

Status: Point in time view as at 31/12/2020.

Changes to legislation: Regulation (EU) No 600/2014 of the European Parliament and of the Council, TITLE VII is up to date with all changes known to be in force on or before 16 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)

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 VII

SUPERVISORY MEASURES ON PRODUCT INTERVENTION AND POSITIONS

CHAPTER I

Product monitoring and intervention

Article 39

Market monitoring

^{F1}1

^{F2}2

3 [^{F2}The FCA] shall monitor the market for financial instruments and structured deposits which are marketed, distributed or sold in or from [^{F3}the United Kingdom].

Textual Amendments

- F1** Art. 39(1)(2) omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 39(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(1)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 39(3) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(1)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

^{F4}Article 40

ESMA temporary intervention powers

Textual Amendments

- F4** Art. 40 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

Changes to legislation: Regulation (EU) No 600/2014 of the European Parliament and of the Council, TITLE VII is up to date with all changes known to be in force on or before 16 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)

^{F5}Article 41

EBA temporary intervention powers

.....

Textual Amendments

F5 Art. 41 omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 42

Product intervention by competent authorities

- 1 ^{F6}The FCA] may prohibit or restrict the following in or from ^{F7}the United Kingdom]:
 - a the marketing, distribution or sale of certain financial instruments or structured deposits or financial instruments or structured deposits with certain specified features; or
 - b a type of financial activity or practice.
- 2 ^{F8}The FCA] may take the action referred to in paragraph 1 if it is satisfied on reasonable grounds that:
 - a either
 - (i) a financial instrument, structured deposit or activity or practice gives rise to significant investor protection concerns or poses a threat to the orderly functioning and integrity of financial markets or commodity markets or to the stability of whole or part of the financial system ^{F9}within the United Kingdom]; or
 - (ii) a derivative has a detrimental effect on the price formation mechanism in the underlying market;
 - b existing regulatory requirements under ^{F10}the law of the United Kingdom (or any part of the United Kingdom)] applicable to the financial instrument, structured deposit or activity or practice do not sufficiently address the risks referred to in point (a) and the issue would not be better addressed by improved supervision or enforcement of existing requirements;
 - c the action is proportionate taking into account the nature of the risks identified, the level of sophistication of investors or market participants concerned and the likely effect of the action on investors and market participants who may hold, use or benefit from the financial instrument, structured deposit or activity or practice; ^{F11}and]
 - ^{F12}d
^{F12}e
 - f it has properly consulted public bodies ^{F13}in the United Kingdom] competent for the oversight, administration and regulation of physical agricultural markets under Regulation (EC) No 1234/2007, where a financial instrument or activity or practice poses a serious threat to the orderly functioning and integrity of the physical agricultural market.

Status: Point in time view as at 31/12/2020.

Changes to legislation: Regulation (EU) No 600/2014 of the European Parliament and of the Council, TITLE VII is up to date with all changes known to be in force on or before 16 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)

Where the conditions set out in the first subparagraph are fulfilled, the [F14FCA] may impose the prohibition or restriction referred to in paragraph 1 on a precautionary basis before a financial instrument or structured deposit has been marketed, distributed or sold to clients.

A prohibition or restriction may apply in circumstances, or be subject to exceptions, specified by the [F14 FCA].

[F153 Subject to paragraph 4, the FCA must not impose a prohibition or restriction under this Article unless not less than one month before the measure is due to take effect, it has published details of the decision to impose the prohibition or restriction on its website in accordance with paragraph 5.]

4 In exceptional cases where the [F16FCA] deems it necessary to take urgent action under this Article in order to prevent detriment arising from the financial instruments, structured deposits, practices or activities referred to in paragraph 1, the [F16FCA] may take action on a provisional basis [F17... provided that all the criteria in this Article are met and that, in addition, it is clearly established that [F18waiting for one month] would not adequately address the specific concern or threat. The [F16FCA] shall not take action on a provisional basis for a period exceeding three months.

5 The [F19FCA] shall publish on its website notice of any decision to impose any prohibition or restriction referred to in paragraph 1. The notice shall specify details of the prohibition or restriction, a time after the publication of the notice from which the measures will take effect and the evidence upon which it is satisfied each of the conditions in paragraph 2 are met. The prohibition or restriction shall only apply in relation to actions taken after the publication of the notice.

6 The [F20FCA] shall revoke a prohibition or restriction if the conditions in paragraph 2 no longer apply.

7 [F21The Treasury may by regulations specify] criteria and factors to be taken into account by [F22the FCA] in determining when there is a significant investor protection concern or a threat to the orderly functioning and integrity of financial markets or commodity markets or to the stability of the of the financial system within [F23the United Kingdom] referred to in paragraph 2(a).

Those criteria and factors shall include:

- a the degree of complexity of a financial instrument or structured deposit and the relation to the type of client to whom it is marketed, distributed and sold;
- b the degree of innovation of a financial instrument or structured deposit, an activity or a practice;
- c the leverage a financial instrument or structured deposit or practice provides;
- d in relation to the orderly functioning and integrity of financial markets or commodity markets, the size or the notional value of an issuance of financial instruments or structured deposits.

Textual Amendments

- F6** Words in Art. 42(1) substituted (31.12.2020) by [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1403\)](#), regs. 1(3), **32(3)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

Changes to legislation: Regulation (EU) No 600/2014 of the European Parliament and of the Council, TITLE VII is up to date with all changes known to be in force on or before 16 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)

- F7** Words in Art. 42(1) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 42(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(b)(i)(aa)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in Art. 42(2)(a)(i) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(b)(i)(bb)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Art. 42(2)(b) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(b)(i)(cc)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Word in Art. 42(2)(c) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(b)(i)(dd)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Art. 42(2)(d)(e) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(b)(i)(ee)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in Art. 42(2)(f) inserted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(b)(i)(ff)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Word in Art. 42(2) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Art. 42(3) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Word in Art. 42(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(d)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in Art. 42(4) omitted (31.12.2020) by virtue of The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(d)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in Art. 42(4) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(d)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Word in Art. 42(5) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Word in Art. 42(6) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 42(7) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(f)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in Art. 42(7) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(f)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in Art. 42(7) substituted (31.12.2020) by The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403), regs. 1(3), **32(3)(f)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

Changes to legislation: Regulation (EU) No 600/2014 of the European Parliament and of the Council, TITLE VII is up to date with all changes known to be in force on or before 16 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)

F24 Article 43

Coordination by ESMA and EBA

Textual Amendments

F24 Art. 43 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **32(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 2

Positions

F25 Article 44

Coordination of national position management measures and position limits by ESMA

Textual Amendments

F25 Art. 44 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **32(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F26 Article 45

Position management powers of ESMA

Textual Amendments

F26 Art. 45 omitted (31.12.2020) by virtue of [The Markets in Financial Instruments \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1403), regs. 1(3), **32(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

Regulation (EU) No 600/2014 of the European Parliament and of the Council, TITLE VII is up to date with all changes known to be in force on or before 16 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.