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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations address minor drafting points and omissions in:

- the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), which implemented Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (recast) (OJ No L173, 12/06/2014, p.349) (“MiFID II”) and Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (OJ No L173, 12/06/2014, p.84) and
- the Financial Services and Markets Act 2000 (Market Abuse) Regulations 2016 (S.I. 2016/680), which implemented Regulation (EU) 596/2014 of the European Parliament and of the Council on market abuse (OJ No L 173, 14.04.2014, p31).

The Regulations also contain two substantively new provisions. Firstly regulation 4(3) of the Regulations amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) to create a new exclusion from various activities specified in that Order. The exclusion applies to persons dealing in commodity derivatives or emission allowances on their own account or providing investment services relating to such instruments in an ancillary capacity. These activities are not treated as regulated activities until the appropriate regulator can determine whether or not they fall within the exemption under Article 2.1(j) MiFID II for this type of activity.

Secondly regulation 10 of the Regulations amends a transitional provision in article 16 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017 (S.I. 2017/488). Article 16 extends firms’ existing permissions to carry on activities relating to investments under the Financial Services and Markets Act 2000 (c. 8) (“FSMA”) to cover the same activities relating to structured deposits from 3rd January 2018 (when such activities are due to become regulated activities for the purposes of FSMA if carried out in relation to structured deposits) to 1st April 2018. Regulation 10 of these Regulations extends this transitional arrangement to firms authorised elsewhere in the EEA which operate in the United Kingdom under Schedule 3 to FSMA. It also allows all firms to take advantage of the transitional arrangement until 1st April 2018.

Impact assessments relating to the implementation of MiFID II and MAR are available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and are published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).