

SCHEDULE 1

Regulation 2

Equivalence determinations

Benchmarks Regulation

1.—(1) For the purposes of Article 30(2) of Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (“Regulation (EU) 2016/1011”), to determine that the legal framework and supervisory practice of an EEA state ensures that—

- (a) administrators authorised or registered in that EEA state comply with binding requirements which are equivalent to the requirements under Regulation (EU) 2016/1011, in particular taking account of whether the legal framework and supervisory practice of an EEA state ensures compliance with the International Organisation of Securities Commissions’ (“IOSCO”) principles for financial benchmarks or, where applicable, with the IOSCO principles for Oil Price Reporting Agencies (“OPRAs”); and
- (b) the binding requirements are subject to effective supervision and enforcement on an on-going basis in that EEA state.

(2) For the purposes of Article 30(3) of Regulation (EU) 2016/1011, to determine that—

- (a) binding requirements in an EEA state with respect to specific administrators or specific benchmarks or families of benchmarks are equivalent to the requirements under Regulation (EU) 2016/1011, in particular taking account of whether the legal framework and supervisory practice of an EEA state ensures compliance with—
 - (i) the IOSCO principles for financial benchmarks or,
 - (ii) where applicable, with the IOSCO principles for OPRAs; and
- (b) such specific administrators or specific benchmarks or families of benchmarks are subject to effective supervision and enforcement on an on-going basis in that EEA state.

Commencement Information

II Sch. 1 para. 1 in force at 12.3.2019, see reg. 1(3)

Capital Requirements Regulation

2. For the purpose of determining capital requirements under Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms (“CRR”), to determine whether an EEA state applies—

- (a) prudential supervisory and regulatory requirements at least equivalent to those applied in the United Kingdom, for the purposes of [F1Articles 107(3) and 391] of CRR;
- (b) supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom, for the purposes of Articles 114(7), 115(4), 116(5), 132(3) and 142(2) of CRR.

Textual Amendments

F1 Words in Sch. 1 para. 2(a) substituted (30.6.2020) by The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/628), regs. 1(2), **11(5)(a)**

Changes to legislation: The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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

Commencement Information

I2 Sch. 1 para. 2 in force at 12.3.2019, see reg. 1(3)

Credit Rating Agencies Regulation

3.—(1) For the purposes of Article 5 of Regulation (EC) 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (“CRAR”), to determine whether the legal and supervisory framework of an EEA state ensures that credit rating agencies authorised or registered in that EEA state—

- (a) comply with legally binding requirements which are equivalent to the requirements resulting from CRAR; and
- (b) are subject to effective supervision and enforcement in that EEA state.

(2) A third-country legal and supervisory framework may be considered equivalent to CRAR for the purposes of paragraph (1) only if that framework fulfils at least the following conditions—

- (a) credit rating agencies in that EEA state are subject to authorisation or registration and are subject to effective supervision and enforcement on an ongoing basis;
- (b) credit rating agencies in that EEA state are subject to legally binding rules which are equivalent to those set out in Articles 6 to 12 of and Annex I to CRAR [^{F2}, with the exception of Articles 6a, 6b, 8a, 8c and 11a, and points 3(ba), 3a and 3b of Section B of Annex I]; and
- (c) the regulatory regime in that EEA state prevents interference by the supervisory authorities and other public authorities of that EEA state with the content of credit ratings and methodologies.

Textual Amendments

F2 Words in Sch. 1 para. 3(2)(b) inserted (30.9.2020) by The Equivalence Determinations for Financial Services (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1055), regs. 1(2), **12(3)**

Commencement Information

I3 Sch. 1 para. 3 in force at 12.3.2019, see reg. 1(3)

[^{F3}Central Securities Depositories Regulation

3A.—(1) For the purposes of Article 25(9) of CSDR, to determine that an EEA state has legal and supervisory arrangements which ensure that—

- (a) CSDs authorised in that EEA state comply with legally binding requirements which are in effect equivalent to the requirements laid down in CSDR,
- (b) CSDs authorised in that EEA state are subject to effective supervision, oversight and enforcement in that EEA state on an ongoing basis, and
- (c) the legal framework of that EEA state provides for an effective equivalent system for the recognition of CSDs authorised under the legal regimes of other states.

(2) For the purposes of paragraph (1), the Treasury may also consider whether the legal and supervisory arrangements of that EEA state reflect the internationally agreed CPSS-IOSCO standards, in so far as the latter do not conflict with the requirements laid down in domestic legislation including CSDR.]

