

- (1) In relation to rules made by the Bank of England or the FCA under section 309G(3), the power conferred by section 137T(c) to make transitional provision includes, in particular, power—
  - (a) to provide for anything done under this Chapter, or under Part 5 (performance of regulated activities), in relation to a senior management function of a particular description to be treated as having been done in relation to a senior management function of a different description;
  - (b) to provide for anything done under this Chapter, or under Part 5 (including any application or order made, any requirement imposed and any approval or notice given) to cease to have effect, to continue to have effect, or to continue to have effect with modifications, or subject to time limits or conditions;

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- (c) to provide for rules made by the regulator making the rules under section 309G(3) to apply with modifications;
  - (d) to make saving provision.
- (2) The Treasury may by regulations make whatever incidental, consequential, transitional, supplemental or saving provision the Treasury consider appropriate in connection with the making of rules under section 309G(3).
- (3) Regulations under subsection (2) may—
- (a) confer functions on the Bank of England or the FCA (including the function of making rules);
  - (b) modify legislation (including any provision of, or made under, this Act).
- (4) In subsection (3)(b)—
- “legislation” means primary legislation, subordinate legislation (within the meaning of the Interpretation Act 1978) and retained direct EU legislation, but does not include rules or other instruments made by any regulator;
  - “modify” includes amend, repeal or revoke.

### **309I Applications for approval**

- (1) A relevant recognised body may apply for approval from the appropriate regulator under section 309G for a person to perform a designated senior management function in relation to the carrying on of the body’s activities.
- (2) The application must be made in such manner as the appropriate regulator may direct.
- (3) The application must contain—
  - (a) a statement setting out the aspects of the applicant’s affairs which it is intended that the person will be responsible for managing in performing the function, and
  - (b) such other information as the appropriate regulator may reasonably require.
- (4) A statement provided under subsection (3)(a) is known as a “statement of responsibilities”.
- (5) At any time after the application is received, and before it is determined, the appropriate regulator may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application.
- (6) The appropriate regulator may require the applicant to present information provided under this section in such form, or to verify the information in such a way, as the appropriate regulator may direct.
- (7) Different directions may be given, and different requirements may be imposed, in relation to different applications or categories of application.
- (8) In subsection (1), “relevant recognised body” includes—
  - (a) if recognised investment exchanges are a type of recognised body to which this Chapter applies, a person who has applied for recognition as such under section 287;

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- (b) if recognised central counterparties are a type of recognised body to which this Chapter applies, a person who has applied for recognition as such under section 288;
- (c) if recognised CSDs are a type of recognised body to which this Chapter applies, a person who has applied for recognition as such under section 288A.

### **309J Vetting by relevant recognised bodies**

- (1) Before making an application under section 309I for approval for a person to perform a designated senior management function, a relevant recognised body must be satisfied that the person is a fit and proper person to perform the function.
- (2) In deciding that question, the relevant recognised body must have regard, among other things, to whether the person, or any person who may perform a function on the person's behalf—
  - (a) has obtained a specified qualification;
  - (b) has undergone, or is undergoing, specified training;
  - (c) possesses a specified level of competence;
  - (d) has specified personal characteristics.
- (3) In subsection (2), “specified” means specified in rules made by the appropriate regulator.
- (4) Before making rules for the purposes of this section, the appropriate regulator must comply with such consultation requirements as may be prescribed.

### **309K Determining applications: power to grant approval**

- (1) The appropriate regulator may grant an application under section 309I for approval for a person to perform a designated senior management function only if—
  - (a) it is satisfied that the person is a fit and proper person to perform the function, or
  - (b) it is satisfied that the condition in paragraph (a) will be met if the application is granted subject to one or more conditions (see subsection (3)).
- (2) In determining the application, the appropriate regulator may have regard, among other things, to the matters mentioned in section 309J(2) (qualifications etc of person for whom approval sought).
- (3) The appropriate regulator may, if it appears to it that it is desirable to do so in order to advance a relevant objective—
  - (a) grant the application subject to any conditions that it considers appropriate;
  - (b) grant the application so as to give approval only for a limited period.
- (4) For the purposes of subsection (3), “relevant objective” means—
  - (a) if the appropriate regulator is the FCA, any of its operational objectives;
  - (b) if the appropriate regulator is the Bank of England, the Financial Stability Objective.
- (5) Before granting approval under this section (whether or not subject to conditions or for a limited period), the appropriate regulator must comply with such consultation requirements as may be prescribed.

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### **309L Determining applications: period for approval**

- (1) The appropriate regulator must, before the end of the period for consideration, determine whether—
  - (a) to grant an application under section 309I for approval for a person to perform a function, without imposing conditions or limiting the period for which the approval has effect, or
  - (b) to give a warning notice under section 309M(2).

- (2) In subsection (1), “the period for consideration” means the period of 3 months beginning with the day on which the appropriate regulator receives the application.

This is subject to subsections (3) and (4).

- (3) Where the application under section 309I is made by a person in reliance on section 309I(8) (applicants for recognition to be treated as relevant recognised bodies), “the period for consideration” means whichever of the following periods ends later—
  - (a) the period described in subsection (2), and
  - (b) the period within which the person’s application for recognition must be determined—
    - (i) in the case of an application under section 287, in accordance with section 290(1B);
    - (ii) in the case of an application under section 288, in accordance with Article 17(7) of the EMIR regulation;
    - (iii) in the case of an application under section 288A, in accordance with section 290(4A).
- (4) If the appropriate regulator imposes a requirement under section 309I(5), the period described in subsection (2) stops running on the day on which the requirement is imposed but starts running again—
  - (a) on the day on which the required information is received by the appropriate regulator, or
  - (b) if the information is not provided on a single day, on the last of the days on which it is received by the appropriate regulator.
- (5) An applicant may withdraw an application under section 309I, by giving written notice to the appropriate regulator, at any time before the appropriate regulator determines the application, but only with the consent of—
  - (a) the person in relation to whom the application is made, and
  - (b) the person by whom that person is to be retained to perform the function to which the application relates, if not the applicant.

### **309M Determining applications: further procedure**

- (1) If the appropriate regulator decides to grant an application under section 309I without imposing conditions or limiting the period for which approval is given, it must give written notice of its decision to each of the interested parties.
- (2) If the appropriate regulator proposes to refuse the application, or to grant the application subject to conditions or for a limited period (or both), it must give a warning notice to each of the interested parties.

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- (3) If the appropriate regulator decides to refuse the application, or to grant the application subject to conditions or for a limited period (or both), it must give a decision notice to each of the interested parties.
- (4) If the appropriate regulator decides to refuse the application, or to grant the application subject to conditions or for a limited period (or both), each of the interested parties may refer the matter to the Tribunal.
- (5) In this section, “the interested parties”, in relation to an application under section 309I for approval for a person to perform a function, are—
  - (a) the applicant,
  - (b) the person in relation to whom the application is made, and
  - (c) the person by whom that person is to be retained to perform the function to which the application relates, if not the applicant.

