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## STATUTORY INSTRUMENTS

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# 2013 No. 504

## The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013

### PART 8 **U.K.**

#### Consequential amendments

#### Amendments to the Finance Act 1991 **U.K.**

**20.**—(1) The Finance Act 1991(1) is amended as follows.

(2) In section 116 (investment exchanges and clearing houses: stamp duty)—

(a) for subsection (1)(b) substitute—

“(b) involve a prescribed relevant entity, or a member or nominee (or member or nominee of a prescribed description) of such a relevant entity, or a nominee (or nominee of a prescribed description) of a member of such a relevant entity, and”;

(b) at the end of subsection (4)(a) insert “and”;

(c) for paragraphs (b) and (c) of subsection (4) substitute—

“(b) “relevant entity” means any of the following—

(i) a regulated market and a multilateral trading facility (within the meaning of the Directive);

(ii) a recognised clearing house, a recognised investment exchange, an EEA central counterparty and a third country central counterparty (within the meaning of section 285 of the Financial Services and Markets Act 2000).”.

(3) In section 117 (investment exchanges and clearing houses: SDRT) for subsection (1)(b) substitute—

“(b) involve a prescribed relevant entity, or a member or nominee (or member or nominee of a prescribed description) of such a relevant entity, or a nominee (or nominee of a prescribed description) of a member of such a relevant entity, and”.

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#### Commencement Information

**II** Reg. 20 in force at 1.4.2013 in accordance with reg. 1(2)

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(1) 1991 c. 31; section 116 was amended by paragraph 5 of Schedule 20 to the Financial Services and Markets Act 2000 (c.8), paragraph 7 of Schedule 21 to the Finance Act 2007 (c.11) and section 65 of the Finance Act 2010 (c.13); section 117 was amended by section 65 of the Finance Act 2010.

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

### **Amendment to the Pension Schemes Act 1993** U.K.

**21.**—(1) The Pension Schemes Act 1993(2) is amended as follows.

(2) In section 149 (procedure on an investigation) in subsection (6)(l) for “or a recognised clearing house” substitute “, recognised clearing house, EEA central counterparty or third country central counterparty”.

#### **Commencement Information**

**I2** Reg. 21 in force at 1.4.2013 in accordance with reg. 1(2)

### **Amendment to the Pension Schemes (Northern Ireland) Act 1993** U.K.

**22.**—(1) The Pension Schemes (Northern Ireland) Act 1993(3) is amended as follows.

(2) In section 145 (procedure on an investigation) in sub-section (6)(k) for “or a recognised clearing house” substitute “, recognised clearing house, EEA central counterparty or third country central counterparty”.

#### **Commencement Information**

**I3** Reg. 22 in force at 1.4.2013 in accordance with reg. 1(2)

### **Amendments to the Pensions Act 2004** U.K.

**23.**—(1) The Pensions Act 2004(4) is amended as follows.

(2) In Schedule 3 (restricted information held by the regulator: certain permitted disclosures to facilitate exercise of functions) for the entry beginning “A recognised investment exchange or a recognised clearing house” substitute—

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“A recognised investment exchange, recognised Functions in its capacity as an exchange, clearing clearing house, EEA central counterparty or house or central counterparty.”.  
third country central counterparty (as defined by section 285 of that Act).

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(3) In Schedule 8 (restricted information held by the Board: certain permitted disclosures to facilitate exercise of functions) for the entry beginning “A recognised investment exchange or a recognised clearing house” substitute—

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“A recognised investment exchange, recognised Functions in its capacity as an exchange, clearing clearing house, EEA central counterparty or house or central counterparty.”.  
third country central counterparty (as defined by section 285 of that Act).

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(2) 1993 c. 48; section 149 was substituted by S.I. 2001/3649.

(3) 1993 c. 49; section 145(6)(k) was substituted by S.I. 2001/3649.

(4) 2004 c. 35.

#### Commencement Information

**I4** Reg. 23 in force at 1.4.2013 in accordance with reg. 1(2)

#### Amendments to the Income Tax Act 2007 **U.K.**

- 24.**—(1) The Income Tax Act 2007(5) is amended as follows.
- (2) In section 886 (interest paid by recognised clearing house)—
- (a) in subsection (1)—
- (i) for “recognised clearing house (“RCH”) or recognised investment exchange (“RIE”)” substitute “relevant entity”,
- (ii) in paragraph (a) for “RCH or RIE” substitute “relevant entity”;
- (b) in subsection (2) for “an RCH or RIE” substitute “a relevant entity”;
- (c) in subsection (3)—
- (i) in the definition of “central counterparty clearing service” for “an RCH or RIE”, substitute “a relevant entity” and for “the RCH or RIE” substitute “the relevant entity”;
- (ii) omit the definition of ““recognised clearing house” and “recognised investment exchange””;
- (iii) after the definition of “central counterparty clearing service” insert—
- ““relevant entity”, means any of the following (as defined for the purposes of FISMA 2000 by section 285 of that Act)—
- (a) a recognised clearing house;
- (b) a recognised investment exchange;
- (c) an EEA central counterparty;
- (d) a third country central counterparty.”.