Textual Amendments

- F3** Sch. 1 para. 3A inserted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(b)**

EMIR

4.—(1) For the purposes of Article 2A of EMIR, to determine that a third-country market complies with legally binding requirements which are—

- (a) equivalent to the requirements laid down in the law of the United Kingdom which were relied on by the United Kingdom immediately before [^{F4}IP completion day] to implement Title III of [^{F5}[Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending [Directive 2002/92/EC](#) and [Directive 2011/61/EU](#)]; and
- (b) subject to effective supervision and enforcement in that EEA state on an ongoing basis for the purposes of Article 2A(1) of EMIR.

(2) For the purposes of Article 13 of EMIR, to determine that the legal, supervisory and enforcement arrangements of an EEA state—

- (a) are equivalent to the requirements laid down under Articles 4, 9, 10 and 11 of EMIR;
- (b) ensure protection of professional secrecy that is equivalent to that set out in that Regulation; and
- (c) are being effectively applied and enforced in an equitable and non-distortive manner so as to ensure effective supervision and enforcement in that EEA state.

Textual Amendments

- F4** Words in Sch. 1 para. 4(1)(a) substituted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(f)(i)**
- F5** Words in Sch. 1 para. 4(1)(a) substituted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **19(2)**

Commencement Information

- I4** Sch. 1 para. 4 in force at 12.3.2019, see reg. 1(3)

[^{F6}**4A.**—(1) For the purposes of Article 75(1) of EMIR, to determine that the legal and supervisory arrangements of an EEA state ensure that—

- (a) trade repositories authorised in that EEA state comply with legally binding requirements which are equivalent to those laid down in EMIR including, where relevant, compliance with the requirements to give direct and immediate access to the data held by the trade repository to the entities referred to in Article 81(3) of EMIR,
- (b) effective supervision and enforcement of trade repositories takes place in that EEA state on an ongoing basis, and
- (c) guarantees of professional secrecy exist, including the protection of business secrets shared with third parties by the authorities, and that they are at least equivalent to those set out in EMIR.

Changes to legislation: The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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

(2) Directions under regulation 2(1) must also specify the relevant authorities in that EEA state that are entitled to access data held by trade repositories established in the United Kingdom.

Textual Amendments

F6 Sch. 1 paras. 4A, 4B inserted (30.6.2020) by The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/628), regs. 1(2), **11(5)(c)**

4B. For the purposes of Article 76a of EMIR, and upon the submission of a request by the relevant authorities of an EEA state, the Treasury may determine whether the legal framework of an EEA state of the requesting authority fulfils all of the following conditions—

- (a) trade repositories established in that EEA state are duly authorised,
- (b) effective supervision and enforcement of trade repositories takes place in that EEA state on an ongoing basis,
- (c) guarantees of professional secrecy exist, including the protection of business secrets shared with third parties by the authorities, and they are at least equivalent to those set out in EMIR, and
- (d) trade repositories authorised in that EEA state are subject to a legally binding and enforceable obligation to grant the entities referred to in Article 81(3) of EMIR direct and immediate access to the data.]

Textual Amendments

F6 Sch. 1 paras. 4A, 4B inserted (30.6.2020) by The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/628), regs. 1(2), **11(5)(c)**

Markets in Financial Instruments

5.—(1) For the purposes of Article 23 of [^{F7}MiFIR] and paragraph 8 of Schedule 3 to MIFIR, to determine whether the legal and supervisory framework of an EEA state ensures that a trading venue or regulated market, as appropriate, authorised in that country complies with legally binding requirements which are equivalent to the requirements resulting from MAR, Title II of MiFIR, and the law of the United Kingdom which was relied on by the United Kingdom immediately before [^{F8}IP completion day] to implement Title III of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments ^{M1} and Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (“Transparency Directive”) ^{M2}, in accordance with paragraph 8(2) of Schedule 3 to Regulation (EU) 600/2014, and which are subject to effective supervision and enforcement in that EEA state.

(2) For the purposes of Article 28 of MiFIR, to determine that the legal and supervisory framework of an EEA state ensures that a trading venue authorised in that country complies with legally binding requirements which are equivalent to the requirements for the trading venues referred to in paragraph 1(a), (b) or (c) of Article 28 of MiFIR, resulting from MiFIR, the law of the United Kingdom which was relied on by the United Kingdom immediately before [^{F9}IP completion day] to implement Directive 2014/65/EU, and Regulation (EU) No 596/2014, and which are subject to effective supervision and enforcement in that EEA state, in accordance with Article 28(4) of MiFIR.

