
DRAFT STATUTORY INSTRUMENTS

2020 No. 000

EXITING THE EUROPEAN UNION

FINANCIAL SERVICES AND MARKETS

**The Securities Financing Transactions, Securitisation and
Miscellaneous Amendments (EU Exit) Regulations 2020**

Made - - - - *****

Coming into force in accordance with regulation 1

CONTENTS

PART 1

General provision

1. Citation and commencement 4

PART 2

Transitional and saving provisions concerning the SFT Regulation

CHAPTER 1

Advance applications

2. Advance application for registration as a trade repository 5
3. Assessment of whether an advance application is complete 5
4. Determination of an advance application 5
5. Effect of determining an advance application 5

CHAPTER 2

Temporary registration

6. Temporary deemed registration under the SFT Regulation 6
7. Application of regulation 6 6
8. Conditions to be satisfied for regulation 6 to apply 6
9. Period during which regulation 6 is to apply 6
10. Cessation following a determination by the FCA 6

CHAPTER 3

Temporary registration for run-off period

11. Temporary deemed registration under the SFT Regulation for run-off period 7

12.	Application of regulation 11	7
13.	Condition to be satisfied for regulation 11 to apply	7
14.	Period during which regulation 11 is to apply	7
15.	Transitional arrangements during the run-off period	7
16.	Notification of a decision to impose requirements under regulation 15	8
17.	Right to refer to the Tribunal	8
18.	Application of Part 9 of the Financial Services and Markets Act 2000	8

CHAPTER 4

Registration conversion

19.	Registration under the SFT Regulation	9
20.	Application to regulation 19	9
21.	Conditions to be satisfied for regulation 19 to apply	9
22.	Notification for registration	9
23.	Acknowledgement of receipt	10
24.	FCA response	10

CHAPTER 5

General provisions

25.	Misleading the FCA: criminal offence	10
26.	Further information to be supplied by a person to whom regulation 9 or 13 applies	10
27.	Directions	10
28.	Enforcement	11
29.	Interpretation	11

PART 3

Transitional and saving provisions concerning the Securitisation Regulation

CHAPTER 1

Advance applications

30.	Advance application for registration as a securitisation repository	11
31.	Assessment of whether an advance application is complete	11
32.	Determination of an advance application	12
33.	Effect of determining an advance application	12

CHAPTER 2

General provisions

34.	Misleading the FCA: criminal offence	12
35.	Directions	12
36.	Interpretation	13

PART 4

Amendment of primary legislation

37.	Insolvency Act 1986	13
38.	Financial Services and Markets Act 2000	13
39.	Banking Act 2009	14

PART 5

Amendment of secondary legislation

40.	The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001	14
41.	The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001	15
42.	The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018	15
43.	The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018	15
44.	The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018	16
45.	The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018	16
46.	The Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018	17
47.	The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018	17
48.	The Capital Requirements (Amendment) (EU Exit) Regulations 2018	19
49.	The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018	19
50.	The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019	20
51.	The Market Abuse (Amendment) (EU Exit) Regulations 2019	22
52.	The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019	23
53.	The Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019	25
54.	The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019	26
55.	The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019	28
56.	The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019	28
57.	The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019	30
58.	The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019	30
59.	The Securitisation (Amendment) (EU Exit) Regulations 2019	31
60.	The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019	31
61.	The Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019	32
62.	The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019	32
63.	The Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019	33
64.	The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019	33
65.	The Capital Requirements (Amendment) (EU Exit) Regulations 2019	33
66.	The Prospectus (Amendment etc.) (EU Exit) Regulations 2019	33
67.	The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019	34
68.	The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020	34
69.	The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020	34
70.	The Equivalence Determinations for Financial Services (Amendment etc.) (EU Exit) Regulations 2020	35
71.	Amendments to cross references to retained EU Regulations	35

PART 6

Amendment or revocation of retained direct EU legislation

72.	Regulation (EC) No 924/2009	36
73.	Regulation (EU) No 231/2013	37
74.	Regulation (EU) No 575/2013	37
75.	Regulation (EU) 2015/2365	40
76.	Regulation (EU) 2019/877	40
77.	Regulation (EU) 2019/2088	40
78.	Regulation (EU) 2020/852	40

SCHEDULE	— Cross references to EU regulations forming part of retained EU law	45
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The Treasury make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and section 8(1) of, and paragraphs 21 and 38 of Schedule 7 to, the European Union (Withdrawal) Act 2018(b).

The Treasury are a government department designated(c) for the purposes of section 2(2) of the European Communities Act 1972 in relation to financial services.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018.

PART 1

General provision

Citation and commencement

1.—(1) These Regulations may be cited as the Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020.

(2) This regulation, Parts 2 and 3, and regulations 43, 47, 50(1) and (4) to (6), 54(1), (2) and (5), and 70 come into force on the day after the day on which these Regulations are made.

(3) Part 6 come into force on IP completion day.

(4) The remainder of these Regulations come into force immediately before IP completion day.

(a) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.

(b) 2018 c. 16, as amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1), which inserted section 8A and omitted section 8(7)(e).

(c) S.I. 2012/1759.

PART 2

Transitional and saving provisions concerning the SFT Regulation

CHAPTER 1

Advance applications

Advance application for registration as a trade repository

2.—(1) A person may submit an advance application to the FCA for registration as a trade repository.

(2) Such an application must—

- (a) be made in such a manner as the FCA may direct; and
- (b) contain, or be accompanied by, such information as the FCA may direct.

Assessment of whether an advance application is complete

3. The FCA must, before the end of period of 20 working days beginning with the day of receipt of an advance application—

- (a) if it considers that the application complies with any applicable direction under regulation 2(2)(a) or (b), confirm in writing that the application is complete; or
- (b) if it considers that the application does not comply with one or more of the directions under that regulation—
 - (i) confirm in writing to the applicant that the application is not complete; and
 - (ii) where applicable, inform the applicant of the steps which need to be taken, and the time within which they need to be taken, for the application to be considered complete.

Determination of an advance application

4.—(1) The FCA must, before the end of a period of 40 working days beginning with the day on which the FCA confirms that an application is complete, take the following steps.

(2) The first step is that the FCA must consider the application based on compliance with—

- (a) Article 5(2) of the SFT Regulation; and
- (b) Article 12 of the SFT Regulation.

(3) The second step is that the FCA must decide whether the applicant should be registered as a trade repository or whether the application for registration should be rejected.

(4) The third step is that the FCA must notify the applicant of its decision under paragraph (3), and the reasons for that decision.

Effect of determining an advance application

5. A decision in respect of an advance application under regulation 4(3) has effect from—

- (a) the day of notification, or
- (b) IP completion day,

whichever is later, as if it were a decision to register or refuse registration adopted in accordance with Article 7 of the SFT Regulation.

CHAPTER 2

Temporary registration

Temporary deemed registration under the SFT Regulation

6.—(1) A person to whom this regulation applies is to be treated as if the person is registered as a trade repository under Chapter III of the SFT Regulation.

(2) Reference in an enactment to a person registered as a trade repository under that Chapter, however expressed, is to be read, unless the contrary intention appears, as including a person treated as being so registered by virtue of this regulation.

Application of regulation 6

7. Regulation 6 applies to a person—

- (a) who satisfied the conditions in regulation 8;
- (b) for the period specified in regulation 9.

Conditions to be satisfied for regulation 6 to apply

8. The conditions are—

- (a) the person is a body corporate which, immediately before IP completion day, is—
 - (i) incorporated under the law of any part of the United Kingdom; and
 - (ii) included within a group of undertakings which comprises a trade repository registered under the EU SFT Regulation;
- (b) the person has—
 - (i) submitted an advance application in accordance with regulation 2, whether or not the application complies with any applicable direction under regulation 2(2)(b); and
 - (ii) not been notified by the FCA of its decision in respect of the application in accordance with regulation 4(4).

Period during which regulation 6 is to apply

9.—(1) For the purposes of regulation 7(b), the period is one that begins with IP completion day and ends with a day determined in accordance with paragraph (2).

(2) The period ends—

- (a) after three years beginning with the day on which IP completion day occurs; or
- (b) if earlier, with the day—
 - (i) before the day on which the person's registration as a trade repository has effect;
 - (ii) on which the FCA determines, in accordance with regulation 10(1), that regulation 6 should cease to apply to that person; or
 - (iii) on which the person ceases to be included within a group of undertakings which comprises a trade repository under the EU SFT Regulation.

Cessation following a determination by the FCA

10.—(1) The FCA may determine that regulation 6 should cease to apply to a person—

- (a) where, in respect of an advance application—
 - (i) the application does not comply with any applicable direction made by the FCA under regulation 2(2)(a) or (b); and
 - (ii) the steps referred to in regulation 3(b)(ii) have not been taken within the time specified;

- (b) following a decision refusing registration in accordance with regulation 4(3); or
 - (c) at the request of the person to whom regulation 6 applies.
- (2) The FCA must notify the person in respect of whom the determination is made of the day on which regulation 6 will cease to apply.
- (3) Paragraph (1) is subject to Article 10 (withdrawal of registration) of the SFT Regulation.

CHAPTER 3

Temporary registration for run-off period

Temporary deemed registration under the SFT Regulation for run-off period

11.—(1) A person to whom this regulation applies is to be treated as if the person is registered as a trade repository under Chapter III of the SFT Regulation.

(2) Reference in an enactment to a person registered as a trade repository under that Chapter, however expressed, is to be read, unless the contrary intention appears, as including a person treated as being so registered by virtue of this regulation.

Application of regulation 11

12. Regulation 11 applies to a person—

- (a) who satisfies the condition in regulation 13;
- (b) for the period determined in accordance with regulation 14.

Condition to be satisfied for regulation 11 to apply

13. The condition is that the FCA has determined that regulation 6 should cease to apply to a person in accordance with regulation 10, or that the FCA has withdrawn registration of a person to whom regulation 6 applies in accordance with Article 10 of the SFT Regulation.

Period during which regulation 11 is to apply

14. For the purposes of regulation 12(b), the period is a period of one year beginning with the day on which the condition in regulation 13 is satisfied, or such shorter period as the FCA may determine in a particular case.

Transitional arrangements during the run-off period

15.—(1) The FCA may make such transitional arrangements imposing requirements in respect of the registration of a person to whom regulation 11 applies as it considers necessary or expedient.

(2) A requirement may, in particular, be imposed—

- (a) so as to require the person concerned to take specified action, including to make arrangements for the transfer of data stored by the person to whom regulation 6 or 11 applies or a person which is registered as a trade repository under Chapter III of the EU SFT Regulation; or
 - (b) so as to require the person concerned to refrain from taking specified action.
- (3) A requirement may be imposed by reference to the person's relationship with—
- (a) the person's group; or
 - (b) other members of the person's group.

Notification of a decision to impose requirements under regulation 15

16.—(1) This regulation applies to an exercise of the FCA’s power to impose a requirement in respect of the registration of a person (“P”) in accordance with regulation 15.

(2) The imposition of the requirement takes effect—

- (a) immediately, if the notice given under paragraph (4) states that that is the case,
- (b) on such date as may be specified in the notice, or
- (c) if no date is specified in the notice, when the matter to which the notice relates is no longer subject to review.

(3) The imposition of a requirement may be expressed to take effect immediately, or on a specified date, only if the FCA, having regard to the ground on which it is exercising its power, reasonably considers that it is necessary for the imposition of the requirement to take effect immediately, or on that date.

(4) If the FCA proposes to impose, or imposes, a requirement it must give P written notice.

(5) The notice must—

- (a) give details of the requirement;
- (b) state the reasons for the imposition of the requirement;
- (c) inform P that P may make representations to the FCA, within a period specified in the notice, whether or not P has referred the matter to the Tribunal;
- (d) inform P of when the imposition of the requirement takes effect; and
- (e) inform P of their right to refer the matter to the Tribunal.