#### Commencement Information

**I5** Reg. 24 in force at 1.4.2013 in accordance with reg. 1(2)

#### Amendments to the Banking Act 2009 **U.K.**

- 25.**—(1) The Banking Act 2009(6) is amended as follows.
- (2) Subject to the amendments made below, in every provision (including the headings) for “UK clearing house” or “UK clearing houses”, wherever occurring, substitute “recognised central counterparty” or “recognised central counterparties”.
- (3) In sections 39A (banks which are clearing houses), 89C (clearing house rules), 89D (clearing house membership), 89F (clearing house compensation orders) and in the Table in section 259 (statutory instruments) (including in headings), for “clearing house”, other than in the expression “UK clearing house”, substitute “recognised central counterparty”.
- (4) In section 89E (recognition of transferee company), in subsection (1), for “recognised clearing house” substitute “recognised central counterparty”.

(5) 2007 c. 3; section 886 was amended by paragraph 24 of Schedule 14 to the Finance Act 2007.

(6) 2009 c.1, amended by section 102 of the Financial Services Act 2012.

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

- (5) In section 89G (interpretation: “UK clearing house” etc.)—
- (a) for subsection (1) substitute—
 

“(1) In this Part, “recognised central counterparty” has the meaning given by section 285 of the Financial Services and Markets Act 2000.”;
  - (b) in subsection (2), for ““UK clearing house” does not include a clearing house” substitute ““recognised central counterparty” does not include a recognised clearing house”;
  - (c) for subsection (3) substitute—
 

“(3) Where a stabilisation power is exercised in respect of a recognised central counterparty, the body does not cease to be a recognised central counterparty for the purposes of this Part if the recognition order under Part 18 of the Financial Services and Markets Act 2000 is later revoked.”;
  - (d) in subsection (4) omit the definition of “central counterparty clearing services”.
- (6) In the Table in section 261 (index of defined terms)—
- (a) omit the entry relating to “central counterparty clearing services”;
  - (b) after the entry relating to “property transfer order” insert—
 

“recognised central counterparty | 89G”;
  - (c) omit the entry relating to “UK clearing house”.

#### Commencement Information

**I6** Reg. 25 in force at 1.4.2013 in accordance with reg. 1(2)

#### Amendments to the Corporation Tax Act 2009 **U.K.**

- 26.**—(1) The Corporation Tax Act(7) is amended as follows.
- (2) In section 697 (exceptions to section 696)—
- (a) in subsection (1)(a) for “or recognised clearing house” substitute “, recognised clearing house, EEA central counterparty or third country central counterparty”;
  - (b) in subsection (6) for the definition of “recognised clearing house” substitute—
 

““recognised clearing house”, “EEA central counterparty” and “third country central counterparty” have the meanings given by section 285 of FISMA 2000 (exemptions for recognised investment exchanges and clearing houses),”.

#### Commencement Information

**I7** Reg. 26 in force at 1.4.2013 in accordance with reg. 1(2)

#### Amendment to the European Communities (Enforcement of Community Judgments) Order 1972 **U.K.**

- 27.**—(1) The European Communities (Enforcement of Community Judgments) Order 1972(8) is amended as follows.

(7) 2009 c. 4.

(8) S.I. 1972/1590; article 2(1) was amended by S.I. 1998/1259 and 2003/3204.

(2) At the end of the definition of “Community judgment” in article 2(1), insert “or Article 65 or 66 of Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories<sup>(9)</sup>”.

**Commencement Information**

**I8** Reg. 27 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendment to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975** **U.K.**

**28.**—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975<sup>(10)</sup> is amended as follows.

(2) In article 2—

- (a) omit the definition of “UK recognised clearing house”;
- (b) insert at the appropriate place—

““recognised clearing house” means a recognised clearing house as defined in section 285 of the 2000 Act.”.

(3) In article 3, in the Table, in paragraph (g)—

- (a) for entry 6 substitute—

“6.	An associate of a UK recognised investment exchange or clearing house.	The FCA, the PRA, or the Bank of England or the investment exchange or clearing house mentioned in the first column.”;
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- (b) for paragraph (a) of entry 16 substitute—

“16.	(a) Any member of a UK recognised investment exchange or recognised clearing house.	The UK recognised investment exchange or recognised clearing house specified in the first column.”.
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(4) In article 4—

- (a) in paragraph (d)(x)—

- (i) for “UK recognised clearing house” substitute “recognised clearing house”;
- (ii) after “section 292(2) of that Act,” insert “to refuse to vary a recognition order under section 290ZA(1) of the 2000 Act, to vary a recognition order under section 290ZA(2) of the 2000 Act,”;

- (b) in paragraph (j) for “UK recognised clearing house” substitute “recognised clearing house”.

**Commencement Information**

**I9** Reg. 28 in force at 1.4.2013 in accordance with reg. 1(2)

<sup>(9)</sup> OJ No L 201, 27.7.2012, p.1.

<sup>(10)</sup> S.I. 1975/1023; amended by S.I. 2001/3816.

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

## **Amendments to the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979** **U.K.**

**29.**—(1) The Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979(11) is amended as follows.

(2) In Article 1(2)—

- (a) omit the definition of “UK recognised clearing house”;
- (b) insert at the appropriate place—

““recognised clearing house” means a recognised clearing house as defined in section 285 of the 2000 Act.”.