(3) A determination made under [^{F10}sub-paragraph (2)] may be limited to a category of trading venues.

Changes to legislation: The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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

Textual Amendments

- F7** Word in Sch. 1 para. 5(1) substituted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(d)**
- F8** Words in Sch. 1 para. 5(1) substituted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(f)(ii)**
- F9** Words in Sch. 1 para. 5(2) substituted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(f)(iii)**
- F10** Words in Sch. 1 para. 5(3) substituted (25.10.2019) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) \(No. 3\) Regulations 2019 \(S.I. 2019/1390\)](#), regs. 1(3), **7(b)**

Commencement Information

- I5** Sch. 1 para. 5 in force at 12.3.2019, see reg. 1(3)

Marginal Citations

- M1** OJ L 173, 12.6.2014, p. 349–496, as amended.
- M2** OJ L390, 31.12.2004, p. 38, as amended.

6. For the purposes of Article 33 of MiFIR, to determine that the legal, supervisory and enforcement arrangements of an EEA state—

- (a) are equivalent to the requirements resulting from Articles 28 and 29 of MiFIR;
- (b) ensure protection of professional secrecy that is equivalent to that set out in MiFIR;
- (c) are being effectively applied and enforced in an equitable and non-distortive manner so as to ensure effective supervision and enforcement in that EEA state.

Commencement Information

- I6** Sch. 1 para. 6 in force at 12.3.2019, see reg. 1(3)

7. For the purposes of Article 38(3) of MiFIR, to determine that the legal and supervisory framework of an EEA state ensures that a trading venue and CCP authorised in that EEA state complies with legally binding requirements which are equivalent to the requirements referred to in the second subparagraph of paragraph 3 of Article 38 of MiFIR and which are subject to effective supervision and enforcement in that EEA state.

Commencement Information

- I7** Sch. 1 para. 7 in force at 12.3.2019, see reg. 1(3)

^[F11]8.—(1) For the purpose of Article 47(1) of MiFIR, to determine that the legal and supervisory arrangements of an EEA state ensure that firms authorised in that EEA state comply with legally binding prudential and business conduct requirements which have equivalent effect to the requirements set out in MiFIR, in the law of the United Kingdom which was relied on by the United Kingdom immediately before IP completion day to implement [Directive 2013/36/EU](#) and [Directive 2014/65/EU](#), and in the implementing measures adopted under MiFIR and under those Directives and that the legal framework of that EEA state provides for an effective equivalent system for the recognition of investment firms authorised under third-country legal regimes.

(2) In sub-paragraph (1), the prudential and business conduct framework of an EEA state may be considered to have equivalent effect where that framework fulfils all the following conditions—

Changes to legislation: *The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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*

- (a) firms providing investment services and activities in that state are subject to authorisation and to effective supervision and enforcement on an ongoing basis,
- (b) firms providing investment services and activities in that state are subject to sufficient capital requirements and appropriate requirements applicable to shareholders and members of their management body,
- (c) firms providing investment services and activities are subject to adequate organisational requirements in the area of internal control functions,
- (d) firms providing investment services and activities are subject to appropriate conduct of business rules, and
- (e) it ensures market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.]

Textual Amendments

F11 Sch. 1 para. 8 substituted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(e)**

[^{F12}Prospectus Regulation] and Transparency Directive

Textual Amendments

F12 Words in Sch. 1 para. 9 heading substituted (6.9.2019) by [The Prospectus \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1234\)](#), regs. 1(2), **27(2)(a)** (with savings in [S.I. 2019/680](#), reg. 11 (as amended by [S.I. 2019/1234](#), reg. 29(2)))

9.—(1) For the purposes of rules made by the Financial Conduct Authority that are “prospectus rules” as defined by section 73A(4) of FSMA (“prospectus rules), to determine that a third country ensures the equivalence of prospectuses drawn up in that country with [^{F13}Regulation (EU) No 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing [Directive 2003/71/EC](#) (“the Prospectus Regulation”)].

(2) Such equivalence may arise by reason of—

- (a) the third country's national law, or
- (b) practices and procedures based on international standards set by international organisations including the disclosure standards of IOSCO.

