

Status: Point in time view as at 28/11/2017.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Information gathering and investigations is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 17A

FURTHER PROVISION IN RELATION TO EXERCISE OF PART 18 FUNCTIONS BY BANK OF ENGLAND

Textual Amendments

- F1** Sch. 17A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), ss. 29(2), 122(3), Sch. 7 (with Sch. 20); S.I. 2013/113, art. 2(1)(b)(c), Sch. Pts. 2, 3; S.I. 2013/423, art. 3, Sch.

PART 2

APPLICATION OF PROVISIONS OF THIS ACT IN RELATION TO BANK OF ENGLAND

Information gathering and investigations

- 11 (1) The powers conferred by section 165(1) and (3) (power to require information) are exercisable by the Bank or (as the case may be) its officers to impose requirements on—
- (a) a recognised clearing house;
 - [a recognised CSD;
 - ^{F2}(aa) an EEA CSD, in relation to any services referred to in the Annex to the CSD regulation which the EEA CSD provides in the United Kingdom, in the circumstances described in Article 24(4) or (5) of the CSD regulation;]
 - (b) a person who for the purposes of section 165 is connected with a recognised clearing house [^{F3}, a recognised CSD or an EEA CSD (as the case may be)].
- (2) The information or documents that the Bank may require to be provided or produced are limited to—
- (a) information or documents reasonably required in connection with the exercise by the Bank of functions conferred on it by or under this Part of this Act;
 - (b) information or documents reasonably required in connection with the exercise by the Bank of any of its other functions in pursuance of its financial stability objective; ^{F4}...
 - (c) information or documents which the Bank reasonably considers may enable or assist the FCA in discharging functions conferred on the FCA by or under this Act [^{F5}; and
 - (d) information or documents reasonably required in connection with the exercise by the Bank of its functions under the EMIR regulation [^{F6},

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[^{F7}Article 4 or 15 of the SFT regulation, any directly applicable regulation made under those articles,] the CSD regulation or any directly applicable regulation made under the CSD regulation].]

(3) In consequence of the provision made by sub-paragraph (2), section 165(4) is not to apply in relation to section 165(1) and (3) as applied by this paragraph.

Textual Amendments

- F2** Sch. 17A para. 11(1)(aa)(ab) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, 2(39)(c)(i) (with regs. 7(4), 9(1))
- F3** Words in Sch. 17A para. 11(1)(b) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, 2(39)(c)(ii) (with regs. 7(4), 9(1))
- F4** Word in Sch. 17A para. 11(2)(b) omitted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), **regs. 1(2), 3(16)(a)(i)** (with regs. 52-58)
- F5** Sch. 17A para. 11(2)(d) and word inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), **regs. 1(2), 3(16)(a)(ii)** (with regs. 52-58)
- F6** Words in Sch. 17A para. 11(2)(d) inserted (21.11.2014) by [The Central Securities Depositories Regulations 2014 \(S.I. 2014/2879\)](#), **regs. 1(1), 6(4)(a)**
- F7** Words in Sch. 17A para. 11(2)(d) inserted (13.7.2016) by [The Financial Services and Markets Act 2000 \(Transparency of Securities Financing Transactions and of Reuse\) Regulations 2016 \(S.I. 2016/715\)](#), reg. 1(2), **Sch. 1 para. 1(6)(a)**

12 The power conferred by section 166 (reports by skilled person) is exercisable by the Bank as if references in that section to an authorised person were to a recognised clearing house [^{F8}, a recognised CSD or an EEA CSD].

Textual Amendments

- F8** Words in Sch. 17A para. 12 inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), **regs. 1, 2(39)(d)** (with regs. 7(4), 9(1))

13 (1) The powers conferred by section 167 (appointment of persons to carry out general investigations) are exercisable by the Bank as if references in that section to an authorised person were to any recognised clearing house other than an overseas clearing house [^{F9}or to any recognised CSD].

[In relation to an EEA CSD, those powers are exercisable only in the circumstances ^{F10}(1A) described in Article 24(4) or (5) of the CSD regulation and in relation to any services referred to in the Annex to the CSD regulation which the EEA CSD provides in the United Kingdom.]

(2) In addition to the powers conferred by section 171, a person conducting an investigation under section 167 as a result of this paragraph is to have the powers conferred by sections 172 and 173 (and for this purpose the references in those sections to an investigator are to be read accordingly).

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Textual Amendments

- F9** Words in Sch. 17A para. 13(1) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), **regs. 1, 2(39)(e)(i)** (with **regs. 7(4), 9(1)**)
- F10** Sch. 17A para. 13(1A) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), **regs. 1, 2(39)(e)(ii)** (with **regs. 7(4), 9(1)**)

- 14 (1) The power conferred by section 168(5) (appointment of persons to carry out investigations in particular cases) is exercisable by the Bank.
- (2) That power is exercisable if it appears to the Bank that there are circumstances suggesting that—
- (a) a clearing house [^{F11}or a central securities depository] may be guilty of an offence under section 398(1) or an offence under prescribed regulations relating to money laundering;
 - (b) a clearing house [^{F11}or a central securities depository] may have contravened a rule made by the Bank under this Part of this Act;
 - (c) a clearing house [^{F11}or a central securities depository] may have contravened the recognition requirements;
 - (d) a clearing house [^{F11}or a central securities depository] may have contravened any qualifying EU provision that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order;
 - (e) a clearing house [^{F11}or a central securities depository] may have breached the general prohibition.
- [^{F12}(f) in the circumstances described in Article 24(4) or (5) of the CSD regulation, an EEA CSD providing any services referred to in the Annex to the CSD regulation in the United Kingdom may have contravened the CSD regulation.]
- (3) In addition to the powers conferred by section 171, a person conducting an investigation under section 168(5) as a result of this paragraph is to have the powers conferred by sections 172 and 173 (and for this purpose the references in those sections to an investigator are to be read accordingly).

Textual Amendments

- F11** Words in Sch. 17A para. 14(2)(a)-(e) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), **regs. 1, 2(39)(f)(i)** (with **regs. 7(4), 9(1)**)
- F12** Sch. 17A para. 14(2)(f) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), **regs. 1, 2(39)(f)(ii)** (with **regs. 7(4), 9(1)**)

- 15 An overseas regulator may, in accordance with section 169, request the Bank to exercise the power conferred by section 165 (as applied by paragraph 11 of this Schedule).
- 16 The power to give information under section 176(1) (entry of premises under warrant) is exercisable by the Bank, or an investigator appointed by the Bank, as if the reference to the second set of conditions were omitted.]

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