
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Financial Services (Miscellaneous)
(Amendment) (EU Exit) Regulations 2019**

PART 4

Amendment of Retained EU Law

CHAPTER 1

Amendments of Retained EU Law

Regulation (EU) No 648/2012

26. In Article 88(1)(g) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, for “Articles 65 and 66” substitute “regulation 68 of the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019”.

Regulation (EU) No 575/2013

27.—(1) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012(1) is amended as follows.

(2) In Article 4(1)—

- (a) at point (37), for “the accounting standards to which an institution is subject under Regulation (EC) No 1606/2002” substitute “the accounting standards to which an institution is subject under section 403(1) of the Companies Act 2006(2)”;
- (b) at point (77), for “the accounting standards to which an institution is subject under Regulation (EC) No 1606/2002” substitute “the accounting standards to which an institution is subject under section 403(1) of the Companies Act 2006”;
- (c) at point (100), for “as applicable under Regulation (EC) No 1606/2002” substitute “as applicable under UK-adopted international accounting standards”;
- (d) after point (128F), insert—

“(128G) ‘UK-adopted international accounting standards’ has the meaning given by section 474(1) of the Companies Act 2006.”

(3) In Article 24(2), for “international accounting standards as applicable under Regulation (EC) No 1606/2002” substitute “UK-adopted international accounting standards”.

(4) In Article 99—

(1) Regulation 575/2013 (OJ L 176 27.6.2013, p.1.

(2) c. 46. Section 403 has been amended by S.I. 2012/2301 and 2019/****.

- (a) for paragraph 2, substitute—
- “2. Institutions subject to section 403(1) of the Companies Act 2006 and credit institutions other than those subject to that section that prepare their consolidated accounts in conformity with UK-adopted international accounting standards, must also report financial information.”;
- (b) in paragraph 3, for “international accounting standards as applicable under Regulation (EU) No 1606/2002”, substitute “UK-adopted international accounting standards”.
- (5) In Article 429(13), for “as applicable under Regulation (EC) No 1606/2002” substitute “as applicable under UK-adopted international accounting standards” in both places it occurs.
- (6) In Article 457, for “including accounting standards based on Regulation (EC) No 1606/2002” substitute “including UK-adopted international accounting standards”.
- (7) In Article 466, for “international accounting standards as applicable under Regulation (EC) No 1606/2002” substitute “UK-adopted international accounting standards”.
- (8) In Article 467(2), in the third subparagraph, for “until the Commission has adopted a regulation on the basis of Regulation (EC) No 1606/2002 endorsing the International Financial Reporting Standard replacing IAS 39” substitute “until the International Financial Reporting Standard replacing IAS 39 has been adopted under Part 2 of the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019(3)”.
- (9) In Article 473(1), for “international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002” substitute “UK-adopted international accounting standards”.
- (10) In Article 473a(1), in the first subparagraph, for “international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002” substitute “UK-adopted international accounting standards” in each place it occurs.

Commission Delegated Regulation (EU) 2015/35

28.—(1) Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II) is amended as follows.

- (2) In Article 178a at the end insert—

“5. For the purposes of paragraphs 3 and 4, Article 177 (in the version of this Regulation which was in force on 31 December 2018) continues to have effect notwithstanding its deletion by Article 1(3) of Commission Delegated Regulation (EU) 2018/1221, and has effect for those purposes with the following modifications—

- (a) paragraph 2 is to be read as if—
- (i) a reference to Regulation (EU) No 575/2013 were a reference to the version of that Regulation which was in force on 31 December 2018;
- (ii) in point (b) “the EEA or” were omitted;
- (iii) in point (h)(i)—
- (aa) for “national law of the Member State where the loans were originated” there were substituted “loans were originated in the United Kingdom and the law of the United Kingdom”;

- (bb) “, and that Member State has notified this law to the Commission and EIOPA” were omitted;
 - (iv) point (h)(ii) were omitted;
 - (v) in point (h)(iv) for the words from “agricultural” to “tracked” there were substituted “tractors as defined in point (8) of Article 3 of Regulation (EU) No 167/2013 of the European Parliament and of the Council (as it had effect immediately before exit day), powered two-wheelers or powered tricycles as defined in points (68) and (69) of Article 3 of Regulation (EU) No 168/2013 of the European Parliament and of the Council (as it had effect immediately before exit day) or tracked”;
 - (vi) in points (r) and (s) for the words “countries that are not members of the Union”, both times it occurs, substitute “a country other than the United Kingdom”;
 - (vii) in point (t)—
 - (aa) the words from “and discloses information” to “stress tests” were omitted;
 - (bb) for “Union”, in both places it occurs, there were substituted “United Kingdom”;
 - (b) paragraph 4 is to be read as if for “the entry into force of this Regulation” there were substituted “18 January 2015”; and
 - (c) paragraph 5 is to be read as if, in points (a) and (c), for “the date of entry into force of this Regulation” there were substituted “18 January 2015”.
- (3) In Article 180 omit paragraph 10a.