(6) The FCA may extend the period allowed under the notice for making representations.

(7) If, having considered any representations made by P, the FCA decides—

- (a) to impose a requirement in the way proposed, or
- (b) if the requirement has been imposed, not to rescind the imposition of the requirement,

it must give P written notice.

(8) If, having considered any representations made by P, the FCA decides—

- (a) not to impose a requirement in the way proposed,
- (b) to impose a different requirement, or
- (c) to rescind a requirement which has effect,

it must give P written notice.

(9) A notice under paragraph (7) must inform P of P’s right to refer the matter to the Tribunal.

(10) A notice under paragraph (8)(b) must comply with paragraph (5).

(11) If a notice informs P of P’s right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.

Right to refer to the Tribunal

17. P may refer to the Tribunal any decision by the FCA to impose a requirement under this Chapter.

Application of Part 9 of the Financial Services and Markets Act 2000

18.—(1) Part 9 of the Financial Services and Markets Act 2000(a) (“the Act”) (hearings and appeals) applies in respect of a reference to the Tribunal under regulation 17 as it applies in respect of a reference to the Tribunal under the Act but with the following modifications.

(a) 2000 c.8.

- (2) In section 133 (proceedings before the Tribunal: general provisions)—
- (a) in subsection 1—
 - (i) omit “(whether made under this or any other Act)”;
 - (ii) in paragraph (a), omit “or the PRA”;
 - (iii) omit paragraphs (b) and (c);
 - (b) omit subsection (1A);
 - (c) in subsection (2), omit “, (b) or (c)”;
 - (d) omit subsection (5);
 - (e) in subsection (6), for “In any other case, the Tribunal” substitute “The Tribunal”;
 - (f) omit subsection (7A).
- (3) Omit section 133A (proceedings before the Tribunal: decision and supervisory notices, etc).
- (4) In section 133B (offences), in subsection (1)—
- (a) in paragraph (a), omit “or the PRA”;
 - (b) omit paragraphs (b) and (c).

CHAPTER 4

Registration conversion

Registration under the SFT Regulation

19.—(1) Notwithstanding Articles 5 to 10 of the SFT Regulation, a person to whom this regulation applies is, on and after IP completion day, registered as a trade repository under Chapter III of that Regulation.

(2) Reference in an enactment to a person registered under that Chapter, however expressed, includes a person registered by virtue of this regulation.

Application to regulation 19

20. Regulation 19 applies to a person who—

- (a) satisfies the conditions in regulation 21; and
- (b) notifies the FCA in accordance with regulation 22.

Conditions to be satisfied for regulation 19 to apply

21. The conditions are that the person is a body corporate which, immediately before IP completion day, is—

- (a) incorporated under the law of any part of the United Kingdom; and
- (b) registered as a trade repository under the EU SFT Regulation.

Notification for registration

22.—(1) The person must, no later than the final day, notify the FCA that the person wishes to be registered in accordance with regulation 19.

(2) For the purposes of paragraph (1), the notification must—

- (a) be made in such a manner as the FCA may direct; and
- (b) contain, or be accompany by, such information as the FCA may direct.

(3) For the purposes of paragraph (1), the final day is—

- (a) the day before IP completion day; or
- (b) such earlier day as the FCA may direct.

Acknowledgement of receipt

23. The FCA must, within a period of 10 working days beginning with the day on which it receives a notification under regulation 22, confirm in writing to the person making the notification that the notification has been received.

FCA response

24. The FCA must, within a period of 20 working days beginning with the day on which it receives a notification under regulation 22—

- (a) if it considers that the notification complies with the requirements of, or made under, that regulation, confirm in writing to the person making the notification that the notification is valid; or
- (b) if it considers that the notification does not comply with those requirements—
 - (i) confirm in writing to the person making the notification that the notification is not valid; and
 - (ii) where applicable, inform the person of the steps which need to be taken, and the time within which they need to be taken, for the notification to be considered valid.

CHAPTER 5

General provisions

Misleading the FCA: criminal offence

25. Section 398 of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases)(a) applies to a requirement to provide information in accordance with a direction under regulation 2(2)(b) or 22(2)(b) as it applies to a requirement falling within subsection (1A) of that section.

Further information to be supplied by a person to whom regulation 9 or 13 applies

26.—(1) A person to whom regulation 6 applies must notify the FCA if any information contained in or accompanying an advance application submitted in accordance with regulation 1 changes.

(2) A person to whom regulation 11 applies must notify the FCA if any information contained in or accompanying a notification made in accordance with regulation 25 changes.

Directions

27.—(1) The power to make a direction under this Part includes the power—

- (a) to make different directions in relation to different applications or categories of application;
- (b) to vary or revoke a previous direction.

(2) A direction under this Part must be—

- (a) in writing; and
- (b) published by the FCA in a manner suitable to bring it to the attention of persons likely to be affected.

(a) 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c. 21), S.I. 2013/1773, S.I. 2015/1882, S.I. 2016/680, S.I. 2017/701, S.I. 2018/135, S.I. 2018/698, S.I. 2019/362, and S.I. 2019/1043.

Enforcement

28. The following provisions of the Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019(a) apply to this Part, as though contraventions of the requirements of this Part were a contravention of a requirement of those Regulations—

- (a) Chapter 2 in Part 4;
- (b) regulation 36;
- (c) regulation 38; and
- (d) regulation 39.

Interpretation

29. In this Part—

“advance application” means an application made under regulation 2(1) submitted during the period that begins with the day on which this Part comes into force and ends immediately before IP completion day;

“EU SFT Regulation” means Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012(b);

“the FCA” means the Financial Conduct Authority;

“SFT Regulation” means Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 as it forms part of retained EU law;

“trade repository” has the same meaning as in Article 3(1) of the SFT Regulation;

“the Tribunal” means the Upper Tribunal;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(c).

PART 3

Transitional and saving provisions concerning the Securitisation Regulation

CHAPTER 1

Advance applications

Advance application for registration as a securitisation repository

30.—(1) A person may submit an advance application to the FCA for registration as a securitisation repository.

(2) Such an application must—

- (a) be made in such a manner as the FCA may direct; and
- (b) contain, or be accompanied by, such information as the FCA may direct.

Assessment of whether an advance application is complete

31. The FCA must, before the end of a period of 20 working days beginning with the day of receipt of an advance application (“the application”)—

(a) S.I. 2019/542.

(b) OJ L 337, 23.12.2015, p. 1–34.

(c) 1971 c. 80. Amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2).

- (a) if it considers that the application complies with any applicable direction under regulation 30(2)(a) or (b), confirm in writing that the application is complete; or
- (b) if it considers that the application does not comply with one or more of the directions under that regulation—
 - (i) confirm in writing to the applicant that the application is not complete; and
 - (ii) where applicable, inform the applicant of the steps which need to be taken, and the time within which they need to be taken, for the application to be considered complete.

Determination of an advance application

32.—(1) The FCA must, before the end of a period of 40 working days beginning with the day on which the FCA confirms that an advance application is complete, take the following steps.

(2) The first step is that the FCA must consider the application based on compliance with Article 10(2) and Article 17 of the Securitisation Regulation.

(3) The second step is that the FCA must decide whether the applicant should be registered as a securitisation repository or whether the application for registration should be rejected.

(4) The third step is that the FCA must notify the applicant of its decision under paragraph (3), and the reasons for that decision.

Effect of determining an advance application

33. A decision in respect of an advance application under regulation 32(3) has effect from whichever is the later of—

- (a) the day of notification under regulation 32(4), or
- (b) IP completion day,

as if it were a decision to register or refuse registration adopted in accordance with Article 12 of the Securitisation Regulation.

CHAPTER 2

General provisions

Misleading the FCA: criminal offence

34. Section 398 of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases)(a) applies to a requirement to provide information in accordance with a direction under regulation 30(2)(a) or (b) as it applies to a requirement falling within subsection (1A) of that section.

Directions

35.—(1) The power to make a direction under regulation 30(2)(a) or (b) includes the power—

- (a) to make different directions in relation to different applications or categories of application;
- (b) to vary or revoke a previous direction.

(2) A direction under regulation 30(2)(a) or (b) must be—

- (a) in writing; and
- (b) published by the FCA in a manner suitable to bring it to the attention of persons likely to be affected.

(a) 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c. 21), S.I. 2013/1773, S.I. 2015/1882, S.I. 2016/680, S.I. 2017/701, S.I. 2018/135, S.I. 2018/698, S.I. 2019/362, and S.I. 2019/1043.

Interpretation

36. In this Part—

“advance application” means an application made under regulation 30(1) submitted during the period that begins with the day on which this Part comes into force and ends immediately before IP completion day;

“the FCA” means the Financial Conduct Authority;

“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, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 as it forms part of retained EU law;

“securitisation repository” has the same meaning as in Article 2(23) of the Securitisation Regulation;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

PART 4

Amendment of primary legislation

Insolvency Act 1986

37. In paragraph 15C(4) of Schedule 6 to the Insolvency Act 1986(a), for “had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 were made” substitute “forms part of retained EU law”.

Financial Services and Markets Act 2000

38.—(1) The Financial Services and Markets Act 2000(b) is amended as follows.

(2) In section 313 (interpretation of Part XVIII)(c), in the definition of “the EMIR regulation”, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) In Section 417 (definitions)(d)—

(a) in subsection (1)—

- (i) in definition of “capital requirements regulation”, for “has effect at the beginning of the day on which the Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/1212) are made (but see regulation 2 of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) Regulations 2019 (S.I. 2019/628), which may further update the reference)” substitute “forms part of retained EU law”;
- (ii) in definition of “the CSD regulation”, for “has effect at the updating point (see subsection (1A))” substitute “forms part of retained EU law”;
- (iii) in the definition of “the EU Benchmarks Regulation 2016”, after “596/2014” insert “, as it forms part of retained EU law”;
- (iv) for the definition of “investment services and activities” substitute—

(a) 1986 c. 45. Paragraph 15C inserted by section 13(1) of the Financial Services (Banking Reform) Act 2013 (c. 33), and as amended by S.I. 2018/1394.

(b) 2000 c. 8.

(c) Definition inserted by S.I. 2013/504, and as amended by S.I. 2020/117 and 2020/646.

(d) Section 417(1) as amended by S.I. 2012/2554, 2013/3115, 2017/701, 2017/1064, 2019/632 and 2019/1212; section 417(1A) inserted by S.I. 2019/632; there are other amendments which are not relevant.

“investment services and activities” 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 (S.I. 2001/544), relating to any of the instruments listed in Part 1 of that Schedule;”;

- (v) in the definition of “market abuse regulation”, for “has effect at the updating point (see subsection (1A))” substitute “forms part of retained EU law”;
 - (vi) in the definition of “markets in financial instruments regulation”, for “instruments;” substitute “instruments, as it forms part of retained EU law;”;
 - (vii) in the definition of “MMF Regulation”, after “funds” insert “, as it forms part of retained EU law”;
 - (viii) in the definition of “short selling regulation” for “has effect at the updating point (see subsection (1A))” substitute “forms part of retained EU law”;
- (b) omit subsection (1A).

Banking Act 2009

39.—(1) The Banking Act 2009(a) is amended as follows.

(2) In section 3 (interpretation: other expressions)(b), in the definition of “the capital requirements regulation”, for “had effect on the day on which the Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/1212) were made” substitute “forms part of retained EU law”.

(3) In section 4(4)(a) (special resolution objectives)(c), for “, as that regulation had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394) were made” substitute “as it forms part of retained EU law”.

(4) In section 11A(8) (private sector purchaser: marketing)(d), for “had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394) were made” substitute “forms part of retained EU law”.

PART 5

Amendment of secondary legislation

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

40.—(1) Article 3(1) (interpretation) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(e) is amended as follows.

