

SCHEDULE 1

Equivalence determinations

Markets in Financial Instruments

13.—(1) For the purposes of Article 23 of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (“MiFIR”) and paragraph 8 of Schedule 3 to MIFIR, to determine whether the legal and supervisory framework of an EEA state ensures that a trading venue or regulated market, as appropriate, authorised in that country complies with legally binding requirements which are equivalent to the requirements resulting from MAR, Title II of MiFIR, and the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement Title III of [Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments⁽¹⁾ and [Directive 2004/109/EC](#) of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (“Transparency Directive”)⁽²⁾, in accordance with paragraph 8(2) of Schedule 3 to Regulation (EU) 600/2014, and which are subject to effective supervision and enforcement in that EEA state.

(2) For the purposes of Article 28 of MiFIR, to determine that the legal and supervisory framework of an EEA state ensures that a trading venue authorised in that country complies with legally binding requirements which are equivalent to the requirements for the trading venues referred to in paragraph 1(a), (b) or (c) of Article 28 of MiFIR, resulting from MiFIR, the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement [Directive 2014/65/EU](#), and Regulation (EU) No 596/2014, and which are subject to effective supervision and enforcement in that EEA state, in accordance with Article 28(4) of MiFIR.

(3) A determination made under sub-paragraph (1) may be limited to a category of trading venues.

14. For the purposes of Article 33 of MiFIR, to determine that the legal, supervisory and enforcement arrangements of an EEA state—

- (a) are equivalent to the requirements resulting from Articles 28 and 29 of MiFIR;
- (b) ensure protection of professional secrecy that is equivalent to that set out in MiFIR;
- (c) are being effectively applied and enforced in an equitable and non-distortive manner so as to ensure effective supervision and enforcement in that EEA state.

15. For the purposes of Article 38(3) of MiFIR, to determine that the legal and supervisory framework of an EEA state ensures that a trading venue and CCP authorised in that EEA state complies with legally binding requirements which are equivalent to the requirements referred to in the second subparagraph of paragraph 3 of Article 38 of MiFIR and which are subject to effective supervision and enforcement in that EEA state.

16. For the purpose of Article 47 of MiFIR, to determine that the legal and supervisory arrangements of an EEA state ensure that firms authorised in that EEA state comply with legally binding prudential and business conduct requirements which have equivalent effect to the requirements set out in MiFIR, in the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement [Directive 2013/36/EU](#) and [Directive 2014/65/EU](#) and in the implementing measures adopted under this Regulation and under those Directives and that the legal framework of that EEA state provides for an effective equivalent system for the recognition of investment firms authorised under third-country legal regimes.

(1) OJ L 173, 12.6.2014, p. 349–496.

(2) OJ L390, 31.12.2004, p.38.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 No. 541*