

2020 No. 56

EXITING THE EUROPEAN UNION

FINANCIAL SERVICES AND MARKETS

**The Financial Services (Consequential Amendments)
Regulations 2020**

Made - - - - 27th January 2020

Laid before Parliament 28th January 2020

Coming into force in accordance with regulation 1

The Treasury, in exercise of the powers conferred by section 41(1) and (5) of, and paragraph 1(2) of Schedule 5 to, the European Union (Withdrawal Agreement) Act 2020(a), make the following Regulations.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Financial Services (Consequential Amendments) Regulations 2020 and come into force immediately before exit day.

(2) Paragraph 1(1) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 does not apply to these Regulations.

PART 2

Amendment of secondary legislation

The Electronic Money Regulations 2011

2. Regulation 63 (prohibition on issuing electronic money by persons other than electronic money issuers) of the Electronic Money Regulations 2011(b) is amended as follows—

- (a) in sub-paragraph (1)(da), before “a credit institution” insert “after IP completion day,”;
- (b) in paragraphs (3), (4) and (5), for the words “exit day”, wherever they occur, substitute “IP completion day”.

(a) 2020 c. 1.

(b) S.I. 2011/99, as amended by S.I. 2019/1212. Regulation 63 is amended prospectively by S.I. 2018/1201.

The Alternative Investment Fund Managers Regulations 2013

3. In the following provisions of the Alternative Investment Fund Managers Regulations 2013(a), for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 78A (temporary marketing permissions: AIFs etc);
- (b) regulation 78B (deemed authorisation);
- (c) regulation 78C (period during which regulation 78A(1) is to apply).

The Payment Services Regulations 2017

4. Regulation 138 (prohibition on provision of payment services by persons other than payment service providers) of the Payment Services Regulations 2017(b) is amended as follows—

- (a) in sub-paragraph (1)(ea), before “a credit institution” insert “after IP completion day,”;
- (b) in sub-paragraph (1)(fa), before “a relevant electronic money institution” insert “after IP completion day,”;
- (c) in paragraphs (3) to (7), for the words “exit day”, wherever they occur, substitute “IP completion day”.

The Data Reporting Services Regulations 2017

5. In the following provisions of the Data Reporting Services Regulations 2017(c), for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 12A (deemed authorisation to provide a data reporting service);
- (b) regulation 12C (period during which regulation 12A is to apply).

The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018

6.—(1) The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018(d) is amended as follows.

(2) In the following provisions and, where applicable, headings, for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 5 (persons to whom the modifications of Part 4A of the Financial Services and Markets Act 2000 apply);
- (b) regulation 6 (modifications of Part 4A of the Financial Services and Markets Act 2000);
- (c) regulation 7 (persons who cease to be authorised to carry on a regulated activity before exit day);
- (d) regulation 8 (deemed permission under Part 4A of the Financial Services and Markets Act 2000);
- (e) regulation 10 (conditions to be satisfied for regulation 8 to apply);
- (f) regulation 11 (deemed variation under Part 4A of the Financial Services and Markets Act 2000);
- (g) regulation 13 (conditions to be satisfied for regulation 11 to apply);
- (h) regulation 14 (steps to be taken before exit day: application or notification);
- (i) regulation 15 (regulator’s response);
- (j) regulation 17 (period during which regulation 8 or 11 is to apply);

(a) S.I. 2013/1773, amended by S.I. 2019/328.

(b) S.I. 2017/752, amended by S.I. 2018/1201 and S.I. 2019/1212.

(c) S.I. 2017/699, amended by S.I. 2018/1403.

(d) S.I. 2018/1149, amended by S.I. 2019/405.

