
DRAFT STATUTORY INSTRUMENTS

2019 No.

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

PART 2

Amendments to the Act

CHAPTER 2

Part 3 of the Act: authorisation and exemption

Section 39 (exemption of appointed representatives)

12.—(1) Section 39 (exemption of appointed representatives) is amended as follows.

(2) In subsection (1A)(1), in paragraph (a)—

- (a) for “credit institution” substitute “qualifying credit institution”;
- (b) for “a person mentioned in Article 3.1 (optional exemptions) of the markets in financial instruments directive” substitute “a firm which has a Part 4A permission to carry on regulated activities as an exempt investment firm within the meaning of regulation 8 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701)”.

(3) In subsection (1AA)(2)—

- (a) in paragraph (a), for “credit institution” substitute “qualifying credit institution”;
- (b) in paragraph (b) omit “as defined by Article 4.1.43 (definitions) of the markets in financial instruments directive”.

(4) In subsection (1B)(3), for the words after ““the applicable register” is” substitute “the record maintained by the FCA by virtue of section 347(1)(ha)”.

(5) In subsection (1BA)(4), in paragraph (b)—

- (a) after “of a kind” insert “that”;
- (b) in sub-paragraph (i), before “specified” insert “is”;
- (c) for sub-paragraph (ii) substitute—
“‘(ii) relates to mortgage agreements entered into on or after 21st March 2016,’”.

(6) In subsection (4)(5), for “qualifying EU provision” substitute “qualifying provision”.

(7) For subsection (7)(6) substitute—

(1) Subsection (1A) was inserted by [S.I. 2007/126](#) and has been amended by [S.I. 2015/910](#) and [2017/701](#).
(2) Subsection (1AA) was inserted by [S.I. 2017/701](#).
(3) Subsection (1B) was inserted by [S.I. 2007/126](#) and was amended by paragraph 5 of Schedule 18 to the Financial Services Act 2012 and by [S.I. 2017/701](#).
(4) Subsection (1BA) was inserted by [S.I. 2015/910](#).
(5) Subsection (4) was substituted by paragraph 1 of Schedule 18 to the Financial Services Act 2012.
(6) Subsection (7) was inserted by [S.I. 2007/126](#) and has been amended by [S.I. 2017/701](#).

“(7) A person carries on “investment services business” if, under the full and unconditional responsibility of only one investment firm on whose behalf the person acts, the person—

- (a) promotes investment services or ancillary services to the firm’s clients or prospective clients,
- (b) receives and transmits instructions or orders from clients in respect of investment services or financial instruments,
- (c) places financial instruments, or
- (d) provides advice to clients or prospective clients in respect of investment services or financial instruments.”.

(8) For subsection (8)(7) substitute—

“(8) In this section—

“ancillary services” means any of the services and activities listed in Part 3A of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#));

“financial instruments” means those instruments specified in Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

“investment services” means any of the services and activities listed in Part 3 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, relating to any of the instruments listed in Part 1 of that Schedule;

“structured deposit” has the meaning given by Article 2.1.23 of the markets in financial instruments regulation.”(8).

(7) Subsection (8) was amended by [S.I. 2013/3115](#) and [2017/701](#).

(8) Part 3A was inserted by [S.I. 2018/1403](#).