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## STATUTORY INSTRUMENTS

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# 2017 No. 1064

## The Central Securities Depositories Regulations 2017

### PART 1 U.K.

#### General

#### Citation and commencement U.K.

1. These Regulations may be cited as the Central Securities Depositories Regulations 2017 and come into force on 28th November 2017.

### PART 2 U.K.

#### Amendments to the Financial Services and Markets Act 2000

#### Amendments to the Financial Services and Markets Act 2000 U.K.

2.—(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) In section 3A<sup>M1</sup> (meaning of “regulator”), in subsection (3)(b) for “recognised investment exchanges and clearing houses” substitute “ recognised investment exchanges, clearing houses and CSDs ”.

(3) In section 55G<sup>M2</sup> (giving permission: special cases), in subsection (3)(a) omit “any of subsections (2) to (3C) of”.

(4) In section 128<sup>M3</sup> (suspension of investigations)—

(a) in subsection (1) for “or recognised clearing house” substitute “ , recognised clearing house or recognised CSD ”;

(b) in subsections (1)(a) and (b) and (2)(a) for “or clearing house” substitute “ , clearing house or central securities depository ”.

(5) In section 133<sup>M4</sup> (proceedings before Tribunal: general provision)—

(a) after subsection (1) insert—

“(1A) For the purposes of this section, in the case of a reference to the Tribunal under section 290(4A) (which relates to an application by a central securities depository under section 288A), the failure by the Bank of England to make a decision is treated as a decision to refuse the application (and accordingly is treated as falling within subsection (1)(b)).”;

(b) in subsection (7A)(m), after “312E” insert “ or 312FA ” and after “312F” insert “ or 312FA ”.

(6) In section 192B<sup>M5</sup> (meaning of “qualifying parent undertaking”), in subsection (3) for “or a recognised clearing house” substitute “ , a recognised clearing house or a recognised CSD ”.

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(7) In section 192F (consultation between regulators), in subsection (3) after “recognised clearing house” insert “ or a recognised CSD ”.

(8) For the heading of Part 18 substitute “ Recognised investment exchanges, clearing houses and CSDs ”.

(9) In section 285<sup>M6</sup> (exemption for recognised investment exchanges and clearing houses)—

(a) for the heading substitute “ Exemption for recognised bodies etc. ”;

(b) in subsection (1)—

(i) omit “and” after paragraph (c);

(ii) after paragraph (d) insert—

“(e) “recognised CSD” means a central securities depository in relation to which a recognition order is in force;

(f) “EEA CSD” means a person established in an EEA State other than the United Kingdom who has been authorised by the competent authority of that State as a central securities depository pursuant to Article 16 of the CSD regulation<sup>M7</sup>; and

(g) “third country CSD” means a central securities depository established in a State which is not an EEA State which has been recognised by ESMA pursuant to Article 25 of the CSD regulation.”;

(c) after subsection (3C) insert—

“(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.

(3E) An EEA 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 authorisation granted pursuant to Article 16 of the CSD regulation (including additional services authorised or notified under Article 19 of that regulation).

(3F) But where Article 23(2) of the CSD regulation applies to an EEA CSD, the EEA CSD is exempt from the general prohibition as mentioned in subsection (3E) only if Article 23(6) of that regulation is complied with.

(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 ESMA pursuant to Article 25 of the CSD regulation.

(3H) But a recognised CSD, an EEA CSD 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.”.

(10) In section 285A<sup>M8</sup> (powers exercisable in relation to recognised investment exchanges and clearing houses)—

(a) for the heading substitute “ Powers exercisable in relation to recognised bodies ”;

- (b) in subsection (2), after “recognised clearing houses” insert “, recognised CSDs and EEA CSDs”;
- (c) in subsection (3)—
  - (i) in paragraph (a) for “investment exchanges and clearing houses” substitute “ bodies ”;
  - (ii) in paragraph (c) after “recognised clearing houses” insert “ and recognised CSDs ”.
- (11) In section 286<sup>M9</sup> (qualification for recognition)—
  - (a) in subsection (1)(a) for “or clearing house” substitute “, clearing house or central securities depository ”;
  - (b) in subsection (2) for “or clearing house” substitute “, clearing house or central securities depository ”;
  - (c) in subsection (3) for “or clearing house”, in both places, substitute “, clearing house or central securities depository ”.
- (12) In section 288<sup>M10</sup> (application by a clearing house), before subsection (1) insert—

“(A1) This section applies only in relation to an application by a clearing house.”.
- (13) After section 288 insert—

**“288A Application by a central securities depository**

**288A.** 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 and any directly applicable EU regulation made under that Article 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.”.

- (14) In section 289<sup>M11</sup> (applications: supplementary), after subsection (4) insert—

“(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 derive from the CSD regulation or any directly applicable EU regulation made under the CSD regulation.”.
- (15) In section 290<sup>M12</sup> (recognition orders)—
  - (a) in subsection (1)—
    - (i) omit “or” at the end of paragraph (b);
    - (ii) after paragraph (c) insert—

“; 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.”;
  - (b) after subsection (1D) insert—

“(1E) A CSD recognition order must specify—

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- (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.”;

(c) after subsection (4) insert—

“(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.”;

(d) after subsection (5) insert—

“(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.”.

(16) After section 290ZA <sup>M13</sup> (variation of central counterparty recognition order) insert—

**“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.”.

(17) In section 290A<sup>M14</sup> (refusal of recognition on ground of excessive regulatory provision), in subsection (6) for “or a recognised central counterparty” substitute “, a recognised central counterparty or a recognised CSD”.

(18) In section 293<sup>M15</sup> (notification requirements)—

(a) in subsection (3), after “this Act” insert “ or under 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>M16</sup>”;

(b) after subsection (5) insert—

“(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.”;

(c) after subsection (7) insert—

“(7A) In subsections (1) and (2), “recognised body” includes an EEA CSD.”.

(19) In section 293A<sup>M17</sup> (information: compliance with EU requirements)—

(a) the existing text becomes subsection (1);

(b) after subsection (1) insert—

“(2) The Bank of England may require an EEA 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 any directly applicable EU regulation made under the CSD regulation.”.

(20) In section 294<sup>M18</sup> (modification or waiver of rules), after subsection (6) insert—

“(7) In this section, “recognised body”, in relation to rules made under section 293, includes an EEA CSD.”.

(21) After section 295<sup>M19</sup> (notification: overseas investment exchanges and overseas clearing houses) insert—

#### **“295A On-site inspection of EEA CSDs**

(1) For the purposes of Article 24(1) of the CSD regulation (co-operation in relation to branches of EEA CSDs), 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 an EEA CSD in the United Kingdom.

(2) Before carrying out an on-site inspection under subsection (1), the Bank of England must inform the competent authority of the EEA State in which the EEA CSD is established.

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- (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 <sup>M20</sup>.”.
- (22) In section 296 <sup>M21</sup> (appropriate regulator's power to give directions)—
- (a) in subsection (1A), after “on it by” insert “ or under ”;
  - (b) after subsection (1A) insert—
 

“(1B) This section also applies in the circumstances described in the second subparagraph of Article 24(5) of the CSD regulation if it appears to the Bank of England that it is appropriate to give a direction to an EEA CSD in relation to any services referred to in the Annex to the CSD regulation which the EEA CSD provides in the United Kingdom, in order to ensure its compliance with obligations arising from the CSD regulation or any directly applicable EU regulation made under the CSD regulation.”;
  - (c) in subsection (2), for “the body” substitute “ the recognised body or EEA CSD ”;
  - (d) after subsection (2A) insert—
 

“(2B) In the case of an EEA CSD, the steps mentioned in subsection (2) may include—

    - (a) the granting to the Bank of England of access to any premises of the EEA CSD situated in the United Kingdom for the purpose of inspecting—
      - (i) those premises; or
      - (ii) any documents on the premises which appear to the Bank of England to be relevant for the purpose mentioned in subsection (2)(b);
    - (b) the suspension for the period specified in the direction of the carrying on in the United Kingdom by the EEA CSD of any activity in respect of which the EEA CSD is exempt from the general prohibition.”.
- (23) In section 297 <sup>M22</sup> (revoking recognition)—
- (a) after subsection (1A) insert—
 

“(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.”;
  - (b) in subsections (2), (2A) and (2D) after “recognised central counterparty” insert “ or a recognised CSD ”.
- (24) In section 298 <sup>M23</sup> (directions and revocation: procedure)—
- (a) in subsection (1), for “297(2),” substitute “ 297(1B), (2), ”;
  - (b) in subsection (6), after paragraph (a) insert—
 

“and

    - (aa) in the case of a direction under section 296 given to a recognised CSD or an EEA CSD or a revocation order under section 297(1B), give the recognised CSD or EEA CSD reasons for its decision.”;
  - (c) in subsection (6A), after paragraph (a) insert—
 

“(aa) gives any other direction under section 296 to a recognised CSD;

(ab) gives a direction under section 296 to an EEA CSD;

(ac) makes a revocation order under section 297(1B);”;
  - (d) after subsection (7) insert—
 

“(7A) Subsection (7) does not apply in relation to a direction given to a recognised CSD or EEA CSD under section 296.

