

Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

TITLE VI

NON-DISCRIMINATORY CLEARING ACCESS FOR FINANCIAL INSTRUMENTS

Article 38

Access for third-country CCPs and trading venues

1 A trading venue established in a third country may request access to a CCP established in the ^[F1]United Kingdom] only if ^[F2]the Treasury has made regulations] in accordance with Article 28(4) relating to that third country. A CCP established in a third country may request access to a trading venue in the ^[F1]United Kingdom] subject to that CCP being recognised under Article 25 of Regulation (EU) No 648/2012 CCPs and trading venues established in third countries shall only be permitted to make use of the access rights in Articles 35 to 36 provided that ^[F2]the Treasury has made regulations] in accordance with paragraph 3 that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third country.

2 CCPs and trading venues established in third countries may only request a licence and the access rights in accordance with Article 37 provided that ^[F3]the Treasury has made regulations under paragraph 3 of this Article determining] that the legal and supervisory framework of that third country is considered to provide for an effective equivalent system under which CCPs and trading venues authorised in foreign jurisdictions are permitted access on a fair reasonable and non-discriminatory basis to:

- a relevant price and data feeds and information of composition, methodology and pricing of benchmarks for the purposes of clearing and trading; and
- b licences,

from persons with proprietary rights to benchmarks established in that third country.

3 ^[F4] The Treasury may by regulations determine] that the legal and supervisory framework of a third country ensures that a trading venue and CCP authorised in that third country complies with legally binding requirements which are equivalent to the requirements referred to in paragraph 2 of this Article and which are subject to effective supervision and enforcement in that third country.

The legal and supervisory framework of a third country is considered equivalent where that framework fulfils all the following conditions:

- a trading venues in that third country are subject to authorisation and to effective supervision and enforcement on an ongoing basis;
- b it provides for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues established in that third country;

Changes to legislation: Regulation (EU) No 600/2014 of the European Parliament and of the Council, Article 38 is up to date with all changes known to be in force on or before 09 August 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](#)

- c the legal and supervisory framework of that third country provides for an effective equivalent system under which CCPs and trading venues authorised in foreign jurisdictions are permitted access on a fair reasonable and non discriminatory basis to:
- (i) relevant price and data feeds and information of composition, methodology and pricing of benchmarks for the purposes of clearing and trading; and
 - (ii) licences,
- from persons with proprietary rights to benchmarks established in that third country.

Textual Amendments

- F1** Words in Art. 38(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 38(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 38(2) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(b)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/628, regs. 1(3), **7(3)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in Art. 38(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **31(4)(c)** (with savings in S.I. 2019/680, **reg. 11**) (as substituted by S.I. 2020/628, regs. 1(3), **7(3)(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Changes to legislation:

Regulation (EU) No 600/2014 of the European Parliament and of the Council, Article 38 is up to date with all changes known to be in force on or before 09 August 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.

View outstanding changes

Changes and effects yet to be applied to :

- Art. 38(2) omitted by [S.I. 2018/1403 reg. 31\(4\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 31(4)(b) substituted immediately before IP completion day by virtue of S.I. 2020/628, regs. 1(2), 7(3)(b))
- Art. 38(3) word substituted by [S.I. 2018/1403 reg. 31\(4\)\(c\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 31(4)(c) substituted immediately before IP completion day by virtue of S.I. 2020/628, regs. 1(2), 7(3)(c))
- Art. 38(3) words substituted by [S.I. 2018/1403 reg. 31\(4\)\(c\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 31(4)(c) substituted immediately before IP completion day by virtue of S.I. 2020/628, regs. 1(2), 7(3)(c))

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Title IVa addition by [EUR 2019/2175 Regulation](#) (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Title VIa addition by [EUR 2019/2175 Regulation](#) (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Sch. 3 para. 31 revoked by [2023 c. 29 Sch. 2 para. 50\(c\)\(ii\)](#)
- Sch. 3 para. 32 revoked by [2023 c. 29 Sch. 2 para. 50\(c\)\(ii\)](#)
- Art. 2.1(12)(12A) substituted by [2023 c. 29 Sch. 2 para. 8](#)
- Art. 2.1(17) words omitted by [2023 c. 29 Sch. 2 para. 19\(a\)](#)
- Art. 3(4)(5) inserted by [2023 c. 29 Sch. 2 para. 2](#)
- Art. 18-18b substituted for Art. 18 by [2023 c. 29 Sch. 2 para. 10](#)
- Art. 28a inserted by [2023 c. 29 Sch. 2 para. 17](#)
- Art. 46(2A) inserted by S.I. 2018/1403, reg. 33(1)(ba) (as inserted) by [S.I. 2019/710 reg. 16\(15\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 16(15)(a) omitted (30.9.2020) by virtue of S.I. 2020/1055, regs. 1(2), 13)
- Art. 46(2A) omitted by [2021 c. 22 Sch. 10 para. 5\(4\)](#)
- Art. 50C(2) words inserted by [2023 c. 29 Sch. 2 para. 26\(2\)](#)
- Art. 50C(3) words inserted by [2023 c. 29 Sch. 2 para. 26\(3\)](#)
- Art. 50C(4) words inserted by [2023 c. 29 Sch. 2 para. 26\(4\)](#)
- Art. 50D(1) words substituted by [2023 c. 29 Sch. 2 para. 27\(2\)\(a\)](#)
- Art. 50D(1) words substituted by [2023 c. 29 Sch. 2 para. 27\(2\)\(b\)](#)
- Art. 50D(2A) inserted by [2023 c. 29 Sch. 2 para. 27\(4\)](#)
- Art. 50D(3) words substituted by [2023 c. 29 Sch. 2 para. 27\(5\)](#)
- Art. 54a addition by [EUR 2019/2175 Regulation](#) (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 54b addition by [EUR 2019/2175 Regulation](#) (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)