
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Market Abuse (Amendment) (EU Exit) Regulations 2018

PART 6

Amendment of retained direct EU legislation

ESMA and competent authorities

13.—(1) For the heading of Chapter 4 substitute “Cooperation, professional secrecy and data protection”.

(2) In Article 22 (competent authorities)—

- (a) for the heading, substitute “Functions of the FCA”;
- (b) omit the first two sentences;
- (c) in the third sentence—
 - (i) for “competent authority” substitute “FCA”;
 - (ii) for “on its territory”, in both places it occurs, substitute “in the United Kingdom”;
 - (iii) omit the words “auctioned on an auction platform”;
 - (iv) for “its territory”, the third time it occurs, substitute “the United Kingdom”.

(3) In Article 23 (powers of competent authorities)—

- (a) for the heading substitute “Interaction with other provisions”;
- (b) omit paragraphs 1 and 2;
- (c) in paragraph 3—
 - (i) omit the first subparagraph;
 - (ii) in the second subparagraph, for the words from “supervisory authorities” to the end of the paragraph, substitute “Panel on Takeovers and Mergers that impose requirements in addition to the requirements of this Regulation.”;
- (d) in paragraph 4, after “available to”, insert “the FCA or”.

(4) Omit Article 24 (cooperation with ESMA).

(5) In Article 25 (obligation to cooperate)—

- (a) omit paragraphs 1 to 7;
- (b) in paragraph 8—
 - (i) in the first subparagraph—
 - (aa) for “Competent authorities shall” substitute “The FCA may”;
 - (bb) for “they have” substitute “it has”;
 - (ii) in the second subparagraph—
 - (aa) in the opening words, for “shall also be ensured” substitute “may also take place”;

- (bb) in point (b), after “public bodies” insert “in the EU”;
- (iii) omit the last subparagraph;
- (c) omit paragraph 9.
- (6) In Article 26 (cooperation with third countries)—
 - (a) in paragraph 1—
 - (i) for “competent authorities of Member States” substitute “FCA”;
 - (ii) for “competent authorities to carry out their” substitute “FCA to carry out its”;
 - (iii) omit the second subparagraph;
 - (b) omit paragraph 2;
 - (c) in paragraph 3—
 - (i) for “competent authorities shall” substitute “FCA may”;
 - (ii) for “those competent authorities” substitute “the FCA”.
- (7) In Article 27 (professional secrecy)—
 - (a) in paragraph 2—
 - (i) for “exchanged between the competent authorities” substitute “exchanged between the FCA and competent authorities”;
 - (ii) for “competent authority” substitute “authority from whom the information is received”;
 - (b) in paragraph 3—
 - (i) for “competent authority” substitute “FCA”, in each place it occurs;
 - (ii) for “Union or national law” substitute “the law of the United Kingdom, or any part of the United Kingdom”.
- (8) For Article 28 (data protection) substitute—

“Article 28

Data protection

Nothing in this Regulation is to be taken as authorising a disclosure of personal data in contravention of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, or of the Data Protection Act 2018(1).

Personal data is to be retained for a maximum period of five years.”

- (9) In Article 29 (disclosure of personal data to third countries)—
 - (a) in paragraph 1—
 - (i) for the first sentence substitute “The FCA may transfer personal data to a third country where the transfer does not contravene Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, or the Data Protection Act 2018; but such transfer may only be made on a case-by-case basis.”;
 - (ii) in the second sentence—
 - (aa) for “competent authority” substitute “FCA”, in both places it occurs;

- (bb) omit “of the Member State”;
- (b) omit paragraph 2;
- (c) in paragraph 3, for “the national laws, regulations or administrative provisions transposing [Directive 95/46/EC](#)” substitute “Regulation (EU) 2016/679 and the Data Protection Act 2018”.