(3) In the Table in Article 2(e)—

- (a) for entry 6 substitute—

“6.	An associate of a UK recognised investment exchange or recognised clearing house.	The FCA, the PRA or the Bank of England or the investment exchange or clearing house mentioned in the first column.”;
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- (b) for paragraph (a) of entry 16 substitute—

“16.	(a) Any member of a UK recognised investment exchange or recognised clearing house.	The UK recognised investment exchange or recognised clearing house specified in the first column.”.
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(4) In Article 3—

- (a) in paragraph (d)(x)—

- (i) for “UK recognised clearing house” substitute “recognised clearing house”;
- (ii) after “section 292(2) of that Act,” insert “to refuse to vary a recognition order under section 290ZA(1) of the 2000 Act, to vary a recognition order under section 290ZA(2) of the 2000 Act.”;

- (b) in paragraph (j) for “UK recognised clearing house” substitute “recognised clearing house”.

### **Commencement Information**

**I10** Reg. 29 in force at 1.4.2013 in accordance with reg. 1(2)

## **Amendments to the Financial Markets and Insolvency Regulations 1991** **U.K.**

**30.**—(1) The Financial Markets and Insolvency Regulations 1991(12) are amended as follows.

(2) In regulation 7 insert at the appropriate place in each case—

- ““clearing member” has the same meaning as in section 190(1) of the Act;
- “client” has the same meaning as in section 190(1) of the Act;
- “indirect client” has the same meaning as in section 190(1) of the Act;
- “recognised central counterparty” has the same meaning as in section 190(1) of the Act.”.

(11) SR 1979/195.

(12) S.I. 1991/880; regulation 7 was amended by S.I. 1999/1209 and S.I. 2009/853.

- (3) In regulation 11(13)—
- (a) after paragraph (a) insert—
- “(aa) in the case of a recognised central counterparty, it secures the obligation to pay to the recognised central counterparty any sum due to it from a clearing member, a client, an indirect client, a recognised investment exchange or recognised clearing house in respect of unsettled market contracts to which the clearing member, client, indirect client, investment exchange or clearing house is a party;”;
- (b) in paragraph (b) for “in the case of a recognised UK clearing house” substitute “in the case of a recognised clearing house which is not a recognised central counterparty”.

**Commencement Information**

I11 Reg. 30 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendments to the Income Tax (Manufactured Overseas Dividends) Regulations**

1993 **U.K.**

31.—(1) The Income Tax (Manufactured Overseas Dividends) Regulations 1993(14) are amended as follows.

- (2) In regulation 5B(6)—
- (a) in the definition of “central counterparty” after “recognised clearing house” insert “, EEA central counterparty, third country central counterparty”;
- (b) in the definition of “recognised clearing house” for “section 285” substitute “section 285(1)(b)”;
- (c) at the appropriate places insert—
- ““EEA central counterparty” has the meaning given by section 285(1)(c) of the Financial Services and Markets Act 2000;
- “third country central counterparty” has the meaning given by section 285(1)(d) of the Financial Services and Markets Act 2000.”.

**Commencement Information**

I12 Reg. 31 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendments to the Financial Markets and Insolvency (Settlement Finality) Regulations**

1999 **U.K.**

32.—(1) The Financial Markets and Insolvency (Settlement Finality) Regulations 1999(15) are amended as follows.

- (2) In regulation 2(16)—
- (a) in paragraph (1)—

(13) S.I. 1991/880; regulation 11 was amended by S.I. 2009/853.

(14) S.I. 1993/2004; regulation 5B was inserted by S.I. 2011/2503.

(15) S.I. 1999/2979; regulation 2(1) was amended by Schedule 1 to the Bankruptcy (Scotland) Act 1993 (c. 6), S.I. 2002/1555, S.I. 2006/50, S.I. 2006/3221, S.I. 2007/108, S.I. 2007/126, S.I. 2010/2993 and by S.I. 2011/99.

(16) Regulation 2(2) was amended by S.I. 2006/50; regulation 6 was amended by S.I. 2002/1555 and by S.I. 2009/1972; regulation 7(2) was amended by S.I. 2002/1555 regulation 10 was amended by S.I. 2002/1555 and S.I. 2010/2993; regulation 13(4) was inserted by S.I. 2010/2993; regulation 20(1) was amended by S.I. 2010/2993.

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

- (i) at the appropriate place insert—
  - ““administration” and “administrator” shall be interpreted in accordance with the modifications made by the enactments mentioned in paragraph (5);”;
- (ii) in the definition of “default arrangements”—
  - (aa) in sub-paragraph (b) omit “or”;
  - (bb) in sub-paragraph (c) after “the application or transfer of collateral security;” insert “or”; and
  - (cc) after sub-paragraph (c) insert—
    - “(d) the transfer of assets or positions on the default of a participant in the system;”;
- (iii) in the definition of “winding up”—
  - (aa) omit sub-paragraph (c); and
  - (bb) after sub-paragraph (b) insert—
    - “and shall be interpreted in accordance with the modifications made by the enactments mentioned in paragraph (5); and “liquidator” shall be construed accordingly.”;
- (b) in paragraph (2) for sub-paragraph (a) substitute—
  - “(a) references to the law of insolvency—
    - (i) include references to every provision made by or under the Bankruptcy (Scotland) Act 1985<sup>(17)</sup>, Part 10 of the Building Societies Act 1986<sup>(18)</sup>, the Insolvency Act 1986<sup>(19)</sup>, the Insolvency (Northern Ireland) Order 1989<sup>(20)</sup> and in relation to a building society references to insolvency law or to any provision of the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 are to that law or provision as modified by the Building Societies Act 1986;
    - (ii) shall also be interpreted in accordance with the modifications made by the enactments mentioned in paragraph (5);”;
- (c) after paragraph (4) insert—
  - “(5) The enactments referred to in the definitions of “administration”, “administrator”, “liquidator” and “winding up” in paragraph (1), and in paragraph (2)(a)(ii), are—
    - (a) article 3 of, and the Schedule to, the Banking Act 2009 (Parts 2 and 3 Consequential Amendments) Order 2009<sup>(21)</sup>;
    - (b) article 18 of, and paragraphs (1)(a), (2) and (3) of Schedule 2 to, the Building Societies (Insolvency and Special Administration) Order 2009<sup>(22)</sup>;
    - (c) regulation 27 of, and Schedule 6 to, the Investment Bank Special Administration Regulations 2011<sup>(23)</sup>.”.
- (3) In regulation 6—
  - (a) in paragraph (1) for “or recognised clearing house” substitute “, recognised clearing house, EEA central counterparty and third country central counterparty”;

