
STATUTORY INSTRUMENTS

2019 No. 710

**The Financial Services (Miscellaneous)
(Amendment) (EU Exit) Regulations 2019**

PART 3

Amendment and revocation of secondary legislation

The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

16.—(1) The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018⁽¹⁾ are amended as follows.

(2) In regulation 4—

(a) in paragraph (3)(c), after “regulation)” insert “that must be physically settled”;

(b) in paragraph (4)—

(i) in sub-paragraph (a)(i) and (ii), for “paragraph 6”, each time it occurs, substitute “paragraphs 6 and 7”;

(ii) for sub-paragraph (b), substitute—

“(b) in Article 6—

(i) in paragraphs 1 and 2, for “Section C(6) of Annex 1 to [Directive 2014/65/EU](#)” substitute “paragraph 6 of Part 1 of Schedule 2 to this Order”;

(ii) in paragraph 3, for “Section C(6) of Annex 1 to [Directive 2014/65/EU](#)” substitute “paragraphs 6 and 7 of Schedule 2 to this Order”;

(iii) in sub-paragraph (c), omit paragraph (iv);

(c) in paragraph (8), in new Schedule 3, in paragraph 6, for “paragraph 1(e)”, substitute “paragraph 1(d)”.

(3) In regulation 6, for paragraph (b), substitute—

“(b) in paragraph (3)(b)—

(i) for “directly applicable EU regulation”, both times it occurs, substitute “retained EU law”;

(ii) in paragraph (i), at the beginning insert “any UK legislation which was relied on by the United Kingdom before exit day to implement”;

(4) In regulation 7(1)(s), in the new definition of “multilateral trading facility”—

(a) after “UK multilateral trading facility” insert “or “UK MTF””;

(b) after “EU multilateral trading facility” insert “or “EU MTF””.

(5) In regulation 8(13)(a), omit “(“a more restrictive position limit”)

- (6) In regulation 15—
- (a) after paragraph (3), insert—
 - “(3A) In the heading to regulation 47, omit “the markets in financial instruments directive or”.”;
 - (b) in paragraph (5), in new regulation 47B(3)(b), for “standards” substitute “obligations”.
- (7) In regulation 18—
- (a) in paragraph (1)(n), in the new definition of “senior management”, after “a market operator” insert “(as defined in Article 2(1)(10) of the markets in financial instruments regulation)”;
 - (b) after paragraph (2), insert—
 - “(3) In regulation 4—
 - (a) for the heading, substitute “Retained EU law”;
 - (b) in paragraph (1), for “directly applicable EU regulation” substitute “retained EU law”;
 - (c) in paragraph (2)(a), for “a directly applicable EU regulation” substitute “any retained EU law”.”.
- (8) In regulation 19—
- (a) for paragraph (6), substitute—
 - “(6) In regulation 9(1)—
 - (a) in sub-paragraph (b), for “European Union” substitute “United Kingdom”;
 - (b) in sub-paragraph (c)(iii), for “directly applicable EU regulations” substitute “retained EU law”.”;
 - (b) in paragraph (8), after sub-paragraph (b), insert—
 - “(c) in paragraph (iv), for “a directly applicable EU regulation” substitute “any retained EU law”.”.
- (9) For regulation 23, substitute—

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- 23.**—(1) In regulation 45(b), for “directly applicable EU regulations” substitute “retained EU law”.
- (2) Omit regulation 46.
 - (3) In regulation 48, omit paragraph (2).”.
- (10) In regulation 25—
- (a) in paragraph (3), in the substituted paragraph 2D(a), for “this Regulation as it applies in the EEA” substitute “Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments(2) as it has effect in EU law”;
 - (b) in paragraph (4), omit sub-paragraph (c);
 - (c) in paragraph (6)(a), for “Debt Management Office” substitute “Treasury”.
- (11) In regulation 27—
- (a) in paragraph (2)(d), in the new paragraph 3D(a)(ii) for “this Regulation as it has effect in the European Union” substitute “[Regulation \(EU\) No 600/2014](#) of the European

(2) OJ L123, 12.6.1014, p.84.