(3) For the purposes of—

- (a) rules made by the FCA that are prospectus rules or “transparency rules” as defined by section 89A(5) of FSMA, and

[^{F14}(b) Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing [Commission Regulation \(EC\) No 809/2004](#).]

(4) The determination in paragraph (3) may only be made if the financial statements drawn up in accordance with Generally Accepted Accounting Principles of the third country enable investors to make a similar assessment of the assets and liabilities, financial position, profit and losses and prospects of the issuer as financial statements drawn up in accordance with UK-adopted international

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accounting standards, with the result that investors are likely to make the same decisions about the acquisition, retention or disposal of securities of an issuer.

^{F15}(5)

^{F15}(6)

(7) For the purposes of rules made by the FCA that are “transparency rules” as defined by section 89A(5) of FSMA, to determine that, by reason of its domestic law, regulations, administrative provisions, or of the practices or procedures based on the international standards set by international organisations, the third country where the issuer is registered ensures the equivalence of the information requirements provided for in the law of the United Kingdom which was relied on by the United Kingdom immediately before [^{F16}IP completion day] to implement Directive 2004/109/EC.

[^{F17}(8) For the purpose of Article 29(3) of the Prospectus Regulation, to determine that the information requirements imposed by the national law of a third country are equivalent to the requirements under the Prospectus Regulation.]

Textual Amendments

F13 Words in Sch. 1 para. 9(1) substituted (6.9.2019) by [The Prospectus \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1234\)](#), regs. 1(2), **27(2)(b)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1234, reg. 29(2)))

F14 Sch. 1 para. 9(3)(b) substituted (6.9.2019) by [The Prospectus \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1234\)](#), regs. 1(2), **27(2)(c)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1234, reg. 29(2)))

F15 Sch. 1 para. 9(5)(6) omitted (6.9.2019) by virtue of [The Prospectus \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1234\)](#), regs. 1(2), **27(2)(d)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1234, reg. 29(2)))

F16 Words in Sch. 1 para. 9(7) substituted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(f)(iv)**

F17 Sch. 1 para. 9(8) inserted (6.9.2019) by [The Prospectus \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1234\)](#), regs. 1(2), **27(2)(e)** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1234, reg. 29(2)))

Commencement Information

I8 Sch. 1 para. 9 in force at 12.3.2019, see reg. 1(3)

Securities Financing Transactions Regulation

10.—(1) For the purpose of Article 19(1) of SFTR, to determine that the legal and supervisory arrangements of an EEA state ensure that—

- (a) trade repositories authorised in that EEA state comply with legally binding requirements which are equivalent to those laid down in SFTR;
- (b) effective supervision of trade repositories and effective enforcement of their obligations takes place in that EEA state on an ongoing basis;
- (c) guarantees of professional secrecy exist, including the protection of business secrets shared with third parties by the authorities, and those guarantees are at least equivalent to those laid down in SFTR; and
- (d) trade repositories authorised in that EEA state are subject to a legally binding and enforceable obligation to give direct and immediate access to the data to the entities referred to in Article 12(2) of SFTR.

Changes to legislation: The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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

(2) A determination made under sub-paragraph (1) must identify the third-country authorities that are entitled to access the data on securities financing transactions held in trade repositories established in the United Kingdom.

(3) For the purpose of Article 21(1) of SFTR, to determine that the legal, supervisory and enforcement arrangements of an EEA state—

- (a) are equivalent to the requirements laid down in Article 4 of SFTR;
- (b) ensure protection of professional secrecy equivalent to that laid down in that Regulation;
- (c) are being effectively applied and enforced in an equitable and non-distortive manner in order to ensure effective supervision and enforcement in that EEA state; and
- (d) ensure that the entities referred to in Article 12(2) of SFTR have either—
 - (i) direct access to the details on data on securities financing transactions pursuant to Article 19(1) of SFTR; or
 - (ii) indirect access to the details on securities financing transactions pursuant to Article 20 of SFTR.

Commencement Information

I9 Sch. 1 para. 10 in force at 12.3.2019, see reg. 1(3)

Short Selling Regulation

11. For the purpose of Article 17 of Regulation (EU) 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps, to determine that the legal and supervisory framework of an EEA state satisfies the conditions in Article 17(2) of the Short Selling Regulation.

