
DRAFT STATUTORY INSTRUMENTS

2017 No.

**The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment) Order 2017**

Amendments to article 72 of the Order: overseas persons

5.—(1) Article 72(1) of the Order (overseas persons) is amended as follows.

(2) In paragraphs (1), (2), (3) and (4) for “or 25D” substitute “, 25D or 25DA”.

(3) After paragraph (10) insert—

“(11) This Article does not apply where the overseas person is—

- (a) a third-country firm, as defined by Article 4.1.57 (“definitions”) of the markets in financial instruments directive (“third country firm”);
- (b) established in a country subject to an equivalence decision; and
- (c) carrying on an activity a third country firm established in that third country may carry on by virtue of the equivalence decision under—
 - (i) Article 46.1 of the markets in financial instruments regulation (general provisions) if it is registered by ESMA in the register of third country firms established in accordance with Article 48 of that Regulation (register);
 - (ii) Article 47.3 of the markets in financial instruments regulation (equivalence decision) if it has a branch in an EEA State other than the United Kingdom and is authorised in that State in accordance with Article 39 of the markets in financial instruments directive (establishment of a branch); or
 - (iii) Article 46.5 of the markets in financial instruments regulation.

(12) For the purposes of paragraph (11)—

- (a) “equivalence decision” means a decision adopted by the Commission in relation to a country under Article 47.1 of the markets in financial instruments regulation which has not been withdrawn by a subsequent decision adopted by the Commission under that Article; and
- (b) a country is subject to an equivalence decision if a period of more than three years has elapsed since the adoption of the decision by the Commission, beginning on the day after the date of the adoption of the decision.”.