

---

DRAFT STATUTORY INSTRUMENTS

---

**2019 No.**

**EXITING THE EUROPEAN UNION  
FINANCIAL SERVICES**

The Financial Services and Markets Act 2000  
(Amendment) (EU Exit) Regulations 2019

*Made* - - - - - **\*\*\***

*Coming into force in accordance with regulation 1*

**THE FINANCIAL SERVICES AND MARKETS ACT  
2000 (AMENDMENT) (EU EXIT) REGULATIONS 2019**

PART 1

Introductory

1. Citation, commencement and interpretation

PART 2

Amendments to the Act

CHAPTER 1

Part 1A of the Act: the regulators

2. Introduction
3. Section 1A (the Financial Conduct Authority)
4. Section 1H (further interpretative provisions for sections 1B to 1G)
5. Section 1L (supervision, monitoring and enforcement)
6. Section 2AB (functions of the PRA)
7. Section 3E (memorandum of understanding)
8. Section 3I (power of PRA to require FCA to refrain from specified action)
9. Section 3J (power of PRA in relation to with-profits policies)
10. Section 3M (directions relating to consolidated supervision of groups)

## CHAPTER 2

### Part 3 of the Act: authorisation and exemption

11. Introduction
12. Section 39 (exemption of appointed representatives)
13. Section 39A (certain tied agents operating outside United Kingdom)

## CHAPTER 3

### Part 4A of the Act: permission to carry on regulated activities

14. Introduction
15. Section 55D (application for permission)
16. Section 55J (variation and cancellation of Part 4A permission: general)
17. Section 55K (variation and cancellation of Part 4A permission: investment firms)
18. Section 55KA (variation and cancellation of Part 4A permission: insurance undertakings etc.)
19. Section 55PA (imposition and variation of requirements)
20. Section 55Q (exercise of power in support of overseas regulator)
21. Section 55R (connected persons)
22. Section 55S (additional permissions)
23. Sections 55Z1 to 55Z2A (notification)

## CHAPTER 4

### Part 5 of the Act: performance of regulated activities

24. Introduction
25. Section 59 (approval for particular arrangements)
26. Section 63E (certification of employees by relevant authorised persons)
27. Section 66A (misconduct: action by the FCA)
28. Section 66B (misconduct: action by the PRA)
29. Section 71D (sections 71B and 71C: conditions)
30. Section 71I (sections 71B to 71H: interpretation)

## CHAPTER 5

### Part 7 of the Act: control of business transfers

31. Introduction
32. Section 105 (insurance business transfer schemes)
33. Further amendments to Part 7 of the Act

## CHAPTER 6

### Part 9A of the Act: rules and guidance

34. Introduction
35. Section 137J (rules about recovery plans: duty to consult)
36. Section 137N (recovery plans and resolution packs: restriction on duty of confidence)

- 37. Section 137Q (price stabilising rules)
- 38. Section 137R (financial promotion rules)
- 39. Section 138K (consultation: mutual societies)
- 40. Section 139A (power of the FCA to give guidance)
- 41. Section 141A (power to make consequential amendments of references to rules etc)

## CHAPTER 7

### Part 11 of the Act: information gathering and investigations

- 42. Introduction
- 43. Section 165A (PRA's power to require information: financial stability)
- 44. Section 167 (appointment of persons to carry out general investigations)
- 45. Section 168 (appointment of persons to carry out investigations in particular cases)
- 46. Section 169 (investigations etc. in support of overseas regulator)
- 47. Section 169A (support of overseas regulator with respect to financial stability)

## CHAPTER 8

### Part 12 of the Act: control over authorised persons

- 48. Introduction
- 49. Section 184 (disregarded holdings)
- 50. Section 186 (assessment criteria)
- 51. Section 188 (assessment: consultation with EC competent authorities)
- 52. Section 189 (assessment: procedure)
- 53. Section 190 (requests for further information)
- 54. Section 190A (assessment and resolution)
- 55. Section 191A (objection by the appropriate regulator)
- 56. Section 191G (interpretation of Part 12)

## CHAPTER 9

### Part 12A of the Act: powers exercisable in relation to parent undertakings

- 57. Introduction
- 58. Section 192C (power to direct qualifying parent undertaking)
- 59. Section 192JB (rules requiring parent undertakings to facilitate resolution)
- 60. Section 192K (power to impose penalty or issue censure)

## CHAPTER 10

### Part 14 of the Act: disciplinary measures

- 61. Section 204A (meaning of “relevant requirement” etc.)