- (7B) But in the circumstances described in the second sub-paragraph of Article 24(5) of the CSD regulation, the Bank of England may give a direction to an EEA CSD under section 296 without following the procedure set out in subsections (1) to (5).”;
- (e) after subsection (8) insert—
- “(9) In this section, “recognised body” includes an EEA CSD.”.
- (25) In section 300<sup>M24</sup> (extension of functions of Tribunal)—
- (a) in subsection (1)—
- (i) omit “or” at the end of paragraph (a);
- (ii) after paragraph (b) insert—
- “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.”;
- (b) in subsection (4), for “or clearing house” substitute “, clearing house or central securities depository ”.
- (26) In section 300E<sup>M25</sup> (power to disallow excessive regulatory provision: supplementary), in subsection (3) for “or recognised central counterparty” substitute “, recognised central counterparty or recognised CSD ”.
- (27) In section 312E<sup>M26</sup> (public censure)—
- (a) after subsection (1) insert—
- “(1A) In the circumstances described in the second sub-paragraph of Article 24(5) of the CSD regulation, if the Bank of England considers that an EEA CSD has contravened a relevant requirement imposed on it, it may publish a statement to that effect.”;
- (b) in subsection (3)—
- (i) in paragraph (a), after “recognised clearing house” insert “, a recognised CSD or an EEA CSD ”;
- (ii) in paragraph (c), after “imposed by” insert “ or under ”.
- (28) In section 312F (financial penalties)—
- (a) the existing text becomes subsection (1);
- (b) after subsection (1) insert—
- “(2) In the circumstances described in the second sub-paragraph of Article 24(5) of the CSD regulation, if the Bank of England considers that an EEA CSD has contravened a relevant requirement imposed on it, it may impose on it a penalty, in respect of the contravention, of such amount as it considers appropriate.”.
- (29) After section 312F (financial penalties) insert—

**“312FA Central securities depositories: further disciplinary measures**

(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.

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(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.

(5) In the circumstances described in the second sub-paragraph of Article 24(5) of the CSD regulation, this section applies in relation to an EEA CSD as it applies in relation to a recognised CSD.”.

(30) In section 312G (proposal to take disciplinary measures)—

(a) for subsection (1) substitute—

- “(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,

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

(b) after subsection (3) insert—

“(4) A warning notice about a proposal to impose a prohibition must specify the extent of the prohibition.

(5) In this section, “recognised body” includes an EEA CSD.”.

(31) In section 312H (decision notice)—

(a) for subsection (1) substitute—

- “(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.”;

(b) after subsection (3) insert—

“(3A) In the case of a prohibition, the decision notice must specify the extent of the prohibition.

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

(c) for subsection (4) substitute—

- “(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.”;
  - (d) after subsection (4) insert—
    - “(5) In this section, “recognised body” includes an EEA CSD.”.
- (32) In section 312I (publication)—
  - (a) after “section 312E” insert “ or 312FA ”;
  - (b) in paragraph (a) after “recognised body” insert “ , EEA CSD or person ”.
- (33) In section 312J (statement of policy)—
  - (a) in subsection (1)—
    - (i) in paragraph (a) for “section 312F” substitute “ sections 312F and 312FA and prohibitions under section 312FA ”;
    - (ii) omit “and” after paragraph (a);
    - (iii) in paragraph (b) for “that section” substitute “ those sections ”;
    - (iv) after paragraph (b) insert—
      - “; and
      - (c) the period for which prohibitions under section 312FA are to have effect.”;
  - (b) in subsection (2)—
    - (i) after “penalty should be” insert “ , or what the period for which a prohibition is to have effect should be, ”;
    - (ii) omit “and” after paragraph (a);
    - (iii) after paragraph (b) insert—
      - “; and
      - (c) whether the person against whom action is to be taken is an individual.”;
  - (c) in subsection (5) after “section 312F” insert “ or 312FA ”.
- (34) In section 313<sup>M27</sup> (interpretation of Part 18)—
  - (a) in subsection (1)—
    - (i) in the definition of “application”, for “or 288” substitute “ , 288 or 288A ”;
    - (ii) in the definition of “applicant”, for “body corporate or unincorporated association which” substitute “ person who ”;
    - (iii) in the definition of “recognised body”, for “or a recognised clearing house” substitute “ , a recognised clearing house or a recognised CSD ”;
    - (iv) at the appropriate places insert—
      - ““CSD recognition order” means a recognition order made under section 290(1)(d);”
      - ““EEA CSD” has the meaning given in section 285;”
      - ““recognised CSD” has the meaning given in section 285;”;
  - (b) after subsection (1) insert—
    - “(1A) For the purposes of this Part, a clearing house does not include a central securities depository.”;
  - (c) in subsection (2), after “clearing house”, in both places, insert “ or central securities depository ”.

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- (35) In section 345<sup>M28</sup> (disciplinary measures: FCA), in subsection (5) after “recognised clearing house” insert “ or a recognised CSD ”.
- (36) In section 410<sup>M29</sup> (international obligations), in subsection (4) after paragraph (d) insert—  
“(da) any recognised CSD;”.
- (37) In section 410A<sup>M30</sup> (fees to meet certain expenses of the Treasury), in subsection (8)(c) after “recognised clearing houses” insert “ and recognised CSDs ”.
- (38) In section 417<sup>M31</sup> (definitions), in subsection (1)—
- (a) after the definition of the “capital requirements regulation” insert—  
““central securities depository” has the meaning given by point (1) of Article 2(1) of the CSD regulation;”;
  - (b) in the definition of “exempt person” omit “any of subsections (2) to (3C) of section”;
  - (c) in the definition of “recognised clearing house” and “recognised investment exchange” before “ “recognised clearing house”” insert “ “recognised CSD”, ”.
- (39) In Schedule 17A<sup>M32</sup> (further provision in relation to the exercise of Part 18 functions by the Bank of England)—
- (a) in paragraph 7 after “recognised clearing house” insert “ or a recognised CSD ”;
  - (b) in paragraph 10(2) after “recognised clearing house” insert “ , an EEA CSD or a recognised CSD ”;
  - (c) in paragraph 11, in sub-paragraph (1)—
    - (i) after paragraph (a) insert—  
“(aa) a recognised CSD;
    - (ab) an EEA CSD, in relation to any services referred to in the Annex to the CSD regulation which the EEA CSD provides in the United Kingdom, in the circumstances described in Article 24(4) or (5) of the CSD regulation;”;
    - (ii) in paragraph (b) after “recognised clearing house” insert “ , a recognised CSD or an EEA CSD (as the case may be) ”;
  - (d) in paragraph 12, after “recognised clearing house” insert “ , a recognised CSD or an EEA CSD ”;
  - (e) in paragraph 13—
    - (i) in sub-paragraph (1) after “overseas clearing house” insert “ or to any recognised CSD ”;
    - (ii) after sub-paragraph (1) insert—  
“(1A) In relation to an EEA CSD, those powers are exercisable only in the circumstances described in Article 24(4) or (5) of the CSD regulation and in relation to any services referred to in the Annex to the CSD regulation which the EEA CSD provides in the United Kingdom.”;
  - (f) in paragraph 14, in sub-paragraph (2)—
    - (i) in paragraphs (a) to (e) after “clearing house” insert “ or a central securities depository ”;
    - (ii) after paragraph (e) insert—  
“(f) in the circumstances described in Article 24(4) or (5) of the CSD regulation, an EEA CSD providing any services referred to in the Annex

to the CSD regulation in the United Kingdom may have contravened the CSD regulation.”;

- (g) in paragraph 17—
  - (i) in sub-paragraph (2) after “overseas clearing house” insert “ or to a recognised CSD ”;
  - (ii) in sub-paragraph (3)(a) and (c) after “recognised clearing houses” insert “ or recognised CSDs ”;
  - (iii) in sub-paragraph (4) after “recognised clearing house” insert “ or a recognised CSD ”;
- (h) in paragraph 18—
  - (i) after “recognised clearing house”, in each place, insert “ or a recognised CSD ”;
  - (ii) in sub-paragraph (2), for “or the EMIR regulation” substitute “ , the EMIR regulation or the CSD regulation ”;
- (i) in paragraph 19—
  - (i) after “a recognised clearing house” , in each place, insert “ or a recognised CSD ”;
  - (ii) in sub-paragraph (2)(a), for “or the EMIR regulation” substitute “ , the EMIR regulation or the CSD regulation ”;
  - (iii) in sub-paragraph (2)(b), after “the recognised clearing house” insert “ or the recognised CSD ”;
- (j) in paragraph 20 after “recognised clearing house” , in each place, insert “ or a recognised CSD ”;
- (k) in paragraph 21 after “recognised clearing house” , in both places, insert “ or a recognised CSD ”;
- (l) in paragraph 22 after “recognised clearing house” insert “ or a recognised CSD ”;
- (m) in paragraph 23(1) after “recognised clearing houses” insert “ or recognised CSDs ”;
- (n) in paragraph 24(2) after “recognised clearing house” insert “ or a recognised CSD ”;
- (o) in paragraph 25—
  - (i) the existing text becomes sub-paragraph (1);
  - (ii) after sub-paragraph (1) insert—

“(2) In the case of any regulated activity which is carried on for the purposes of, or in connection with, the provision of any service mentioned in section 285(3D), the reference to the FCA in section 375(1) is to be read as including a reference to the Bank.”
- (p) in paragraph 26(2)(a) after “recognised clearing house” insert “ , a recognised CSD or an EEA CSD (and for this purpose a prohibition imposed under section 312FA(2)(c) (prohibition on person holding office etc. with a central securities depository) is treated as a requirement) ”;
- (q) in paragraph 28—
  - (i) in sub-paragraph (2), in the words before paragraph (a), after “recognised clearing house” insert “ , a recognised CSD or an EEA CSD ”;
  - (ii) in sub-paragraph (2), in paragraph (a), after “recognised clearing house” insert “ , the recognised CSD or the EEA CSD ”;
  - (iii) in sub-paragraph (4)(a) after “recognised clearing house” insert “ , the recognised CSD or the EEA CSD ”;