### **309N Changes in responsibilities**

- (1) This section applies where, on an application made by a relevant recognised body under section 309I, the appropriate regulator has given approval for a person to perform a designated senior management function (and has not withdrawn the approval).
- (2) Each time there is a notifiable change in the aspects of the relevant recognised body’s affairs which the person is responsible for managing in performing the function, the relevant recognised body must provide the appropriate regulator with a revised statement of responsibilities (see section 309I(4)).
- (3) Whether a change is “notifiable” is to be determined by the relevant recognised body in accordance with rules made by the appropriate regulator.
- (4) The appropriate regulator may require the relevant recognised body to present information provided under this section in such form, or to verify the information in such a way, as the appropriate regulator may direct.

### **309O Withdrawing approval**

- (1) This section applies if an approval under section 309G has been given by the appropriate regulator in relation to the performance by a person of a designated senior management function.
- (2) The appropriate regulator may withdraw the approval if it considers that the person is not a fit and proper person to perform the function.
- (3) In considering whether to withdraw an approval, the appropriate regulator may take into account any matter which may be taken into account in considering an application under section 309I.
- (4) The relevant recognised body on whose application the approval was given must, at specified intervals—
  - (a) consider whether there are grounds on which the appropriate regulator could withdraw the approval under this section, and
  - (b) if it considers that there are such grounds, notify the appropriate regulator of those grounds.

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- (5) For the purposes of subsection (4), a “specified interval” is an interval specified in rules made by the appropriate regulator for the purposes of this section.

### **309P Procedure for withdrawing approval**

- (1) If the appropriate regulator proposes to withdraw an approval given under section 309G, it must—
  - (a) comply with such consultation requirements as may be prescribed, and
  - (b) give each of the interested parties a warning notice.
- (2) If the appropriate regulator decides to withdraw the approval, it must give each of the interested parties a decision notice.
- (3) If the appropriate regulator decides to withdraw the approval, each of the interested parties may refer the matter to the Tribunal.
- (4) In this section, “the interested parties”, in relation to an approval given under section 309G, are—
  - (a) the relevant recognised body on whose application the approval was given,
  - (b) the person in relation to whom the approval was given, and
  - (c) the person by whom that person’s services are retained, if not the relevant recognised body.

### **309Q Varying approval at request of relevant recognised body**

- (1) Where an approval under section 309G has effect subject to conditions, the relevant recognised body that applied for the approval may apply to the appropriate regulator to vary the approval by—
  - (a) varying a condition,
  - (b) removing a condition, or
  - (c) imposing a new condition.
- (2) Where an approval under section 309G has effect for a limited period, the relevant recognised body that applied for the approval may apply to the appropriate regulator to vary the approval by—
  - (a) varying the period, or
  - (b) removing the limit on the period for which the approval is to have effect.
- (3) The appropriate regulator must, before the end of the consultation period, determine whether—
  - (a) to grant the application, or
  - (b) to give a warning notice under section 309M(2) (as applied by subsection (8)).
- (4) The “consultation period” is—
  - (a) such period as may be prescribed (and different periods may be prescribed in relation to different types of relevant recognised bodies), or
  - (b) if no such period is prescribed, the period of 3 months beginning with the day on which the appropriate regulator receives the application to vary the approval.
- (5) The appropriate regulator may refuse an application under this section, if it appears to it that it is desirable to do so in order to advance a relevant objective.

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- (6) For the purposes of subsection (5), “relevant objective” means—
  - (a) if the appropriate regulator is the FCA, any of its operational objectives;
  - (b) if the appropriate regulator is the Bank of England, the Financial Stability Objective.
- (7) An application may not be made under this section to vary or remove a condition or limit that was imposed under section 309Z2.
- (8) Except as provided for below, the following sections apply to an application under this section for variation of an approval as they apply to an application under section 309I—
  - (a) section 309I(2) to (8),
  - (b) section 309L(4) and (5), and
  - (c) section 309M, but as if the references in subsections (1) to (4) to granting the application subject to conditions or for a limited period, or without imposing conditions or limiting the period for which approval is given, were omitted.

### **309R Varying approval on the appropriate regulator’s initiative**

- (1) The appropriate regulator may vary an approval under section 309G if it considers it desirable to do so in order to advance a relevant objective.
- (2) For these purposes, “relevant objective” means—
  - (a) if the appropriate regulator is the FCA, any of its operational objectives;
  - (b) if the appropriate regulator is the Bank of England, the Financial Stability Objective.
- (3) The appropriate regulator may vary the approval by doing the following—
  - (a) imposing a condition,
  - (b) varying a condition,
  - (c) removing a condition,
  - (d) where the approval has effect for an unlimited period, limiting the period of the approval, or
  - (e) where the approval has effect for a limited period, varying that period or removing the limit on the period.
- (4) A variation under this section takes effect—
  - (a) immediately, if the notice given under subsection (5) states that to be the case,
  - (b) on a date specified in the notice, or
  - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (5) If the appropriate regulator proposes to vary an approval or varies an approval with immediate effect, it must give each of the interested parties written notice—
  - (a) setting out details of the variation,
  - (b) stating the reasons for the variation,
  - (c) stating that each of the interested parties may make representations to the appropriate regulator within the period specified in the notice (whether or not any of the interested parties has referred the matter to the Tribunal),
  - (d) stating when the variation takes effect, and
  - (e) setting out each interested party’s right to refer the matter to the Tribunal.

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- (6) A variation may be expressed to take effect immediately or on a specified date only if the appropriate regulator, having regard to its reason for varying the approval, reasonably considers that it is necessary for the variation to take effect immediately or on that date (as appropriate).
- (7) The appropriate regulator may extend the period allowed under the notice for making representations.
- (8) The appropriate regulator must give each of the interested parties written notice if, having considered the representations made, it decides—
  - (a) to vary the approval, or
  - (b) if the variation has taken effect, not to rescind it.
- (9) A notice under subsection (8) must inform the interested parties of the right of each of them to refer the matter to the Tribunal.
- (10) The appropriate regulator must give each of the interested parties written notice if, having considered the representations made, it decides—
  - (a) not to vary the approval,
  - (b) to vary the approval in a different way, or
  - (c) if the variation has taken effect, to rescind it.
- (11) A notice under subsection (10)(b) must comply with the requirements set out in subsection (5)(a) to (e).
- (12) A notice under this section which informs the interested parties of the right to refer a matter to the Tribunal must give an indication of the procedure on such a reference.
- (13) In this section, “the interested parties” has the same meaning as in section 309P.
- (14) For the purposes of subsection (4)(c), whether a matter is open to review is to be determined in accordance with section 391(8).

### **309S Statement of policy on approval**

- (1) The appropriate regulator must prepare and issue a statement of its policy with respect to—
  - (a) the giving of approval under section 309G subject to conditions or for a limited period only, and
  - (b) the variation under section 309Q or 309R of an approval given under section 309G.
- (2) The appropriate regulator—
  - (a) may alter or replace a statement issued under this section, and
  - (b) if it does so, must issue the altered or replacement statement.
- (3) Before the appropriate regulator issues a statement of policy under this section, it must publish a draft of the proposed statement in the way appearing to it to be best calculated to bring it to the attention of the public.
- (4) The draft statement must be accompanied by a notice stating that representations about the proposal may be made to the appropriate regulator within a period specified in the notice.