## CHAPTER 11

### Part 20 of the Act: provision of financial services by members of the professions

- 62. Introduction
- 63. Section 326 (designation of professional bodies)
- 64. Section 327 (exemption from the general prohibition)
- 65. Section 328 (directions in relation to the general prohibition)

## CHAPTER 12

### Part 22 of the Act: auditors and actuaries

- 66. Introduction
- 67. Section 342 (information given by auditor or actuary to a regulator)
- 68. Section 343 (information given by auditor or actuary to a regulator: persons with close links)

## CHAPTER 13

### Part 25 of the Act: injunctions and restitution

- 69. Introduction
- 70. Section 380 (injunctions)
- 71. Section 382 (restitution orders)
- 72. Section 384 (power of FCA or PRA to require restitution)

## CHAPTER 14

### Part 26 of the Act: notices

- 73. Introduction
- 74. Section 391 (publication)
- 75. Section 391A (publication: special requirements relating to capital requirements directive)
- 76. Section 391B (publication: special provisions relating to the transparency obligations directive)
- 77. Section 391C (publication: special provisions relating to the UCITS directive)
- 78. Section 391D (publication: special provisions relating to the markets in financial instruments directive)
- 79. Section 391E (publication: special provisions relating to the insurance distribution directive)

## CHAPTER 15

### Part 27 of the Act: offences

- 80. Section 398 (misleading FCA or PRA: residual cases)

## CHAPTER 16

### Part 28 of the Act: miscellaneous

- 81. Introduction
- 82. Section 404E (meaning of “consumers”)
- 83. Section 410 (international obligations)

## CHAPTER 17

### Part 29 of the Act: interpretation of the Act

- 84. Introduction
- 85. Section 417 (definitions)
- 86. Section 418 (carrying on regulated activities in the United Kingdom)
- 87. Section 420 (parent and subsidiary undertaking)
- 88. Section 422A (disregarded holdings)
- 89. Mortgage agreements etc
- 90. Section 424A (meaning of “investment firm”)
- 91. Section 425A (consumers: regulated activities etc carried on by authorised persons)
- 92. Section 425C (“qualifying EU provision”)

## CHAPTER 18

### Schedule 1ZA to the Act: the Financial Conduct Authority

- 93. Schedule 1ZA (the Financial Conduct Authority)

## CHAPTER 19

### Schedule 1ZB to the Act: the Prudential Regulation Authority

- 94. Schedule 1ZB (the Prudential Regulation Authority)

## CHAPTER 20

### Schedule 2 to the Act: regulated activities

- 95. Schedule 2 (regulated activities)

## CHAPTER 21

### Schedule 6 to the Act: threshold conditions

- 96. Introduction
- 97. Interpretation
- 98. Paragraph 2C (effective supervision)
- 99. Paragraph 3B (effective supervision)
- 100. Paragraph 4A (introduction to Part 1D)
- 101. Paragraph 4F (effective supervision)
- 102. Paragraph 5F (effective supervision)
- 103. Paragraph 8 (additional conditions)

## CHAPTER 22

### Schedule 12 to the Act: transfer schemes: certificates

104. Introduction
105. Paragraph 1 (insurance business transfer schemes)
106. Paragraph 2 (certificates as to margin of solvency)
107. Paragraphs 3 to 6 (further provisions on certificates)
108. Paragraph 7 (banking business transfer schemes)
109. Paragraph 8 (certificates as to financial resources)
110. Paragraph 9 (certificates as to consent of home state regulator)
111. Paragraph 9B (ring-fencing transfer schemes)
112. Paragraph 9C (certificate as to financial resources)
113. Paragraph 9D (certificate as to consent of home state regulator)
114. Paragraph 10 (insurance business transfers effected outside the United Kingdom)

## CHAPTER 23

### Schedule 17A to the Act: further provisions in relation to exercise of Part 18 functions by Bank of England

115. Introduction
116. Paragraph 11 (information gathering and investigations)
117. Paragraphs 22 and 23 (public record and disclosure of information)
118. Paragraph 30 (offences)
119. Paragraph 36 (fees)

