

## SCHEDULE 1

Regulation 29

### Amendments to primary legislation

#### Financial Services and Markets Act 2000

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

(2) In section 297<sup>M1</sup> (revoking recognition) after subsection (2C) insert—

“(2D) If it appears to the Bank of England that a recognised central counterparty has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation it may make an order revoking the recognition order for that body even though the body does not wish the order to be made.”.

(3) In section 298<sup>M2</sup> (directions and revocation: procedure)—

(a) in subsection (1) for “or (2A)” substitute “, (2A) or (2D) ”;

(b) after subsection (6) insert—

“(6A) If the appropriate regulator—

(a) gives a direction under section 296 to a recognised body because it has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation;

(b) makes a revocation order under section 297(2A)(c) because a recognised body has failed, or is likely to fail, to comply with an obligation imposed on it by or under Article 4 or 15 of the SFT regulation; or

(c) makes a revocation order under section 297(2D),

the body concerned may refer the matter to the Tribunal.”.

(4) In section 391 (publication)<sup>M3</sup> after subsection (8B) insert—

“(8C) Where a decision notice, final notice or supervisory notice relates to any decision or action under a provision of this Act in relation to the contravention of a requirement imposed by or under Article 4 or 15 of the SFT regulation, this section has effect subject to Article 26 of the SFT regulation (publication of decisions).”.

(5) In section 417<sup>M4</sup> (definitions), in subsection (1) insert at the appropriate place—

““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;”.

(6) In Schedule 17A (further provision in relation to exercise of Part 18 functions by Bank of England)—

(a) in paragraph 11 (documents the Bank may require to be provided)<sup>M5</sup> in sub-paragraph (2) (d) after “the EMIR regulation,” insert “ Article 4 or 15 of the SFT regulation, any directly applicable regulation made under those articles, ”;

(b) in paragraph 27<sup>M6</sup> (Bank's power to apply for a restitution order)—

(i) at the end of sub-paragraph (2) insert “ (subject to sub-paragraph (3)). ”;

(ii) after sub-paragraph (2) insert—

“(3) The power to make an application under section 382(1) is not exercisable by the Bank in respect of the contravention of a requirement imposed by or under Article 4 or 15 of the SFT regulation.”;

(c) in paragraph 28<sup>M7</sup> (Bank's power to require restitution)—

**Changes to legislation:** The Financial Services and Markets Act 2000 (Transparency of Securities Financing Transactions and of Reuse) Regulations 2016 is up to date with all changes known to be in force on or before 27 June 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) View outstanding changes

- (i) at the end of sub-paragraph (3) insert “ (subject to sub-paragraph (3A)). ”;
- (ii) after sub-paragraph (3) insert—

“(3A) The power conferred by section 384(5) is not exercisable by the Bank in respect of the contravention of a requirement imposed by or under Article 4 or 15 of the SFT regulation.”.

#### Marginal Citations

- M1** Section 297 was amended by paragraph 15 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2007/126](#), [S.I. 2012/916](#) and [S.I. 2013/504](#).
- M2** Section 298 was amended by section 32 and paragraph 16 of Schedule 8 to the Financial Services Act 2012 and [S.I. 2007/126](#).
- M3** Section 391 was amended by section 13 and paragraph 28 of Schedule 2 to the Financial Services Act 2010, section 24 and paragraph 30 of Schedule 9 to the [Financial Services Act 2012 \(c.21\)](#), [S.I. 2012/916](#), [S.I. 2013/1388](#), [S.I. 2013/3115](#), [S.I. 2014/2879](#), [S.I. 2016/225](#) and [S.I. 2016/680](#).
- M4** There are amendments to section 417 but none are relevant.
- M5** Paragraph 11(2)(d) was inserted by [S.I. 2013/504](#) and amended by [S.I. 2014/2879](#).
- M6** Paragraph 27 was inserted by paragraph 1 of Schedule 7 to the Financial Services Act 2012.
- M7** Paragraph 28 was inserted by paragraph 1 of Schedule 7 to the Financial Services Act 2012.

