

2014 No. 3293

FINANCIAL SERVICES AND MARKETS

**The Payments to Governments and Miscellaneous Provisions
Regulations 2014**

Made - - - - *12th December 2014*

Laid before Parliament *15th December 2014*

Coming into force in accordance with regulation 1(2)

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

The Treasury, in exercise of the powers conferred by section 2(2)(b) of that Act, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Payments to Governments and Miscellaneous Provisions Regulations 2014.

(2) These Regulations come into force as follows—

(a) regulations 2, 3(1), 4, 5(1) and (3) and 6 come into force on 17th December 2014;

(b) regulation 5(2) comes into force—

(i) for the purposes of sections 73A(5) and 84(4) of the Act, on 12th March 2015; and

(ii) for all remaining purposes, on 1st January 2016;

(c) regulation 3(2) comes into force on 1st January 2016.

(3) In these Regulations, “the Act” means the Financial Services and Markets Act 2000(c).

Prospectus requirements: exempt offers, approval and FCA powers

2.—(1) In section 86(d) of the Act (exempt offers to the public), in subsections (1A)(c) and (1B)(a), after “the FCA” insert “or the competent authority of another EEA State”.

(a) S.I. 2012/1759.

(b) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c. 7). By virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51), regulations may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed in Brussels on 17th March 1993 (Cm 2183).

(c) 2000 c.8.

(d) Section 86 was substituted by S.I. 2005/1433, and amended by the Financial Services Act 2012 (c.21) section 16(1) – (3), S.I. 2012/1538 and 2013/1125; there are other amending instruments but none is relevant.

(2) In section 87A(a) of the Act (criteria for approval of prospectus by FCA), omit subsection (7A).

(3) In section 87K(b) of the Act (power to suspend or prohibit offer to the public), in subsection (1) omit “in the United Kingdom”.

(4) In section 87L(c) of the Act (power to suspend or prohibit admission to trading on a regulated market), in subsection (1) omit “situated or operating in the United Kingdom”.

Final terms

3.—(1) After section 87F of the Act insert—

“Final terms

Final terms

87FA. Final terms issued in relation to a prospectus must only contain information that relates to the securities note and must not be used to supplement the prospectus.”

(2) After section 87FA of the Act insert—

“Communication of final terms by FCA

87FB.—(1) Where the FCA in its capacity as the competent authority of the home State receives final terms issued in relation to a prospectus it must communicate those final terms as follows—

- (a) where an offer of transferable securities to the public is to be made in another EEA State, to the competent authority of that EEA State, where possible before that offer begins or as soon as practicable following the making of that offer;
- (b) where transferable securities are to be admitted to trading on a regulated market in another EEA State, to the competent authority of that EEA State, where possible before that admission occurs or as soon as practicable following the admission of those transferable securities to trading on a regulated market.

(2) The FCA must communicate all final terms in relation to a prospectus it receives in its capacity as the competent authority of the home State to ESMA.”.

Provision of information by issuers of transferable securities

4. In section 89C(d) of the Act (provision of information by issuers of transferable securities)—

(a) after subsection (2)(a), insert—

“(aa) information required by Article 6 of that directive; ”; and

(b) in subsection (4), omit paragraph (b).

Interpretation of Part 6: official listing

5.—(1) Section 103(e) of the Act (interpretation of Part 6: official listing) is amended as follows.

(2) In subsection (1), at the end of the definition of “the prospectus directive” insert, “and by Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014(f).”

(a) Section 87A was substituted by S.I. 2005/1433, and amended by the Financial Services Act 2012, S.I. 2012/1538.
(b) Section 87K was substituted by S.I. 2005/1433 and amended by the Financial Services Act 2012 c.21, section 16(1)-(3).
(c) Section 87L was substituted by S.I. 2005/1433 and amended by the Financial Services Act 2012 c.21, section 16(1)-(3).
(d) Section 89C was inserted by the Companies Act 2006, section 1266(1) and amended by the Financial Services Act 2012, section 16(1)-(3).
(e) Section 103 was substituted by S.I. 2005/1433.
(f) OJ L 153/1, 22.5.2014 p.1.

(3) After subsection (1) insert—

“(1A) The definition of “the transparency obligations directive” in subsection (1) applies for the purposes of sections 89A(1) and (2) and 89C(2)(aa) as if, at the end of the definition, there were inserted “and by Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013^(a)”.

Revocation of the Financial Services and Markets Act 2000 (Transparency) Regulations 2014

6. The Financial Services and Markets Act 2000 (Transparency) Regulations 2014^(b) are revoked.

David Evennett
Harriet Baldwin

12th December 2014

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) OJ L 295/13, 6.11.2013 p.15.
(b) S.I. 2014/1261.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in part Directive 2013/50/EU of the European Parliament and of the Council (OJ L 294/13, 6.11.2013 p.15) amending Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC (“the Transparency Directive Amending Directive”).

Regulation 2 amends sections 86, 87A, 87K(1) and 87L(1) of the Financial Services and Markets Act 2000 (c.8) (“the Act”) to make supplementary minor amendments to the UK’s transposition of Directive 2003/71/EC (OJ No L 345, 31.12.2003 p.4) on the prospectus to be published when securities are offered to the public or admitted to trading (“the Prospectus Directive”) and Directive 2010/73/EU (OJ No L 327, 11.12.2010, p.1) of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading (“the Amending Directive”).

Regulation 3(1) amends the Act to make supplementary minor amendments to the UK’s transposition of the Amending Directive.

Regulations 3(2) and 5(2) amend the Act to transpose Article 1(1) of Directive 2014/51/EU (OJ L153/1, 22.05.2014, p.1) amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (“the Omnibus II Directive”) which amends Directive 2003/71/EC. The deadline for transposition of the Omnibus II Directive is 31st March 2015 but, in accordance with Article 7(2) of that Directive, regulations 3(2) and 5(2) will apply from 1st January 2016.

Regulation 4 transposes the payments to governments reporting requirements in Article 1(5) of the Transparency Directive Amending Directive which substitutes Article 6 of the Transparency Directive 2004/109/EC (as amended).

Regulation 5 makes consequential amendments necessary for interpretative purposes as a result of the Omnibus II Directive and the Transparency Directive Amending Directive in order to provide rule making powers to the Financial Conduct Authority.

Regulation 6 revokes the Financial Services and Markets Act 2000 (Transparency) Regulations 2014 (“S.I. 2014/1261”) which modify the definition of the Transparency Obligations Directive in section 103(1) of the Act. These Regulations make provisions which supersede the provisions set out in those Regulations.

A full impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is available from Her Majesty’s Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.gov.uk and is published alongside the Regulations on www.legislation.gov.uk.

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