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- (5) Before issuing the proposed statement, the appropriate regulator must have regard to any representations made to it in accordance with subsection (4).
- (6) If the appropriate regulator issues the proposed statement it must publish the following in the way appearing to it to be best calculated to bring them to the attention of the public—
  - (a) the statement,
  - (b) an account, in general terms, of the representations made to it in accordance with subsection (4) and its response to them, and
  - (c) if the statement issued differs from the draft published under subsection (3) in a way which the appropriate regulator considers to be significant, details of the difference.
- (7) The appropriate regulator may charge a reasonable fee for providing a person with—
  - (a) a copy of a draft statement published under subsection (3), or
  - (b) a copy of a statement published under subsection (6)(a).
- (8) The appropriate regulator must, without delay, give the Treasury a copy of each statement it publishes under subsection (6)(a).

### **309T Breach of statutory duty by relevant recognised bodies**

- (1) A contravention of section 309G(1) is actionable at the suit of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (2) In prescribed cases, a contravention of section 309G(1) which would be actionable at the suit of a private person is actionable at the suit of a person who is not a private person, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) In this section “private person” has such meaning as may be prescribed.

### **309U Power to impose penalties**

- (1) The appropriate regulator may impose a penalty on a person if it is satisfied that—
  - (a) the person has at any time performed a designated senior management function without approval, and
  - (b) at that time the person knew, or could reasonably be expected to have known, that they were performing a designated senior management function without approval.
- (2) The penalty may be of such amount as the appropriate regulator considers appropriate.
- (3) A person performs a designated senior management function without approval at a time if—
  - (a) the person performs a designated senior management function under an arrangement entered into by a relevant recognised body, or by a contractor of a relevant recognised body, in relation to the carrying on of an activity by the body, and
  - (b) when performing the function, the person is not acting in accordance with an approval given under section 309G.

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- (4) The appropriate regulator may not impose a penalty on a person under this section after the end of the limitation period unless it gave the person a warning notice under section 309V before the end of that period.
- (5) For the purposes of subsection (4)—
  - (a) “the limitation period” means the period of 6 years beginning with the first day on which the appropriate regulator knew that the person concerned had performed a designated senior management function without approval, and
  - (b) the appropriate regulator is to be treated as knowing that a person has performed a designated senior management function without approval if it has information from which that can reasonably be inferred.

### **309V Procedure for imposing penalties**

- (1) If the appropriate regulator proposes to impose a penalty on a person under section 309U, it must give the person a warning notice.
- (2) A warning notice under this section must state the amount of the penalty.
- (3) If the appropriate regulator decides to impose a penalty on a person under section 309U, it must give the person a decision notice.
- (4) A decision notice under this section must state the amount of the penalty.
- (5) If the appropriate regulator decides to impose a penalty on a person under section 309U, the person may refer the matter to the Tribunal.

### **309W Statement of policy on penalties**

- (1) The appropriate regulator must prepare and issue a statement of its policy with respect to—
  - (a) the imposition of penalties under section 309U, and
  - (b) the amount of penalties under that section.
- (2) The appropriate regulator’s policy in determining whether a penalty should be imposed, and what the amount of a penalty should be, must include having regard to—
  - (a) the conduct of the person on whom the penalty is to be imposed,
  - (b) the extent to which the person could reasonably be expected to have known that a designated senior management function was performed without approval,
  - (c) the length of the period during which the person performed a designated senior management function without approval, and
  - (d) whether the person on whom the penalty is to be imposed is an individual.
- (3) The appropriate regulator’s policy in determining whether a penalty should be imposed on a person must also include having regard to the appropriateness of taking action against the person instead of, or in addition to, taking action against a relevant recognised body.
- (4) A statement issued under this section must include an indication of the circumstances in which the appropriate regulator would expect to be satisfied that a person could reasonably be expected to have known that the person was performing a designated senior management function without approval.

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- (5) The appropriate regulator—
  - (a) may alter or replace a statement issued under this section, and
  - (b) if it does so, must issue the altered or replacement statement.
- (6) When imposing, or deciding whether to impose, a penalty on a person under section 309U, the appropriate regulator must have regard to any statement of policy published under this section (which was in force at a time when the person performed a designated senior management function without approval).

### **309X Procedure for statement of policy on penalties**

- (1) Before the appropriate regulator issues a statement under section 309W(1) or (5), it must publish a draft of the proposed statement in the way appearing to it to be best calculated to bring it to the attention of the public.
- (2) The draft statement must be accompanied by a notice stating that representations about the proposal may be made to the appropriate regulator within the period specified in the notice.
- (3) Before issuing the proposed statement, the appropriate regulator must have regard to any representations made to it in accordance with subsection (2).
- (4) If the appropriate regulator issues the proposed statement it must publish the following in the way appearing to it to be best calculated to bring them to the attention of the public—
  - (a) the statement,
  - (b) an account, in general terms, of the representations made to the appropriate regulator in accordance with subsection (2) and the appropriate regulator’s response to them, and
  - (c) if the statement issued differs from the draft published under subsection (1) in a way which the appropriate regulator considers to be significant, details of the difference.
- (5) The appropriate regulator may charge a reasonable fee for providing a person with—
  - (a) a copy of a draft statement published under subsection (1), or
  - (b) a copy of a statement published under subsection (4)(a).
- (6) The appropriate regulator must, without delay, give the Treasury a copy of a statement which it publishes under subsection (4)(a).

### *Certification of employees*

### **309Y Certification of employees by relevant recognised bodies**

- (1) A relevant recognised body must take reasonable care to ensure that none of its employees performs a specified function in relation to the carrying on of an activity by the body, unless the employee has a valid certificate issued by the body under section 309Z.
- (2) Subsection (1) applies only in relation to a function performed under an arrangement entered into by the body.

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- (3) In this section, “specified function” means a function of a description specified in rules made by the appropriate regulator.
- (4) The appropriate regulator may specify a description of function under subsection (3) only if, in relation to the carrying on of an activity by a relevant recognised body of a particular description—
  - (a) the function is not a designated senior management function in relation to the carrying on of that activity by a relevant recognised body of that description, and
  - (b) the appropriate regulator is satisfied that the function is a significant-harm function.
- (5) A function is a “significant-harm function”, in relation to the carrying on of an activity by a relevant recognised body, if—
  - (a) the function will require the person performing it to be involved in one or more aspects of the body’s affairs, so far as relating to the activity, and
  - (b) those aspects involve, or might involve, a risk of significant harm to the body or to any of its consumers.
- (6) In this section, “consumers”, in relation to a relevant recognised body, means—
  - (a) persons who use, have used or may use a service provided by the body, or
  - (b) persons who have relevant rights or interests in relation to any such service.
- (7) A person (“P”) has a “relevant right or interest” in relation to a service provided by a relevant recognised body if P has a right or interest—
  - (a) which is derived from, or is otherwise attributable to, the use of the service by others, or
  - (b) which may be adversely affected by the use of the service by persons acting on P’s behalf or in a fiduciary capacity in relation to P.
- (8) For these purposes—
  - (a) if a person is providing a service as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or may use the service;
  - (b) a person who deals with another person (“A”) in the course of A providing a service is to be treated as using the service.