<sup>(17)</sup> 1985 c. 66.

<sup>(18)</sup> 1986 c. 53.

<sup>(19)</sup> 1986 c. 45.

<sup>(20)</sup> S.I. 1989/2405 (N.I. 19).

<sup>(21)</sup> S.I. 2009/317.

<sup>(22)</sup> S.I. 2009/805; paragraph 3 of Schedule 2 was amended by S.I. 2010/1189.

<sup>(23)</sup> S.I. 2011/245.

- (b) after regulation 6(2) insert—
  - “(3) “EEA central counterparty” and “third country central counterparty” have the meanings given by section 285 of the 2000 Act.”.
- (4) In regulation 10—
  - (a) in paragraph (4) for “fourteen days” substitute “three months”;
  - (b) after paragraph (4) insert—
    - “(4A) The designating authority may, if it considers it appropriate, agree a shorter period of notice.”.
- (5) In regulation 13(4)—
  - (a) for “include— ” substitute “include winding up and administration.”;
  - (b) omit sub-paragraphs (a) and (b).
- (6) In regulation 20—
  - (a) in paragraph (1) for “conditions mentioned in paragraph (2)” substitute “conditions mentioned in either paragraph (2) or paragraph (4)”;
  - (b) in paragraph (2) for “The conditions referred to in paragraph (1)” substitute “The conditions referred to in this paragraph”;
  - (c) after paragraph (3) insert—
    - “(4) The conditions referred to in this paragraph are that—
      - (a) a recognised central counterparty, EEA central counterparty or third country central counterparty is the system operator;
      - (b) a clearing member of that central counterparty has defaulted; and
      - (c) the transfer order has been entered into the system pursuant to the provisions of the default rules of the central counterparty that provide for the transfer of the positions or assets of a clearing member on its default.
  - (5) In paragraph (4)—
    - (a) “recognised central counterparty”, “EEA central counterparty” and “third country central counterparty” have the meanings given by section 285 of the 2000 Act; and
    - (b) “clearing member” has the meaning given by section 190(1) of the Companies Act 1989.”.

#### Commencement Information

**I13** Reg. 32 in force at 1.4.2013 in accordance with reg. 1(2)

### Amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 **U.K.**

**33.**—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(24) is amended as follows.

- (2) In article 3(1), in the appropriate place insert—
  - ““trade repository” means a person registered with ESMA under Article 55 of Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives,

(24) [S.I. 2001/544](#); article 35 was amended by [S.I. 2003/1476](#); article 72(8) was inserted by [S.I. 2006/3384](#).

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

central counterparties and trade repositories or a person recognised by ESMA under Article 77 of that Regulation;”.

(3) In article 35(3) after sub-paragraph (b) insert—

“(ba) the body or association is also not eligible to become an EEA central counterparty (as defined in section 285(1)(c) of the Act) or a third country central counterparty (as defined in section 285(1)(d) of the Act);”.

(4) After article 35 insert—

**“Trade repositories**

**35A.** A trade repository does not carry on an activity of the kind specified by article 25(2) by carrying on its functions of centrally collecting and maintaining records of derivatives under Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.”.

(5) In article 72, after paragraph (8) insert—

“(9) Paragraphs (1) to (5) do not apply where the overseas person is providing clearing services as a central counterparty (within the meaning of section 313(1) of the Act).”.

**Commencement Information**

**I14** Reg. 33 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendment to the Financial Services and Markets Act 2000 (Exemption) Order 2001 U.K.**

**34.**—(1) The Financial Services and Markets Act 2000 (Exemption) Order 2001(25) is amended as follows.

(2) In Schedule 1, in paragraph 37(1), after “section 285(3)” insert “or (3A)”.

**Commencement Information**

**I15** Reg. 34 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendments to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 U.K.**

**35.**—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(26) are amended as follows.

(2) In regulation 2(27)—

(a) in the appropriate place insert—

“EMIR information” means confidential information received by one of the regulators in the course of discharging its functions as a competent authority under the EMIR regulation;

(25) [S.I. 2001/1201](#); paragraph 37 of Schedule 1 was amended by [S.I. 2001/3623](#).

(26) [S.I. 2001/2188](#).

(27) The definition of “EEA competent authority” was amended by [S.I. 2003/2066](#) and [2006/3413](#), and the definition of “single market restrictions” was inserted by [S.I. 2012/916](#).