Commencement Information

I10 Sch. 1 para. 11 in force at 12.3.2019, see reg. 1(3)

Solvency 2 Regulation

12.—(1) For the purposes of Articles 378, 379 and 380 of the Solvency 2 Regulation, to determine that—

- (a) the solvency regime of an EEA state that applies to reinsurance activities of undertakings with the head office in that EEA state is equivalent to that laid down in the relevant UK law,
- (b) the supervisory regime of an EEA state is equivalent to that laid down in the relevant UK law, and
- (c) the prudential regime of an EEA state is equivalent to that laid down in the relevant UK law.

(2) The Treasury may only make a determination for the purposes of sub-paragraph (1) in relation to a country if it is satisfied that—

- (a) in the case of a determination under sub-paragraph (1)(a), the criteria set out in Article 378 of the Solvency 2 Regulation are fulfilled;
- (b) in the case of a determination under sub-paragraph (1)(b), the criteria set out in Article 379 of the Solvency 2 Regulation are fulfilled; and
- (c) in the case of a determination under sub-paragraph (1)(c), the criteria set out in Article 380 of the Solvency 2 Regulation are fulfilled.

Changes to legislation: *The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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*

- (3) The Treasury may also determine that—
- (a) the solvency regime of a third country applied to reinsurance activities of undertakings with their head office in that third country is temporarily equivalent to that laid down in the relevant UK law if the criteria set out in Article 378A(5) of the Solvency 2 Regulation are fulfilled;
 - (b) the solvency regime of a third country that applies to undertakings with their head office in that third country is provisionally equivalent to that laid down in the relevant UK law if the criteria set out in Article 379A(4) of the Solvency 2 Regulation are fulfilled;
 - (c) the prudential regime of a third country that applies to undertakings the parent undertaking of which has its head office outside the United Kingdom is temporarily equivalent to that laid down in the relevant UK law if the criteria set out in Article 380A(4) of the Solvency 2 Regulation are fulfilled.
- (4) A determination of equivalence under paragraph (3) shall have effect for the period specified in Articles 378A(7), 379A(6) and (8) and 380A(6) and (7) of the Solvency 2 Regulation.
- (5) For the purposes of this paragraph—
- (a) the “relevant UK law” means United Kingdom enactments or rules which implemented the following provisions of the Solvency 2 Directive (within the meaning of Article 1(61) of the Solvency 2 Regulation)—
 - (i) in the case of a determination under paragraph (2)(a) or (3)(a), Title I of the Solvency 2 Directive,
 - (ii) in the case of a determination under paragraph (2)(b) or (3)(b), Title I, Chapter IV of the Solvency 2 Directive,
 - (iii) in the case of a determination under paragraph (2)(c) or (3)(c), Title III of the Solvency 2 Directive;
 - (b) the “Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance ^{M3} as it had effect immediately before [^{F18}IP completion day];
 - (c) the “Solvency 2 Regulation” means Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive [2009/138/EC](#) of the European Parliament and of the Council on the taking-up and pursuit of the business of insurance and reinsurance.

Textual Amendments

F18 Words in Sch. 1 para. 12(5)(b) substituted (30.6.2020) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/628\)](#), regs. 1(2), **11(5)(f)(v)**

Commencement Information

I11 Sch. 1 para. 12 in force at 12.3.2019, see reg. 1(3)

Marginal Citations

M3 OJ L 335, 17.12.2009, p. 1, as amended.

Changes to legislation: The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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

PROSPECTIVE

SCHEDULE 2

Regulation 7

Commission Tertiary Legislation

EMIR

1. In Article 1 of the following Commission Implementing Decisions, for “regulated markets as defined in point (14) of Article 4(1) of Directive 2004/39/EC” substitute “UK regulated markets as defined in Article 2(1)(13A) of Regulation (EU) 600/2014 of 15 May 2014 on markets in financial instruments”

- (a) Commission Implementing Decision (EU) 2016/1073 of 1 July 2016 on the equivalence of designated contract markets in the United States of America in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council;
- (b) Commission Implementing Decision (EU) 2016/2270 of 15 December 2016 on the equivalence of approved exchanges in Singapore in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council;
- (c) Commission Implementing Decision (EU) 2016/2271 of 15 December 2016 on the equivalence of financial instrument exchanges and commodity exchanges in Japan in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council;
- (d) Commission Implementing Decision (EU) 2016/2272 of 15 December 2016 on the equivalence of financial markets in Australia in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council;
- (e) Commission Implementing Decision (EU) 2016/2273 of 15 December 2016 on the equivalence of recognised exchanges in Canada in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council.