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- (r) in paragraph 30(a) after “recognised clearing house” insert “ , a recognised CSD or an EEA CSD ”;
- (s) in paragraph 32 after “recognised clearing houses” insert “ , recognised CSDs and EEA CSDs ”;
- (t) in paragraph 33(a) after “recognised clearing houses” insert “ , recognised CSDs and EEA CSDs ”;
- (u) in paragraph 34—
  - (i) after “a recognised clearing house”, in each place, insert “ or a recognised CSD ”;
  - (ii) in sub-paragraph (5)(c) after “the recognised clearing house” insert “ or the recognised CSD ”;
  - (iii) in sub-paragraph (8) after “recognised clearing house's” insert “or a recognised CSD's”;
- (v) in paragraph 35—
  - (i) in sub-paragraph (1) after “recognised clearing house” insert “ or a recognised CSD ”;
  - (ii) in sub-paragraph (2)—
    - (aa) omit “and” at the end of paragraph (b);
    - (bb) at the beginning of paragraph (c) insert “ in the case of a company which is, or has been, a recognised clearing house, ”;
    - (cc) insert “ and ” at the end of paragraph (c);
    - (dd) after paragraph (c) insert—
      - “(d) in the case of a company which is, or has been, a recognised CSD, maintaining the continuity of the services referred to in section 285(3D).”;
- (w) in paragraph 36—
  - (i) in sub-paragraph (1) for “or third country central counterparties” substitute “ , third country central counterparties, recognised CSDs, EEA CSDs or settlement internalisers (as defined in point (11) of Article 2(1) of the CSD regulation) ”;
  - (ii) in sub-paragraph (3)—
    - (aa) omit “or” at the end of paragraph (a);
    - (bb) insert “ or ” at the end of paragraph (b);
    - (cc) after paragraph (b) insert—
      - “(c) in preparation for the exercise of functions by the Bank under Article 9(1) of the CSD regulation.”.

#### Marginal Citations

- M1** Section 3A was inserted by section 6 of the [Financial Services Act 2012 \(c.21\)](#) and amended by section 135 of the [Financial Services \(Banking Reform\) Act 2013 \(c.33\)](#).
- M2** Section 55G was inserted by section 11 of the Financial Services Act 2012 and amended by [S.I. 2013/504](#).
- M3** Section 128 was amended by paragraph 9 of Schedule 9 to the Financial Services Act 2012 and [S.I. 2016/680](#). There are other amendments but none is relevant.
- M4** Section 133 was substituted by [S.I. 2010/22](#); subsection (7A) was inserted by section 23 of the Financial Services Act 2012.

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- M5** Sections 192B and 192F were inserted by section 27 of the Financial Services Act 2012. Section 192F was amended by paragraph 41 of Schedule 2 to the [Bank of England and Financial Services Act 2016](#) (c.14).
- M6** Section 285 was amended by section 28 of the Financial Services Act 2012, and [S.I. 2013/504](#).
- M7** OJ No L257, 28.8.2014, p1.
- M8** Section 285A was inserted by section 29 of the Financial Services Act 2012 and amended by paragraph 43 of Schedule 2 to the Bank of England and Financial Services Act 2016 and [S.I. 2013/504](#).
- M9** Section 286 was amended by paragraph 2 of Schedule 8 to the Financial Services Act 2012. There are other amendments but none is relevant.
- M10** Section 288 was amended by paragraph 4 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2013/504](#).
- M11** Section 289 was amended by paragraph 5 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2013/504](#).
- M12** Section 290 was amended by paragraph 6 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2007/126](#), [2013/504](#) and [2017/701](#).
- M13** Section 290ZA was inserted by [S.I. 2013/504](#).
- M14** Section 290A was inserted by section 4 of the Investment Exchanges and Clearing Houses Act 2006(c.55) and amended by paragraph 7 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2013/504](#).
- M15** Section 293 was amended by paragraph 10 of Schedule 8 to the Financial Services Act 2012.
- M16** OJ No L194, 19.7.2016, p1.
- M17** Section 293A was inserted by [S.I. 2007/126](#) and substituted by paragraph 11 of Schedule 8 to the Financial Services Act 2012.
- M18** Section 294 was amended by paragraph 12 of Schedule 8 to the Financial Services Act 2012.
- M19** Section 295 was amended by paragraph 13 of Schedule 8 to the Financial Services Act 2012.
- M20** 1988 c.36.
- M21** Section 296 was amended by paragraph 14 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2007/126](#).
- M22** Section 297 was amended by paragraph 15 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2007/126](#), [2012/916](#), [2013/504](#) and [2016/715](#).
- M23** Section 298 was amended by section 32 of, and paragraph 16 of Schedule 8 to, the Financial Services Act 2012 and [S.I. 2007/126](#) and [2016/715](#).
- M24** Section 300 was amended by [S.I. 2016/680](#).
- M25** Section 300E was inserted by section 2 of the Investment Exchanges and Clearing Houses Act 2006 and amended by [S.I. 2013/504](#).
- M26** Sections 312E to 312K were inserted by section 33 of the Financial Services Act 2012.
- M27** Section 313 was amended by paragraph 36 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2007/126](#), [2013/504](#), [2014/892](#) and [2017/701](#).
- M28** Section 345 was substituted by paragraph 7 of Schedule 13 to the Financial Services Act 2012.
- M29** Section 410(4) was amended by sections 16 and 47 of the Financial Services Act 2012.
- M30** Section 410A was inserted by section 135 of the Financial Services (Banking Reform) Act 2013.
- M31** In section 417(1), the definition of “capital requirements regulation” was inserted by [S.I. 2013/3115](#) and the definition of “exempt person” was amended by [S.I. 2013/504](#).
- M32** Schedule 17A was inserted by Schedule 7 to the Financial Services Act 2012, and was amended by paragraph 5 of Schedule 10 to the Financial Services (Banking Reform) Act 2013, paragraph 51 of Schedule 2 to the Bank of England and Financial Services Act 2016 and [S.I. 2013/504](#), [2014/2879](#) and [2016/715](#).

## PART 3 U.K.

### Amendments to Part 7 of the Companies Act 1989

#### Amendments to Part 7 of the Companies Act 1989 U.K.

- 3.—(1) The Companies Act 1989 is amended as follows.
- (2) For the italic heading before section 155 substitute “ Recognised bodies ”.
- (3) In section 155 (market contracts)—
- (a) in subsection (1)(d), for “(3)” substitute “ (3ZA) ”;
  - (b) in subsection (2), in paragraphs (b) and (c)—
    - (i) after “with a recognised clearing house” insert “ or with a recognised CSD ”;
    - (ii) for “or clearing house or other investment exchange” substitute “ or recognised body ”;
  - (c) in subsection (2B)(d)—
    - (i) after “with a recognised investment exchange” insert “ or with a recognised CSD ”;
    - (ii) for “that exchange or clearing house” substitute “ that recognised body ”;
  - (d) in subsection (3), in paragraphs (a) and (b)—
    - (i) after “with a recognised investment exchange” insert “ or with a recognised CSD ”;
    - (ii) for “or investment exchange or other clearing house” substitute “ or recognised body ”;
  - (e) after subsection (3) insert—
 

“(3ZA) In relation to a recognised CSD, this Part applies to contracts entered into by the central securities depository with a member of the central securities depository or with a recognised investment exchange or with a recognised clearing house or with another recognised CSD for the purpose of providing authorised central securities depository services to that member or recognised body.”;
  - (f) in subsection (3A)—
    - (i) in paragraph (b) for “a recognised investment exchange or to another recognised clearing house” substitute “ a recognised body ”;
    - (ii) in paragraph (c) for “a recognised clearing house or to another recognised investment exchange” substitute “ a recognised body ”;
  - (g) after subsection (3C) insert—
 

“(3D) In this Part “authorised central securities depository services” means, in relation to a recognised CSD—

    - (a) the core services listed in Section A of the Annex to the CSD regulation which that central securities depository is authorised to provide pursuant to Article 16 or 19(1)(a) or (c) of the CSD regulation;
    - (b) the non-banking-type ancillary services listed in or permitted under Section B of that Annex which that central securities depository is authorised to provide, including services notified under Article 19 of the CSD regulation; and
    - (c) the banking-type ancillary services listed in or permitted under Section C of that Annex which that central securities depository is authorised to provide pursuant to Article 54(2)(a) of the CSD regulation.”;

- (h) in subsection (4) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (i) in subsection (5), for “(2) and (3)” substitute “ (2), (3), (3ZA) and (3D) ”.
- (4) In section 157 (change in default rules)—
- (a) in subsection (1)—
    - (i) for “A recognised UK investment exchange or recognised clearing house” substitute “ A recognised body ”;
    - (ii) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) in subsection (3) for “an exchange or clearing house” substitute “ a recognised body ”;
  - (c) in subsection (4)(b) after “recognised clearing house” insert “ or a recognised CSD ”.
- (5) In section 158 (modifications of the law of insolvency)—
- (a) in subsection (1)(b) for “a recognised investment exchange, or a recognised clearing house which is not a recognised central counterparty” substitute “ a recognised body other than a recognised central counterparty ”;
  - (b) in subsection (2)—
    - (i) omit “and” at the end of paragraph (aa);
    - (ii) after paragraph (aa) insert—
      - “(ab) proceedings in respect of a recognised CSD or a member of a recognised CSD, and”;
    - (iii) in paragraph (b) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”.
- (6) In section 159 (proceedings of exchange or clearing house take precedence over insolvency procedures)—
- (a) for the heading substitute “ proceedings of recognised bodies take precedence over insolvency procedures ”;
  - (b) in subsection (1)(b) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (c) in subsection (1)(c) for “a recognised investment exchange, or of a recognised clearing house which is not a recognised central counterparty,” substitute “ a recognised body other than a recognised central counterparty ”;
  - (d) in subsection (2)(a) for “a recognised investment exchange, or recognised clearing house which is not a recognised central counterparty,” substitute “ a recognised body other than a recognised central counterparty ”;
  - (e) in subsection (2)(b) for “a recognised investment exchange, or clearing house which is not a recognised central counterparty” substitute “ a recognised body other than a recognised central counterparty ”.
- (7) In section 160 (duty to give assistance for purposes of default proceedings)—
- (a) in subsections (1) and (5) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (b) in subsections (3), (4) and (5) for “the exchange or clearing house” substitute “ the recognised body ”.
- (8) In section 161 (supplementary provisions as to default proceedings)—
- (a) in subsection (2) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) in subsection (4) for “an exchange or clearing house” substitute “ a recognised body ”.