“the EMIR regulation” means Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;”;

- (b) in the definition of “EEA competent authority”, after “single market directives” insert “or the EMIR regulation”;
  - (c) in paragraph (b) of the definition of “overseas regulatory authority” for “or overseas clearing house” substitute “, overseas clearing house, EEA central counterparty (within the meaning of section 285(1)(c) of the Act) or third country central counterparty (within the meaning of section 285(1)(d) of the Act)”;
  - (d) in the definition of “single market restrictions”—
    - (i) at the end of paragraph (j) omit “and”;
    - (ii) at the end of paragraph (k) insert—
      - “; and
      - (l) article 83 of the EMIR regulation;”.
- (3) In regulation 8(**28**)—
- (a) at the end of paragraph (a) omit “and”;
  - (b) at the end of paragraph (b) insert—
    - “; and
    - (c) EMIR information, where that information has been received from the competent authority of an EEA State other than the United Kingdom under the EMIR regulation.”.
- (4) In regulation 9(**29**)—
- (a) in paragraph (1), after “(3C)” insert “, (3E)”;
  - (b) after paragraph (3D) insert—
    - “(3E) Paragraph (1) does not permit disclosure of EMIR information to a person specified in the first column of Schedule 1 in contravention of Article 83 of the EMIR regulation.”.
- (5) In regulation 11(**30**), after paragraph (e) insert—
- “(f) EMIR information, where that information has been received from the competent authority of an EEA State other than the United Kingdom under the EMIR regulation, unless that authority has given its express consent for disclosure that is covered by this Part.”.
- (6) In Part 4 of Schedule 1—
- (a) in the first column, in the entry beginning “A recognised clearing house” after “other than an overseas clearing house” insert “, an EEA central counterparty (within the meaning of section 285(1)(c) of the Act) or a third country central counterparty (within the meaning of section 285(1)(d) of the Act)”;
  - (b) in the table, at the end, insert—

“An EEA central counterparty (within the meaning of section 285(1)(c) of the Act)	Its functions in relation to defaults or potential defaults by market participants”.
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(28) Regulation 8 was substituted by [S.I. 2006/3413](#) and amended by [S.I. 2012/916](#).

(29) Regulation 9(1) was amended by [S.I. 2006/3413](#), [2010/2628](#) and [2011/1613](#). Regulation 9(3D) was inserted by [S.I. 2011/1613](#).

(30) Regulation 11 was amended by [S.I. 2003/2066](#), [2006/3413](#), [2011/1613](#) and [2012/916](#).

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

(7) In Schedule 2, in the first column, in the entry beginning “A recognised clearing house” after “other than an overseas clearing house” insert “, an EEA central counterparty (within the meaning of section 285(1)(c) of the Act) or a third country central counterparty (within the meaning of section 285(1)(d) of the Act)”.

**Commencement Information**

**I16** Reg. 35 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendments to the Uncertified Securities Regulations 2001** **U.K.**

**36.**—(1) The Uncertified Securities Regulations 2001(**31**) are amended as follows.

(2) In Schedule 1, in paragraph 5(7), in the definition of “clearing house”—

(a) in paragraph (b) omit “or”;

(b) after paragraph (b) insert—

“(ba) which is an EEA central counterparty or a third country central counterparty within the meaning of section 285(1) of the 2000 Act; or”.

**Commencement Information**

**I17** Reg. 36 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendment to the Pension Protection Fund (PPF Ombudsman) Order (Northern Ireland) 2005** **U.K.**

**37.**—(1) The Pension Protection Fund (PPF Ombudsman) Order (Northern Ireland) 2005(**32**) is amended as follows.

(2) In Article 5(2) for sub-paragraph (j) substitute—

“(j) a recognised investment exchange, a recognised clearing house, an EEA central counterparty or a third country central counterparty (as defined by section 285 of that Act); and”.

**Commencement Information**

**I18** Reg. 37 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendment to the Pension Protection Fund (PPF Ombudsman) Order 2005** **U.K.**

**38.**—(1) The Pension Protection Fund (PPF Ombudsman) Order 2005(**33**) is amended as follows.

(2) In article 7(2) for sub-paragraph (j) substitute—

“(j) a recognised investment exchange, a recognised clearing house, an EEA central counterparty or a third country central counterparty (as defined by section 285 of that Act); and”.

(31) [S.I. 2001/3755](#).

(32) [S.I. 2005/135](#); article 5 was amended by [S.I. 2005/342](#).

(33) [S.I. 2005/824](#); article 7 was amended by [S.I. 2005/2023](#) and [S.I. 2008/2683](#).

**Commencement Information**

**I19** Reg. 38 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendment to the Financial Assistance Scheme (Appeals) Regulations 2005 U.K.**

**39.**—(1) The Financial Assistance Scheme (Appeals) Regulations 2005(**34**) are amended as follows.

(2) In regulation 28(3) for sub-paragraph (k) substitute—

“(k) a recognised investment exchange, recognised clearing house, EEA central counterparty or third country central counterparty (as defined by section 285 of that Act); and”.

**Commencement Information**

**I20** Reg. 39 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendments to the Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No.9) 2009 U.K.**

**40.**—(1) The Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No.9) 2009(**35**) are amended as follows.

(2) In regulation 4(1) after “this regulation” insert “or in regulation 4A”.

(3) After regulation 4 insert—

**“Alternative prescribed circumstances for the purposes of sections 116 and 117**

**4A.**—(1) The circumstances prescribed by this regulation are where, in connection with a facility transaction or an over the counter transaction, the conditions in paragraphs (2) and (3) are met.