Commencement Information

I12 Sch. 2 para. 1 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Markets in financial instruments

2.—(1) In Commission Implementing Decision (EU) 2017/2320 of 13 December 2017 on the equivalence of the legal and supervisory framework of the United States of America for national securities exchanges and alternative trading systems in accordance with Directive 2014/65/EU of the European Parliament and of the Council ^{M4}—

- (a) in Article 1, for the words from “considered” to the end, substitute—
 - “considered—
 - (a) to be equivalent to the requirements for UK regulated markets as defined in Regulation (EU) 600/2014, resulting from—
 - (i) Regulation (EU) 596/2014;
 - (ii) Title II of Regulation (EU) 600/2014; and

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- (iii) the law of the United Kingdom which was relied on by the United Kingdom immediately before [^{F19}IP completion day] to implement Title III of Directive 2014/65/EU and Directive 2004/109/EC, and
- (b) to be subject to effective supervision and enforcement.”;
- (b) in the Annex to the Decision, for “regulated markets as defined in Directive 2014/65/EU”, both times it appears, substitute “ UK regulated markets as defined in Regulation (EU) 600/2014 ”.
- (2) In the Commission Implementing Decisions listed in sub-paragraph (3), in Article 1, for the words from “considered” to the end, substitute—
- “considered—
- (a) to be equivalent to the requirements for UK regulated markets as defined in Regulation (EU) 600/2014, resulting from—
- (i) Regulation (EU) 596/2014;
- (ii) Title II of Regulation (EU) 600/2014; and
- (iii) the law of the United Kingdom which was relied on by the United Kingdom immediately before [^{F20}IP completion day] to implement Title III of Directive 2014/65/EU and Directive 2004/109/EC and
- (b) to be subject to effective supervision and enforcement.”;
- (3) The Commission Implementing Decisions listed in this sub-paragraph are—
- (a) Commission Implementing Decision (EU) 2017/2318 of 13 December 2017 on the equivalence of the legal and supervisory framework in Australia applicable to financial markets in accordance with Directive 2014/65/EU of the European Parliament and of the Council;
- (b) Commission Implementing Decision (EU) 2017/2319 of 13 December 2017 on the equivalence of the legal and supervisory framework applicable to recognised exchange companies in Hong Kong Special Administrative Region in accordance with Directive 2014/65/EU of the European Parliament and of the Council.

Textual Amendments

- F19** Words in Sch. 2 para. 2(1)(a) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 29\(a\)](#)
- F20** Words in Sch. 2 para. 2(2) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 29\(b\)](#)

Commencement Information

- I13** Sch. 2 para. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

- M4** OJ L 331, 14.12.2017, p. 94.

3. In Commission Implementing Decision (EU) 2017/2238 of 5 December 2017 on the equivalence of the legal and supervisory framework applicable to designated contract markets and swap execution facilities in the United States of America in accordance with Regulation (EU) No 600/2014 of the European Parliament and of the Council—

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- (a) in Article 1, for “Directive [2014/65/EC](#)” substitute “ that Regulation ”);
- (b) in the Annex to the decision, for “Directive 2014/65/EU” both times it occurs, substitute “ Regulation (EU) 600/2014 ”.

Commencement Information

- I14** Sch. 2 para. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

4. In Commission Implementing Decision (EU) 2018/2047 of 20 December 2018 on the equivalence of the legal and supervisory framework applicable to stock exchanges in Switzerland in accordance with Directive 2014/65/EU of the European Parliament and of the Council, in Article 1—

- (a) for “Directive [2014/65/EC](#)” substitute “ that Regulation ”;
- (b) for “Directive [2004/39/EC](#)” substitute “ the law of the United Kingdom which was relied on by the United Kingdom immediately before [^{F21}IP completion day] to implement Directive [2004/39/EC](#) ”.

Textual Amendments

- F21** Words in Sch. 2 para. 4(b) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), [regs. 1, 3](#), [Sch. para. 29\(c\)](#)

Commencement Information

- I15** Sch. 2 para. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Capital Requirements Regulation

5. In Commission Implementing Decision 2014/908 of 12 December 2014 on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council, in Articles 1, 2, 3, 4 and 5, for “Union” each time it occurs, substitute “ United Kingdom ”.