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- (9) In section 162 (duty to report on completion of default proceedings)—
- (a) in subsection (1) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (b) in subsections (2) and (3) for “The exchange or clearing house” substitute “ The recognised body ”;
  - (c) in subsection (5) for “An exchange or clearing house” substitute “ A recognised body ”;
  - (d) in subsection (6) for “the exchange or clearing house”, in both places, substitute “ the recognised body ”;
  - (e) in subsection (7)(b) after “in relation to a” insert “ recognised CSD, a ”.
- (10) In section 163 (net sum payable on completion of default proceedings), in subsections (1) and (5), for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”.
- (11) In section 164 (disclaimer of property, rescission of contracts, &c)—
- (a) in subsection (1)(b) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) in subsection (3) for “the exchange or clearing house”, in each place, substitute “ the recognised body ”;
  - (c) in subsection (5)—
    - (i) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
    - (ii) for “an exchange or clearing house” substitute “ a recognised body ”.
- (12) In section 165 (adjustment of prior transactions)—
- (a) in subsections (3)(a) and (5)(a), (b) and (c) for “recognised investment exchange or recognised clearing house” substitute “ recognised body ”;
  - (b) in subsection (4)(b) and (c) for “the exchange or clearing house” substitute “ the recognised body ”.
- (13) In section 166 (powers to give directions)—
- (a) in subsection (1) after “recognised clearing house” insert “ or recognised CSD ”;
  - (b) in subsections (2) and (7) for “an exchange or clearing house” substitute “ a recognised body ”;
  - (c) in subsections (3), (7A) and (7B) for “exchange or clearing house” substitute “ recognised body ”;
  - (d) in subsection (8) for “an exchange, a clearing house” substitute “ a recognised body ”;
  - (e) in subsection (9)(b) after “in relation to a” insert “ recognised CSD, a ”.
- (14) In section 167 (application to determine whether default proceedings to be taken)—
- (a) in subsection (1)—
    - (i) omit “or” at the end of paragraph (b);
    - (ii) after paragraph (b) insert—
      - “(ba) a recognised CSD or a member of a recognised CSD, or”;
    - (iii) in the words after paragraph (c) for “The investment exchange, member, designated non-member clearing house or client” substitute “ The person referred to in paragraphs (a) to (c) ”;



- (b) in subsection (1B) for “a recognised investment exchange or a recognised clearing house” substitute “ a recognised body ”;
  - (c) in subsections (1B), (2), (3), (4) and (5) for “the responsible exchange or clearing house”, in each place, substitute “ the responsible recognised body ”;
  - (d) for subsection (6) substitute—
    - “(6) “The appropriate regulator”—
      - (a) in relation to a recognised investment exchange, means the FCA, and
      - (b) in relation to a recognised clearing house or recognised CSD, means the Bank of England.”.
- (15) In section 169 (supplementary provisions)—
- (a) after subsection (2) insert—
    - “(2A) Section 296 of the Financial Services and Markets Act 2000 applies in relation to a failure by a recognised CSD to comply with an obligation under this Part as to a failure to comply with an obligation under that Act.”;
  - (b) in subsection (3) for “an investment exchange or clearing house” substitute “ an investment exchange, clearing house or central securities depository ”;
  - (c) in subsection (3A)—
    - (i) omit “and” at the end of paragraph (b);
    - (ii) after paragraph (c) insert—
      - “, and
      - (d) in the case of a central securities depository, the Bank of England.”.
- (16) In section 170A (EEA central counterparties and third country central counterparties), in subsection (1)(f), for “and Clearing Houses” substitute “ , Clearing Houses and Central Securities Depositories ”.
- (17) After section 170B insert—

#### **“170C EEA CSDs and third country CSDs**

(1) This Part applies to transactions settled through an EEA CSD or a third country CSD by a UK member of the central securities depository as it applies to transactions settled through a recognised CSD, but subject to subsections (2), (3) and (4).

(2) The definition of “authorised central securities depository services” in section 155(3D) applies to third country CSDs as if it read—

““authorised central securities depository services” means, in relation to a third country CSD, those services which that central securities depository is authorised to provide that are equivalent to the services listed in the Annex to the CSD regulation.”.

(3) Section 157 does not apply to an EEA CSD or a third country CSD.

(4) Section 162 does not apply to an EEA CSD or a third country CSD unless it has been notified by the Bank of England that a report under that section is required for the purposes of insolvency proceedings in any part of the United Kingdom. Where an EEA CSD or a third country CSD has been so notified, the appropriate regulator for the purposes of section 162 shall be the Bank of England.

(5) In this section “UK member” means a member of an EEA CSD or a third country CSD to which the law of a part of the United Kingdom will apply for the purposes of an insolvent reorganisation or winding up.”.

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- (18) In section 172 (settlement arrangements provided by the Bank of England), in subsection (1), for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”.
- (19) In section 173 (market charges)—
- (a) in subsection (1)—
    - (i) omit “or” at the end of paragraph (b);
    - (ii) after paragraph (b) insert—
      - “(ba) in favour of a recognised CSD, for the purpose of securing debts or liabilities arising in connection with their ensuring the performance of market contracts, or”;
  - (b) in subsections (2) and (4) after “(b)” insert “ , (ba) ”.
- (20) In section 176 (power to make provision about certain other charges)—
- (a) in subsection (2), after paragraph (a) insert—
    - “(aa) an EEA CSD or a third country CSD,”;
  - (b) in subsection (3)—
    - (i) after “clearing services” insert “ or settlement arrangements ”;
    - (ii) at the end insert “ , or in connection with authorised central securities depository services (see section 155(3D)) provided by a recognised CSD ”;
  - (c) in subsection (6) after “clearing services” insert “ or settlement arrangements ”.
- (21) In section 177 (application of margin or default fund contribution not affected by certain other interests)—
- (a) in subsection (1) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (b) in subsections (1) (2), (3) and (4) for “the exchange or clearing house”, in each place, substitute “ the recognised body ”;
  - (c) in subsection (4) for “an exchange or clearing house” substitute “ a recognised body ”.
- (22) In section 180 (proceedings against market property by unsecured creditors), in subsection (1)—
- (a) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (b) in paragraph (a) for “the investment exchange or clearing house” substitute “ the recognised body ”.
- (23) In section 184 (indemnity for certain acts, &c)—
- (a) in subsections (1), (2), (3) and (5) for “recognised investment exchange or recognised clearing house”, in each place, substitute “ recognised body ”;
  - (b) in subsection (4) for “the exchange or clearing house” substitute “ the recognised body ”.
- (24) In section 188 (meaning of “default rules” and related expressions)—
- (a) in subsection (1)—
    - (i) for “recognised investment exchange or recognised clearing house”, in both places, substitute “ recognised body ”;
    - (ii) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) after subsection (1A) insert—

- “(1B) In the case of a recognised CSD, “default rules” includes the default rules and procedures referred to in Article 41 of the CSD regulation.”;
- (c) in subsections (2) and (3) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
- (d) in subsection (3A)—
- (i) for paragraph (c)(i) substitute—
- “(i) is maintained by another recognised body (A) for the purpose of covering losses arising in connection with defaults by recognised bodies other than A or by any of their members, and”;
- (ii) omit “or” at the end of paragraph (c);
- (iii) for paragraph (d)(i) substitute—
- “(i) is maintained by another recognised body (A) for the purpose of covering losses arising in connection with defaults by recognised bodies other than A or by any of their members, and”;
- (iv) after paragraph (d) insert—
- “(e) contribution by a member of a recognised CSD to a fund which—
- (i) is maintained by that central securities depository for the purpose of covering losses arising in connection with defaults by any of the members of the central securities depository, and
- (ii) may be applied for that purpose under the default rules of the central securities depository; or
- (f) contribution by a recognised CSD to a fund which—
- (i) is maintained by another recognised body (A) for the purpose of covering losses arising in connection with defaults by recognised bodies other than A or by any of their members, and
- (ii) may be applied for that purpose under A's default rules.”;
- (e) in subsection (4) for “an exchange or clearing house” substitute “ a recognised body ”.
- (25) In section 190 (minor definitions), in subsection (1)—
- (a) insert at the appropriate places—
- ““CSD regulation” means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories;”;
- ““member”, in relation to a central securities depository, means a participant of that central securities depository as defined in Article 2(1)(19) of the CSD regulation;”;
- ““recognised body” has the same meaning as in section 313 of the Financial Services and Markets Act 2000;”;
- (b) in the definition of “overseas”, after “clearing house” insert “ or central securities depository ”;
- (c) for the definition of ““recognised central counterparty”, “recognised clearing house” and “recognised investment exchange”” substitute—
- ““EEA CSD”, “recognised central counterparty”, “recognised CSD”, “recognised clearing house”, “recognised investment exchange” and “third country CSD” have the same meaning as in the Financial Services and Markets Act 2000 (see section 285 of that Act);”.
- (26) In section 191 (index of defined expressions) in the Table—

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(a) insert at the appropriate places—

“authorised central securities depository services	Section 155(3D)”
“CSD regulation	Section 190(1)”
“EEA CSD	Section 190(1)”
“member (in relation to a central securities depository)	Section 190(1)”
“recognised body	Section 190(1)”
“recognised CSD	Section 190(1)”
“third country CSD	Section 190(1)”;

(b) in the expression “overseas” for “and clearing houses” substitute “, clearing houses and central securities depositories ”.

