
STATUTORY INSTRUMENTS

2017 No. 701

The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017

PART 3

Position limits and position management controls in commodity derivatives

[^{F1}Cooperation with ESMA and other competent authorities in respect of interventions to restrict, reduce, or limit positions

28A.—(1) The FCA must notify ESMA and all the competent authorities of the other EEA States of the details of any limitation, restriction, or requirement it imposes under regulation 28(1).

(2) The notification under paragraph (1) must include, where relevant —

(a) the details of any requirement imposed by the FCA under regulation 27(1) or (2) (“information requirement”) that relates to the limitation, restriction or requirement imposed under regulation 28(1) including—

- (i) the identity of the person subject to the information requirement; and
- (ii) the FCA’s reasons for imposing the information requirement.

(b) if the notification concerns a limitation or restriction imposed under regulation 28(1)(a) or (b)—

- (i) the person the limitation or restriction concerns;
- (ii) the financial instrument the limitation or restriction applies to;
- (iii) any limit under the limitation or restriction on the size of a position a person can hold at all times;
- (iv) any exemption provided for in the limitation or restriction; and
- (v) the FCA’s reasons for imposing the limitation or restriction.

(c) if the notification concerns a requirement imposed under regulation 28(1)(c)—

- (i) the identity of the person subject to the requirement; and
- (ii) the FCA’s reasons for imposing the requirement.

(3) The FCA must make the notification under paragraph (1) not less than 24 hours before the limitation, restriction, or requirement concerned takes effect unless—

- (a) there are exceptional circumstances; and
- (b) it is not possible for the FCA to make the notification 24 hours before the limitation, restriction, or requirement concerned takes effect.

(4) The FCA may exercise the power under regulation 28(1) if—

- (a) the competent authority of an EEA State other than the United Kingdom notifies the FCA for the purposes of Article 79.5 (obligation to cooperate) of the markets in financial

Status: Point in time view as at 21/07/2018. This version of this provision has been superseded.
Changes to legislation: *The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017, Section 28A is up to date with all changes known to be in force on or before 30 May 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)*

instruments directive that it has taken measures in accordance with Article 69(2)(o) or (p) of the directive; and

(b) the FCA is satisfied that it is necessary to exercise the power under regulation 28(1) to achieve the objective of the measures taken by that competent authority.

(5) Where the FCA proposes to exercise its power under paragraph (4), it must notify in accordance with paragraphs (1) to (3) of this regulation.

(6) Regulation 28(2) to (5) applies to the exercise by the FCA of its power under regulation 28(1) for the purposes of paragraph (4) as they do to the exercise by the FCA of its power under regulation 28(1) generally.

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^{F2}(7) When a notification to ESMA and all the competent authorities of the other EEA States is made under paragraphs (1) or (5) of this regulation in relation to wholesale energy products (within the meaning of Article 4.1.58 of the markets in financial instruments directive), the FCA must give a copy of the notification to the Agency for the Cooperation of Energy Regulators established under Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.]]

Textual Amendments

- F1** Reg. 28A inserted (2.1.2018) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(No.2\) Regulations 2017 \(S.I. 2017/1255\)](#), regs. 2(a), **24**
- F2** Reg. 28A(7) inserted (21.7.2018) by [The Financial Services and Markets Act 2000 \(Prospectus and Markets in Financial Instruments\) Regulations 2018 \(S.I. 2018/786\)](#), regs. 1, **4**

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