Commencement Information

- I16** Sch. 2 para. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Solvency 2

6. In Commission Delegated Decision (EU) 2015/1602 of 5 June 2015 on the equivalence of the solvency and prudential regime for insurance and reinsurance undertakings in force in Switzerland based on Articles 172(2), 227(4) and 260(3) of Directive [2009/138/EC](#) of the European Parliament and of the Council—

- (a) in Articles 1, 2 and 3, after “requirements of”, each time it occurs, insert “ United Kingdom enactments and rules which implemented ”;
- (b) after Article 3, insert—

Changes to legislation: The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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

“Article 3A

In this decision, references to the United Kingdom enactments and rules which implemented provisions in Directive 2009/138/EC are to the law of the United Kingdom or any part of the United Kingdom which was relied on immediately before [^{F22}IP completion day] to implement Directive 2009/138/EC and its implementing measures.

^{F23}
...

^{F23}(a)

^{F23}(b)”

Textual Amendments

F22 Words in Sch. 2 para. 6(b) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, **Sch. para. 29(d)**

F23 Words in Sch. 2 para. 6(b) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(3), **19(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I17 Sch. 2 para. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

7. In Commission Delegated Decision (EU) 2016/309 of 26 November 2015 on the equivalence of the supervisory regime for insurance and reinsurance undertakings in force in Bermuda to the regime laid down in Directive 2009/138/EC of the European Parliament and of the Council and amending Commission Delegated Decision (EU) 2015/2290—

- (a) in Articles 1, 2 and 3, after “laid down in”, each time it occurs, insert “ United Kingdom enactments and rules which implemented ”;
- (b) after Article 3, insert—

“Article 3A

In this decision, references to the United Kingdom enactments and rules which implemented provisions in Directive 2009/138/EC are to the law of the United Kingdom or any part of the United Kingdom which was relied on immediately before [^{F24}IP completion day] to implement Directive 2009/138/EC and its implementing measures.

^{F25}
...

^{F25}(a)

^{F25}(b)”

Changes to legislation: The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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

Textual Amendments

- F24** Words in Sch. 2 para. 7(b) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 29\(e\)](#)
- F25** Words in Sch. 2 para. 7(b) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(3), [19\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I18** Sch. 2 para. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

8. In Commission Delegated Decision (EU) 2016/310 of 26 November 2015 on the equivalence of the solvency regime for insurance and reinsurance undertakings in force in Japan to the regime laid down in Directive [2009/138/EC](#) of the European Parliament and of the Council—

- (a) in Articles 1 and 2, after “laid down in”, each time it occurs, insert “ United Kingdom enactments and rules which implemented ”;
- (b) after Article 2, insert—

“Article 2A

In this decision, references to the United Kingdom enactments and rules which implemented provisions in Directive [2009/138/EC](#) are to the law of the United Kingdom or any part of the United Kingdom which was relied on immediately before [^{F26}IP completion day] to implement Directive [2009/138/EC](#) and its implementing measures.

^{F27} ...
^{F27}(a)
^{F27}(b)”

Textual Amendments

- F26** Words in Sch. 2 para. 8(b) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 29\(f\)](#)
- F27** Words in Sch. 2 para. 8(b) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(3), [19\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I19** Sch. 2 para. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

9. In Commission Delegated Decision (EU) 2015/2290 of 12 June 2015 on the provisional equivalence of the solvency regimes in force in Australia, Bermuda, Brazil, Canada, Mexico and the United States and applicable to insurance and reinsurance undertakings with head offices in those countries—

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- (a) in Article 1, after “laid down in”, each time it occurs, insert “United Kingdom enactments and rules which implemented”;
- (b) after Article 1, insert—

“Article 1A

In Article 1, references to the United Kingdom enactments and rules which implemented provisions in Directive 2009/138/EC are to the law of the United Kingdom or any part of the United Kingdom which was relied on immediately before [^{F28}IP completion day] to implement Directive 2009/138/EC and its implementing measures. ^{F29} ...

- ^{F29}(a)
- ^{F29}(b)

Textual Amendments

- F28** Words in Sch. 2 para. 9(b) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 29\(g\)](#)
- F29** Words in Sch. 2 para. 9(b) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(3), [19\(3\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I20** Sch. 2 para. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Prospectus Directive

10. In Commission Regulation (EC) No 1289/2008 of 12 December 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements, omit Article 2.

Commencement Information

- I21** Sch. 2 para. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Changes to legislation:

The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 is up to date with all changes known to be in force on or before 30 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.

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Changes and effects yet to be applied to :

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