

Title: Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2018 SI No: 2018/831 Other departments or agencies: None Contact for enquiries: Ronald.bohlander@hmtreasury.gov.uk	De minimis assessment
	Date: 03/04/2018
	Type of regulation: Domestic
	Date measure comes into force: 10/05/2018
Cost of Preferred (or more likely) Option	Net cost to business per year £0m

1. What is the problem under consideration? Why is government intervention necessary? (Maximum 5 lines)

Alternative Finance Investment Bonds (AFIBs) are currently not permitted to trade on multilateral trading facilities (MTFs) or organised trading facilities (OTFs) – which are self-regulated financial trading venues – based on the AFIB definition provided in Article 77A of the Financial Services and Markets Act 2000 (Regulated Activities) Order. In practice, this means that, while conventional bonds are allowed to be traded on MTFs, AFIBs such as Sukuk (Islamic finance-equivalent bonds) are not, thereby providing for a disparity in treatment between the two types of financial instruments. This is unintended from a policy perspective.

2. What are the policy objectives and the intended effects? (Maximum 5 lines)

The government has a standing commitment to provide a level playing field for Islamic finance instruments in regulation and taxation in the UK to encourage market-led development of the sector on the basis of a “no obstacles, but no special favours” policy. We therefore want to ensure that Islamic finance instruments are treated equally to the conventional instruments that they mirror.

3. What policy options have been considered, including any alternatives to regulation? Please justify preferred option (Maximum 5 lines)

Conventional bonds are already allowed to be traded on MTFs and the proposed change in our SI would ensure that AFIBs benefit from the same regulatory treatment, thereby removing an obstacle to the use of UK venues for the issue and trading of AFIBs. No alternative to changing the definition of AFIBs in regulation has been identified to address this issue.

4. Please justify why the net impacts (i.e. net costs or benefits) to business will be less than £5 million a year.

To do this, please set out the following:

- What will businesses have to do differently?

Existing MTF or OTF operators wishing to trade AFIBs on their trading venues would need to apply for a variation of their permission from the Financial Conduct Authority, which, all else being equal, would incur an application fee of £250. The usual FCA fees and levies would apply to any new applications.

- How many businesses will this impact per year?

There appears to be only one firm with an existing FCA permission to operate an MTF or OTF trading instruments within the current scope of Article 77A. In addition, we are aware that the London Stock Exchange intends to admit AFIBs to its MTF, the International Securities Market, which it would not be allowed to do without the proposed change.

- What is the direct cost/benefit per business per year?

We do not expect our proposed change to add any additional familiarisation by staff or costs of updating systems.

5. Please confirm whether your measure could be subject to call-in by BRE under the following criteria. If yes, please provide a justification of why a full impact assessment is not appropriate:

- a) Significant distributional impacts (such as significant transfers between different businesses or sectors)**

Not applicable

- b) Disproportionate burdens on small businesses**

Not applicable

- c) Significant gross effects despite small net impacts**

Not applicable

- d) Significant wider social, environmental, financial or economic impacts**

Not applicable

- e) Significant novel or contentious elements**

Not applicable

Sign-off for de minimis assessment: SCS

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

SCS of Global Financial Markets

Signed: ***Rob Ward***

Date: 26/04/2018

SCS of Better Regulation Unit

Signed: ***Johanna Cowan***

Date: 18/04/2018

Sign-off for de minimis assessment: Chief economist/Head of Analysis and Minister

I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***John Glen MP, Economic Secretary to the Treasury***

Date: 04/05/2018