(2) A clearing member client contract entered into by a defaulting clearing participant (“DCP”) is transferred from the DCP to a non-defaulting clearing participant in accordance with the default rules of LCH.Clearnet Limited.

(3) The clearing member client contract referred to in paragraph (2) does not represent the end transaction in the clearing of that contract either before or after the transfer.

(4) For the purpose of this regulation—

“clearing member client contract” has the same meaning as in section 155 of the Companies Act 1989;

“default rules” and “defaulting” have the same meaning as in section 188 of the Companies Act 1989.”.

**Commencement Information**

**I21** Reg. 40 in force at 1.4.2013 in accordance with reg. 1(2)

(34) [S.I. 2005/3273](#); regulation 28 was amended by [S.I. 2008/2683](#).

(35) [S.I. 2009/1828](#).

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

## Amendments to the Investment Bank Special Administration Regulations 2011 **U.K.**

**41.**—(1) The Investment Bank Special Administration Regulations 2011<sup>(36)</sup> are amended as follows.

(2) In regulation 2(1)—

(a) in the definition of “market infrastructure body”, after “recognised investment exchange” insert “, EEA central counterparty, third country central counterparty”;

(b) at the appropriate place insert—

““EEA central counterparty” has the meaning set out in section 285 of FSMA;

“third country central counterparty” has the meaning set out in section 285 of FSMA;”.

(3) In regulation 13(1)(a)(iii) after “facilitate the” insert “transfer,”.

### Commencement Information

**I22** Reg. 41 in force at 1.4.2013 in accordance with reg. 1(2)

## Amendments to the Stamp Duty and Stamp Duty Reserve Tax (Eurex Clearing AG) Regulations 2011 **U.K.**

**42.**—(1) The Stamp Duty and Stamp Duty Reserve Tax (Eurex Clearing AG) Regulations 2011<sup>(37)</sup> are amended as follows.

(2) In regulation 2—

(a) at the appropriate place insert—

““clearing member client contract” has the same meaning as in section 155 of the Companies Act 1989;

“default rules” and “defaulting” have the same meaning as in section 188 of the Companies Act 1989;

“EEA central counterparty” and “third country central counterparty” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”;

(b) in the definition of “nominee” after “prescribed recognised clearing house,” insert “prescribed EEA central counterparty or prescribed third country central counterparty”.

(3) For regulation 3 substitute—

### “Prescription of Eurex

**3.** Eurex is prescribed for the purposes of sections 116 and 117 of the Finance Act 1991.”.

(4) In regulation 4

(a) in paragraph (1) after “prescribed by” insert “paragraph (1A) or”;

(b) after paragraph (1) insert—

“(1A) The circumstances prescribed by this paragraph are where, in connection with a facility transaction or an over the counter transaction, the conditions in paragraphs (1B) and (1C) are met.

<sup>(36)</sup> S.I. 2011/245.

<sup>(37)</sup> S.I. 2011/666.

(1B) A clearing member client contract entered into by a defaulting clearing participant (“DCP”) is transferred from the DCP to a non-defaulting clearing participant in accordance with the default rules of Eurex.

(1C) The clearing member client contract referred to in paragraph (1B) does not represent the end transaction in the clearing of that contract either before or after the transfer.”;

- (c) in paragraph (2) after “The circumstances prescribed” insert “by this paragraph”;
- (d) at the end of paragraph (3)(f) omit “or”;
- (e) after paragraph (3)(f) insert—
  - “(fa) a prescribed EEA central counterparty or its nominee to Eurex or its nominee;
  - (fb) a prescribed third country central counterparty or its nominee to Eurex or its nominee; or”.

**Commencement Information**

**I23** Reg. 42 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendments to the Stamp Duty and Stamp Duty Reserve Tax (European Central Counterparty Limited) Regulations 2011 U.K.**

**43.**—(1) The Stamp Duty and Stamp Duty Reserve Tax (European Central Counterparty Limited) Regulations 2011(**38**) are amended as follows.

- (2) In regulation 2—
  - (a) at the appropriate place insert—
    - ““clearing member client contract” has the same meaning as in section 155 of the Companies Act 1989;
    - “default rules” and “defaulting” have the same meaning as in section 188 of the Companies Act 1989;
    - “EEA central counterparty” and “third country central counterparty” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”;
  - (b) in the definition of “nominee” after “prescribed recognised clearing house,” insert “prescribed EEA central counterparty or prescribed third country central counterparty”.
- (3) For regulation 3 substitute—

**“Prescription of EuroCCP**

**3.** EuroCCP is prescribed for the purposes of sections 116 and 117 of the Finance Act 1991.”.

- (4) In regulation 4—
  - (a) in paragraph (1) after “prescribed by” insert “paragraph (1A) or”;
  - (b) after paragraph (1) insert—
    - “(1A) The circumstances prescribed by this paragraph are where, in connection with a facility transaction or an over the counter transaction, the conditions in paragraphs (1B) and (1C) are met.

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)*

(1B) A clearing member client contract entered into by a defaulting clearing participant (“DCP”) is transferred from the DCP to a non-defaulting clearing participant in accordance with the default rules of EuroCCP.