(2) In the definition of “EU Securitisation Regulation 2017”, at the end insert “as it forms part of retained EU law”.

(3) In the definition of “markets in financial instruments regulation”, at the end insert “as it forms part of retained EU law”.

a) 2009 c.1.

b) As amended by S.I. 2014/3329, 2018/1394 and 2019/1212; there are other amendments which are not relevant.

c) As amended by S.I. 2017/1064 and 2018/1394.

d) Section 11A inserted by S.I. 2016/1239 and subsection (8) by S.I. 2018/1394.

e) S.I. 2001/544, as amended by S.I. 2017/488 and 2018/1288.

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

41. In regulation 2 (interpretation) of the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(a), at the end of the list of definitions, for the final “.” substitute—

“, and

any reference to an EU regulation, or part of an EU regulation, is to be read as a reference to that EU regulation, or that part of an EU regulation, as amended from time to time.”.

The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018

42. In regulation 2(1) (interpretation) of the Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018(b), in the definition of “the EU Benchmarks Regulation 2016”, at the end insert “as it forms part of retained EU law”.

The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018

43.—(1) The Schedule to the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018(c) is amended as follows.

(2) In Part 1—

(a) after paragraph 9 insert—

“**9A.** Commission Delegated Regulation (EU) 2020/447 of 16 December 2019 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of criteria for establishing the arrangements to adequately mitigate counterparty credit risk associated with covered bonds and securitisations, and amending Delegated Regulations (EU) 2015/2205 and (EU) 2016/1178.”;

(b) after paragraph 11A insert—

“**11B.** Commission Delegated Regulation (EU) 2018/1108 of 7 May 2018 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regulatory technical standards on the criteria for the appointment of central contact points for electronic money issuers and payment service providers and with rules on their functions.”;

(c) in the heading before paragraph 68, for “Directive” substitute “Regulation”;

(d) omit paragraphs 68 and 69;

(e) after paragraph 69G insert—

“**69H.** Commission Delegated Regulation (EU) 2020/1226 of 12 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council and laying down regulatory technical standards specifying the information to be provided in accordance with the STS notification requirements.

69I Commission Implementing Regulation (EU) 2020/1227 of 12 November 2019 laying down implementing technical standards with regard to templates for the provision of information in accordance with the STS notification requirements.

69J. Commission Implementing Regulation (EU) 2020/1228 of 29 November 2019 laying down implementing technical standards with regard to the format of applications for

(a) S.I. 2001/2188.

(b) S.I. 2018/135.

(c) S.I. 2018/1115, amended by S.I. 2019/336, 394, 576, 1212, 1390, 1416 and 2020/628 and 646. Paragraph 11A of the Schedule inserted by S.I. 2019/1390 and paragraph 69G by S.I. 2020/628.

registration as a securitisation repository or for extension of a registration of a trade repository pursuant to Regulation (EU) 2017/2402 of the European Parliament and of the Council.

69K. Commission Delegated Regulation (EU) 2020/1229 of 29 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on securitisation repository operational standards for data collection, aggregation, comparison, access and verification of completeness and consistency.

69L. Commission Delegated Regulation (EU) 2020/1230 of 29 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the application for registration of a securitisation repository and the details of the simplified application for an extension of registration of a trade repository.”.

(3) In Part 4, after paragraph 174 insert—

“Securitisation Regulation

174ZA. Commission Delegated Regulation (EU) 2020/1224 of 16 October 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information and the details of a securitisation to be made available by the originator, sponsor and SSPE.

174ZB. Commission Implementing Regulation (EU) 2020/1225 of 29 October 2019 laying down implementing technical standards with regard to the format and standardised templates for making available the information and details of a securitisation by the originator, sponsor and SSPE.”.

The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018

44.—(1) The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018(a) are amended as follows.

(2) In regulation 1(4) (interpretation), in the definition of “the EMIR Regulation”, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) After regulation 9 (revocation of implementing acts made under Article 25.6 of the EMIR Regulation), insert—

“Revocation of delegated acts made under Articles 25.2a, 25a.3 or 25d.3 of the EMIR Regulation

9A. Any delegated acts which have been adopted by the European Commission under Articles 25.2a, 25a.3 or 25d.3 of the EMIR Regulation and are in force immediately before IP completion day are revoked.”.

(4) In regulation 19(6) (cessation of temporary deemed recognition), for “6 months” substitute “18 months”.

The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018

45.—(1) Regulation 3 of the Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018(b) is amended as follows.

(a) S.I. 2018/1184, as amended by S.I. 2020/646.

(b) S.I. 2018/1199.

- (2) In paragraph (2)—
- (a) for sub-paragraph (a) substitute—
- “(a) in the definition of “the 2009 European Regulation”, for “2009 European” substitute “2009”;;”;
- (b) for sub-paragraph (c) substitute—
- “(c) for the definition of “the European Regulations” substitute—
- ““the Regulations” means the 2009 Regulation or the 2012 Regulation;””.
- (3) For paragraph (3) substitute—
- “(3) In regulations 4 to 18—
- (a) for “European Regulations” each time it appears, substitute “Regulations”;
- (b) for “2012 European Regulation” each time it appears, substitute “2012 Regulation”.”.
- (4) Omit paragraph (4).

The Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018

46. In regulation 5(5) of the Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018(a), in new regulation 7A, for paragraph (7) substitute—

“(7) The first review carried out in accordance with paragraph (5) must be completed no later than five years after regulation 5 of the Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 comes into force (in accordance with paragraph 1(1) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020).”.

The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018

47.—(1) The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018(b) are amended as follows.

(2) In regulation 4 (interpretation), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) For regulation 20 (misleading the FCA: criminal offence), substitute—

“**20.** Section 398 of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases)(c) applies to a requirement to provide information in accordance with—

- (a) a direction under regulation 5(2)(b) or 17(2)(b),
- (b) regulation 21, or
- (c) a written notification under regulation 21A,

as it applies to a requirement falling within subsection (1A) of that section.”.

(4) After regulation 20, insert—

(a) S.I. 2018/1285.

(b) S.I. 2018/1318, as amended by S.I. 2019/1416 and 2020/646.

(c) 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c. 21), S.I. 2013/1773, S.I. 2015/1882, S.I. 2016/680, S.I. 2017/701, S.I. 2018/135, S.I. 2018/698, S.I. 2019/362, and S.I. 2019/1043.

“Further information to be supplied

20A. Subject to regulation 21A(7), regulations 21 and 21A apply to a person who, before IP completion day—

- (a) has submitted an advance application to the FCA in accordance with regulation 5, and has not been notified by the FCA of its decision in respect of the application in accordance with regulation 7;
- (b) has notified the FCA in accordance with regulation 17, and has not received a response from the FCA in accordance with regulation 19; or
- (c) has been notified by the FCA of a decision to register in accordance with regulation 7 or a decision to confirm the notification in accordance with regulation 19.”.

(5) For regulation 21 (further information to be supplied by a person to whom regulation 9 or 14 applies), including the heading, substitute—

“Duty to disclose information

21. A person to whom this regulation applies must notify the FCA without delay if—

- (a) any information contained in, or accompanying—
 - (i) an advance application submitted in accordance with regulation 5, or
 - (ii) a notification made in accordance with regulation 17, changes; or
- (b) there are any material changes which affect or may affect compliance by that person with the conditions for registration set out in Title 7 of the European Market Infrastructure Regulation.

FCA power to require information from a person to whom this regulation applies

21A.—(1) The FCA may, by notice in writing given to a person to whom this regulation applies, require that they—

- (a) provide information specified or information of a description specified by the FCA; or
- (b) produce documents specified or documents of a description specified by the FCA.

(2) The information or documents must be provided or produced—

- (a) before the end of such reasonable period, and
- (b) at such place,

as may be specified.

(3) The powers conferred by paragraphs (1) and (2) apply only to information and documents reasonably required—

- (a) in connection with the exercise by the FCA of functions conferred on it by or under these Regulations; and
- (b) in anticipation of the exercise by the FCA of the functions conferred on it by or under the European Market Infrastructure Regulation and the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019/335 on IP completion day.

(4) An officer who has written authorisation from the FCA to do so may request that a person to whom this regulation applies without delay—

- (a) provide the officer with specified information or information of a specified description; or
- (b) produce to the officer specified documents or documents of a specified description.

(5) The FCA may require any information provided under this regulation to be provided in such form as it may reasonably require.

(6) The FCA may require—

- (a) any information provided, whether in a document or otherwise, to be verified in such manner, or
- (b) any document produced to be authenticated in such manner,

as it may reasonably require.

(7) The FCA may also impose requirements under paragraphs (1) to (4) on related third parties, to whom a person to whom this regulation applies has outsourced operational functions or activities, to provide all information that is necessary in order to carry out the duties of the person to whom this regulation applies.

(8) In this regulation, “officer” means an officer of the FCA and includes a member of the FCA’s staff or an agent of the FCA.”.

The Capital Requirements (Amendment) (EU Exit) Regulations 2018

48.—(1) The Capital Requirements (Amendment) (EU Exit) Regulations 2018(a) are amended as follows.

(2) In regulation 66 (Article 4A and 4B (insertion of new paragraphs)), in new Article 4A, paragraph 2, for “Articles 4(1)(25), 11(5), 81(1)(ii), 82(a)(ii) and 336(4)(c),” substitute “Articles 4(1)(25), 11(2) and (6), 81(1)(ii), 82(a)(ii), 336(4)(c), 468(4) and 473a(7a)”.

(3) Omit—

- (a) regulation 72 (Article 11 (general treatment));
- (b) regulation 119 (Article 124 (exposures secured by mortgages on immovable property));
- (c) regulation 133 (Article 164 (loss given default)).

The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

49.—(1) The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018(b) are amended as follows.

(2) In regulation 24 (Markets in Financial Instruments Regulation), before “is amended in accordance with this Part” insert “, as it forms part of retained EU law,”.

(3) In regulation 28 (transparency for systematic internalisers and investment firms trading OTC), after paragraph (4), insert—

“(4A) In Article 17a, first paragraph, for “Article 49 of Directive 2014/65/EU” substitute “paragraph 3G of Schedule 1 to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001(c), as if that paragraph applied to the systemic internaliser in the course of its operations as such and sub-paragraph (1A) were omitted”.”.

(4) In regulation 30(3) (derivatives), for sub-paragraph (a) substitute—

“(a) in the first subparagraph—

- (i) for “ESMA shall develop draft regulatory” substitute “The appropriate regulator may make”; and
- (ii) at the end insert “For cases other than CCPs, technical standards may also specify the types of indirect clearing service arrangements that meet conditions for reasonable and transparent commercial terms.”.”.

(a) S.I. 2018/1401, as amended by S.I. 2019/1232.

(b) S.I. 2018/1403.

(c) S.I. 2001/995, paragraph 3G inserted by S.I. 2017/701 and amended by S.I. 2019/662 and 2020/117.

(5) In regulation 33(2)(c) (provision of services and performance of activities by third-country firms following an equivalence decision), after sub-paragraph (ii), insert—

“(iii) after “paragraph 1” insert “or in retained EU law by a decision made by the Commission under paragraph 1 as it had effect in EU law before IP completion day”.”.

(6) In regulation 37 (transfer of functions), in paragraph 44(a) of the new Schedule 3 to be inserted, for “sections 7A.3 and 7A.4” substitute “sections 7A.3, 7A.4 and 7A.5”.

The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019

50.—(1) The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In each of the following provisions, for “credit rating agency”, in each place it occurs, substitute “person”—

- (a) regulation 7(1) (financial penalties);
- (b) regulation 8(7) (statement of policy);
- (c) regulation 9(6) (statement of policy: procedure);
- (d) regulation 10 (public censure);
- (e) regulation 11(1) (warning notice);
- (f) regulation 12(1) (decision notice);
- (g) regulation 15 (right to refer a decision to the Upper Tribunal);
- (h) in regulation 17 (application to a court for an injunction)—
 - (i) paragraph (1)(a) and (b);
 - (ii) paragraph (2);
 - (iii) paragraph (3).

