
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/****).

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)”.

CHAPTER 2

Revocations of Retained EU law

Revocation of EU Regulations

33. The following instruments are revoked—

- (a) Council Regulation ([EC](#)) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society;
- (b) Regulation ([EC](#)) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation ([EC](#)) No 2560/2001;
- (c) Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism;
- (d) Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board;
- (e) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;
- (f) Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities;
- (g) Regulation (EU) No 673/2014 of the European Central Bank of 2 June 2014 concerning the establishment of a Mediation Panel and its Rules of Procedure;
- (h) Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010;
- (i) Regulation (EU) No 1163/2014 of the European Central Bank of 22 October 2014 on supervisory fees;
- (j) Regulation (EU) 2015/534 of the European Central Bank of 17 March 2015 on reporting of supervisory financial information;
- (k) Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law;
- (l) Regulation (EU) 2017/1538 of the European Central Bank of 25 August 2017 amending Regulation (EU) 2015/534 on reporting of supervisory financial information;
- (m) Regulation (EU) 2017/1539 of the European Central Bank of 25 August 2017 laying down the date of application of Regulation (EU) 2017/1538 amending Regulation (EU)

2015/534 on reporting of supervisory financial information to less significant supervised entities which are subject to national accounting frameworks;

- (n) Regulation (EU) 2018/1845 of the European Central Bank of 21 November 2018 on the exercise of the discretion under Article 178(2)(d) of Regulation (EU) No 575/2013 in relation to the threshold for assessing the materiality of credit obligations past due.

Revocation of EU Level 2 regulations

34. The following instruments are revoked—

- (a) Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to ex ante contributions to the Single Resolution Fund;
- (b) Commission Delegated Regulation (EU) 2016/451 of 16 December 2015 laying down general principles and criteria for the investment strategy and rules for the administration of the Single Resolution Fund;
- (c) Commission Delegated Regulation (EU) 2017/747 of 17 December 2015 supplementing Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to the criteria relating to the calculation of ex-ante contributions, and on the circumstances and conditions under which the payment of extraordinary ex post contributions may be partially or entirely deferred;
- (d) Commission Delegated Regulation (EU) 2017/2361 of 14 September 2017 on the final system of contributions to the administrative expenditures of the Single Resolution Board;
- (e) Commission Implementing Regulation (EU) 2018/1627 of 9 October 2018 amending Implementing Regulation (EU) No 680/2014 as regards prudent valuation for supervisory reporting;
- (f) Commission Implementing Regulation (EU) 2018/1889 of 4 December 2018 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulations (EU) No 575/2013 and (EU) No 648/2012 of the European Parliament and of the Council.

Revocation of EU Decisions

35. The following instruments are revoked—

- (a) Council Implementing Decision of 16 December 2013 implementing Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;
- (b) Council Implementing Decision of 11 February 2014 implementing Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;
- (c) Council Implementing Decision of 19 December 2014 on the appointment of the Chair, the Vice-Chair and the further full-time members of the Single Resolution Board;
- (d) Decision (EU) 2016/1507 of the European Parliament of 28 April 2016 on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2014;
- (e) Decision (EU) 2016/1509 of the European Parliament of 28 April 2016 on the closure of the accounts of the European Banking Authority for the financial year 2014;
- (f) Council Decision (EU) 2016/228 of 14 July 2015 on the resolution procedure;

- (g) Decision (EU) 2017/1654 of the European Parliament of 27 April 2017 on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2015;
- (h) Decision (EU) 2017/1656 of the European Parliament of 27 April 2017 on the closure of the accounts of the European Banking Authority for the financial year 2015;
- (i) Council Implementing Decision (EU) 2017/2437 of 18 December 2017 on the renewal of the term of office of the Chair of the Single Resolution Board;
- (j) Council Implementing Decision (EU) 2018/463 of 19 March 2018 on the appointment of a member of the Single Resolution Board;
- (k) Decision (EU) 2018/1361 of the European Parliament of 18 April 2018 on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2016;
- (l) Decision (EU) 2018/1363 of the European Parliament of 18 April 2018 on the closure of the accounts of the European Banking Authority for the financial year 2016;
- (m) Decision (EU) 2018/1382 of the European Parliament of 18 April 2018 on discharge in respect of the implementation of the budget of the European Insurance and Occupational Pensions Authority for the financial year 2016;
- (n) Decision (EU) 2018/1384 of the European Parliament of 18 April 2018 on the closure of the accounts of the European Insurance and Occupational Pensions Authority for the financial year 2016;
- (o) Council Implementing Decision (EU) 2018/1958 of 6 December 2018 on the appointment of the Chair of the ECB Supervisory Board.