(1C) The clearing member client contract referred to in paragraph (1B) does not represent the end transaction in the clearing of that contract either before or after the transfer.”;

- (c) in paragraph (2) after “The circumstances prescribed” insert “by this paragraph”;
- (d) at the end of paragraph (3)(f) omit “or”;
- (e) after paragraph (3)(f) insert—
  - “(fa) a prescribed EEA central counterparty or its nominee to EuroCCP or its nominee;
  - (fb) a prescribed third country central counterparty or its nominee to EuroCCP or its nominee; or”.

#### **Commencement Information**

**I24** Reg. 43 in force at 1.4.2013 in accordance with reg. 1(2)

#### **Amendments to the Stamp Duty and Stamp Duty Reserve Tax (European Multilateral Clearing Facility N.V.) Regulations 2011 U.K.**

**44.**—(1) The Stamp Duty and Stamp Duty (European Multilateral Clearing Facility N.V.) Regulations 2011(39) are amended as follows.

- (2) In regulation 2—
  - (a) at the appropriate place insert—
    - ““clearing member client contract” has the same meaning as in section 155 of the Companies Act 1989;
    - “default rules” and “defaulting” have the same meaning as in section 188 of the Companies Act 1989;
    - “EEA central counterparty” and “third country central counterparty” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”;
  - (b) in the definition of “nominee” after “prescribed recognised clearing house,” insert “prescribed EEA central counterparty or prescribed third country central counterparty”.
- (3) For regulation 3 substitute—

#### **“Prescription of EMCF**

**3.** EMCF is prescribed for the purposes of sections 116 and 117 of the Finance Act 1991.”.

- (4) In regulation 4—
  - (a) in paragraph (1) after “prescribed by” insert “paragraph (1A) or”.
  - (b) after paragraph (1) insert—
    - “(1A) The circumstances prescribed by this paragraph are where, in connection with a facility transaction or an over the counter transaction, the conditions in paragraphs (1B) and (1C) are met.

(1B) A clearing member client contract entered into by a defaulting clearing participant (“DCP”) is transferred from the DCP to a non-defaulting clearing participant in accordance with the default rules of EMCF.

(1C) The clearing member client contract referred to in paragraph (1B) does not represent the end transaction in the clearing of that contract either before or after the transfer.”;

- (c) in paragraph (2) after “The circumstances prescribed” insert “by this paragraph”;
- (d) at the end of paragraph (3)(f) omit “or”;
- (e) after paragraph (3)(f) insert—
  - “(fa) a prescribed EEA central counterparty or its nominee to EMCF or its nominee;
  - (fb) a prescribed third country central counterparty or its nominee to EMCF or its nominee; or”.

**Commencement Information**

**I25** Reg. 44 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendments to the Stamp Duty and Stamp Duty Reserve Tax (LCH.Clearnet Limited) Regulations 2011 U.K.**

**45.**—(1) The Stamp Duty and Stamp Duty Reserve Tax (LCH.Clearnet Limited) Regulations 2011(40) are amended as follows.

- (2) In regulation 2—
  - (a) at the appropriate place insert—
    - ““clearing member client contract” has the same meaning as in section 155 of the Companies Act 1989;
    - “default rules” and “defaulting” have the same meaning as in section 188 of the Companies Act 1989;
    - “EEA central counterparty” and “third country central counterparty” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”;
  - (b) in the definition of “nominee” after “prescribed recognised clearing house,” insert “prescribed EEA central counterparty or prescribed third country central counterparty”.
- (3) For regulation 3 substitute—

**“Prescription of LCH.Clearnet**

**3.** LCH.Clearnet is prescribed for the purposes of sections 116 and 117 of the Finance Act 1991.”.

- (4) In regulation 4—
  - (a) in paragraph (1) after “prescribed by” insert “paragraph (1A) or”.
  - (b) after paragraph (1) insert—
    - “(1A) The circumstances prescribed by this paragraph are where, in connection with a facility transaction or an over the counter transaction, the conditions in paragraphs (1B) and (1C) are met.

**Status:** Point in time view as at 01/04/2013.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)

(1B) A clearing member client contract entered into by a defaulting clearing participant (“DCP”) is transferred from the DCP to a non-defaulting clearing participant in accordance with the default rules of LCH.Clearnet.

(1C) The clearing member client contract referred to in paragraph (1B) does not represent the end transaction in the clearing of that contract either before or after the transfer.”;

(c) in paragraph (2) after “The circumstances prescribed” insert “by this paragraph”;

(d) at the end of paragraph (3)(f) omit “or”;

(e) after paragraph (3)(f) insert—

“(fa) a prescribed EEA central counterparty or its nominee to LCH.Clearnet or its nominee;

(fb) a prescribed third country central counterparty or its nominee to LCH.Clearnet or its nominee; or”.

#### **Commencement Information**

**I26** Reg. 45 in force at 1.4.2013 in accordance with reg. 1(2)

#### **Amendments to the Stamp Duty and Stamp Duty Reserve Tax (SIX X-CLEAR AG) Regulations 2011 U.K.**

**46.**—(1) The Stamp Duty and Stamp Duty Reserve Tax (SIX X-CLEAR AG) Regulations 2011(41) are amended as follows.

(2) In regulation 2—

(a) at the appropriate place insert—

““clearing member client contract” has the same meaning as in section 155 of the Companies Act 1989;

“default rules” and “defaulting” have the same meaning as in section 188 of the Companies Act 1989;

“EEA central counterparty” and “third country central counterparty” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”;

(b) in the definition of “nominee” after “prescribed recognised clearing house,” insert “prescribed EEA central counterparty or prescribed third country central counterparty”.

