
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of, and paragraph 1 of Schedule 4 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) (“the Act”) to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union (in particular, the deficiencies under paragraphs (a), (b), (c), (d) and (g) of section 8(2)).

Part 2 provides for the UK regulators (the Financial Conduct Authority and the Bank of England) to establish before IP completion day (as defined in section 1A(6) of the Act) “cooperation arrangements” (as defined in regulation 2) with EEA regulators where HM Treasury makes an equivalence direction in relation to an EEA state under regulation 2 of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/541, as amended) (“the 2019 Regulations”).

This Part also allows the UK regulators to accept applications from EEA financial services providers for “regulatory decisions” (as defined in regulation 2) set out in Schedule 3 (for the purposes set out in that Schedule) before IP completion day. The Regulations then provide for decisions to be made by the UK regulators relating to those applications.

Entering into cooperation arrangements and making regulatory decisions follow the making of “equivalence directions” under regulation 2 of the 2019 Regulations. The relationship between equivalence directions that make a determination set out in a paragraph of Schedule 1 to the 2019 Regulations (for the purposes set out in that paragraph) and the applicable paragraphs of Schedules 2 and 3 to these Regulations is set out in the Table in Schedule 1.

Regulation 8 provides that an equivalence direction made under the 2019 Regulations has effect, on or after IP completion day, as if made on IP completion day under the corresponding provision of retained EU law. Regulation 8 also provides that a regulatory decision made under these Regulations has effect, on or after IP completion day, as if made under the corresponding provision of retained EU law. The relationship between provisions in the 2019 Regulations and these Regulations, under which equivalence directions and regulatory decisions may be made, and the corresponding provisions in retained EU law are set out in the Tables in Schedule 4.

Part 3 makes amendments necessary to remedy deficiencies in retained EU law. Regulation 9 amends the Central Securities Depositories (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1320) to clarify the application of Article 25 of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories.

Regulation 10 makes an amendment to the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403) and regulation 13 omits amendments to be made to Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments by the Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), to reflect changes made by regulation 8 of these Regulations.

Regulations 11 and 14 amend the Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/266) and the Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/628). They make provision for the FCA to establish cooperation arrangements with the relevant regulatory authority for another state where HM Treasury has made an equivalence determination in respect of that state under Article 5 of Regulation (EC)

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 (Amendment etc.) (EU Exit) Regulations 2020 No. 1055

[No 1060/2009](#) of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, and for equivalence determinations made by the European Commission prior to IP completion day which form part of retained EU law after IP completion day.

Regulation 12 amends the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 ([S.I. 2019/541](#)), to ensure that the appropriate version of retained EU law is referred to within those Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.