### **309Z Issuing certificates**

- (1) A relevant recognised body may issue a certificate to a person under this section in relation to a function only if the body is satisfied that the person is a fit and proper person to perform the function.
- (2) In deciding that question the body must have regard, among other things, to whether the person—
  - (a) has obtained a specified qualification,
  - (b) has undergone, or is undergoing, specified training,
  - (c) possesses a specified level of competence, or
  - (d) has specified personal characteristics.
- (3) In subsection (2), “specified” means specified in rules made by the appropriate regulator.

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- (4) A certificate issued by a relevant recognised body to a person under this section must—
  - (a) state that the body is satisfied that the person is a fit and proper person to perform the function to which the certificate relates, and
  - (b) set out the aspects of the body’s affairs in which the person will be involved in performing the function.
- (5) A certificate issued under this section is valid for a period of 12 months beginning with the day on which it is issued.
- (6) If, after having considered whether a person is a fit and proper person to perform a function, a relevant recognised body decides not to issue a certificate to the person under this section, the body must give the person a notice in writing stating—
  - (a) what steps (if any) the body proposes to take in relation to the person as a result of the decision, and
  - (b) the reasons for proposing to take those steps.
- (7) A relevant recognised body must maintain a record of every employee who has a valid certificate issued by it under this section.

### *Rules of conduct*

#### **309Z1 Rules of conduct**

- (1) If it appears to the appropriate regulator to be necessary or expedient for the purposes of advancing a relevant objective, the appropriate regulator may make rules about the conduct of the following persons in relation to the performance by them of qualifying functions—
  - (a) persons in relation to whom the appropriate regulator has given its approval under section 309G (“Part 18 approved persons”);
  - (b) directors of relevant recognised bodies;
  - (c) employees of relevant recognised bodies.
- (2) Rules under subsection (1) may include provision requiring a relevant recognised body to—
  - (a) notify persons mentioned in subsection (1) of the rules that apply to them;
  - (b) take specified steps to secure that such persons understand how those rules apply in relation to them.
- (3) Rules under subsection (1) may include provision requiring a relevant recognised body to notify the appropriate regulator if the body takes specified disciplinary action in relation to a person mentioned in subsection (1).
- (4) In this section—

“qualifying function” means a function relating to the carrying on of activities by the following—

  - (a) in the case of a Part 18 approved person, the relevant recognised body on whose application approval was given;
  - (b) in the case of a director or employee of a relevant recognised body, who is not a Part 18 approved person, the relevant recognised body;

“relevant objective” means—

  - (a) if the appropriate regulator is the FCA, any of its operational objectives;

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(b) if the appropriate regulator is the Bank of England, the Financial Stability Objective.

“specified” means specified in the rules.

*Disciplinary action by appropriate regulator*

### **309Z2 Power to take disciplinary action for misconduct**

- (1) Subsection (2) applies if—
  - (a) it appears to the appropriate regulator that a person is guilty of misconduct (see section 309Z3), and
  - (b) the appropriate regulator is satisfied that it is appropriate in all the circumstances to take action against the person.
- (2) The appropriate regulator may do one or more of the following—
  - (a) publish a statement of the person’s misconduct;
  - (b) impose a penalty on the person of such amount as the appropriate regulator considers appropriate;
  - (c) suspend an approval of the performance of a function by the person under section 309G for such period as the appropriate regulator considers appropriate;
  - (d) impose such conditions as the appropriate regulator considers appropriate in relation to such an approval for such period as the appropriate regulator considers appropriate;
  - (e) limit the period for which such an approval is to have effect.
- (3) Where the appropriate regulator takes action described in subsection (2)(c), (d) or (e)—
  - (a) it may not suspend an approval for more than 2 years;
  - (b) it may not impose conditions which have effect for more than 2 years;
  - (c) it may impose a condition so as to, among other things, require a person to take, or refrain from taking, specified action;
  - (d) it may impose a suspension, condition or limitation that has effect in relation to part of a function.
- (4) The appropriate regulator that has taken action described in subsection (2)(c), (d) or (e) may (at any time)—
  - (a) withdraw a suspension, condition or limitation;
  - (b) vary a suspension or condition so as to reduce the period for which it has effect or otherwise to limit its effect;
  - (c) vary a limitation so as to increase the period for which the approval is to have effect.
- (5) The appropriate regulator may not take action under this section after the end of the period of 6 years beginning with the first day on which the appropriate regulator knew of the misconduct unless, before the end of that period, it gave a warning notice to the person concerned under section 309Z4.
- (6) For the purposes of subsection (5), the appropriate regulator is to be treated as knowing of misconduct if it has information from which the misconduct can reasonably be inferred.

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- (7) When a suspension is in force under subsection (2)(c) in relation to part of a function, the references in section 309G and 309U to the performance of a function include the performance of part of a function.
- (8) If at any time a condition imposed under subsection (2)(d) is contravened, the approval in relation to the person concerned is to be treated for the purposes of sections 309G and 309U as if it had been withdrawn at that time.

### **309Z3 Meaning of “misconduct”**

- (1) For the purposes of section 309Z2, a person is guilty of misconduct if any of conditions A to C is met.
- (2) Condition A is that—
  - (a) the person has at any time failed to comply with rules made under section 309Z1, and
  - (b) at that time the person was—
    - (i) a Part 18 approved person,
    - (ii) an employee of a relevant recognised body, or
    - (iii) a director of a relevant recognised body.
- (3) Condition B is that—
  - (a) the person has at any time after the passing of this Act been knowingly concerned in a contravention by a relevant recognised body of a relevant requirement, and
  - (b) at that time the person was—
    - (i) a Part 18 approved person in relation to the relevant recognised body,
    - (ii) an employee of the relevant recognised body, or
    - (iii) a director of the relevant recognised body.
- (4) Condition C is that—
  - (a) the person has at any time been a Part 18 approved person in relation to a relevant recognised body,
  - (b) at that time there was, or continued to be, a contravention by the body of a relevant requirement,
  - (c) the person was at that time responsible for the management of any of the body’s activities in relation to which the contravention occurred, and
  - (d) the person did not take such steps as a person in that position could reasonably be expected to take to avoid the contravention occurring or continuing.
- (5) In this section—
  - “Part 18 approved person”—
    - (a) means a person in relation to whom an approval is given under section 309G, and
    - (b) in relation to a relevant recognised body, means a person in relation to whom such approval is given on the application of the relevant recognised body;
  - “relevant requirement” has the meaning given by section 312E(2) and (3).