Parliament and of the Council on markets in financial instruments as it has effect in EU law”;

(b) in paragraph (5)(c), in the new paragraph 2B(a)(ii), for “Article 13” substitute “Article 16”.

(12) In regulation 28(10)(b)(i), before “authorised” insert “is”.

(13) In regulation 29(3)—

(a) in sub-paragraph (b), after “UK” insert “, Gibraltar”;

(b) in sub-paragraph (g)(i), after sub-paragraph (bb), insert—

“(cc) in point (f), for “Member States” substitute “the United Kingdom;”;

(c) after sub-paragraph (h), insert—

“(i) after paragraph 10, insert—

“11. For the purposes of paragraph 2—

(a) ‘Gibraltar trading venue’ means a Gibraltar regulated market, a Gibraltar multilateral trading facility or a Gibraltar organised trading facility;

(b) for the purposes of subparagraph (a)—

(i) ‘Gibraltar regulated market’ means a regulated market which is authorised and functions regularly and in accordance with Part 3 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar (as amended from time to time)(3);

(ii) ‘Gibraltar multilateral trading facility’ means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar (as amended from time to time);

(iii) ‘Gibraltar organised trading facility’ means a multilateral system—

(aa) which is not a regulated market or an MTF;

(bb) in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract, in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar (as amended from time to time).”

(14) In regulation 30(7), in paragraph 2 of the substituted Article 34, for “this Article as it applies in the European Union” substitute “Article 34 of [Regulation \(EU\) No 600/2014](#) of the European Parliament and of the Council on markets in financial instruments as it has effect in EU law”.

(15) In regulation 33—

- (a) in paragraph (1)—
- (i) in sub-paragraph (b), for paragraph (ii), substitute—
 - “(ii) in point (a), insert at the end “before exit day which has not been revoked before exit day, or paragraph 2A applies;””;
 - (ii) after sub-paragraph (b), insert—
 - “(ba) after paragraph 2, insert—
 - “**2A.** This paragraph applies if, after exit day, the Treasury has adopted a decision in accordance with—
 - (a) Article 47(1) of this Regulation, or
 - (b) regulation 2 of the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019.””;
- (b) in paragraph (2)(b)(ii), after “this Regulation”, insert “, the first time it occurs”.
- (16) In regulation 34, in new Article 50B(3)(b), for “standards” substitute “obligations”.
- (17) In regulation 37, in new Schedule 3, in paragraph 8(1)—
- (a) after “regulated market” insert “or other trading venue”;
 - (b) for “requirements resulting” substitute “requirements applicable to that trading venue which result”;
 - (c) for “2004/65/EU” substitute “2014/65/EU”.
- (18) In regulation 39—
- (a) in paragraph (2)(d), in the substituted paragraph 5(a), for “this Regulation as it applies in the EEA” substitute “[Commission Delegated Regulation \(EU\) 2017/565](#) supplementing [Directive 2014/65/EU](#) of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that directive⁽⁴⁾ as it has effect in EU law”;
 - (b) in paragraph (5)(b), for “paragraph 1(c)” substitute “paragraph 1(d)”;
 - (c) in paragraph (6)(b) and (c), for “paragraph 6”, both times it occurs, substitute “paragraphs 6 and 7”.
 - (d) in paragraph (7)—
 - (i) in sub-paragraph (b), for “paragraphs, 1, 2 and 3” substitute “paragraphs 1 and 2”;
 - (ii) after sub-paragraph (b), insert—
 - “(c) in paragraph 3, for “Section C(6) of Annex 1 to [Directive 2014/65/EU](#)” substitute “paragraphs 6 and 7 of Part 1 of Schedule 2 to the Regulated Activities Order”.”
- (19) In regulation 41(3)(b), for ““direct electronic access” substitute ““direct electronic access””.

(4) OJ L87, 31.3.2017, p.1.