(3) For regulation 3 substitute—

#### **“Prescription of X-CLEAR**

**3.** X-CLEAR is prescribed for the purposes of sections 116 and 117 of the Finance Act 1991.”.

(4) In regulation 4—

(a) in paragraph (1) after “prescribed by” insert “paragraph (1A) or”.

(b) after paragraph (1) insert—

“(1A) The circumstances prescribed by this paragraph are where, in connection with a facility transaction or an over the counter transaction, the conditions in paragraphs (1B) and (1C) are met.

(1B) A clearing member client contract entered into by a defaulting clearing participant (“DCP”) is transferred from the DCP to a non-defaulting clearing participant in accordance with the default rules of X-CLEAR.

(1C) The clearing member client contract referred to in paragraph (1B) does not represent the end transaction in the clearing of that contract either before or after the transfer.”;

(c) in paragraph (2) after “The circumstances prescribed” insert “by this paragraph”;

(d) at the end of paragraph (3)(f) omit “or”;

(e) after paragraph (3)(f) insert—

“(fa) a prescribed EEA central counterparty or its nominee to X-CLEAR or its nominee;

(fb) a prescribed third country central counterparty or its nominee to X-CLEAR or its nominee; or”.

#### **Commencement Information**

**I27** Reg. 46 in force at 1.4.2013 in accordance with reg. 1(2)

### **Amendments to the Stamp Duty and Stamp Duty Reserve Tax (Cassa Di Compensazione E Garanzia S.p.A.) Regulations 2011 **U.K.****

**47.**—(1) The Stamp Duty and Stamp Duty Reserve Tax (Cassa Di Compensazione E Garanzia S.p.A.) Regulations 2011(42) are amended as follows.

(2) In regulation 2—

(a) at the appropriate place insert—

““clearing member client contract” has the same meaning as in section 155 of the Companies Act 1989;

“default rules” and “defaulting” have the same meaning as in section 188 of the Companies Act 1989;

“EEA central counterparty” and “third country central counterparty” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”;

(b) in the definition of “nominee” after “prescribed recognised clearing house,” insert “prescribed EEA central counterparty or prescribed third country central counterparty”.

(3) For regulation 3 substitute—

#### **“Prescription of CC&G**

**3.** CC&G is prescribed for the purposes of sections 116 and 117 of the Finance Act 1991.”.

(4) In regulation 4—

(a) in paragraph (1) after “prescribed by” insert “paragraph (1A) or”.

(b) after paragraph (1) insert—

**Status:** Point in time view as at 01/04/2013.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8. (See end of Document for details)

“(1A) The circumstances prescribed by this paragraph are where, in connection with a facility transaction or an over the counter transaction, the conditions in paragraphs (1B) and (1C) are met.

(1B) A clearing member client contract entered into by a defaulting clearing participant (“DCP”) is transferred from the DCP to a non-defaulting clearing participant in accordance with the default rules of CC&G.

(1C) The clearing member client contract referred to in paragraph (1B) does not represent the end transaction in the clearing of that contract either before or after the transfer.”;

(c) in paragraph (2) after “The circumstances prescribed” insert “by this paragraph”;

(d) at the end of paragraph (3)(f) omit “or”;

(e) after paragraph (3)(f) insert—

“(fa) a prescribed EEA central counterparty or its nominee to CC&G or its nominee;

(fb) a prescribed third country central counterparty or its nominee to CC&G or its nominee; or”.

#### Commencement Information

**I28** Reg. 47 in force at 1.4.2013 in accordance with reg. 1(2)

#### Amendments to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 **U.K.**

**48.**—(1) The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013(**43**) is amended as follows.

(2) In article 2—

(a) omit the definition of “UK recognised clearing house”;

(b) insert at the appropriate place—

““recognised clearing house” means a recognised clearing house as defined in section 285 of the 2000 Act.”.

(3) In Schedule 2—

(a) in paragraph 1(j)—

(i) for “UK recognised clearing house” substitute “recognised clearing house”;

(ii) after “section 292(2) of that Act,” insert “to refuse to vary a recognition order under section 290ZA(1) of the 2000 Act, to vary a recognition order under section 290ZA(2) of the 2000 Act.”;

(b) in paragraph 7 for “UK recognised clearing house” substitute “recognised clearing house”;

(c) in the Table—

(i) for entry 6 substitute—

<p>“6. An associate of a UK recognised investment exchange or recognised clearing house.</p>	<p>The FCA, the PRA or the Bank of England or the investment exchange or clearing house mentioned in the first column.”;</p>
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(ii) for paragraph (1) of entry 16 substitute—

“16. (1) Any member of a (1) The UK recognised investment exchange UK recognised investment or recognised clearing house specified in the exchange or recognised first column.”  
clearing house.

**Commencement Information**

**I29** Reg. 48 in force at 1.4.2013 in accordance with reg. 1(2)

**Amendment to the Payment to Treasury of Penalties (Enforcement Costs) Order 2013** **U.K.**

**49.**—(1) The Payment to Treasury of Penalties (Enforcement Costs) Order 2013(**44**) is amended as follows.

(2) In article 2 after paragraph (j) insert—

“(k) regulation 9 of the Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013.”

**Commencement Information**

**I30** Reg. 49 in force at 1.4.2013 in accordance with reg. 1(2)

(44) S.I. 2013/418.

**Status:**

Point in time view as at 01/04/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 8.