## SCHEDULE 2

Regulation 30

### Amendments to secondary legislation

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

1.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 <sup>M8</sup> is amended as follows.

(2) In article 3(1) (interpretation) for the definition of “trade repository” substitute—  
““trade repository” means—

- (a) 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, central counterparties and trade repositories or a person recognised by ESMA under Article 77 of that Regulation; or
- (b) a person registered with ESMA under Article 5 of the SFT regulation or a person recognised by ESMA under Article 19 of that Regulation;”.

(3) In article 35A (trade repositories)—

- (a) after “centrally collecting and maintaining records of” insert “ (a) ”.
- (b) at the end insert—  
“; or  
(b) securities financing transactions under the SFT regulation”.

#### Marginal Citations

- M8** [S.I. 2001/544](#), amended by [S.I. 2013/504](#); there are other amending instruments but none are relevant.

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

2.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 <sup>M9</sup> is amended as follows.

(2) In regulation 2 <sup>M10</sup> (definitions)—

- (a) in the definition of “EEA competent authority” for “or the market abuse regulation” substitute “, the market abuse regulation or the SFT regulation”;
- (b) in the definition of “single market restrictions”—
  - (i) at the end of paragraph (m) omit “and”;
  - (ii) at the end of paragraph (n) insert “ and ”;
  - (iii) after paragraph (n) insert—
    - “(o) article 18 of the SFT regulation;”;
- (c) at the appropriate place insert—

““SFTR information” means confidential information received by a regulator in the course of discharging its functions as a competent authority under the SFT regulation;”.

(3) In regulation 8 <sup>M11</sup> (application of provisions on single market information)—

- (a) at the end of paragraph (d) omit “and”;
- (b) at the end of paragraph (e) insert “ and ”;
- (c) after paragraph (e) insert—
  - “(f) SFTR information, where that information has been received from the competent authority of an EEA State other than the United Kingdom under the SFT regulation.”.

(4) In regulation 9 <sup>M12</sup> (disclosure by regulators or regulator workers to certain other persons)—

- (a) in paragraph (1) after “(3E)” insert “, (3EA) ”;
- (b) after paragraph (3E) insert—

“(3EA) Paragraph (1) does not permit disclosure of SFTR information to a person specified in the first column of Schedule 1 in contravention of Article 18 of the SFT regulation.”.

(5) In regulation 11 <sup>M13</sup> (application of provisions on the disclosure of confidential information not subject to single market restrictions) after paragraph (f) insert—

- “(fa) SFTR information where that information has been received from the competent authority of an EEA State other than the United Kingdom under the SFT regulation, unless that authority has given its express consent for disclosure that is covered by this Part;”.

### Marginal Citations

**M9** [S.I. 2001/2188](#).

**M10** [Regulation 2](#) was amended by [S.I. 2003/2066](#), [S.I. 2006/3413](#), [S.I. 2013/504](#) and [S.I. 2016/680](#). There are other amendments not relevant to these Regulations.

**M11** [Regulation 8](#) was inserted by [S.I. 2006/3413](#) and is amended by [S.I. 2016/680](#). There are other amendments not relevant to these Regulations.

**M12** [Regulation 9](#) was amended by [S.I. 2004/3379](#), [S.I. 2006/3413](#), [S.I. 2007/3255](#), [S.I. 2010/2628](#), [S.I. 2011/1613](#), [S.I. 2012/916](#), [S.I. 2013/472](#), [S.I. 2013/504](#), [S.I. 2013/1773](#), [S.I. 2013/3115](#), [S.I. 2014/3348](#), [S.I. 2015/575](#), [S.I. 2015/910](#) and [S.I. 2016/680](#).

**Changes to legislation:** The Financial Services and Markets Act 2000 (Transparency of Securities Financing Transactions and of Reuse) Regulations 2016 is up to date with all changes known to be in force on or before 27 June 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) View outstanding changes

**M13** Regulation 11 is amended by S.I. 2016/680. There are amendments to regulation 11 not relevant to these Regulations.