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### **309Z4 Procedure for disciplinary action**

- (1) If the appropriate regulator proposes to take action against a person under section 309Z2, it must—
  - (a) give the person a warning notice, and
  - (b) in the case of proposed action under section 309Z2(2)(c), (d) or (e), give each of the other interested parties a warning notice.
- (2) A warning notice under this section about a proposal to publish a statement of a person’s misconduct must set out the terms of the statement.
- (3) A warning notice under this section about a proposal to impose a penalty must state the amount of the penalty.
- (4) A warning notice under this section about—
  - (a) a proposal to suspend an approval given under section 309G, or
  - (b) a proposal to impose a condition in relation to such an approval,
 must state the period for which the suspension or condition is to have effect.
- (5) A warning notice under this section about a proposal to limit the period for which an approval under section 309G is to have effect must state the length of that period.
- (6) If the appropriate regulator decides to take action against a person under section 309Z2, it must—
  - (a) give the person a decision notice, and
  - (b) in the case of proposed action under section 309Z2(2)(c), (d) or (e), give each of the other interested parties a copy of the decision notice.
- (7) A decision notice under this section about the publication of a statement of a person’s misconduct must set out the terms of the statement.
- (8) A decision notice under this section about the imposition of a penalty must state the amount of the penalty.
- (9) A decision notice under this section about—
  - (a) the suspension of an approval given under section 309G, or
  - (b) the imposition of a condition in relation to such an approval,
 must state the period for which the suspension or condition is to have effect.
- (10) A decision notice under this section about limiting the period for which an approval under section 309G is to have effect must state the length of that period.
- (11) If the appropriate regulator decides to take action against a person under section 309Z2—
  - (a) the person may refer the matter to the Tribunal, and
  - (b) in the case of proposed action under section 309Z2(2)(c), (d) or (e), each of the other interested parties may also refer the matter to the Tribunal.
- (12) After a statement of a person’s misconduct is published under section 309Z2, the appropriate regulator must send a copy of it to—
  - (a) the person concerned, and
  - (b) any person to whom a copy of the decision notice was given.
- (13) In this section—



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“Part 18 approved person”, in relation to a relevant recognised body, has the meaning given by section 309Z3(5);

“the other interested parties”, in relation to a Part 18 approved person in relation to a relevant recognised body, are—

- (a) the relevant recognised body, and
- (b) the person by whom the Part 18 approved person’s services are retained, if different from the relevant recognised body.

### **309Z5 Statement of policy about disciplinary action**

- (1) The appropriate regulator must prepare and issue a statement of its policy with respect to—
  - (a) the imposition of penalties, suspensions, conditions or limitations under section 309Z2,
  - (b) the amount of penalties under that section,
  - (c) the period for which suspensions or conditions under that section are to have effect, and
  - (d) the period for which approvals under section 309G are to have effect as a result of a limitation under section 309Z2.
- (2) The appropriate regulator’s policy in determining what the amount of a penalty should be, or what the period for which a suspension or restriction is to have effect should be, must include having regard to—
  - (a) the seriousness of the misconduct in question,
  - (b) the extent to which that misconduct was deliberate or reckless, and
  - (c) whether the person against whom action is to be taken is an individual.
- (3) The appropriate regulator—
  - (a) may alter or replace a statement issued under this section, and
  - (b) if it does so, must issue the altered or replacement statement.
- (4) In exercising, or deciding whether to exercise, its power under section 309Z2 in the case of particular misconduct, the appropriate regulator must have regard to any statement of policy published under this section and in force at the time when the misconduct in question occurred.

### **309Z6 Procedure for statement of policy about disciplinary action**

- (1) Before the appropriate regulator issues a statement under section 309Z5(1) or (3), it must publish a draft of the proposed statement in the way appearing to it to be best calculated to bring it to the attention of the public.
- (2) The draft statement must be accompanied by a notice stating that representations about the proposal may be made to the appropriate regulator within a period specified in the notice.
- (3) Before issuing the proposed statement, the appropriate regulator must have regard to any representations made to it in accordance with subsection (2).
- (4) If the appropriate regulator issues the proposed statement it must publish the following in the way appearing to the appropriate regulator to be best calculated to bring it to the attention of the public—

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- (a) the statement,
  - (b) an account, in general terms, of the representations made to the appropriate regulator in accordance with subsection (2) and the appropriate regulator's response to them, and
  - (c) if the statement differs from the draft published under subsection (1) in a way which the appropriate regulator considers significant, details of the difference.
- (5) The appropriate regulator may charge a reasonable fee for providing a person with—
- (a) a copy of a draft statement published under subsection (1), or
  - (b) a copy of a statement published under subsection (4)(a).
- (6) The appropriate regulator must, without delay, give the Treasury a copy of any statement which it publishes under subsection (4)(a).

### *Interpretation*

#### **309Z7 Interpretation of Chapter 2A**

- (1) In this Chapter—
- “director”, in relation to a relevant recognised body, means a member of the board of directors of the body or, if there is no such board, the equivalent body responsible for the management of the body;
  - “employee”, in relation to a relevant recognised body, includes a person who—
    - (a) personally provides, or is under an obligation personally to provide, services to the body under an arrangement made between the body and the person providing the services or another person, and
    - (b) is subject to, or to the right of, supervision, direction or control by the body as to the manner in which those services are provided;
  - “relevant recognised body” has the meaning given in section 309A;
  - “senior management function” and “designated senior management function” have the meanings given in section 309G (see subsections (3) and (5) of that section).
- (2) In this Chapter, references to performing a designated senior management function without approval have the meaning given in section 309U(3).

### *Application of this Chapter to credit rating agencies*

#### **309Z8 Power to apply this Chapter to credit rating agencies**

- (1) The Treasury may by regulations provide for this Chapter, or any provision of this Chapter, to apply (with or without modifications) in relation to—
- (a) registered credit rating agencies, or
  - (b) registered credit rating agencies of descriptions specified in the regulations.
- (2) Regulations under subsection (1) must provide for the FCA to be the appropriate regulator in relation to a registered credit rating agency to which any provision of this Chapter is applied by the regulations.

*Status: Point in time view as at 29/06/2023.*

*Changes to legislation: Financial Services and Markets Act 2000, Part XVIII is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) Regulations under subsection (1) may modify legislation (including any provision of, or made under, this Act).
- (4) Before making regulations under subsection (1), the Treasury must consult—
- (a) the FCA, and
  - (b) such other persons who appear to the Treasury to be representative of persons likely to be affected by the application of this Chapter to registered credit rating agencies, or registered credit rating agencies of descriptions specified in the regulations.
- (5) In this section—
- “legislation” means primary legislation, subordinate legislation (within the meaning of the Interpretation Act 1978) and retained direct EU legislation, but does not include rules or other instruments made by any regulator;
  - “modify” includes amend, repeal or revoke;
  - “registered credit rating agency” means a credit rating agency registered in accordance with Regulation (EC) No 1060/2009 of the European Parliament and the Council of 16 September 2009 on credit rating agencies.]