## PART 4 U.K.

### Amendments to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001

#### Amendments to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 U.K.

4.—(1) The Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001<sup>M33</sup> are amended as follows.

(2) In the title and in regulation 1 (citation) for “and Clearing Houses” substitute “, Clearing Houses and Central Securities Depositories ”.

(3) In regulation 3<sup>M34</sup> (interpretation), in paragraph (1) in the definition of “exempt activities” after “(3A)” insert “ or (3D) ”.

(4) After regulation 5A<sup>M35</sup> (recognition requirements for central counterparties) insert—

#### “Recognition requirements for central securities depositories

**5B.** Part 7 of the Schedule sets out recognition requirements applying to bodies in respect of which a recognition order has been made under section 290(1)(d) of the Act, or which have applied for such an order under section 288A of the Act.”.

(5) In regulation 6<sup>M36</sup> (method of satisfying recognition requirements), after paragraph (3) insert—

“(4) This regulation does not apply in respect of a recognised CSD or an applicant for an order under section 288A of the Act.”.

(6) In the Schedule—

- (a) in Part 1 (recognition requirements for investment exchanges), after paragraph 9I <sup>M37</sup> insert—

*“Reporting of infringements*

**9J.**—(1) The exchange must have in place appropriate procedures for its employees to report actual or potential infringements of the CSD regulation and any directly applicable EU regulation made under that regulation internally through a specific, independent and autonomous channel.

(2) The protections set out in points (b), (c) and (d) of Article 65(2) of that regulation (reporting of infringements) must be applied in relation to those procedures.”;

- (b) in Part 2 (recognition requirements for investment exchanges: default rules in respect of market contracts)—

(i) in paragraph 10 <sup>M38</sup>—

(aa) in sub-paragraph (4), after “recognised clearing house” insert “ , a recognised CSD ”;

(bb) in sub-paragraph (5), after “clearing house” insert “ , the central securities depository ”;

(ii) in paragraph 14 <sup>M39</sup>, after “recognised clearing house” insert “ , a recognised CSD ”;

- (c) in Part 4 (recognition requirements applying to clearing houses: default rules in respect of market contracts)—

(i) in paragraph 24 <sup>M40</sup>—

(aa) in sub-paragraph (3), after “recognised investment exchange” insert “ , a recognised CSD ”;

(bb) in sub-paragraph (4), after “investment exchange” insert “ , the central securities depository ”;

(ii) in paragraph 27 <sup>M41</sup>, after “recognised investment exchange” insert “ , a recognised CSD ”;

- (d) in Part 5 (recognition requirements for central counterparties), after paragraph 31 insert—

*“Reporting of infringements*

**31A.**—(1) The central counterparty must have in place appropriate procedures for its employees to report actual or potential infringements of the CSD regulation and any directly applicable EU regulation made under that regulation internally through a specific, independent and autonomous channel.

(2) The protections set out in points (b), (c) and (d) of Article 65(2) of that regulation (reporting of infringements) must be applied in relation to those procedures.”;

- (e) after Part 6 <sup>M42</sup> (recognition requirements applying to central counterparties: default rules) insert—

## “PART 7 U.K.

### Recognition requirements for Central Securities Depositories

#### *Requirements of the CSD regulation*

**37.** The central securities depository must meet the requirements set out in the CSD regulation and any directly applicable EU regulation made under that regulation.

#### *Access to settlement facilities*

**38.—(1)** The central securities depository must make transparent and non-discriminatory rules, based on objective criteria, governing access to settlement facilities provided by it.

(2) The rules under sub-paragraph (1) must enable an investment firm or a credit institution authorised by the competent authority of another EEA State (including a branch established in the United Kingdom of such a firm or institution) to have access to those facilities on the same terms as a UK firm for the purposes of finalising or arranging the finalisation of transactions in financial instruments.

#### *Reporting of infringements*

**39.—(1)** The central securities depository must have in place appropriate procedures for its employees to report actual or potential infringements of the CSD regulation and any directly applicable EU regulation made under that regulation internally through a specific, independent and autonomous channel.

(2) The protections set out in points (b), (c) and (d) of Article 65(2) of that regulation (reporting of infringements) must be applied in relation to those procedures.

#### *Investment services and activities*

**40.—(1)** A central securities depository providing investment services and activities in addition to the services explicitly listed in Sections A and B of the Annex to the CSD regulation must comply with—

- (a) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (recast) <sup>M43</sup> except for Articles 5 to 8, 9(1), (2) and (4) to (6) and 10 to 13 of that directive, and
- (b) Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments <sup>M44</sup>.

(2) Until 3rd January 2018—

- (a) the reference in sub-paragraph (1)(a) to Articles 5 to 8, 9(1), (2) and (4) to (6) and 10 to 13 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (recast) is to be read as a reference to Articles 5 to 10b of Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments <sup>M45</sup>, and
- (b) sub-paragraph (1)(b) does not apply.”.

#### Marginal Citations

- M33** [S.I. 2001/995](#).
- M34** The definition of “exempt activities” was amended by [S.I. 2013/504](#).
- M35** [Regulation 5A](#) was inserted by [S.I. 2013/504](#).
- M36** [Regulation 6](#) was amended by [S.I. 2013/472](#).
- M37** [Paragraph 9I](#) of the Schedule was inserted by [S.I. 2017/701](#).
- M38** [Paragraph 10](#) of the Schedule was amended by [S.I. 2006/3386](#) and 2009/853.
- M39** [Paragraph 14](#) of the Schedule was amended by [S.I. 2009/853](#).
- M40** [Paragraph 24](#) of the Schedule was amended by [S.I. 2009/853](#).
- M41** [Paragraph 27](#) of the Schedule was amended by [S.I. 2009/853](#).
- M42** [Part 6](#) was inserted by [S.I. 2013/504](#) and amended by [S.I. 2013/1908](#).
- M43** OJ L173, 12.6.2014, p.349.
- M44** OJ L173, 12.6.2014, p.84.
- M45** OJ No L 145, 30.4.2004, p.1.

## PART 5 **U.K.**

### Amendments to the Central Securities Depositories Regulations 2014

#### Amendments to the Central Securities Depositories Regulations 2014 **U.K.**

5.—(1) The Central Securities Depositories Regulations 2014 <sup>M46</sup> are amended as follows.

(2) Before regulation 1 (commencement, citation and interpretation) insert— “ PART 1 Citation, commencement and interpretation ”.

(3) In regulation 1 (interpretation)—

(a) in paragraph (2) at the appropriate places insert—

““credit institution” means credit institution (defined in point (1) of Article 4(1) of Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms <sup>M47</sup>) authorised pursuant to Article 8 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms <sup>M48</sup>.”;

““EEA CSD” has the meaning given in section 285 of the Act <sup>M49</sup>.”;

““third country CSD” has the meaning given in section 285 of the Act.”;

(b) in paragraph (3) for “Any expression” substitute “ Unless defined in these Regulations, any expression ”.

(4) After regulation 1 insert— “ PART 2 Designation of competent authorities ”.

(5) In regulation 2 (designation of competent authorities)—

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- (a) in paragraph (1) after sub-paragraph (b) insert—
- “(c) the supervision of investment firms authorised pursuant to Article 5 of the markets in financial instruments directive <sup>M50</sup> for the purposes of the CSD regulation;
- (d) the supervision of participants <sup>M51</sup> in a securities settlement system <sup>M52</sup> for the purposes of the CSD regulation, other than recognised clearing houses <sup>M53</sup> or recognised CSDs <sup>M54</sup>.”;
- (b) in paragraph (2)—
- (i) before sub-paragraph (a) insert—
- “(za) the functions referred to in Article 9(1) of the CSD regulation;”;
- (ii) in sub-paragraph (a) after “CSD regulation,” insert “ and all other competent authority functions under that regulation in relation to CSDs <sup>M55</sup>”;
- (iii) after sub-paragraph (a) insert—
- “(aa) host Member State competent authority functions under the CSD regulation in relation to EEA CSDs and third country CSDs;”;
- (iv) omit “and” at the end of sub-paragraph (b);
- (v) after sub-paragraph (c) insert—
- “and
- (d) the supervision of CCPs <sup>M56</sup> for the purposes of the CSD regulation.”.
- (6) After regulation 2 insert— “ PART 3 Powers of the FCA ”.
- (7) In regulation 3 (power of FCA to require information from a person who is not authorised)—
- (a) for paragraph (1) substitute—
- “(1) In this regulation and in regulation 4—
- “non-authorised counterparty” means a person, other than an authorised person or a recognised body, who is a party to a financial collateral arrangement referred to in the second sub-paragraph of Article 3(2) of the CSD regulation;
- “participant” means a participant in a securities settlement system as defined in Article 2(1)(19) of the CSD regulation, other than—
- (a) an authorised person <sup>M57</sup>, or
- (b) a recognised body.”.
- (b) after paragraph (3) insert—
- “(3A) Paragraph (3B) applies where a participant is subject to an obligation under Article 38(5) and (6) of the CSD regulation.
- (3B) The FCA may, by notice in writing, require the participant—
- (a) to provide specified information or information of a specified description; or
- (b) to provide specified documents or documents of a specified description,
- so that it can verify whether the participant has complied with Article 38(5) and (6) of the CSD regulation.”.
- (8) In regulation 4 (penalties and statements)—
- (a) in paragraph (1)—
- (i) in sub-paragraph (a), after “non-authorised counterparty” insert “ , participant ”;
- (ii) in sub-paragraph (b), after “non-authorised counterparty” insert “ or participant ”;