## PART 3

### Amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

120. Introduction
121. Article 3 (interpretation)
122. Article 4 (specified activities: general)
123. Article 6 (sums paid by certain persons)
124. Article 9B (issuing electronic money)
125. Article 9C (persons certified as small issuers etc)
126. Article 24A (bidding in emissions auctions)
127. Article 24B (miscellaneous exclusions)
128. Article 33B (provision of information – contracts of insurance)
129. Article 35 (international securities self-regulating organisations)
130. Article 35A (trade repositories)
131. Article 42A (depositories of UCITS and AIFs)
132. Article 51ZA (managing a UCITS)
133. Article 51ZB (acting as trustee or depository of a UCITS)
134. Article 51ZD (acting as trustee or depository of an AIF)
135. Article 51ZG (operating a collective investment scheme in relation to a UCITS or an AIF)
136. Article 53DA (advising on regulated credit agreements for the acquisition of land)
137. Article 54 (advice given in newspapers etc)
138. Article 60D (exempt agreements: exemption relating to the purchase of land for non-residential purposes)

139. Article 60E (exempt agreements: exemptions relating to the nature of the lender)
140. Article 60G (exempt agreements: exemptions relating to the total charge for credit)
141. Article 60H (exempt agreements: exemptions relating to the nature of the borrower)
142. Article 60HA (exempt agreements: exemptions not permitted under the mortgages directive)
143. Article 60JA (payment institutions)
144. Article 60JB (electronic money institutions)
145. Article 61 (regulated mortgage contracts)
146. Article 61A (mortgage contracts which are not regulated mortgage contracts)
147. Article 72 (overseas persons)
148. Article 72AA (managers of UCITS and AIFs)
149. Article 72D (large risks contracts where risk situated outside the EEA)
150. Article 72E (Business Angel-led Enterprise Capital Funds)
151. Article 72G (local authorities)
152. Article 77A (alternative finance investment bonds)
153. Article 78 (government and public securities)
154. Article 82A (greenhouse gas emissions allowances)
155. Article 82B (emission allowances)
156. Article 83 (options)
157. Article 84 (futures)
158. Article 85 (contracts for differences etc)
159. Article 95 (exclusion from record where not fit and proper to carry on insurance distribution)
160. Schedule 4 (relevant text of the insurance distribution directive)
161. Schedule 8 (persons excluded from regulated activity of managing an AIF)

#### PART 4

#### Amendments to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005

162. Introduction and transitional provision
163. Article 2 (interpretation: general)
164. Article 6 (interpretation: communications)
165. Article 8A (interpretation: outgoing electronic commerce communication)
166. Article 10 (application to qualifying contracts of insurance)
167. Article 12 (communications to overseas recipients)
168. Article 18A (electronic commerce communications: mere conduits, caching and hosting)
169. Article 20B (incoming electronic commerce communications)
170. Article 25 (relevant insurance activity: non-real time communications: reinsurance and large risks)
171. Article 29 (communications required or authorised by enactments)
172. Article 34 (governments, central banks etc)
173. Article 36 (nationals of EEA States other than United Kingdom)
174. Article 59 (annual accounts and directors' report)
175. Article 70 (promotions included in listing particulars etc)
176. Schedule 1 (controlled activities and controlled investments)

## PART 5

### Amendments to other secondary legislation

177. The Financial Services and Markets Act 2000 (Exemption) Order 2001
178. The Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001
179. The Financial Services and Markets Act 2000 (Professions) (Non-Exempt Activities) Order 2001
180. The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001
181. The Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2001
182. The Financial Services and Markets Act 2000 (Own-initiative Power) (Overseas Regulators) Regulations 2001
183. The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001
184. The Financial Services and Markets Act 2000 (Control of Business Done at Lloyd's) Order 2001
185. The Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009
186. The Financial Services and Markets Act 2000 (Prescribed Financial Institutions) Order 2013
187. The Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013
188. The Financial Services and Markets Act 2000 (Exercise of Powers under Part 4A) (Consultation with Home State Regulators) Regulations 2013
189. The Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013
190. The Financial Services and Markets Act 2000 (Qualifying EU Provisions) (No. 2) Order 2013
191. The Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014
192. The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014
193. The Financial Services and Markets Act 2000 (Relevant Authorised Persons) Order 2015

## PART 6

### Minor and consequential amendments

194. Consumer Credit Act 1974
195. Electronic Money Regulations 2011
196. Payment Services Regulations 2017

## PART 7

### Transitional Powers of the Financial Regulators

197. Interpretation
198. Power of the regulators to give transitional directions
199. Meaning of “relevant obligation”
200. Giving, and effect, of transitional directions
201. Variation of transitional directions



- 202. Consultation
- 203. Notification and publication of transitional directions
- 204. Revocation of transitional directions
- 205. Annual reports and complaints

## PART 8

### Regulators' fees

- 206. Meaning of “qualifying functions” in this Part
  - 207. Fees: Bank of England
  - 208. Fees: Financial Conduct Authority
  - 209. Fees: Prudential Regulation Authority
- Signature  
Explanatory Note