(3) In regulation 18 (information gathering and investigations)—

- (a) in paragraph (1), for “in respect of a credit rating agency as it applies in respect of an authorised person under the Act, subject as follows” substitute “as if references to an authorised person also included references to a person subject to requirements under these Regulations or the CRA Regulation, and subject to the following further modifications”;
- (b) in paragraph (2)(b), in new paragraph (b)(iv), for “credit rating agency” substitute “person”;
- (c) in paragraph (3), in the new subsection (1A), for “credit rating agency” substitute “person”.

(4) For regulation 45 (misleading the FCA: criminal offence), substitute—

“**45.** Section 398 of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases) applies to a requirement to provide information in accordance with—

- (a) a direction under regulation 24(3), 36(2) or 42(2),
- (b) regulation 24(2) or 47,
- (c) a written notification under regulation 47A, or

as it applies to a requirement falling within subsection (1A) of that section.”.

(5) After regulation 46 (offence by bodies corporate) insert—

(a) S.I. 2019/266.

“Further information to be supplied

46A. Subject to regulation 47A(7), regulations 47 and 47A apply to any person who, before IP completion day—

- (a) has submitted an advance application to the FCA in accordance with regulation 24, and has not been notified by the FCA of its decision in respect of the application in accordance with regulation 26;
- (b) has notified the FCA in accordance with regulation 36, and has not received a response from the FCA in accordance with regulation 38;
- (c) has notified the FCA in accordance with regulation 42, and who has not received a response from the FCA in accordance with regulation 44; or
- (d) has been notified by the FCA of a decision to register in accordance with regulation 26 or a decision to confirm the notification in accordance with regulations 38 or 44.”.

(6) For regulation 47 (further information to be supplied by a person to whom regulation 28, 33 or 39 applies), including the heading, substitute—

“Duty to disclose information

47. A person to whom this regulation applies must notify the FCA without delay if—

- (a) any information contained in, or accompanying—
 - (i) an advance application submitted in accordance with regulation 24, or
 - (ii) a notification made in accordance with regulations 36 or 42, changes; or
- (b) there are any material changes which affect or may affect compliance by that person with the conditions for registration set out in Title 3 of the CRA Regulation.

FCA power to require information from a person to whom this regulation applies

47A.—(1) The FCA may, by notice in writing given to a person to whom this regulation applies, require that they—

- (a) provide information specified or information of a description specified by the FCA; or
- (b) produce documents specified or documents of a description specified by the FCA.

(2) The information or documents must be provided or produced—

- (a) before the end of such reasonable period, and
- (b) at such place,

as may be specified.

(3) The powers conferred by paragraphs (1) and (2) apply only to information and documents reasonably required—

- (a) in connection with the exercise by the FCA of functions conferred on it by or under these Regulations; and
- (b) in anticipation of the exercise by the FCA of their functions under the CRA Regulation and these Regulations which are conferred on them on IP completion day.

(4) An officer who has written authorisation from the FCA to do so may request that a person to whom this regulation applies without delay—

- (a) provide the officer with specified information or information of a specified description; or
- (b) produce to the officer specified documents or documents of a specified description.

(5) The FCA may require any information provided under this regulation to be provided in such form as it may reasonably require.

(6) The FCA may require—

(a) any information provided, whether in a document or otherwise, to be verified in such manner, or

(b) any document produced to be authenticated in such manner,

as it may reasonably require.

(7) The FCA may also impose requirements under paragraphs (1) and (4) on related third parties, to whom a person to whom this regulation applies has outsourced operational functions or activities, to provide all information that is necessary in order to carry out the duties of the person to whom this regulation applies.

(8) In this regulation, “officer” means an officer of the FCA and includes a member of the FCA’s staff or an agent of the FCA.”.

The Market Abuse (Amendment) (EU Exit) Regulations 2019

51.—(1) The Market Abuse (Amendment) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 5 (amendment of the Financial Services and Markets Act 2000)—

(a) omit paragraph (7);

(b) in paragraph (8), omit sub-paragraph (b);

(c) in paragraph (9), omit sub-paragraphs (b) to (d);

(d) in paragraph (10), omit sub-paragraph (b);

(e) in paragraph (11), omit sub-paragraph (b);

(f) in paragraph (12), omit sub-paragraphs (a) and (b);

(g) in paragraph (14)(b), omit paragraph (iii).

(3) In regulation 9(2)(a) (general provisions: subject matter and scope), omit paragraph (ii).

(4) In regulation 10(2) (general provisions: definitions), omit sub-paragraph (m).

(5) In regulation 11(2) (inside information, insider dealing, unlawful disclosure of inside information and market manipulation), omit sub-paragraph (a).

(6) In regulation 12 (disclosure requirements)—

(a) in paragraph (2)(d), omit paragraph (ii);

(b) in paragraph (3)(f)—

(i) in the opening words, omit “and 10”;

(ii) re-number the second inserted paragraph as paragraph 9A.

(7) In regulation 13 (ESMA and competent authorities)—

(a) in paragraph (2)(c), omit paragraph (iii);

(b) in paragraph (5)(b), omit paragraph (ii)(bb).

(8) In regulation 16 (final provisions), for paragraph (1) substitute—

“(1) Omit Article 38.”.

(a) S.I. 2019/310.

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019

52.—(1) The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “the EMIR regulation”, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) In regulation 14(4) (clearing obligation), in the words to be substituted for paragraph 4 of Article 4 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 the second subparagraph, substitute—

“The Bank of England may make technical standards in relation to CCPs specifying the types of indirect contractual arrangements that meet the conditions referred to in the second sub-paragraph of paragraph 3.

The FCA may make technical standards for cases other than CCPs specifying the types of indirect contractual arrangements that meet—

- (a) the conditions referred to in the second sub-paragraph of paragraph 3; and
- (b) conditions for reasonable and transparent commercial terms.”.

(4) For regulation 42 (segregation and portability), including the heading, substitute—

“Segregation and portability

42. In Article 39—

- (a) in paragraph 8, for the words from “Article 2(1)(c)” to “collateral arrangements” substitute “regulation 3(1) of the Financial Collateral Arrangements (No.2) Regulations 2003(b)”; and
- (b) omit paragraph 11.”.

(5) In regulation 59(4)(b) (transitional and final provisions), in new paragraph 5A, for “2020” substitute “2021”.

(6) After regulation 64 (interpretation of Part 4) insert—

“CHAPTER 1A

SUPERVISION OF TRADE REPOSITORIES

Supervision of trade repositories

64A.—(1) If the FCA considers that—

- (a) a trade repository has contravened, or is likely to contravene, a requirement imposed by or under this Part, the EMIR Regulation or the TRATP Regulations, or
- (b) it is desirable to exercise the power in order to advance one or more of its operational objectives set out in section 1B(3) of FSMA,

it may impose, for such period as it considers appropriate, such requirements in relation to the carrying on of trade repository activities as it considers necessary or expedient.

(2) A requirement may, in particular, be imposed so as to require a trade repository to take, or refrain from taking, specified action.

(3) The FCA may—

(a) S.I. 2019/335, as amended by S.I. 2019/1416 and 2020/646.

(b) S.I. 2003/3226. Relevant amending instrument is S.I. 2010/2993.

- (a) withdraw a requirement; or
 - (b) vary a requirement so as to reduce the period for which it has effect or otherwise to limit its effect.
- (4) The imposition of the requirement takes effect—
- (a) immediately, if the notice given under paragraph (6) states that that is the case; or
 - (b) on such date as may be specified in the notice.
- (5) The imposition of a requirement may be expressed to take effect immediately, or on a specified date, only if the FCA, having regard to the ground on which it is exercising its power, reasonably considers that it is necessary for the imposition of the requirement to take effect immediately, or on that date.
- (6) If the FCA proposes to impose, or imposes a requirement, it must give the trade repository written notice.
- (7) The notice must—
- (a) give details of the requirement;
 - (b) state the FCA’s reasons for imposition of the requirement;
 - (c) inform the trade repository that it may make representations to the FCA within such period as may be specified in the notice, whether or not the trade repository has referred the matter to the Tribunal;
 - (d) inform the trade repository of when the imposition of the requirement takes effect; and
 - (e) inform the trade repository of its right to refer the matter to the Tribunal.
- (8) The FCA may extend the period allowed under the notice for making representations.
- (9) If, having considered any representations made by the trade repository, the FCA decides—
- (a) to impose the requirement in the way proposed, or
 - (b) if the requirement has been imposed, not to rescind the imposition of the requirement,
- it must give the trade repository written notice.
- (10) If, having considered any representations made by the trade repository, the FCA decides—
- (a) not to impose the requirement in the way proposed,
 - (b) to impose a different requirement, or
 - (c) to rescind a requirement which has effect,
- it must give the trade repository written notice.
- (11) A notice under paragraph (9) must inform the trade repository of its right to refer the matter to the Tribunal.
- (12) A notice under paragraph (10)(b) must comply with paragraph (7).
- (13) If a notice informs the trade repository of its right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
- (14) A trade repository may refer to the Tribunal the FCA’s decision to impose a requirement under this regulation.”.
- (7) In regulation 74 (application of Part 9A FSMA), after paragraph (7) insert—
- “(7A) In section 138H (verification of rules)—
- (a) each reference to a regulator is a reference to the FCA;
 - (b) each reference to either regulator is a reference to the FCA only.”.
- (8) In regulation 79(3) (interpretation), for “exit day” substitute “IP completion day”.

(9) In regulation 80 (continuation of exemptions from certain clearing obligations and risk-management obligations)—

(a) in paragraph (1)(c)—

(i) in paragraph (i)—

(aa) for “exit day”, in each place it occurs, substitute “21 December 2020”;

(bb) in sub-paragraph (cc), omit “or”;

(ii) omit paragraph (ii);

(b) in paragraph (2)(c)—

(i) for “exit day”, in each place it occurs, substitute “IP completion day”;

(ii) in paragraph (ii), for “the 2016 Regulation” substitute “Regulation 2016/2251”.

(10) In regulation 81(1) and (2) (relevant day for the purposes of regulation 80), for “exit day”, in each place it occurs, substitute “IP completion day”.

(11) In regulation 82 (new exemptions from certain clearing obligations and risk-management obligations)—

(a) in paragraph (2), for “exit day” substitute “IP completion day”;

(b) for paragraph (5) substitute—

“(5) Paragraph (8) applies where one or both of the counterparties—

(a) in relation to an exemption from an obligation as specified in paragraph (6)—

(i) has applied before 21 December 2020 to a competent authority for an exemption; or

(ii) has before 21 December 2020 notified a competent authority of its intention to apply an exemption; or

(b) in relation to an exemption from an obligation as specified in paragraph (7)—

(i) has applied before IP completion day to a competent authority for an exemption; or

(ii) has before IP completion day notified a competent authority of its intention to apply an exemption.”;

(c) in paragraph (6)—

(i) in sub-paragraph (a)—

(aa) in each place it occurs, for “exit day” substitute “21 December 2020”;

(bb) in sub-paragraph (iii), omit “or”;

(ii) omit sub-paragraph (b);

(d) in paragraphs (7) and (8), for “exit day”, in each place it occurs, substitute “IP completion day”.

(12) In regulation 83(1) and (2) (relevant day for the purposes of regulation 82), for “exit day”, in each place it occurs, substitute “IP completion day”.

The Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019

53. In regulation 12(2)(c) (final provisions) of the Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019(a), for new paragraph 3 substitute—

“3.—(1) In this Article, “UK UCITS” and “EEA UCITS” have the meanings given in section 237(3) of FSMA.

(a) S.I. 2019/403.