- (b) in paragraph (2), after “non-authorised counterparty” insert “, participant”.
- (9) After regulation 5 (procedure in relation to regulation 4) insert—

## “PART 4 U.K.

### Powers of the Bank

#### Power of the Bank to require information

- 5A.**—(1) This regulation applies where it is necessary for the Bank to determine whether—
- (a) a settlement internaliser<sup>M58</sup> has complied with the first sub-paragraph of Article 9(1) of the CSD regulation or regulation 5N; or
  - (b) a person is a settlement internaliser.
- (2) The Bank may, by giving notice in writing, require a person—
- (a) to provide specified information or information of a specified description, or
  - (b) to provide specified documents or documents of a specified description,
- so that it can verify whether the settlement internaliser has complied with the first sub-paragraph of Article 9(1) of the CSD regulation or regulation 5N, or whether the person is a settlement internaliser.
- (3) The information or documents must be provided or produced—
- (a) before the end of such reasonable period as may be specified; and
  - (b) at such place as may be specified.
- (4) This regulation applies only to information and documents reasonably required in connection with the exercise by the Bank of its functions under the CSD regulation.
- (5) The Bank may require any information provided under this regulation to be provided in such a form as it may reasonably require.
- (6) The Bank may require—
- (a) any information provided, whether in a document or otherwise, to be verified in such a manner, or
  - (b) any document produced to be authenticated in such a manner,
- as it may reasonably require.
- (7) A requirement imposed under this regulation is a relevant requirement for the purposes of sections 380 (injunctions) and 382 (restitution orders) of the Act<sup>M59</sup> as applied to the Bank by paragraphs 26 and 27 of Schedule 17A to the Act.
- (8) In this regulation, “specified” means specified in the notice.

#### Penalties and statements

- 5B.**—(1) If the Bank considers that—
- (a) a person has contravened a relevant requirement imposed on it;
  - (b) a settlement internaliser has contravened a requirement imposed by or under the CSD regulation; or
  - (c) a settlement internaliser has contravened regulation 5N,

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the Bank may publish a statement to that effect or impose on it a penalty, in respect of the contravention, of such amount as the Bank considers appropriate.

(2) If the Bank considers that a person has in purported compliance with a relevant requirement knowingly or recklessly given the Bank information which is false or misleading in a material particular, the Bank may publish a statement to that effect or impose upon the person a penalty of such amount as it considers appropriate.

(3) Where the Bank has published a statement or imposed a penalty under paragraph (1) or (2), it must comply with the requirements of Article 62 of the CSD regulation.

(4) A penalty under paragraph (1) or (2) is payable to the Bank.

(5) The Bank must in respect of each of its financial years pay to the Treasury any amounts received by it during the year by way of penalties imposed under this regulation.

(6) The Treasury may give directions to the Bank as to how the Bank is to comply with its duty under paragraph (5).

(7) The directions may in particular—

- (a) specify the time when any payment is required to be made to the Treasury, or
- (b) require the Bank to provide the Treasury at specified times with information relating to penalties that the Bank has imposed under this regulation.

(8) The Treasury must pay into the Consolidated Fund any sums received by them under this regulation.

(9) In this regulation, a “relevant requirement” means a requirement imposed under regulation 5A.

#### **Procedure in relation to regulation 5B**

**5C.**—(1) If the Bank proposes to take action against a person under regulation 5B, it must give the person concerned a warning notice.

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

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

(4) If, having considered any representations made in response to the warning notice, the Bank decides to take action against a person under regulation 5B, it must without delay give the person concerned a decision notice.

(5) A decision notice about the imposition of a penalty must state the amount of the penalty.

(6) A decision notice about the publication of a statement must set out the terms of the statement.

(7) If the Bank decides to take action against a person under regulation 5B, the person may refer the matter to the Tribunal <sup>M60</sup>.

(8) Sections 312J (statement of policy) and 312K (statement of policy: procedure) of the Act apply in respect of the imposition of penalties under regulation 5B and the amount of such penalties as they apply in respect of the imposition of penalties under section 312F of the Act.

(9) After a statement under regulation 5B is published, the Bank must send a copy of it to the person concerned and to any person to whom a copy of the decision notice was given under section 393(4) of the Act (applied by paragraph (10)).

(10) Sections 387(1), (2) and (3) (warning notices), 388 (decision notices), 389 (notices of discontinuance), 390 (final notices), 393 (third party rights) and 394 (access to FCA or PRA

material) of the Act <sup>M61</sup> apply in relation to a warning notice or decision notice given by the Bank under this regulation as if—

- (a) references to the regulator or the regulator concerned were references to the Bank;
- (b) the reference in section 388(1)(e)(i) to “this Act” were a reference to these Regulations.

(11) Section 391 of the Act (publication) applies in relation to a warning notice or decision notice under this regulation and in relation to a notice of discontinuance and a final notice under section 389 or 390 of the Act as applied by paragraph (10), but as if—

- (a) references to the regulator and the FCA were references to the Bank;
- (b) a warning notice under this regulation were treated as falling within subsection (1ZB);
- (c) in subsection (8A)—
  - (i) the reference to the Act were to these Regulations;
  - (ii) the reference to a requirement included a requirement under regulation 5A.

(12) Part 9 of the Act (hearings and appeals) applies to references to the Tribunal under this regulation as it applies to references to the Tribunal under the Act, as if—

- (a) a reference were a “disciplinary reference” for the purposes of section 133 of the Act <sup>M62</sup> if it is in respect of a decision to publish a statement or impose a penalty under regulation 5B;
- (b) section 133(1)(a) and (c) of the Act did not apply.

### **Power of the Bank to require a report by a skilled person**

**5D.**—(1) This regulation applies where the Bank has required or could require a person on whom it could impose a requirement under regulation 5A(2) (“the person concerned”) to provide information or to produce documents under regulation 5A so that the Bank can verify whether—

- (a) a settlement internaliser has complied with Article 9(1) of the CSD regulation, or
- (b) a person is a settlement internaliser,

(“the matter concerned”).

(2) The Bank may appoint a person to provide the Bank with a report on the matter concerned.

(3) The Bank must give notice of an appointment under paragraph (2) to the person concerned.

(4) The person appointed to make a report must be a person appearing to the Bank to have the skills necessary to make a report on the matter concerned.

(5) It is the duty of—

- (a) the person concerned, and
- (b) any person who is providing (or who has at any time provided) services to the person concerned in relation to the matter concerned,

to give the person appointed to prepare a report all such assistance as the appointed person may reasonably require.

(6) The obligation imposed by paragraph (5) 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.

### **Power of the Bank to appoint a skilled person to collect and update information**

**5E.**—(1) This regulation applies if the Bank considers that a settlement internaliser has failed to comply with the first sub-paragraph of Article 9(1) of the CSD regulation.

(2) The Bank may appoint a skilled person to collect or update the information required to be submitted under that sub-paragraph.

(3) References in this regulation to a skilled person are to a person appearing to the Bank to have the skills necessary to collect or update the information in question.

(4) The Bank must give notice of an appointment under paragraph (2) to the settlement internaliser.

(5) The skilled person may require any person to provide all such assistance as the skilled person may reasonably require to collect or update the information in question.

(6) A requirement imposed under paragraph (5) 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.

(7) A contractual or other requirement imposed on a person (“P”) to keep any information in confidence does not apply if—

- (a) the information is or may be relevant to anything required to be done as a result of this regulation,
- (b) a settlement internaliser or a skilled person requests or requires P to provide the information for the purposes of securing that those things are done, and
- (c) the Bank has approved the making of the request or the imposition of the requirement before it is made or imposed.

(8) A settlement internaliser may provide information (whether received under paragraph (7) or otherwise) that would otherwise be subject to a contractual or other requirement to keep it in confidence if it is provided for the purposes of anything required to be done as a result of this regulation.

## **PART 5** **U.K.**

### **Control over a recognised CSD**

#### **Interpretation of Part 5**

**5F.** In Part 5—

“acquisition” means a transfer of ownership rights which gives rise to a change in the identity of the persons exercising control over the operation of a recognised CSD <sup>M63</sup>;

“Article 27 notice” means a notification by a person under Article 27(7) of the CSD regulation of a proposed acquisition;

“assessment period” means the period of 60 working days referred to in Article 27(8) of the CSD regulation;

“control” means the relationship between two undertakings as described in section 1162 of, and Schedule 7 to, the Companies Act 2006 <sup>M64</sup>

“proposed acquisition” means a decision to transfer ownership rights which gives rise to a change in the identity of the persons exercising control over the operation of a recognised CSD;

“restriction notice” has the meaning given by regulation 5I;

“shares” has the meaning given by section 422 of the Act (controller), but section 422A of the Act<sup>M65</sup> (disregarded holdings) does not apply;

“voting power” has the meaning given by section 422 of the Act;

“working day” means a day other than—

- (a) Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>M66</sup> in any part of the United Kingdom.