Regulation (EU) 2017/1131

29. In Article 11 of Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds, in paragraph 1 insert the following subparagraphs at the end—

“In the first subparagraph, in point (c)(4)—

- (a) the reference to a simple, transparent and standardised (STS) securitisation includes a reference to a securitisation notified in accordance with Article 27 of the Securitisation Regulation before exit day, or before the expiry of a period of two years beginning with exit day, where the person responsible for the notification (the originator and sponsor or, in the case of an ABCP programme, the sponsor) is established in an EEA State; and
- (b) in relation to any securitisation so notified a reference to a numbered Article of the Securitisation Regulation is a reference to the Article so numbered of that Regulation as it had or has effect in relation to an EEA State at any time on and after the date of the notification and before the end of the period referred to in point (a).

In the second subparagraph ‘the Securitisation Regulation’ means Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation.”.

(4) Point (c) was replaced by Commission Delegated Regulation (EU) 2018/990, Article 1.

Commission Delegated Regulation (EU) 2017/2358

30. After Article 2A of the Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors⁽⁵⁾, insert—

“Article 2B

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘ancillary insurance intermediary’ means an ancillary insurance intermediary within the meaning given in article 4(5) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽⁶⁾ which would require registration in accordance with Article 3 of the Insurance Distribution Directive if the United Kingdom were a member State in order to carry on insurance distribution activity in the United Kingdom, but does not include a person to whom regulation 47 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018⁽⁷⁾ applies;

(2) ‘insurance distribution’ has the meaning given in article 4(5) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

(3) ‘Insurance Distribution Directive’ means Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast)⁽⁸⁾;

(4) ‘insurance distributor’ means an insurance intermediary, ancillary insurance intermediary or insurance undertaking;

(5) ‘insurance intermediary’ means an insurance intermediary within the meaning given in article 33B(4) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽⁹⁾ which would require registration in accordance with article 3 of the Insurance Distribution Directive if the United Kingdom were a member State in order to carry on insurance distribution activity in the United Kingdom but does not include a person to whom regulation 47 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 applies;

(6) ‘insurance undertaking’ means:

(a) an insurance undertaking within the meaning in section 417(1) of the Financial Services and Markets Act 2000⁽¹⁰⁾; and

(b) an undertaking which is:

(i) immediately before exit day, authorised in accordance with Article 14 of [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)⁽¹¹⁾ to pursue the activity of direct insurance (within the meaning of Article 2 of that Directive); and

(5) Article 2A is inserted by the Insurance Distribution (Amendment)(EU Exit) Regulations 2019 (S.I. 2019/****).

(6) [S.I. 2001/544](#). Article 4(5) was amended by [S.I. 2003/1476](#) and [2006/3384](#).

(7) [S.I. 2018/1149](#), as amended by the Financial Service Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019 (S.I. 2019/****).

(8) OJ L 26, 2.2.2016, p. 19.

(9) Regulation 33B was inserted by [S.I. 2018/546](#).

(10) 2000 c.8.

(11) OJ L 335, 17.12.2009, p.1.

- (ii) a person to whom regulations 8, 11, 28 or 34 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 apply.”.

Commission Delegated Regulation (EU) 2017/2359

31. In Article 2 of Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products, after subparagraph (5)(12) insert—

“(6) ‘Insurance Distribution Directive’ means Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast);

(7) ‘insurance intermediary’ means an insurance intermediary within the meaning given in article 33B(4) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 which would require registration in accordance with Article 3 of the Insurance Distribution Directive if the United Kingdom were a member State in order to carry on insurance distribution activity in the United Kingdom but does not include a person to whom regulation 47 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 applies;

(8) ‘insurance undertaking’ means:

(a) an insurance undertaking within the meaning in section 417(1) of the Financial Services and Markets Act 2000; and

(b) an undertaking which is:

(i) immediately before exit day, authorised in accordance with Article 14 of [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance to pursue the activity of direct insurance (Solvency II) (within the meaning of Article 2 of that Directive); and

(ii) a person to whom regulations 8, 11, 28 or 34 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 applies.”.

Regulation (EU) 2017/2402

32. In Article 43(5) of Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives [2009/65/EC](#), [2009/138/EC](#) and [2011/61/EU](#) and Regulations [\(EC\) No. 1060/2009](#) and (EU) No. 648/2012, after the second subparagraph(13) insert the following subparagraph—

“For the purposes of this paragraph—

(a) Article 256 of Delegated Regulation (EU) 2015/35 continues to have effect notwithstanding its deletion by Article 1(7) of Commission Delegated Regulation (EU) 2018/1221; and

(b) for the purposes of the application by point (a) of paragraph 3(f) of Article 256, Article 254 continues to have effect notwithstanding its deletion by Article 1(7) of Commission

(12) Subparagraphs (4) and (5) are inserted by the Insurance Distribution (Amendment)(EU Exit) Regulations 2019 (S.I. 2019/****).

(13) The second subparagraph is inserted by regulation 30(1) and (2) of the Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/****).

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 ISBN 978-0-11-118211-6

Delegated Regulation (EU) 2018/1221, and has effect for those purposes with the following modifications—

- (i) paragraph 1 is to be read as if for “Article 135(2)(a) of [Directive 2009/138/EC](#)” there were substituted “rule 6.1 of the Investments Part of the rulebook published by the PRA containing rules made by the PRA under the 2000 Act (as the rulebook has effect on exit day);
- (ii) paragraph 2(b) is to be read as if for “Article 242(12)” there were substituted “Article 242(15)”.