(2) Where an EEA UCITS is recognised under section 272 of FSMA, the management company referred to in paragraph 1(b) or the investment company referred to in paragraph 1(d) above must comply with duties corresponding to those that, if the United Kingdom were a UCITS host Member State for the purposes of the UCITS Directive, would be imposed on the EEA UCITS in accordance with Article 94 of that Directive, to the extent it applies to key investor information.

(3) For the purposes of this Article, Article 94 is to be read as if—

- (a) references to the UCITS host member State, or to a member State where the UCITS markets its units, were references to the United Kingdom;
- (b) references to the competent authority of the UCITS host member State or of the member State where the UCITS markets its units were references to the FCA.”.

The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019

54.—(1) The Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019(a) are amended as follows.

(2) For regulation 1(2) (citation and commencement) substitute—

“(2) Subject to paragraph (3), these Regulations come into force on IP completion day.

(3) This regulation and regulations 14 to 16 come into force on the day after the day on which the Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 are made.”.

(3) In regulation 8 (supervision), in paragraph (3), in new regulation 4B(6), for “100” substitute “85”.

(4) In regulation 11 (amendments of Commission Delegated Regulation (EU) No 2015/35)—

- (a) in paragraph (92), in new Article 378A, omit new paragraphs 5 to 9;
- (b) in paragraph (96), in new Article 380A, omit new paragraphs 4 to 7.

(5) After regulation 12 (transitional provision in relation to approval of temporary models), insert—

“Transitional provision in relation to group supervision

13.—(1) This regulation applies where—

- (a) in accordance with regulation 26 of the Solvency 2 Regulations 2015 (as amended by these Regulations), the Prudential Regulation Authority (“PRA”) is the group supervisor of a group; but
- (b) in accordance with regulations 26 and 27 of the Solvency 2 Regulations 2015 (as they were in force immediately before IP completion day), the group supervisor would be a supervisory authority of an EEA State, which is not the PRA.

(2) Where this regulation applies, regulations 15(1), 24(1) and (2), 25, 28(2) and 36(4) of the Solvency 2 Regulations 2015 which impose requirements on the PRA as group supervisor do not apply for a period of two years beginning with IP completion day—

- (a) unless the PRA decides that it is appropriate for these regulations to be applied in a particular case; or
- (b) unless or until the group ceases to be supervised by a group supervisor of an EEA State.

(a) S.I. 2019/407.

Transitional regime for temporary equivalence under Article 172 of the Solvency 2 Directive

14.—(1) Subject to paragraphs (2) and (3), where before IP completion day the European Commission has under Article 172 of the Solvency 2 Directive determined that the solvency regime of a third country that applies to reinsurance activities of undertakings with their head office in that third country is temporarily equivalent to that laid down in Title I of that Directive (“the determination”), the Treasury may by regulations extend the date on which that determination would otherwise end.

(2) An extension under paragraph (1)—

(a) ceases to have effect on whichever is the earlier of—

(i) 31st December 2021; or

(ii) the date on which, in accordance with paragraph 1 of Article 378A of Delegated Regulation (EU) 2015/35(a), the supervisory regime of that third country has been determined to be equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive;

(b) only has effect so far as determining that the solvency regime of a third country that applies to reinsurance activities of undertakings with their head office in that third country is temporarily equivalent to that laid down in Title I of the Solvency 2 Directive as it applied to the United Kingdom immediately before IP completion day.

(3) The PRA must publish and keep up to date on its website a list of all third countries in respect of which the Treasury have made regulations under paragraph (1).

(4) Where, in accordance with paragraph (1), the determination has been extended, reinsurance contracts concluded with undertakings having their head office in that third country shall be treated in the same manner as reinsurance contracts concluded with undertakings authorised in accordance with the UK law implementing the Solvency 2 Directive.

Transitional regime for temporary equivalence under Article 260 of the Solvency 2 Directive

15.—(1) Subject to paragraphs (2) and (3), where before IP completion day the European Commission has under Article 260 of the Solvency 2 Directive determined that the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office in that third country is temporarily equivalent to that laid down in Title I of that Directive (“the determination”), the Treasury may by regulations extend the date on which that determination would otherwise end.

(2) An extension under paragraph (1)—

(a) ceases to have effect on whichever is the earlier of—

(i) 31st December 2021; or

(ii) the date on which, in accordance with paragraph 1 of Article 380A of Delegated Regulation (EU) 2015/35(b), the prudential regime of that third country has been determined to be equivalent to that laid down in the United Kingdom law which implemented the Solvency 2 Directive;

(b) only has effect so far as determining that that the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office in that third country is temporarily equivalent to that laid down in Title I of

(a) Article 378A will be inserted into Delegated Regulation (EU) 2015/35 by regulation 11(92) of S.I. 2019/407 on IP completion day.

(b) Article 380A will be inserted into Delegated Regulation (EU) 2015/35 by regulation 11(96) of S.I. 2019/407 on IP completion day.

the Solvency 2 Directive as it applied to the United Kingdom immediately before IP completion day.

(3) The PRA must publish and keep up to date on its website a list of all third countries in respect of which the Treasury have made regulations under paragraph (1).

Interpretation and Regulations

16.—(1) In regulations 14 and 15—

“the PRA” means the Prudential Regulation Authority;

“the Solvency 2 Directive” means 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)(a).

(2) Regulations made under regulation 14 or 15 are to be made by statutory instrument.

(3) A statutory instrument which contains regulations under regulation 14 or 15 is subject to annulment in pursuance of a resolution of either House of Parliament.”.

The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019

55. In regulation 1(4)(g) (citation, commencement and interpretation) of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019(b), omit “as last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019”.

The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019

56.—(1) The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019(c) are amended as follows.

(2) In regulation 7(a), in new sub-paragraph (g), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) After regulation 22(c)(ii) insert—

“(iii) omit the final sub-paragraph.”.

(4) In regulation 24, for “32” substitute “33”.

(5) In regulation 25 (interpretation of Part 4), before the definition of “the TRATP Regulations”, insert—

““the FCA” means the Financial Conduct Authority;

“FSMA” means the Financial Services and Markets Act 2000(d);”.

(6) After regulation 25 (interpretation of Part 4) insert—

“CHAPTER 1A

SUPERVISION OF TRADE REPOSITORIES

Supervision of trade repositories

25A.—(1) If the FCA considers that—

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

(b) S.I. 2019/541, as amended by S.I. 2019/710, 1212, 1234, 1390 and 1416, and S.I. 2020/628, 646 and 1055.

(c) S.I. 2019/542, as amended by S.I. 2019/1416 and 2020/646.

(d) 2000 c. 8.

- (a) a trade repository has contravened, or is likely to contravene, a requirement imposed by or under this Part, the SFT regulation or Part 2 of the Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020(a), or
- (b) it is desirable to exercise the power in order to advance one or more of its operational objectives set out in section 1B(3) of FSMA,

it may impose, for such period as it considers appropriate, such requirements in relation to the carrying on of trade repository activities as it considers necessary or expedient.

(2) A requirement may, in particular, be imposed so as to require a trade repository to take, or refrain from taking, specified action.

(3) The FCA may—

- (a) withdraw a requirement; or
- (b) vary a requirement so as to reduce the period for which it has effect or otherwise to limit its effect.

(4) The imposition of the requirement takes effect—

- (a) immediately, if the notice given under paragraph (6) states that that is the case; or
- (b) on such date as may be specified in the notice.

(5) The imposition of a requirement may be expressed to take effect immediately, or on a specified date, only if the FCA, having regard to the ground on which it is exercising its power, reasonably considers that it is necessary for the imposition of the requirement to take effect immediately, or on that date.

(6) If the FCA proposes to impose, or imposes a requirement, it must give the trade repository written notice.

(7) The notice must—

- (a) give details of the requirement;
- (b) state the FCA's reasons for imposition of the requirement;
- (c) inform the trade repository that it may make representations to the FCA within such period as may be specified in the notice, whether or not the trade repository has referred the matter to the Tribunal;
- (d) inform the trade repository of when the imposition of the requirement takes effect; and
- (e) inform the trade repository of its right to refer the matter to the Tribunal.

(8) The FCA may extend the period allowed under the notice for making representations.

(9) If, having considered any representations made by the trade repository, the FCA decides—

- (a) to impose the requirement in the way proposed, or
- (b) if the requirement has been imposed, not to rescind the imposition of the requirement,

it must give the trade repository written notice.

(10) If, having considered any representations made by the trade repository, the FCA decides—

- (a) not to impose the requirement in the way proposed,
- (b) to impose a different requirement, or
- (c) to rescind a requirement which has effect,

it must give the trade repository written notice.

(a) S.I. 2020/XXX.

(11) A notice under paragraph (9) must inform the trade repository of its right to refer the matter to the Tribunal.

(12) A notice under paragraph (10)(b) must comply with paragraph (7).

(13) If a notice informs the trade repository of its right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.

(14) A trade repository may refer to the Tribunal the FCA’s decision to impose a requirement under this regulation.”.

(7) In regulation 35 (application of Part 9A FSMA), after paragraph (7) insert—

“(7A) In section 138H (verification of rules)—

(a) each reference to a regulator is a reference to the FCA;

(a) each reference to either regulator is a reference to the FCA only.”.

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

57.—(1) The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 121(2) (Article 3 (interpretation)), omit the references to “aircraft operator”, “auction platform”, “emission allowance auctioning regulation”, “greenhouse gas emissions allowances”, “operator”, “reception”, “transmission” and “submission”.

(3) Omit—

(a) regulation 126 (Article 24A (bidding in emissions auctions));

(b) 127 (Article 24B (miscellaneous exclusions));

(c) regulation 154 (Article 82A (greenhouse gas emissions allowances));

(d) regulation 155(2) (Article 82B (emission allowances));

(e) regulation 178(3)(a) (the Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001);

(f) regulation 179(2) (the Financial Services and Markets Act 2000 (Professions) (Non-exempt Activities) Order 2001).

The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019

58.—(1) The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019(b) are amended as follows.

(2) In regulation 2 (amendment of Regulation (EU) 2016/1011), before “is amended as follows” insert “, as it forms part of retained EU law,”.

(3) In regulation 4(b)(i) (scope), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(4) In regulation 5(10) (definitions), omit sub-paragraph (f).

(5) For regulation 13(3) (code of conduct) substitute—

“(3) In paragraph 5—

(a) for “relevant competent authority”, each time it occurs, substitute “FCA”;

(b) for “application of the decision to include a critical benchmark in the list referred to in Article 20(1)” substitute “the Treasury making regulations under Articles A20(5) or (6), or 20(5) specifying a benchmark as critical”.”.

(6) In regulation 15 (review of critical benchmarks) in new Article A20—

(a) S.I. 2019/632.

(b) S.I. 2019/657, as amended by S.I. 2020/646.

- (a) in paragraph 1—
 - (i) for “review” substitute “proportionate review”;
 - (ii) at the end insert “, taking into account information provided to it under paragraph A1 of Article 20”;
- (b) in paragraph 2(a)(ii), for “point” substitute “points”.

(7) In regulation 16 (critical benchmarks: amendments to Article 20), after paragraph (2) insert—

“(2A) Before paragraph 1 insert—

“**A1.** An administrator shall immediately notify the FCA when the administrator’s benchmark:

- (a) exceeds the threshold in paragraph 1(a); or
- (b) fulfils the criterion in paragraph 1(c)(ii) and there is reason to believe that it also fulfils the criterion in paragraph 1(c)(iii).”.

The Securitisation (Amendment) (EU Exit) Regulations 2019

59.—(1) The Securitisation (Amendment) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “the EMIR Regulation”, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) In regulation 4(4)(c) (Article 2 (definitions)), for new point (c) substitute—

“(c) an occupational pension scheme as defined in section 1(1) of the Pension Schemes Act 1993(b) that has its main administration in the United Kingdom, or a fund manager of such a scheme appointed under section 34(2) of the Pensions Act 1995(c) that, in respect of activity undertaken pursuant to that appointment, is authorised for the purposes of section 31 of the 2000 Act.”