### Payment to Treasury of Penalties (Enforcement Costs) Order 2013

3.—(1) The Payment to Treasury of Penalties (Enforcement Costs) Order 2013 <sup>M14</sup> is amended as follows.

(2) In article 2 (enforcement powers), in paragraph (1), after sub-paragraph (l), insert—

“(m) regulation 15 of the Financial Services and Markets Act 2000 (Transparency of Securities Financing Transactions and of Reuse) Regulations 2016.”.

#### Marginal Citations

**M14** S.I. 2013/418, to which there are amendments not relevant to these Regulations.

### Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013

4.—(1) The Financial Services and Markets Act 2000 (Qualifying EU Provisions) Order 2013 <sup>M15</sup> is amended as follows.

(2) In article 2 <sup>M16</sup> (qualifying EU provisions: general)—

(a) after paragraph (4) insert—

“(4A) The SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation are specified qualifying EU provisions for the purposes of sections 1A(6)(d), 1L(2)(b) and 168(4)(k) of the Act.”;

(b) in paragraph (8), after sub-paragraph (f), insert—

“(g) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”.

(3) In article 3 <sup>M17</sup> (disciplinary measures)—

(a) in paragraph (2), after sub-paragraph (j) insert—

“(k) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”;

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

“(i) in relation to a contravention of a requirement imposed by the SFT regulation or any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation, the FCA.”.

(4) In article 4 <sup>M18</sup> (recognised investment exchanges and clearing houses)—

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

“(f) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”;

(b) in paragraph (5), after sub-paragraph (e), insert—

“(f) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”;

(c) in paragraph (7), after sub-paragraph (d), insert—

“(e) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”;

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(d) after paragraph (10) insert—

“(11) The SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation are specified qualifying EU provisions for the purposes of paragraph 14(2)(d) of Schedule 17A to the Act.”.

(5) In article 5 <sup>M19</sup> (injunctions and restitution)—

(a) after paragraph (4) insert—

“(4A) The SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation are specified qualifying EU provisions for the purposes of section 380(6)(a) of the Act.”;

(b) after paragraph (5) insert—

“(5A) The appropriate regulator for the purposes of section 380 of the Act, in relation to a contravention of the SFT regulation or any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation, is the FCA.”;

(c) in paragraph (6), after sub-paragraph (c), insert—

“(d) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”.

(6) In article 6 <sup>M20</sup> (fees)—

(a) in paragraph (2), after sub-paragraph (m), insert—

“(n) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”;

(b) in paragraph (6), after sub-paragraph (c), insert—

“(d) the SFT regulation and any directly applicable regulation made under Article 4(9) or 4(10) of the SFT regulation.”.

#### Marginal Citations

**M15** [S.I. 2013/419](#).

**M16** [Article 2](#) was amended by [S.I. 2014/2879](#) and [S.I. 2016/680](#). There are other amendments not relevant to these Regulations.

**M17** [Article 3](#) was amended by [S.I. 2013/1773](#), [S.I. 2014/2879](#), [S.I. 2014/3348](#) and [S.I. 2015/1882](#).

**M18** [Article 4](#) was amended by [S.I. 2014/2879](#) and [S.I. 2016/680](#).

**M19** [Article 5](#) was amended by [S.I. 2014/2879](#) and [S.I. 2016/680](#). There are other amendments not relevant to these Regulations.

**M20** [Article 6](#) was amended by [S.I. 2013/1773](#), [S.I. 2014/2879](#), [S.I. 2014/3348](#), [S.I. 2015/1882](#) and [S.I. 2016/680](#).

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

5. In the Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, before regulation 16 <sup>M21</sup> (records of telephone and data traffic) insert—

#### “Interpretation

**15B.** In this Part, a reference to a power of ESMA under Article 62 or 63 of the EMIR regulation is to be read as being a reference to that power as exercisable for the purposes of the SFT regulation under Article 9 of that Regulation.”.

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**Marginal Citations**

**M21** [S.I. 2013/504](#), amended by [S.I. 2013/1908](#); there are other amending instruments but none is relevant.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)