
STATUTORY INSTRUMENTS

2019 No. 660

The Securitisation (Amendment) (EU Exit) Regulations 2019

PART 8

Amendment of subordinate legislation

The Financial Services and Markets Act (Regulated Activities) Order 2001

57. In article 3 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽¹⁾ (interpretation), in the definition of “securitisation repository”⁽²⁾, in paragraph (c) for “ESMA” substitute “FCA (as the competent authority)”.

Amendment of the Securitisation Regulations 2018

58.—(1) The Securitisation Regulations 2018⁽³⁾ are amended as follows.

(2) In regulation 3 (EU regulations)—

- (a) for the heading substitute “References to technical standards”; and
- (b) for “directly applicable EU regulation made under that Article” substitute “technical standards originally made or adopted under that Article which are retained direct EU legislation and any technical standards made under that Article on or after exit day”.

(3) In regulation 4 (designation of competent authorities)—

- (a) in paragraph (1)(c), for “and not covered by the European Union legislative acts referred to in paragraph 3 of Article 29 of the EU Securitisation Regulation 2017” substitute “, other than originators, original lenders and SSPEs to which Article 29(3A) of the EU Securitisation Regulation 2017⁽⁴⁾ applies,”; and
- (b) in paragraph (2), for “and not covered by the European Union legislative acts referred to in Article 29(3) of the EU Securitisation Regulation 2017” substitute “, other than originators, original lenders and SSPEs to which Article 29(3A) of the EU Securitisation Regulation 2017 applies,”.

(4) In regulation 9 (statements of policy) for paragraph (2) substitute—

“(2) The policy must require the appropriate regulator, in determining the amount of a penalty to be imposed on any person, to take account of all relevant circumstances including, where appropriate—

- (a) the impact, gravity and duration of the contravention for which the penalty is to be imposed;
- (b) the extent of the person’s responsibility for the contravention;
- (c) the financial position of the person;

(1) [S.I. 2001/544](#).

(2) The definition was inserted by [S.I. 2018/1288](#).

(3) [S.I. 2018/1288](#).

(4) Paragraph (3A) of Article 29 is substituted by regulation 28 of these Regulations.

- (d) the amount of profit gained or of loss avoided as a result of the contravention, so far as this can be determined;
- (e) the amount of loss sustained as a result of the contravention by any other person, so far as this can be determined;
- (f) the level of co-operation by the person with the appropriate regulator (without prejudice to the need to ensure that the person accounts for or makes good any profit gained or loss avoided as a result of the contravention);
- (g) any previous contravention by the person for which a penalty was, or could have been, imposed under regulation 8.”.

(5) In regulation 25 (transparency requirements for originators, sponsors and SPEs of private securitisations – power of direction), in paragraph (2) for the words from “where no prospectus has to be drawn up” to the end substitute “for which section 85 of the Act (prohibition of dealing etc in transferable securities without approved prospectus) and rules made by the FCA for the purposes of Part 6 of the Act (official listing) do not require an approved prospectus to be drawn up”.

(6) In regulation 29 (review) omit paragraph (4).

(7) In Schedule 2 (minor and consequential amendments to primary and secondary legislation) omit paragraph 1.