(4) In regulation 15 (Articles 13 to 15 (notification of ESMA decisions relating to registration or extension of registration, powers of ESMA and withdrawal of registration)), in the new Article 15 at paragraph 3(b), insert “Chapter 1A,” before “Chapter 2”.

The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019

60.—(1) The Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019(d) are amended as follows.

(2) In regulation 3 (the Credit Institutions (Reorganisation and Winding Up) Regulations 2004(e)), after the words “Gibraltarian credit institutions,” insert “investment firms and group companies”.

(3) In Schedule 1 (modifications to the Insurers (Reorganisation and Winding Up) Regulations 2004(f))—

- (a) at the beginning of paragraph 2, after the words “Regulation 2 applies as if—” insert—
 - “(a) in paragraph (1)—”;
- (b) in paragraph (2), re-number paragraphs (a) to (h) as (i) to (viii);
- (c) at the end of paragraph 2, after sub-paragraph (viii) insert—

(a) S.I. 2019/660, as amended by S.I. 2020/646.

(b) 1993 c. 48. The definition of “occupational pension scheme” was inserted by section 239 of the Pensions Act 2004 (c. 35) and amended by S.I. 2007/3014.

(c) 1995 c. 26.

(d) S.I. 2019/680, to which there are amendments not relevant to these Regulations.

(e) S.I. 2004/1045; relevant amending instruments are S.I. 2019/38, and 2019/680.

(f) S.I. 2004/353; relevant amending instruments are S.I. 2019/38 and 2019/680.

“(b) in paragraph (2)—

- (i) in sub-paragraphs (a) and (b), for “the relevant EEA State” both times it occurs, there were substituted “Gibraltar”;
- (ii) the words after sub-paragraph (b) were omitted.”;

(d) for paragraph 6 substitute—

“6. Regulation 10 applies as if—

- (a) in the heading, for “EEA regulators”, there were substituted “the Gibraltar regulator”;
- (b) for “EEA regulators in every EEA State”, both times it occurs, there were substituted “Gibraltar regulator”.

(4) In Schedule 2 (modifications to the Credit Institutions (Reorganisation and Winding Up) Regulations 2004)—

(a) in paragraph 3, after sub-paragraph (b) insert—

“(c) paragraph (7A) were omitted.”;

(b) in paragraph 6, for “from the purposes of Articles 10” substitute “for the purposes of Articles 10”;

(c) in paragraph 7, for sub-paragraph (c) substitute—

“(c) for paragraph (4), there were substituted—

“(4) In this regulation, the “relevant person” means, if the UK credit institution has a branch in Gibraltar, the Gibraltar regulator.”.

The Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019

61.—(1) Regulation 4(2) (the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001) of the Public Record, Disclosure of Information and Co-operation (Financial Services) (Amendment) (EU Exit) Regulations 2019(a) is amended as follows.

(2) Omit sub-paragraphs (c) and (d).

(3) In sub-paragraph (g), in sub-paragraphs (a) and (b)(ii) of the definition of “markets in financial instruments information” omit “(as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018(b))”.

(4) In sub-paragraph (m), in the definition of “retained EU law restrictions”, for “as they had effect immediately before exit day” substitute “, and (excluding those specified at paragraphs (h) and (j) of that definition) as they had effect immediately before IP completion day”.

(5) Omit sub-paragraph (n).

(6) In sub-paragraph (o), in the definition of “short-selling information” omit “(as amended by the Short Selling (Amendment) (EU Exit) Regulations 2018(c))”.

The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019

62. In paragraph 63(1) of Schedule 1 to the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019(d), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(a) S.I. 2019/681.

(b) S.I. 2018/1403.

(c) S.I. 2018/1321.

(d) S.I. 2019/685, as amended by S.I. 2019/1416 and 2020/646.

The Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019

63. Omit regulation 73 (prospectus approved before 21st July 2019 by competent authority of other EEA state) of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019(a).

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

64.—(1) The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019(b) are amended as follows.

(2) In regulation 25 (revocation of UK instruments), omit paragraphs (b) and (c).

(3) In regulation 26 (Regulation (EU) 648/2012), for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(4) In regulation 33 (revocation of EU Regulations), omit paragraph (b).

(5) Omit regulation 41 (transitional provision: group supervision).

The Capital Requirements (Amendment) (EU Exit) Regulations 2019

65.—(1) The Capital Requirements (Amendment) (EU Exit) Regulations 2019(c) are amended as follows.

(2) Omit—

(a) regulation 14 (Article 11 (general treatment));

(b) regulation 17 (Article 18 (methods of prudential consolidation));

(c) regulation 36 (Article 124 (exposures secured by mortgages on immovable property));

(d) regulation 38 (Article 164 (loss given default (LGD))).

(3) In regulation 79 (Article 501a (adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services)), after “Omit” insert “paragraphs 4 and 5 of”.

The Prospectus (Amendment etc.) (EU Exit) Regulations 2019

66.—(1) The Prospectus (Amendment etc.) (EU Exit) Regulations 2019(d) are amended as follows.

(2) In regulation 71 (amendments of Commission Delegated Regulation (EU) 2019/980)—

(a) after paragraph (2), insert—

“(2A) Omit Article 11.”;

(b) omit paragraph (4)(a);

(c) omit paragraph (5)(a).

(3) In the Schedule (amendments of Annexes to Commission Delegated Regulation (EU) 2019/980)—

(a) after paragraph 7, insert—

“**7A.** Omit Annex 10.”;

(b) in paragraph 19(7)(b), omit “in the second paragraph, in point (a), ”;

(a) S.I. 2019/707, as amended by S.I. 2019/1234.

(b) S.I. 2019/710, as amended by S.I. 2019/1416 and 2020/646.

(c) S.I. 2019/1232.

(d) S.I. 2019/1234.

- (c) in paragraph 20(6)(b), omit “in the second paragraph, in point (a), ”;
- (d) omit paragraph 22(8).

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019

67.—(1) The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019(a) are amended as follows.

(2) In regulation 25, for “last amended by Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019” substitute “it forms part of retained EU law”.

(3) In regulation 29—

- (a) omit paragraph (2)(a);
- (b) after paragraph (2) insert—

“(2A) In paragraph 1a, in the fourth sub-paragraph, in point (a) for “Union” substitute “United Kingdom”.

(2B) For paragraph 1d, substitute—

“**1d.** The trustees or managers of an occupational pension scheme (within the meaning given in section 1(1) of the Pension Schemes Act 1993) shall be responsible, and legally liable, for reporting the details of OTC derivative contracts to which that occupational pension scheme is a counterparty.”.

(4) Omit regulation 32.

The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020

68. In regulation 12(4) of the Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020(b), in new regulation 14A(3)(c)(ii) to be inserted by that provision, for “both places” substitute “each place”.

The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020

69.—(1) The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020(c) are amended as follows.

(2) In regulation 20 (Article 25: general amendments)—

- (a) after subparagraph (9)(c) insert—

“(ca) after the third sub-paragraph insert—

“Recognition under this Article must be granted only for services or activities linked to clearing and the decision granting recognition must specify the services or activities which the CCP is recognised to provide or perform, including the classes of financial instruments covered by the recognition.”;

- (b) in paragraph (10), in new paragraph 4A, at point (a), for “6 months” substitute “18 months”.

(3) In regulation 30 (Article 81), for the text to be inserted at the end of Article 81(3) 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, substitute—

(a) S.I. 2019/1416, as amended by S.I. 2020/646.
(b) S.I. 2020/628.
(c) S.I. 2020/646.

- “;
- (g) the body known as the Panel on Takeovers and Mergers;
 - (h) the PRA.”.

The Equivalence Determinations for Financial Services (Amendment etc.) (EU Exit) Regulations 2020

70.—(1) The Equivalence Determinations for Financial Services (Amendment etc.) (EU Exit) Regulations 2020(a) are amended as follows.

(2) For regulation 1(2) (citation and commencement) substitute—

“(2) Subject to paragraph (3), these Regulations come into force on the day after the day on which they are made.

(3) Regulations 6A and 8A come into force the day after the day on which the Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 are made.”.

(3) After regulation 6 (application of the 2000 Act to the Bank in relation to its functions under these Regulations), insert—

“Misleading the FCA: criminal offence

6A. Section 398 (misleading the FCA or PRA: residual cases) of the Financial Services and Markets Act 2000(b) applies to a requirement to provide information in accordance with these Regulations as it applies to a requirement falling within subsection (1A) of that section.”.

(4) After regulation 8 (effect of applications, equivalence directions and regulatory decisions on or after IP completion day) insert—

“Power for the FCA to establish arrangements for Article 5(7) of CRAR with third country regulators before IP completion day

8A.—(1) Before IP completion day, the FCA may establish arrangements with a third country regulator for the purposes of Article 5(7) of CRAR;

(2) Nothing in this regulation affects the operation or scope of the FCA’s existing powers.

(3) In this regulation, “third country regulator” means a regulator, other than a regulator for the UK or a part of the UK or an EEA regulator, with functions that correspond to those of the FCA in relation to CRAR.”.

Amendments to cross references to retained EU Regulations

71. The Schedule has effect.

(a) S.I. 2020/1055.

(b) 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c. 21), S.I. 2013/1773, S.I. 2015/1882, S.I. 2016/680, S.I. 2017/701, S.I. 2018/135, S.I. 2018/698, S.I. 2019/362, and S.I. 2019/1043.

PART 6

Amendment or revocation of retained direct EU legislation

Regulation (EC) No 924/2009

72.—(1) 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 is amended as follows.

(2) In Article 1—

- (a) in paragraph 1, for “Union” substitute “United Kingdom”;
- (b) in paragraph 2—
 - (i) omit the first sub-paragraph;
 - (ii) for the second sub-paragraph substitute—

“This Regulation shall apply to national and cross-border payments that are denominated in euro, sterling or in a national currency of a Member State of the European Union other than the euro and that involve a currency conversion service.”;

(c) after paragraph 2 insert—

“2A. In respect of cross-border payments, this Regulation applies only to those parts of a payment transaction which are carried out in the United Kingdom.”;

(d) omit paragraph 4.

(3) In Article 2—

(a) for point (1) substitute—

“1. ‘cross-border payment’ means an electronically processed payment transaction initiated by a payer or by or through a payee where—

- (a) the payer’s payment service provider is located in the United Kingdom and the payee’s payment service provider is located in the EEA; or
- (b) the payee’s payment service provider is located in the United Kingdom and the payer’s payment service provider is located in the EEA,

and for the purposes of this definition, “payment service provider” has the same meaning as in regulation 40(1A)(a) of the Payment Services Regulations 2017(a);”;

(b) in point (2), for “same Member State” substitute “United Kingdom”;

(c) for point (5) substitute—

“5. ‘payment service provider’ has the same meaning as in regulation 2(1) of the Payment Services Regulations 2017;”;

(d) in point (9), for “Article 59(2) of Directive (EU) 2015/2366 of the European Parliament and of the Council” substitute “regulation 57(2) of the Payment Services Regulations 2017”;

(e) for point (10) substitute—

“10. ‘funds’ has the same meaning as in regulation 2(1) of the Payment Services Regulations 2017.”;

(f) omit points (11) to (15).

(4) Omit Article 3.

(5) In Article 3a, in paragraph 1—

(a) S.I. 2017/752, paragraph (1A) to be inserted by S.I. 2018/1201.