### CHAPTER III

#### EXCLUSION FROM THE COMPETITION ACT 1998

<sup>F300</sup>**311 The Chapter I prohibition.**

.....

**Textual Amendments**

**F300** Pt. 18 Ch. 3 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 34\(b\)](#), [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

<sup>F300</sup>**312 The Chapter II prohibition.**

.....

**Textual Amendments**

**F300** Pt. 18 Ch. 3 omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 34\(b\)](#), [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

*Status: Point in time view as at 29/06/2023.*

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## CHAPTER 3A

### PASSPORT RIGHTS

#### *EEA market operators in United Kingdom*

#### **F301 312A Exercise of passport rights by EEA market operator**

.....

##### **Textual Amendments**

**F301** Pt. 18 Ch. 3A omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), 7 (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### **F301 312B Removal of passport rights from EEA market operator**

.....

##### **Textual Amendments**

**F301** Pt. 18 Ch. 3A omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), 7 (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### *Recognised investment exchanges operating in EEA States (other than the United Kingdom)*

#### **F301 312C Exercise of passport rights by recognised investment exchange**

.....

##### **Textual Amendments**

**F301** Pt. 18 Ch. 3A omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), 7 (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### *Interpretation*

#### **F301 312D Interpretation of Chapter 3A**

.....

*Status: Point in time view as at 29/06/2023.*

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### Textual Amendments

**F301** Pt. 18 Ch. 3A omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), 7 (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## [<sup>F302</sup>CHAPTER 3B

### DISCIPLINARY MEASURES [<sup>F303</sup>IN RESPECT OF RECOGNISED BODIES]

### Textual Amendments

**F302** Pt. 18 Ch. 3B inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), ss. 33, 122(3) (with Sch. 20); [S.I. 2013/113](#), art. 2(1)(b)(c), Sch. Pts. 2, 3; [S.I. 2013/423](#), art. 3, Sch.

**F303** Words in Pt. 18 Ch. 3B heading inserted (29.6.2023 for specified purposes) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(1)(e), [Sch. 10 para. 9](#)

## 312E Public censure

(1) If the appropriate regulator considers that a recognised body has contravened a relevant requirement imposed on the body, it may publish a statement to that effect.

<sup>F304</sup>(1A) . . . . .

(2) Where the FCA is the appropriate regulator, a requirement is a “relevant requirement” for the purposes of this Chapter if it is—

- (a) a requirement that is imposed by or under any provision of this Part that relates to a recognised investment exchange,
- (b) a requirement that is imposed under any other provision of this Act by the FCA that relates to a recognised investment exchange,
- (c) a requirement that is imposed by a [<sup>F305</sup>qualifying provision] specified, or of a description specified, for the purposes of this subsection by the Treasury by order, or
- (d) a requirement that is imposed by this Act and whose contravention constitutes an offence that the FCA has power to prosecute under this Act (see section 401).

(3) Where the Bank of England is the appropriate regulator, a requirement is a “relevant requirement” for the purposes of this Chapter if it is—

- (a) a requirement that is imposed by or under any provision of this Part that relates to a recognised clearing house [<sup>F306</sup>, third country central counterparty or a recognised CSD],
- (b) a requirement that is imposed under any other provision of this Act by the Bank,
- (c) a requirement that is imposed by [<sup>F307</sup>or under] a [<sup>F308</sup>qualifying provision] specified, or of a description specified, for the purposes of this subsection by the Treasury by order, or

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- (d) a requirement that is imposed by this Act and whose contravention constitutes an offence that the Bank has power to prosecute under this Act (see section 401, as applied by paragraph 31 of Schedule 17A).

#### Textual Amendments

- F304** S. 312E(1A) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(2)(a)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F305** Words in s. 312E(2)(c) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(2)(b)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F306** Words in s. 312E(3)(a) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(2)(c)(i)** (as substituted by [S.I. 2020/646](#), regs. 1(2)(c), **11(2)** (with savings in [S.I. 2019/680](#), reg. 11 as amended by [S.I. 2020/646](#), reg. 12))
- F307** Words in s. 312E(3)(c) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(27)(b)(ii)** (with regs. 7(4), 9(1))
- F308** Words in s. 312E(3)(c) substituted (31.12.2020) by [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(2)(c)(ii)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Modifications etc. (not altering text)

- C12** Ss. 312E-312I restricted (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Enforcement\) Order 2013 \(S.I. 2013/441\)](#), arts. 1(1), **13**
- C13** S. 312E applied (with modifications) (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), regs. 1(2), **13**
- C14** S. 312E applied (with modifications) (7.12.2018) by [The Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1320\)](#), regs. 1(2), **26(3)** (as amended (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), **regs. 1, 10(b)**)

### 312F Financial penalties

[ If the appropriate regulator considers that a recognised body has contravened a <sup>F309</sup>(1)] relevant requirement imposed on the body, it may impose on the body a penalty, in respect of the contravention, of such amount as it considers appropriate.

<sup>F310</sup>(2) . . . . .

#### Textual Amendments

- F309** S. 312F renumbered as s. 312F(1) (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(28)(a)** (with regs. 7(4), 9(1))
- F310** S. 312F(2) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(3)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Modifications etc. (not altering text)

- C12** Ss. 312E-312I restricted (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Enforcement\) Order 2013 \(S.I. 2013/441\)](#), arts. 1(1), **13**

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**C15** S. 312F applied (with modifications) (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), regs. 1(2), **13**

### **Central securities depositories: further disciplinary measures**

**312FA.**

- (1) If the Bank of England considers that a contravention by a recognised CSD of a relevant requirement occurred with the consent or connivance of, or was attributable to any neglect on the part of, a member of the management body or other person who effectively controls the business of the recognised CSD, the Bank of England may do one or both of the following—
- (a) publish a statement to that effect;
  - (b) impose on that person a penalty, in respect of the contravention, of such amount as it considers appropriate.
- (2) If the Bank of England considers that a member of the management body or other person who effectively controls the business of a recognised CSD is responsible for a contravention by the central securities depository of a relevant requirement, it may do one or more of the following—
- (a) publish a statement to that effect;
  - (b) impose on that person a penalty, in respect of the contravention, of such amount as it considers appropriate;
  - (c) prohibit that person from holding an office or position involving responsibility for taking decisions about the management of the recognised CSD.
- (3) A prohibition under subsection (2)(c) may apply—
- (a) for a specified period,
  - (b) until further notice, or
  - (c) for repeated serious contraventions, permanently.
- (4) The Bank of England may, on the application of the person subject to a prohibition under subsection (2)(c), vary or revoke the prohibition.

<sup>F313</sup>(5) . . . . .]]

#### **Textual Amendments**

- F311** S. 312FA inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(29)** (with regs. 7(4), 9(1))
- F312** S. 312FA omitted (29.6.2023 for specified purposes) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(1)(e), **Sch. 10 para. 10**
- F313** S. 312FA(5) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### **312G Proposal to take disciplinary measures**

- [<sup>F314</sup>(1) If the appropriate regulator proposes to impose a sanction—
- (a) on a recognised body under section 312E or 312F, or
  - (b) on a person under section 312FA,

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it must give the body or person (as the case may be) a warning notice.]