### **Powers of Bank in relation to proposed acquisition**

**5G.**—(1) The Bank may before the end of a period of 14 working days starting with the day on which it receives an Article 27 notice, by notice in writing, require the person who gave the Article 27 notice—

- (a) to provide specified information or information of a specified description; or
- (b) to provide specified documents or documents of a specified description.

(2) Subsection (1) only applies to information or documents which the Bank reasonably requires in order to decide whether there are objective and demonstrable grounds for believing that a proposed acquisition would pose a threat to the sound and prudent management of the recognised CSD or to the ability of the recognised CSD to comply with the CSD regulation.

(3) The information or documents must be provided or produced—

- (a) before the end of such period as may be specified; and
- (b) at such place as may be specified.

(4) The Bank may require any information provided under this regulation to be provided in such a form as it may reasonably require.

(5) The Bank may require—

- (a) any information provided, whether in a document or otherwise, to be verified in such a manner, or
- (b) any document produced to be authenticated in such a manner,

as it may reasonably require.

(6) In this regulation, “specified” means specified in the notice.

(7) For the purposes of Article 27(8) of the CSD regulation, the information referred to in Article 27(7) of that regulation is not received until the Bank receives all the information and documents required under this regulation, and where the Bank has imposed a requirement under paragraph (4) or (5), that requirement has been complied with.

### **Procedure in relation to proposed acquisition**

**5H.**—(1) If the Bank gives a person (“P”) notice of its decision under Article 27(8) of the CSD regulation that it opposes a proposed acquisition, P may refer the Bank's decision to the Tribunal.

(2) The notice under Article 27(8) of the CSD regulation must—

- (a) give reasons for the decision;
- (b) inform P that P may make representations to the Bank within such period as may be specified in the notice (whether or not P has referred the matter to the Tribunal); and

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- (c) inform P of P's right to refer the matter to the Tribunal, and give an indication of the procedure on such a reference.
- (3) The Bank may extend the period allowed under the notice under Article 27(8) of the CSD regulation for making representations.
- (4) If, having considered any representations made by P, the Bank decides to rescind the notice under Article 27(8) of the CSD regulation, it must give P written notice.
- (5) If, having considered any representations made by P, the Bank decides not to rescind the notice under Article 27(8) of the CSD regulation, it must give P written notice which must comply with paragraph (2)(c).
- (6) Part 9 of the Act (hearings and appeals) applies to references to the Tribunal under this regulation as it applies to references to the Tribunal under the Act.

### Restriction notices

- 5I.**—(1) The Bank may give notice in writing (a “restriction notice”) to a person (“P”) in the following circumstances.
- (2) The circumstances are that—
    - (a) P has taken a decision in relation to which P is required to give the Bank an Article 27 notice; and
    - (b) P has made the acquisition—
      - (i) without giving the Article 27 notice,
      - (ii) before the expiry date of the assessment period (unless the Bank has approved the acquisition), or
      - (iii) in contravention of the Bank's decision under Article 27(8) of the CSD regulation.
  - (3) In a restriction notice, the Bank 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—
    - (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 given to—
    - (a) the recognised CSD in question; and
    - (b) in the case of shares or voting power held in a parent undertaking<sup>M67</sup> of a recognised CSD, the parent undertaking.

(7) A person to whom the Bank gives a restriction notice may refer the matter to the Tribunal.

(8) Part 9 of the Act (hearings and appeals) applies to references to the Tribunal under this regulation as it applies to references to the Tribunal under the Act.

### **Orders for sale of shares**

**5J.**—(1) The court may, on the application of the Bank, order the sale of shares or the disposition of voting power in the following circumstances.

(2) The circumstances are that—

- (a) a person (“P”) has taken a decision in relation to which P is required to give the Bank an Article 27 notice; and
- (b) P has made the acquisition—
  - (i) without giving the Article 27 notice,
  - (ii) before the expiry date of the assessment period (unless the Bank has approved the acquisition), or
  - (iii) in contravention of the Bank's decision under Article 27(8) of the CSD regulation.

(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 regulation, it must take into account the level of holding that P would have been entitled to acquire, or to continue to hold, without contravening the Bank's decision under Article 27(8) of the CSD regulation.

(5) If shares are sold or voting power disposed of in pursuance of an order under this regulation, any proceeds, less the costs of the sale or disposition, must be paid into court for the benefit of the persons beneficially interested in them; and any such person may apply to the court for payment of the whole or a part of the proceeds.

(6) The jurisdiction conferred by this regulation may be exercised by the High Court or in Scotland, the Court of Session.

### **Offences**

**5K.**—(1) A person who fails to comply with an obligation to notify the Bank under the Article 27(7) of the CSD regulation is guilty of an offence.

(2) A person who gives an Article 27 notice to the Bank and makes the acquisition to which the notice relates before the expiry date of the assessment period is guilty of an offence unless the Bank has approved the acquisition.

(3) A person who makes an acquisition in contravention of the Bank's decision under Article 27(8) of the CSD regulation is guilty of an offence.

(4) A person who provides information to the Bank which is false in a material particular is guilty of an offence.

(5) A person guilty of an offence under paragraph (1), (2) or (4) is liable—

- (a) in England and Wales, on summary conviction or on conviction on indictment to a fine; and

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- (b) in Scotland and Northern Ireland, on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (6) A person guilty of an offence under paragraph (3) is liable—
  - (a) in England and Wales—
    - (i) on summary conviction to a fine, or
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both; and
  - (b) in Scotland and Northern Ireland—
    - (i) on summary conviction to a fine not exceeding the statutory maximum, or
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (7) It is a defence for a person charged with an offence under paragraph (1) to show 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 the Bank arose.

## PART 6 U.K.

### References to the Tribunal

#### References to the Tribunal

- 5L.**—(1) Paragraph (2) applies where the Bank or FCA takes a decision—
- (a) to refuse an application under Article 19(1) of the CSD regulation;
  - (b) to require a recognised CSD to discontinue a CSD link<sup>M68</sup> in accordance with Article 19(7) of that regulation;
  - (c) to withdraw authorisation for a service, activity or financial instrument in accordance with Article 20(4) of that regulation;
  - (d) to refuse to communicate information in accordance with Article 23(3) and (4) of that regulation (freedom of CSD to provide services in another Member State);
  - (e) to refuse an application for authorisation under Article 30(4) of that regulation (outsourcing);
  - (f) in relation to a complaint under Article 33(3) of that regulation (requirements for participation);
  - (g) to refuse an application for authorisation under Article 48(2) of that regulation (CSD links);
  - (h) in relation to a complaint under Article 49(4) of that regulation (freedom to issue in a CSD authorised in the European Union);
  - (i) in relation to a complaint under Article 52(2) of that regulation (procedure for CSD links);
  - (j) in relation to a complaint under Article 53(3) of that regulation (access between a CSD and another market infrastructure);
  - (k) to refuse an application by a CSD for authorisation to designate a credit institution or to provide banking-type ancillary services listed in or permitted under Section C of the Annex to that regulation under Article 55(5) of that regulation (procedure for granting and refusing authorisation to provide banking-type ancillary services);



- (l) to refuse an application by a recognised CSD for an extension of banking-type ancillary services listed in or permitted under Section C of the Annex to that regulation (including services to be provided by a designated credit institution) under Article 55(5) of that regulation as applied by Article 56(2) of that regulation (extension of banking-type ancillary services);
  - (m) to withdraw, wholly or partly, a recognised CSD's authorisation to designate a credit institution or to provide banking-type ancillary services listed in or permitted under Section C of the Annex to the CSD regulation under Article 57 of that regulation (withdrawal of authorisation).
- (2) The following persons may refer the matter to the Tribunal—
- (a) in the case of any decision mentioned in paragraph (1), the CSD to which the decision relates,
  - (b) in the case of a decision mentioned in paragraph (1)(f), (h) or (i), the complainant, and
  - (c) in the case of a decision mentioned in paragraph (1)(j), the CCP and the trading venue<sup>M69</sup>.
- (3) Part 9 of the Act (hearings and appeals) applies to references to the Tribunal under this regulation as it applies to references to the Tribunal under the Act.

## PART 7 U.K.

### Access to trading venues

#### Access to trading venues

**5M.**—(1) Paragraph (2) applies where the FCA has decided in respect of a complaint made to it under Article 53(3) of the CSD regulation that a trading venue which is not a recognised body has failed, unjustifiably, to grant the access sought by the complainant.

(2) The FCA may direct the trading venue to take specified steps for the purpose of securing the trading venue's compliance with the FCA's determination of the complaint.

(3) A direction under this regulation is enforceable, on the application of the FCA, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988<sup>M70</sup>.

(4) Section 298 of the Act applies in relation to a direction under this regulation as it applies in relation to a direction under section 296 of the Act given to a recognised CSD.

## PART 8 U.K.

### Reporting of infringements

#### Reporting of infringements

**5N.**—(1) Settlement internalisers must have in place appropriate procedures for their employees to report actual or potential infringements of the CSD regulation and any directly applicable EU regulation made under that regulation internally through a specific, independent and autonomous channel.

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(2) The protections set out in points (b), (c) and (d) of Article 65(2) of that regulation (reporting of infringements) must be applied in relation to those procedures.

PART 9 Consequential amendments ”.

(10) After regulation 9 (amendments to the Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013) insert— “ PART 10 Review ”.

(11) In regulation 10 (review) after “regulations 2 to 9” in each place insert “ and the Central Securities Depositories Regulations 2017 ”.