- (a) for “Articles 45(1), 52(3) and 59(2) of Directive (EU) 2015/2366” substitute “regulations 43(1), 48(1) (taken with paragraph 3 of Schedule 4) and 57(2) of the Payment Services Regulations 2017”;
 - (b) for “Article 59(2) of that Directive” substitute “regulation 57(2) of the Payment Services Regulations 2017”.
- (6) In Article 3b, in paragraph 1—
- (a) for “point (24) of Article 4 of Directive (EU) 2015/2366” substitute “regulation 2(1) of the Payment Services Regulations 2017”;
 - (b) for “Articles 45(1) and 52(3) of that Directive” substitute “regulations 43(1) and 48(1) (taken with paragraph 3 of Schedule 4) of the Payment Services Regulations 2017”.
- (7) Omit Articles 4 to 17.

Regulation (EU) No 231/2013

73. After Article 1 of Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision insert—

“Article 1A

Application of Articles 2, 7 and 8 to small AIFMs

1. Articles 2, 7 and 8 apply to a small AIFM subject to the modifications in paragraphs 2 and 3.
2. In Article 2(2), second sub-paragraph, as if “AIFs managed by the AIFM for which the AIFM has delegated functions in accordance with section 3.10 of the Investment Funds sourcebook” includes AIFs managed by a small AIFM for which that small AIFM has delegated functions.
3. In Articles 7 and 8, as if section 3.9 of the Investment Funds sourcebook applied to a small AIFM as it does to a full-scope UK AIFM.”.

Regulation (EU) No 575/2013

74.—(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 is amended as follows.

- (2) In Article 11—
- (a) in paragraph 1, for “Parent institutions in a Member State” substitute “UK parent institutions”;
 - (b) in paragraph 2—
 - (i) for “‘parent institution in a Member State’, ‘EU parent institution’” substitute “‘UK parent institution’”;
 - (ii) after “Directive 2013/36/EU”, in each place it occurs, insert “UK law”;
 - (c) in paragraph 3a—
 - (i) for “non-EU G-SII”, in each place it occurs, substitute “non-UK G-SII”;
 - (ii) for “EU parent undertakings” substitute “UK parent undertakings”;
 - (iii) in the second sub-paragraph, omit “Where Article 21b(2) of Directive 2013/36/EU applies, the two intermediate EU parent undertakings jointly identified as a material subsidiary shall each comply with Article 92b of this Regulation on the basis of their consolidated situation.”;

- (d) in paragraph 4, first sub-paragraph—
 - (i) for “EU parent institutions”, in each place it occurs, substitute “UK parent institutions”;
 - (ii) for “points (3) and (6) of Section A of Annex I to Directive 2014/65/EU” substitute “paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order”;
 - (iii) for “Pending the report from the Commission referred to in Article 508(2) of this Regulation, and where the group comprises only investment firms, competent authorities” substitute “Where the group comprises only investment firms, the competent authority”;
 - (e) omit paragraph 5;
 - (f) in paragraph 6—
 - (i) for the first sub-paragraph substitute—

“6. In addition to the requirements of paragraphs 1 to 3, the competent authority may require an institution to comply with the obligations mentioned in the third sub-paragraph on a sub-consolidated basis when—

 - (a) it is justified for supervisory purposes by the specificities of the risk or the capital structure of the institution, or
 - (b) the institution is a ring-fenced body within the meaning of section 142A(1) of FSMA.”
 - (ii) in the second sub-paragraph, omit “and shall neither entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole nor form or create an obstacle to the functioning of the internal market”;
 - (iii) after the second sub-paragraph insert—

“The obligations mentioned in this sub-paragraph are those provided for in—

 - (a) Parts 2, 3, 4, 6, 7, 7A and 8 of this Regulation;
 - (b) Directive 2013/36/EU UK law which implemented Title 7, Chapter 4 of Directive 2013/36/EU.”.
- (3) In Article 18—
- (a) in paragraph 3, for “within the meaning of Article 22(7) of Directive 2013/34/EU” insert “by a common management relationship”;
 - (b) in paragraph 6, second sub-paragraph, after “Directive 2013/34/EU” insert “, as it had effect immediately before IP completion day”;
 - (c) in paragraph 8(a), for “an undertaking excluded from the scope of Directive 2009/138/EC in accordance with Article 4 of that Directive;” substitute “an undertaking within Article 4(1)(27)(k) of this Regulation”;
 - (d) in paragraph 9—
 - (i) in the first sub-paragraph, for “EBA shall develop draft regulatory” substitute “The FCA and PRA may each make”;
 - (ii) omit the second and third sub-paragraphs.
- (4) In Article 124—
- (a) in paragraph 1, in the second sub-paragraph, for “in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions” substitute “, if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value”;
 - (b) in paragraph 1a—
 - (i) omit the first sub-paragraph;
 - (ii) for the second sub-paragraph substitute—

“The PRA shall ensure that the Financial Policy Committee is duly informed of the PRA’s intention to make use of this Article, and is appropriately involved in the assessment of financial stability concerns in the United Kingdom in accordance with paragraph 2.”;

- (iii) omit the third sub-paragraph;
 - (c) in paragraph 2—
 - (i) in the first and second sub-paragraphs—
 - (aa) for “authority designated in accordance with paragraph 1a of this Article”, in each place, substitute “PRA”;
 - (bb) for “one or more parts of the territory of the Member State of the relevant authority”, in each place, substitute “the United Kingdom”;
 - (ii) in the second sub-paragraph, for “its Member State” substitute “the United Kingdom”;
 - (iii) omit the third sub-paragraph;
 - (iv) in the fourth sub-paragraph, for “authority designated in accordance with paragraph 1a” substitute “PRA”;
 - (d) in paragraph 3, for “authority designated in accordance with paragraph 1a” substitute “PRA”;
 - (e) in paragraph 4—
 - (i) in the first sub-paragraph, for “EBA, in close cooperation with the ESRB, shall develop draft regulatory” substitute “The FCA and PRA may each make”;
 - (ii) omit the second and third sub-paragraphs;
 - (f) omit paragraphs 5 and 6.
- (5) In Article 164—
- (a) in paragraph 5—
 - (i) omit the first sub-paragraph;
 - (ii) for the second sub-paragraph substitute—

“The PRA shall ensure that the Financial Policy Committee is duly informed of the PRA’s intention to make use of this Article, and is appropriately involved in the assessment of financial stability concerns in the United Kingdom in accordance with paragraph 6.”;

 - (iii) omit the third sub-paragraph;
 - (b) in paragraph 6—
 - (i) in the first sub-paragraph—
 - (aa) for “authority designated in accordance with paragraph 5 of this Article” substitute “PRA”;
 - (bb) for “one or more parts of the territory of the Member State of the relevant authority” substitute “the United Kingdom”;
 - (ii) in the second sub-paragraph—
 - (aa) for “authority designated in accordance with paragraph 5” substitute “PRA”;
 - (bb) for “its Member State” substitute “the United Kingdom”;
 - (cc) for “one or more parts of the territory of the Member State of the relevant authority” substitute “the United Kingdom”;
 - (iii) omit the third sub-paragraph;
 - (c) in paragraph 7, for “authority designated in accordance with paragraph 5” substitute “PRA”;
 - (d) in paragraph 8—
 - (i) in the first sub-paragraph—

- (aa) for “EBA, in close cooperation with the ESRB, shall develop draft regulatory” substitute “The FCA and PRA may each make”;
- (bb) for “authority designated in accordance with paragraph 5” substitute “PRA”;
- (ii) omit the second and third sub-paragraphs;
- (e) omit paragraphs 9 and 10.
- (6) In Article 468, paragraph 4, after “Directive 2013/36/EU” insert “ UK law”.
- (7) In Article 473a—
 - (a) in paragraph 7a, after “Directive 2013/36/EU” insert “ UK law”;
 - (b) in paragraph 9, omit the final sub-paragraph.
- (8) Omit Article 500a.

Regulation (EU) 2015/2365

75. In Article 3 of Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012, after paragraph (3)(g) insert—

- “(h) a central securities depository authorised in accordance with 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 (EU) 2019/877

76. Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms is revoked.

Regulation (EU) 2019/2088

77. Articles 2a, 8(4), 9(6) and 11(5) in Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector(a) are omitted.

Regulation (EU) 2020/852

78.—(1) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088(b) is amended as follows.

- (2) Omit Article 1, paragraph 2.
- (3) In Article 2—
 - (a) omit paragraphs (2) to (4);
 - (b) for paragraph (7) substitute—
 - “(7) “greenhouse gas” has the meaning given in section 92 of the Climate Change Act 2008(c).”;
 - (c) for paragraph (8) substitute—
 - “(8) “waste hierarchy” has the meaning—

(a) OJ No L 317 09.12.2019, p.1.
 (b) OJ No L 198, 22.06.2020, p.13.
 (c) 2008 c. 27.

- (a) in England and Wales, given in regulation 12 of the Waste (England and Wales) Regulations 2011**(a)**;
- (b) in Northern Ireland, given in regulation 9(1) of the Waste (Northern Ireland) Regulations 2011**(b)**;
- (c) in Scotland, given in section 34(2A) of the Environmental Protection Act 1990**(c)**.”;
- (d) for paragraph (12) substitute—
 - “(12) “pollution” means—
 - (a) the direct or indirect introduction of pollutants into air, water or land as a result of human activity;
 - (b) in the context of the marine environment, pollution as defined in Part 2 of Schedule 1 to the Marine Strategy Regulations 2010**(d)**;
 - (c) in the context of the water environment—
 - (i) in England and Wales, pollution as defined in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**(e)**;
 - (ii) in Northern Ireland, pollution as defined in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017**(f)**;
 - (iii) in Scotland, pollution as defined in regulation 20(6) of the Water Environment and Water Services (Scotland) Act 2003**(g)**.”;
- (e) for paragraph (18) substitute—
 - “(18) “marine waters” means marine waters as defined in regulation 3(3) of the Marine Strategy Regulations 2010**(h)**.”;
- (f) for paragraph (19) substitute—
 - “(19) “surface water” has the meaning—
 - (a) in England and Wales, given in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**(i)**;
 - (b) in Northern Ireland, given in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017**(j)**;
 - (c) in Scotland, given in regulation 3(3) of the Water Environment and Water Services (Scotland) Act 2003**(k)**.”;
- (g) for paragraph (20) substitute—
 - “(20) “groundwater” has the meaning—
 - (a) in England and Wales, given in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**(l)**;
 - (b) in Northern Ireland, given in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017**(m)**;

(a) S.I. 2011/988.
(b) S.R. 2011 No. 127, amended by S.R. 2016 No. 95 and 2018 No. 200.
(c) 1990 c. 43, amended by S.S.I. 2011/266.
(d) S.I. 2010/1627.
(e) S.I. 2017/407.
(f) S.R. 2017 No. 81.
(g) 2003 asp 3, amended by S.S.I. 2005/348.
(h) S.I. 2010/1627.
(i) S.I. 2017/407.
(j) S.R. 2017 No. 81.
(k) 2003 asp 3.
(l) S.I. 2017/407.
(m) S.R. 2017 No. 81.