(2) A warning notice about a proposal to publish a statement must set out the terms of the statement.

(3) A warning notice about a proposal to impose a penalty must state the amount of the penalty.

[ A warning notice about a proposal to impose a prohibition must specify the extent of <sup>F315</sup>(4) the prohibition.

<sup>F316</sup>(5) . . . . . ]

#### Textual Amendments

**F314** S. 312G(1) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(30)(a)** (with regs. 7(4), 9(1))

**F315** S. 312G(4)(5) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(30)(b)** (with regs. 7(4), 9(1))

**F316** S. 312G(5) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(5)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Modifications etc. (not altering text)

**C12** Ss. 312E-312I restricted (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Enforcement\) Order 2013 \(S.I. 2013/441\)](#), arts. 1(1), **13**

**C16** S. 312G applied (with modifications) (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), regs. 1(2), **13**

### 312H Decision notice

[<sup>F317</sup>(1) If the appropriate regulator decides to impose a sanction—  
 (a) on a recognised body under section 312E or 312F, or  
 (b) on a person under section 312FA,

it must give the body or person (as the case may be) a decision notice.]

(2) In the case of a statement, the decision notice must set out the terms of the statement.

(3) In the case of a penalty, the decision notice must state the amount of the penalty.

[ In the case of a prohibition, the decision notice must specify the extent of the <sup>F318</sup>(3A) prohibition.

(3B) The sanction which the appropriate regulator decides to impose may differ from that proposed in the warning notice.]

[<sup>F319</sup>(4) If the appropriate regulator decides to impose a sanction—  
 (a) on a recognised body under section 312E or 312F, or  
 (b) on a person under section 312FA,

the body or person (as the case may be) may refer the matter to the Tribunal.

<sup>F320</sup>(5) . . . . . ]



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#### Textual Amendments

- F317** S. 312H(1) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(31)(a)** (with regs. 7(4), 9(1))
- F318** S. 312H(3A)(3B) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(31)(b)** (with regs. 7(4), 9(1))
- F319** S. 312H(4) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(31)(c)** (with regs. 7(4), 9(1))
- F320** S. 312H(5) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(6)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Modifications etc. (not altering text)

- C12** Ss. 312E-312I restricted (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Enforcement\) Order 2013 \(S.I. 2013/441\)](#), arts. 1(1), **13**
- C17** S. 312H applied (with modifications) (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), regs. 1(2), **13**

### 312I Publication

After an appropriate regulator publishes a statement under section 312E [<sup>F321</sup>or 312FA], it must send a copy of the statement to—

- (a) the recognised body [<sup>F322</sup><sup>F323</sup>... or person] concerned, and
- (b) any person to whom a copy of the decision notice was given under section 393(4).

#### Textual Amendments

- F321** Words in s. 312I inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(32)(a)** (with regs. 7(4), 9(1))
- F322** Words in s. 312I(a) omitted (31.12.2020) by virtue of [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/662\)](#), regs. 1(3), **8(7)** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F323** Words in s. 312I(a) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(32)(b)** (with regs. 7(4), 9(1))

#### Modifications etc. (not altering text)

- C12** Ss. 312E-312I restricted (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Enforcement\) Order 2013 \(S.I. 2013/441\)](#), arts. 1(1), **13**
- C18** S. 312I applied (with modifications) (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), regs. 1(2), **13**

### 312J Statement of policy

(1) Each appropriate regulator must prepare and issue a statement of its policy with respect to—

- (a) the imposition of penalties under [<sup>F324</sup>sections 312F and 312FA and prohibitions under section 312FA], <sup>F325</sup>...

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- (b) the amount of penalties under [F326 those sections][F327]; and
  - (c) the period for which prohibitions under section 312FA are to have effect].
- (2) An appropriate regulator's policy in determining what the amount of a penalty should be [F328, or what the period for which a prohibition is to have effect should be,] must include having regard to—
- (a) the seriousness of the contravention in question in relation to the nature of the requirement concerned, F329 ...
  - (b) the extent to which that contravention was deliberate or reckless [F330]; and
  - (c) whether the person against whom action is to be taken is an individual].
- (3) An appropriate regulator may at any time alter or replace a statement issued by it under this section.
- (4) If a statement issued by an appropriate regulator under this section is altered or replaced, the regulator must issue the altered or replacement statement.
- (5) In exercising, or deciding whether to exercise, its power under section 312F [F331 or 312FA] in the case of any particular contravention, an appropriate regulator must have regard to any statement of policy published by it under this section and in force at a time when the contravention in question occurred.
- (6) A statement issued by an appropriate regulator under this section must be published by the regulator in the way appearing to the regulator to be best calculated to bring it to the attention of the public.
- (7) An appropriate regulator may charge a reasonable fee for providing a person with a copy of the statement.
- (8) An appropriate regulator must, without delay, give the Treasury a copy of any statement which it publishes under this section.

#### Textual Amendments

- F324** Words in s. 312J(1)(a) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(a)(i)** (with regs. 7(4), 9(1))
- F325** Word in s. 312J(1) omitted (28.11.2017) by virtue of [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(a)(ii)** (with regs. 7(4), 9(1))
- F326** Words in s. 312J(1)(b) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(a)(iii)** (with regs. 7(4), 9(1))
- F327** S. 312J(1)(c) and word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(a)(iv)** (with regs. 7(4), 9(1))
- F328** Words in s. 312J(2) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(b)(i)** (with regs. 7(4), 9(1))
- F329** Word in s. 312J(2) omitted (28.11.2017) by virtue of [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(b)(ii)** (with regs. 7(4), 9(1))
- F330** S. 312J(2)(c) and word inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(b)(iii)** (with regs. 7(4), 9(1))
- F331** Words in s. 312J(5) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(33)(c)** (with regs. 7(4), 9(1))

*Status: Point in time view as at 29/06/2023.*

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**Modifications etc. (not altering text)**

**C19** S. 312J applied by S.I. 2014/2879, reg. 5C(8) (as inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **5(9)** (with regs. 7(4), 9(1)))

**312K Statement of policy: procedure**

- (1) Before issuing a statement under section 312J, an appropriate regulator must publish a draft of the proposed statement in the way appearing to the regulator to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the regulator within a specified time.
- (3) Before issuing the proposed statement, the regulator must have regard to any representations made to it in accordance with subsection (2).
- (4) If the regulator issues the proposed statement it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (2), and
  - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the regulator, significant, the regulator must (in addition to complying with subsection (4)) publish details of the difference.
- (6) An appropriate regulator may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.]

