
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Over the Counter Derivatives, Central Counterparties
and Trade Repositories (Amendment, etc., and
Transitional Provision) (EU Exit) Regulations 2018

PART 4

SPECIFIC PROVISION FOR TRADE REPOSITORIES

CHAPTER 3

APPLICATION OF THE FSMA FOR THE PURPOSES OF THIS
PART, THE EMIR REGULATION AND THE TRATP REGULATIONS

Application of Part 9 of the FSMA (hearings and appeals)

73.—(1) Part 9 of the FSMA (hearings and appeals) applies in respect of a reference to the Tribunal under this Part, under the FSMA as applied by this Part or under the EMIR regulation, as it applies in respect of a reference to the Tribunal under the FSMA but with the following modifications.

(2) Before section 133 insert—

“Interpretation of Part 9

132A. In this Part, “the 2018 Regulations” means the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018.”.

(3) In section 133 (proceedings before Tribunal: general provisions)—

(a) in subsection (1)—

(i) omit “(whether made under this or any other Act)”;

(ii) in paragraph (a), omit “or the PRA”;

(iii) omit paragraphs (b) and (c);

(b) omit subsection (1A);

(c) in subsection (2), omit “, (b) or (c)”;

(d) in subsection (5), the reference to section 393(11) is treated as a reference to section 393(11) as applied by these Regulations;

(e) for subsection (7A) substitute—

“(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of the following decisions—

(a) a decision to publish a statement under regulation 67 of the 2018 Regulations;

(b) a decision to impose a penalty under regulation 68 of the 2018 Regulations.”.

- (4) In section 133A (proceedings before the Tribunal: decision and supervisory notices, etc)—
 - (a) for subsection (1) substitute—

“(1) In determining in accordance with section 133(5) (as applied by the 2018 Regulations) a reference made as a result of a decision notice given by the FCA under regulation 66 of the 2018 Regulations, the Tribunal may not direct the FCA to take action which it would not, by or under those Regulations have had power to take when giving the notice.”;
 - (b) in subsection (5), omit “or the PRA”.
- (5) In section 133B (offences), in subsection (1)—
 - (a) in paragraph (a) omit “or the PRA”;
 - (b) omit paragraphs (b) and (c).