- (c) in Scotland, given in regulation 3(4) of the Water Environment and Water Services (Scotland) Act 2003^(a).”;
- (h) for paragraph (21) substitute—
 - “(21) “good environmental status” has the meaning given in Part 2 of Schedule 1 to the Marine Strategy Regulations 2010^(b).”;
- (i) for paragraph (22) substitute—
 - “(22) “good status” has the meaning—
 - (a) for surface water—
 - (i) in England and Wales, of having both “good ecological status” and “good surface water chemical status”, as defined in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017^(c);
 - (ii) in Northern Ireland, of having both “good ecological status” and “good surface water chemical status”, as defined in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017^(d);
 - (iii) in Scotland, of having both “good ecological status”, as defined in paragraph 3(2)(b) of Part B of Schedule 1 to the Scotland River Basin District (Status) Directions 2014, and “good surface water chemical status”, as defined in paragraph 5(2)(a) of Part C of Schedule 1 to the Scotland River Basin District (Status) Directions 2014^(e);
 - (b) for groundwater—
 - (i) in England and Wales, of having both “good groundwater status” and “good quantitative status”, as defined in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017^(f);
 - (ii) in Northern Ireland, of having both “good groundwater status” and “good quantitative status”, as defined in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017^(g);
 - (iii) in Scotland, of having both “good groundwater chemical status”, as defined in paragraph 2(2) of Part B of Schedule 4 to the Scotland River Basin District (Status) Directions 2014, and “good quantitative status”, as defined in paragraph 3(2) of Part C of Schedule 4 to the Scotland River Basin District (Status) Directions 2014^(h).”;
 - (j) for paragraph (23) substitute—
 - “(23) “good ecological potential” has the meaning—
 - (a) in England and Wales, given in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017⁽ⁱ⁾;
 - (b) in Northern Ireland, given in paragraph 1(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017^(j);

(a) 2003 asp 3.
 (b) S.I. 2010/1627.
 (c) S.I. 2017/407.
 (d) S.R. 2017 No. 81.
 (e) ISBN 9781784127640.
 (f) S.I. 2017/407.
 (g) S.R. 2017 No. 81.
 (h) ISBN 9780784127640.
 (i) S.I. 2017/407.
 (j) S.R. 2017 No. 81.

(b) in Scotland, given in paragraph 2(b) of Part B of Schedule 2 to the Scotland River Basin District (Status) Directions 2014(a).”.

(4) In Article 3(d) omit “by the Commission”.

(5) Omit Article 8(4).

(6) In Article 10—

(a) in paragraph 1(a), omit “in line with Directive (EU) 2018/2011”;

(b) in paragraph 2, for “the Commission” substitute “the Treasury”;

(c) in paragraph 3, for “The Commission shall adopt a delegated act in accordance with Article 23” substitute “The Treasury must make regulations”;

(d) omit paragraph 4;

(e) for paragraph 5 substitute—

“5. The Treasury must establish the technical screening criteria referred to in paragraph 3 of this Article taking into account the requirements of Article 19.”;

(f) for paragraph 6 substitute—

“6. The Treasury must make the regulations in paragraph 3 above no later than 1 January 2023.”.

(7) In Article 11—

(a) in paragraph 3 for “The Commission shall adopt a delegated act in accordance with Article 23” substitute “the Treasury must make regulations”;

(b) omit paragraph 4;

(c) for paragraph 5 substitute—

“5. The Treasury must establish the technical screening criteria referred to in paragraph 3 of this Article taking into account the requirements of Article 19.”;

(d) for paragraph 6 substitute—

“6. The Treasury must make the regulations in paragraph 3 above no later than 1 January 2023.”.

(8) In Article 12—

(a) in paragraph 2, for “The Commission shall adopt a delegated act in accordance with Article 23” substitute “the Treasury must make regulations”;

(b) omit paragraph 3;

(c) for paragraph 4 substitute—

“4. The Treasury must establish the technical screening criteria referred to in paragraph 2 of this Article taking into account the requirements of Article 19.”;

(d) for paragraph 5 substitute—

“5. The Treasury must make the regulations in paragraph 2 above no later than 1 January 2024.”.

(9) In Article 13—

(a) in paragraph 1(d) omit “in line with the objectives set out in Union law,”;

(b) in paragraph 2 for “The Commission shall adopt a delegated act in accordance with Article 23” substitute “the Treasury must make regulations”;

(c) omit paragraph 3;

(d) for paragraph 4 substitute—

(a) ISBN 9780784127640.

“4. The Treasury must establish the technical screening criteria referred to in paragraph 2 of this Article taking into account the requirements of Article 19.”;

(e) for paragraph 5 substitute—

“5. The Treasury must make the regulations in paragraph 2 above no later than 1 January 2024.”.

(10) In Article 14—

(a) in paragraph 2 for “The Commission shall adopt a delegated act in accordance with Article 23” substitute “the Treasury must make regulations”;

(b) omit paragraph 3;

(c) for paragraph 4 substitute—

“4. The Treasury must establish the technical screening criteria referred to in paragraph 2 of this Article taking into account the requirements of Article 19.”;

(d) for paragraph 5 substitute—

“5. The Treasury must make the regulations in paragraph 2 above no later than 1 January 2024.”.

(11) In Article 15—

(a) in paragraph 2 for “The Commission shall adopt a delegated act in accordance with Article 23” substitute “the Treasury must make regulations”;

(b) omit paragraph 3;

(c) for paragraph 4 substitute—

“4. The Treasury must establish the technical screening criteria referred to in paragraph 2 of this Article taking into account the requirements of Article 19.”;

(d) for paragraph 5 substitute—

“5. The Treasury must make the regulations in paragraph 2 above no later than 1 January 2024.”.

(12) In Article 17, in paragraph 1(f)(ii), for “Union” substitute “United Kingdom”.

(13) In Article 18, omit paragraph 2.

(14) In Article 19—

(a) in paragraph 1, omit subparagraphs (d) and (e), and in subparagraph (f) omit “and the precautionary principle enshrined in Article 191 TFEU”;

(b) in paragraph 5—

(i) in the first subparagraph, for “The Commission shall regularly review the technical screening criteria referred to in paragraph 1 and, where appropriate, amend the delegated acts” substitute “The Treasury may by regulations amend the technical screening criteria set out in any regulations made under this Regulation.”;

(ii) omit the second subparagraph;

(iii) in the third paragraph for “the Commission” substitute “the Treasury”.

(15) Omit Articles 20 to 22.

(16) For Article 23 substitute—

“Article 23

Regulations

1. Any power to make regulations conferred on the Treasury by this Regulation is exercisable by statutory instrument.

2. Such regulations may—

- (a) contain incidental, supplemental, consequential, transitional, transitory or saving provision; and
- (b) make different provisions for different purposes.

3. A statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.”.

(17) Omit Article 24.

(18) In Article 25—

- (a) omit paragraphs 1, 2(b) and (c), 3(b) and (c) and 4;
- (b) in paragraph (5) in the inserted paragraph 3 of Article 20 of Regulation (EU) 2019/2088 omit subparagraphs (a) and (b).

(19) In Article 26—

- (a) in paragraph 1, for “By 13 July 2022, and subsequently every three years thereafter, the Commission shall publish a report on the application of this Regulation” substitute “The Treasury must, no later than 1 January 2024, and every three years thereafter, review the functioning of this Regulation and lay a report before Parliament”;
- (b) omit paragraph 1(c), (d), (e) and (f);
- (c) in paragraph 2, for “By 31 December 2021, the Commission shall publish a report describing the provisions that would be required to extend the scope of this Regulation beyond environmentally sustainable economic activities and describing the provisions that would be required to cover” substitute “The Treasury must, no later than 1 January 2024, lay a report before Parliament evaluating the appropriateness of extending the scope of this Regulation beyond environmentally sustainable economic activities, and considering the measures that would be required to cover”;
- (d) omit Article 26(3).

(20) After Article 27 omit the words “This Regulation shall be binding in its entirety and directly applicable in all member States.”.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Lords Commissioners of Her Majesty’s Treasury

SCHEDULE

Regulation 71

Cross references to EU regulations forming part of retained EU law

1.—(1) For the text specified in sub-paragraph (2) substitute “forms part of retained EU law”.

(2) The specified text, for the purposes of sub-paragraph (1), is—

- (a) in Article 35A (trade repositories) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(a), “has effect at the beginning of the day on which the Financial Services and Markets Act 2000 (Central Counterparties, Investment Exchanges, Prospectus and Benchmarks) (Amendment) Regulations 2020 are made (but see regulation 2 of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) Regulations 2018, which may further update the reference)”;

(a) S.I. 2001/544; Article 35A inserted by S.I. 2013.504, amended by S.I. 2016/715, and to be amended by S.I. 2019/632.

- (b) in regulation 1(4) (citation, commencement and interpretation) of the Regulated Covered Bonds Regulations 2008(a), “has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2019 were made”;
- (c) in Article 1(6) (citation, commencement and interpretation) of the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009(b), “had effect on the day on which the Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019 were made”;
- (d) in regulation 2(3) (interpretation) of the Capital Requirements Regulations 2013(c), “has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2019 were made”;
- (e) in regulation 1(3) (citation, commencement and interpretation) of the Capital Requirements (Country-by-Country Reporting) Regulations 2013(d), “has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2019 were made”;
- (f) in regulation 2(2A) (interpretation) of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014(e), “has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2019 were made”;
- (g) in Article 2(2) (interpretation) of the Banking Act 2009 (Banking Group Companies) Order 2014(f), in the definition of “the Capital Requirements Regulation”, “had effect on the day on which the Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019 were made”;
- (h) in Article 5(1) (set-off and netting: meaning of “derivative”, “financial contract” and “qualifying master agreement”) of the Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014(g), “had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 were made”;
- (i) in Article 2(4) (interpretation) of the Bank Recovery and Resolution (No. 2) Order 2014(h), “had effect on the day on which the Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019 were made”;
- (j) in regulation 2 (interpretation) of the Financial Services and Markets Act 2000 (Market Abuse) Regulations 2016(i), in the definition of “the market abuse regulation”, “has effect on the day on which the Market Abuse (Amendment) (EU Exit) Regulations 2018 are made”;
- (k) in the following paragraphs of the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018(j), “had effect on the day on which the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394) were made”—
 - (i) Schedule 1, paragraph 54;
 - (ii) Schedule 2, paragraph 3(b)(ii);
 - (iii) Schedule 3, paragraph 1(29);
 - (iv) Schedule 4, in each of paragraphs 2(2)(c), 4(4)(2)(b) and 7(3);

(a) S.I. 2008/346, as amended by S.I. 2018/1401 and 2019/1232.
 (b) S.I. 2009/322, as amended by S.I. 2019/1212.
 (c) S.I. 2013/3115, as amended by S.I. 2018/1401 and 2019/1232.
 (d) S.I. 2013/3118, as amended by S.I. 2018/1401 and 2019/1232.
 (e) S.I. 2014/894, as amended by S.I. 2018/1401 and 2019/1232.
 (f) S.I. 2014/1831, as amended by S.I. 2019/1212.
 (g) S.I. 2014/3350, as amended by S.I. 2018/1394.
 (h) S.I. 2014/3348, as amended by S.I. 2018/1394 and 2019/1212.
 (i) S.I. 2016/680, as amended by S.I. 2019/310.
 (j) S.I. 2018/1394, as amended by S.I. 2019/1212.

- (l) in regulation 2 (the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017) of the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018(a), in new regulation 2A, “has effect on the day on which the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 are made”;
- (m) in regulation 3(2)(b) (Amendment of the Credit Institutions (Reorganisation and Winding up) Regulations 2004) of the Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019(b), in new paragraph (1A), “had effect on the day on which the Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 were made”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraphs 21 and 38 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16).

Part 4, regulations 41 and 71, and the Schedule are also made under section 2(2) of the European Communities Act 1972 (c. 68).

The instrument is divided into 6 Parts and a Schedule. Part 2 makes transitional and saving provision concerning trade repositories in relation to Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse.

Part 3 makes transitional and saving provision concerning securitisation repositories in relation to 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.

Part 4 and the Schedule (introduced by regulation 71) make amendments to update cross-references for EU regulations, such that they refer to the correct version at IP completion day (as defined in section 39(1) to (5) of the European Union (Withdrawal Agreement) Act 2020 (c. 1)). Part 4 makes this provision for primary legislation and the Schedule for UK secondary legislation

Part 5 makes amendments to existing UK secondary legislation.

Part 6 makes amendments to retained direct EU legislation.

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.

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(a) S.I. 2018/1403.

(b) S.I. 2019/38, amended by S.I. 2019/405.

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<http://www.legislation.gov.uk/id/ukdsi/2020/9780348213614>