### Marginal Citations

- M46** [S.I. 2014/2879](#).
- M47** OJ No L176, 27.6.2013, p.1.
- M48** OJ No L176, 27.6.2013, p.338.
- M49** [Section 285](#) was amended by section 28 of the Financial Services Act 2012 and [S.I. 2013/504](#).
- M50** Defined in section 425(1) of the Financial Services and Markets Act 2000; OJ No L145, 30.4.2004, p.1.
- M51** Defined Article 2(1)(19) of the CSD regulation. Definitions in the CSD regulation apply by virtue of [S.I. 2014/2879](#).
- M52** Defined in Article 2(1)(10) of the CSD regulation.
- M53** Defined in section 417(1) of the Financial Services and Markets Act 2000.
- M54** A definition is inserted into section 417(1) of the Financial Services and Markets Act 2000 by these Regulations.
- M55** Defined in Article 2(1)(1) of the CSD regulation.
- M56** Defined in Article 2(1)(16) of the CSD regulation.
- M57** Defined in section 417(1) of the Financial Services and Markets Act 2000. Definitions in the Financial Services and Markets Act 2000 apply by virtue of [S.I. 2014/2879](#).
- M58** Defined in Article 2(1)(11) of the CSD regulation.
- M59** [Section 380](#) was amended by paragraph 19 of Schedule 9 to the Financial Services Act 2012, paragraph 3 of Schedule 10 to the Financial Services (Banking Reform) Act 2013 and [S.I. 2013/1773](#), 2015/1755 and 2016/225. [Section 382](#) was amended by paragraph 21 of Schedule 9 to the Financial Services Act 2012, paragraph 3 of Schedule 10 to the Financial Services (Banking Reform) Act 2013 and [S.I. 2013/1773](#).
- M60** Defined in section 417(1) of the Financial Services and Markets Act 2000.
- M61** [Sections 387, 388, 389, 390, 391, 393](#) and 394 were amended by Schedule 9 to the Financial Services Act 2012. [Sections 387 and 388](#) were also amended by Schedule 3 to the Financial Services (Banking Reform) Act 2013. [Section 390](#) was also amended by [S.I. 2010/22](#). [Section 391](#) was also amended by section 13 of the [Financial Services Act 2010 \(c.28\)](#), [section 24](#) of the Financial Services Act 2012 and [S.I. 2012/916](#), 2013/1388, 2013/3115, 2014/2879, 2016/225, 2016/680, 2016/715 and 2017/701. [Section 394](#) was also amended by Schedules 4 and 10 to the [Regulation of Investigatory Powers Act 2000 \(c.23\)](#).
- M62** [Section 133](#) was substituted by [S.I. 2010/22](#) and amended by section 23 of the Financial Services Act 2012, section 4 of the Financial Services (Banking Reform) Act 2013, paragraph 83 of Schedule 9 to the [Crime and Courts Act 2013 \(c.22\)](#) and [S.I. 2013/1388](#), 2014/3329 and 2016/680.
- M63** Defined in section 285 of the Financial Services and Markets Act 2000 as amended by these Regulations.
- M64** [2006 c.46](#)
- M65** [Sections 422 and 422A](#) were substituted by [S.I. 2009/534](#). [Section 422](#) was amended by [S.I. 2013/3115](#). [Section 422A](#) was amended by [S.I. 2011/1613](#), 2013/3115 and 2015/1755.
- M66** [1971 c.80](#).
- M67** Defined in section 420 of the Financial Services and Markets Act 2000.
- M68** Defined in Article 2(1)(29) of the CSD regulation.

**M69** Defined in Article 2(1)(42) of the CSD regulation.

**M70** 1988 c.36.

## PART 6 U.K.

### Transitional and saving provisions

#### Transitional and saving provisions: interpretation U.K.

6.—(1) In this Part—

“the Act” means the Financial Services and Markets Act 2000;

“Bank” means the Bank of England;

“commencement” means the coming into force of these Regulations;

“CSD RCH” means a person established in the United Kingdom which immediately before 30th March 2017 was a recognised clearing house which—

- (a) operated a securities settlement system referred to in point (3) of Section A of the Annex to the CSD regulation in the United Kingdom, and
- (b) provided at least one other core service listed in Section A of that Annex in the United Kingdom;

“CSD regulation” means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories <sup>M71</sup>;

“recognised clearing house” means a recognised clearing house referred to section 285(1)(b) (ii) of the Act <sup>M72</sup>;

“recognition order” has the meaning given in section 313(1) of the Act.

(2) In this Part, expressions defined for the purposes of the CSD regulation have the meanings given by that regulation.

#### Marginal Citations

**M71** OJ No L257, 28.8.2014, p1.

**M72** The definition of “recognised clearing house” in section 285(1)(b) was substituted by [S.I. 2013/504](#).

#### Transitional and saving provisions for recognised clearing houses U.K.

7.—(1) The transition period for a CSD RCH begins with commencement.

(2) The transition period for a CSD RCH ends immediately after—

- (a) the Bank determines its application under section 288A of the Act <sup>M73</sup> in accordance with Article 17 of the CSD regulation and any [<sup>F1</sup>retained EU law] made under that Article, or
- (b) the end of the six month period specified in Article 69(2) of the CSD regulation, if the CSD RCH has not made an application under section 288A of the Act before the end of that period.

(3) During a CSD RCH's transition period—

- (a) section 313(1A) of the Act (interpretation of Part 18) inserted by these Regulations does not apply;

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- (b) the amendments made by these Regulations to the Financial Services (Banking Reform) Act 2013 do not apply.
- (4) Nothing in these Regulations affects the validity of a CSD RCH's recognition order under section 290(1)(c) of the Act <sup>M74</sup> during its transition period, and accordingly during that period the CSD RCH remains a recognised clearing house except where the order is revoked during that period.
- (5) Where—
  - (a) a CSD RCH has made an application under section 288A of the Act, and
  - (b) the Bank has determined that application in accordance with Article 17 of the CSD regulation and any [<sup>F2</sup>retained EU law] made under that Article,
 any previous recognition order under section 290(1)(c) of the Act shall cease to be valid.

**Textual Amendments**

**F1** Words in [reg. 7\(2\)\(a\)](#) substituted (31.12.2020) by [The Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1320\)](#), [regs. 1\(3\)](#), [3\(2\)\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

**F2** Words in [reg. 7\(5\)\(b\)](#) substituted (31.12.2020) by [The Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1320\)](#), [regs. 1\(3\)](#), [3\(2\)\(b\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

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**Marginal Citations**

**M73** [Section 288A](#) was inserted by these Regulations.

**M74** [Section 290\(1\)](#) was substituted by [S.I. 2013/504](#).

**Transitional and saving provisions: overseas persons** U.K.

- 8.—**(1) The transition period for an overseas person begins with commencement.
- <sup>F3</sup>(2) .....
- (3) The transition period for an overseas person established in a State which is not [<sup>F4</sup>the United Kingdom] ends immediately after—
- (a) if the overseas person has made an application under Article 25(4) of the CSD regulation before the end of the six month period specified in Article [<sup>F5</sup>69(1)] of that regulation, the determination of its application under Article 25(4) of that regulation, or
  - (b) if the overseas person has not made an application under Article 25(4) of the CSD regulation before the end of the six month period specified in Article [<sup>F5</sup>69(1)] of that regulation, the end of that six month period.
- (4) During the transition period for an overseas person, article 72 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 <sup>M75</sup> applies in relation to that overseas person as if it had not been amended by these Regulations.
- (5) In this regulation, “overseas person” means an overseas person (within the meaning of article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001) which immediately before commencement provided the services referred to in Article 23 or 25 of the CSD regulation in the United Kingdom (including through a branch in the United Kingdom) [<sup>F6</sup>or which immediately before IP completion day was authorised under Article 16 of the CSD regulation].

**Changes to legislation:** The Central Securities Depositories Regulations 2017 is up to date with all changes known to be in force on or before 27 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) View outstanding changes

#### Textual Amendments

- F3** Reg. 8(2) omitted (31.12.2020) by virtue of [The Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1320), regs. 1(3), **3(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 8(3) substituted (31.12.2020) by [The Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1320), regs. 1(3), **3(3)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in reg. 8(3) substituted (31.12.2020) by [The Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1320), regs. 1(3), **3(3)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 8(5) inserted (31.12.2020) by [The Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1320), regs. 1(3), **3(3)(c)** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 8(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### Marginal Citations

- M75** [S.I. 2001/544](#). The definition of “overseas person” in article 3(1) was amended by [S.I. 2003/1475](#), [2003/1476](#), [2006/2383](#), [2006/3384](#), [2009/1342](#), [2013/1773](#) and [2017/488](#). Article 72 was amended by [S.I. 2003/1476](#), [2006/2383](#), [2006/3384](#), [2009/1342](#), [2013/504](#), [2015/910](#) and [2017/488](#).

### Transitional and saving provisions: designation orders under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 **U.K.**

9.—(1) Nothing in these Regulations affects any designation order under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999<sup>M76</sup> in relation to a designated system in force at commencement, and no system operator shall be required to apply for a new or amended designation order in consequence only of these Regulations.

(2) Expressions used in this regulation which are defined in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 have the meanings given in those Regulations.

#### Marginal Citations

- M76** [S.I. 1999/2979](#).

### Minor and consequential amendments **U.K.**

10. The Schedule, which makes minor and consequential amendments to primary and secondary legislation, has effect.

*Andrew Griffiths*  
*Mark Spencer*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

**Changes to legislation:**

The Central Securities Depositories Regulations 2017 is up to date with all changes known to be in force on or before 27 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.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)