

STATUTORY INSTRUMENTS

2019 No. 1361

The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019

PART 4

Transitional provisions: temporary exclusion from general prohibition

Exclusion of information society services

Exclusion of information society services from the 2001 Order

11. Despite the revocation of article 72A of the 2001 Order by these Regulations, any activity to which this regulation applies is excluded from—

- (a) Part 2 of that Order, and
- (b) articles 89A and 89B of that Order.

Commencement Information

- 11** Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#) (as amended by [S.I. 2019/1390, regs. 1\(2\), 6](#))

Application of regulation 11

12.—(1) Regulation 11 applies to an activity—

- (a) consisting of the provision of an information society service from an EEA State by a relevant incoming provider,
- (b) which is necessary—
 - (i) for the performance of a contract entered into before commencement day (a “pre-existing contract”) and carried on for the purposes of performing the contract,
 - (ii) in order to transfer property, rights or liabilities under a pre-existing contract to a person authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act (other than by virtue of the 2018 Regulations), or
 - (iii) in order to comply with a requirement imposed by or under an enactment, and
- (c) which is carried on during the period determined in accordance with regulation 25.

(2) But regulation 11 does not apply to—

- (a) any activity which a relevant incoming provider is permitted to carry on by virtue of regulation 8, 11, 28, 34 or 47 of the 2018 Regulations;
- (b) the activity of the carrying out a contract of insurance as principal, where the insurance falls within the scope of the Solvency 2 Directive;

Changes to legislation: *The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019, Cross Heading: Exclusion of information society services is up to date with all changes known to be in force on or before 22 July 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*

- (c) any activity carried on by a relevant incoming provider where—
 - (i) before commencement day, the FCA had given a notice to that provider under section 390 of the 2000 Act, as applied by regulation 11C(5)(a) of the 2002 Regulations, in relation to that activity, and
 - (ii) a determination made by that notice was in effect immediately before that day.
- (3) For the purposes of paragraph (1)(b)(i), the performance of a pre-existing contract includes the performance of an obligation under the contract which is contingent or conditional.
- (4) In this regulation—
 - “information society service” has the meaning given by section 417(1) of the 2000 Act as it had effect immediately before commencement day;
 - “the solvency 2 Directive” has the meaning given in Schedule 3 to the 2000 Act (see paragraph 3 of that Schedule) ^{M1}.

Commencement Information

I2 Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)** (as amended by **S.I. 2019/1390, regs. 1(2), 6**)

Marginal Citations

M1 Paragraph 3 was substituted by **S.I. 2015/575**.

Changes to legislation:

The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019, Cross Heading: Exclusion of information society services is up to date with all changes known to be in force on or before 22 July 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.

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Changes and effects yet to be applied to :

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