**Modifications etc. (not altering text)**

**C20** S. 312K applied by S.I. 2014/2879, reg. 5C(8) (as inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **5(9)** (with regs. 7(4), 9(1)))

**CHAPTER IV**

*Interpretation*

**313 Interpretation of Part XVIII.**

- (1) In this Part—
  - <sup>F332</sup>“application” means an application for a recognition order made under section 287 <sup>F333</sup>, 288 or 288A;]
  - <sup>F334</sup>“applicant” means a <sup>F335</sup>[“person who] has applied for a recognition order;]
  - <sup>F336</sup>...
  - <sup>F337</sup>“central counterparty” means a body corporate or unincorporated association which interposes itself between the counterparties to the contracts

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traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer;]

[<sup>F337</sup>“central counterparty recognition order” means a recognition order made under section 290(1)(b);]

[<sup>F337</sup>“clearing”, in relation to a central counterparty, means the process of establishing positions, including the calculation of net obligations and ensuring that financial instruments, cash, or both, are available to secure the exposures arising from those positions; and “clearing services”, in relation to a central counterparty, is to be read accordingly;]

[<sup>F338</sup>“CSD recognition order” means a recognition order made under section 290(1)(d);]

<sup>F339</sup>  
...

[<sup>F337</sup>“the EMIR regulation” means Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories [<sup>F340</sup>as [<sup>F341</sup>it forms part of retained EU law]], and any [<sup>F342</sup>reference to requirements contained in or to functions under the EMIR regulation includes a reference (as the case may be) to requirements contained in or to functions under—

((a) any EU regulation, originally made under the EMIR regulation, which is retained direct EU legislation; or

((b) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under the EMIR regulation on or after IP completion day;]]

[<sup>F343</sup>“multilateral trading facility” means a UK multilateral trading facility as defined by Article 2(1)(14A) of the markets in financial instruments regulation;]

[<sup>F344</sup>“organised trading facility” means a UK organised trading facility as defined by Article 2(1)(15A) of the markets in financial instruments regulation;]

<sup>F345</sup>  
...

“overseas applicant” means a body corporate or association which has neither its head office nor its registered office in the United Kingdom and which has applied for a recognition order;

“overseas investment exchange” means a body corporate or association which has neither its head office nor its registered office in the United Kingdom and in relation to which a recognition order is in force;

[<sup>F346</sup>“overseas clearing house” means a body corporate or association which is not a central counterparty and has neither its head office nor its registered office in the United Kingdom and in relation to which a recognition order is in force;]

“recognised body” means a recognised investment exchange [<sup>F347</sup>, a recognised clearing house or a recognised CSD][<sup>F348</sup>, and in Chapter 3B also includes a third country central counterparty];

[<sup>F337</sup>“recognised central counterparty” has the meaning given in section 285;]

“recognised clearing house” has the meaning given in section 285;

[<sup>F338</sup>“recognised CSD” has the meaning given in section 285;]

“recognised investment exchange” has the meaning given in section 285;

“recognition order” means an order made under section 290 or 292;

“recognition requirements” has the meaning given by section 286;

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[<sup>F349</sup>“regulated market” means a UK regulated market as defined by Article 2(1)(13A) of the markets in financial instruments regulation;]

“remedial direction” has the meaning given in section 308(8);

“revocation order” has the meaning given in section 297.

[<sup>F350</sup>“Tier 2 third country central counterparty” means a third country central counterparty which has been determined by the Bank of England to be systemically important or likely to become systemically important in accordance with Article 25.2a of the EMIR regulation;]

[<sup>F351</sup>“trading venue” means a multilateral trading facility, a regulated market or an organised trading facility.]

<sup>F336</sup>  
...

[<sup>F352</sup>(1A) For the purposes of this Part, a clearing house does not include a central securities depository.]

(2) References in this Part to rules of an investment exchange (or a clearing house [<sup>F353</sup>or central securities depository]) are to rules made, or conditions imposed, by the investment exchange (or the clearing house [<sup>F353</sup>or central securities depository]) with respect to—

- (a) recognition requirements;
- (b) admission of persons to, or their exclusion from the use of, its facilities; or
- (c) matters relating to its constitution.

(3) References in this Part to guidance issued by an investment exchange are references to guidance issued, or any recommendation made, in writing or other legible form and intended to have continuing effect, by the investment exchange to—

- (a) all or any class of its members or users, or
- (b) persons seeking to become members of the investment exchange or to use its facilities,

with respect to any of the matters mentioned in subsection (2)(a) to (c).

(4) References in this Part to guidance issued by a clearing house are to guidance issued, or any recommendation made, in writing or other legible form and intended to have continuing effect, by the clearing house to—

- (a) all or any class of its members, or
- (b) persons using or seeking to use its services,

with respect to the provision by it or its members of clearing services [<sup>F354</sup>or services falling within section 285(3)(b)].

#### Textual Amendments

**F332** Words in s. 313(1) omitted (29.6.2023 for specified purposes) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(1)(e), [Sch. 10 para. 11\(a\)](#)

**F333** Words in s. 313(1) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, [2\(34\)\(a\)\(i\)](#) (with regs. 7(4), 9(1))

**F334** Words in s. 313(1) omitted (29.6.2023 for specified purposes) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(1)(e), [Sch. 10 para. 11\(b\)](#)

**F335** Words in s. 313(1) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, [2\(34\)\(a\)\(ii\)](#) (with regs. 7(4), 9(1))

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- F336** Words in s. 313(1) omitted (1.4.2013) by virtue of The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(14)(c)** (with regs. 52-58)
- F337** Words in s. 313(1) inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(14)(a)** (with regs. 52-58)
- F338** Words in s. 313(1) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(34)(a)(iv)** (with regs. 7(4), 9(1))
- F339** Words in s. 313(1) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **9(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F340** Words in s. 313(1) inserted (27.2.2020) by The Financial Services and Markets Act 2000 (Central Counterparties, Investment Exchanges, Prospectus and Benchmarks) (Amendment) Regulations 2020 (S.I. 2020/117), regs. 1(2), **2**
- F341** Words in s. 313 substituted (31.12.2020 immediately before IP completion day) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(4), **38(2)**
- F342** Words in s. 313(1) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **9(b)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 37(c)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F343** Words in s. 313(1) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **9(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F344** Words in s. 313(1) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **9(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F345** Words in s. 313 omitted (1.4.2014) by virtue of The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 129** (with art. 3)
- F346** Words in s. 313(1) substituted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **3(14)(b)** (with regs. 52-58)
- F347** Words in s. 313(1) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(34)(a)(iii)** (with regs. 7(4), 9(1))
- F348** Words in s. 313(1) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **2(4)(a)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F349** Words in s. 313(1) substituted (31.12.2020) by The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **9(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F350** Words in s. 313(1) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **2(4)(b)** (with savings in S.I. 2019/680, reg. 11 as amended by S.I. 2020/646, reg. 12)
- F351** Words in s. 313(1) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 2 para. 38(d)** (with reg. 7)
- F352** S. 313(1A) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **2(34)(b)** (with reg. 7(3)(a)(4), 9(1))

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- F353** Words in s. 313(2) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **2(34)(c)** (with regs. 7(4), 9(1))
- F354** Words in s. 313(4) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 8 para. 36(3)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

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