- (k) regulation 18 (requirements to be imposed by a domestic regulator);
- (l) regulation 19 (requirements to be imposed by a home state regulator);
- (m) regulation 21 (interpretation);
- (n) regulation 22 (persons to whom the modifications in regulations 23 to 25 apply);
- (o) regulation 23 (performance of regulated activities—modifications of Part 5 of the Financial Services and Markets Act 2000);
- (p) regulation 25 (insurance and reinsurance—modification of Part 4 of the Solvency 2 Regulations 2015);
- (q) regulation 26 (persons who cease to be authorised to carry on a regulated activity before exit day);
- (r) regulation 30 (conditions to be satisfied for regulation 28 to apply: persons who cease to be authorised on exit day);
- (s) regulation 33 (regulated activities to which regulation 28 applies);
- (t) regulation 34 (deemed variation under Part 4A of the Financial Services and Markets Act 2000);
- (u) regulation 36 (conditions to be satisfied for regulation 34 to apply: persons who cease to be authorised on exit day);
- (v) regulation 40 (regulated activities to which regulation 34 applies);
- (w) regulation 45 (requirements imposed by a home state regulator);
- (x) regulation 46 (interpretation);
- (y) regulation 49 (conditions to be satisfied for regulation 47 to apply: persons who cease to be authorised on exit day);
- (z) regulation 52 (regulated activities to which regulation 47 has effect);
- (aa) regulation 68 (interpretation of Part 7).

The Central Counterparties (Amendment, etc, and Transitional Provisions) (EU Exit) Regulations 2018

7.—(1) The Central Counterparties (Amendment, etc, and Transitional Provisions) (EU Exit) Regulations 2018(a) is amended as follows.

(2) In the following provisions and, where applicable, headings, for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 12 (application for deemed recognition pursuant to Article 25 of the EMIR Regulation);
- (b) regulation 13 (deemed recognition pursuant to Article 25 of the EMIR Regulation);
- (c) regulation 14 (power to make regulations in respect of third countries’ regulatory frameworks before exit day);
- (d) regulation 15 (Bank’s power to advise Treasury on regulatory equivalence of central counterparties);
- (e) regulation 16 (cooperation arrangements between the Bank of England and the competent authorities of third countries before exit day);
- (f) regulation 17 (eligibility for temporary deemed recognition);
- (g) regulation 18 (temporary deemed recognition period);
- (h) regulation 19 (cessation of temporary deemed recognition);
- (i) regulation 19B (relevant period for the purposes of regulation 19A).

(a) S.I. 2018/1184, amended by S.I. 2019/405.

The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018

8.—(1) Schedule 3 (transitional provisions) to the Electronic Money, Payment Services and Payment Systems (Amendment, and Transitional Provisions) (EU Exit) Regulations 2018(a) is amended as follows.

(2) In the following provisions, for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) paragraph 2 (transitional authorisation for EEA authorised electronic money institutions);
- (b) paragraph 4 (registration of agents);
- (c) paragraph 5 (requirements imposed by FCA);
- (d) paragraph 8 (power of FCA to cancel transitional authorisation);
- (e) paragraph 9 (notice of intention);
- (f) paragraph 10 (transition period);
- (g) paragraph 12B (continued authorisation for limited purposes);
- (h) paragraph 12E (permitted services);
- (i) paragraph 12G (extension period);
- (j) paragraph 12I (variation and cancellation of authorisation);
- (k) paragraph 12L (exemption from prohibition);
- (l) paragraph 14 (transitional authorisation for EEA authorised payment institution etc);
- (m) paragraph 16 (registration of agents);
- (n) paragraph 17 (requirements imposed by FCA);
- (o) paragraph 20 (power of FCA to cancel transitional authorisation);
- (p) paragraph 21 (notice of intention);
- (q) paragraph 22 (transition period);
- (r) paragraph 26 (continued authorisation for limited purposes);
- (s) paragraph 29 (permitted services);
- (t) paragraph 31 (extension period);
- (u) paragraph 33 (variation and cancellation of authorisation);
- (v) paragraph 36 (exemption from prohibition).

(3) In paragraph 3 (requirements to be met by notification) for sub-paragraph (1)(b) substitute—

“(b) be made during the period beginning with 28 December 2018 and ending with the day preceding the day on which IP completion day falls.”

(4) In paragraph 15 (requirements to be met by notification) for sub-paragraph (1)(b) substitute—

“(b) be made during the period beginning with 28 December 2018 and ending with the day preceding the day on which IP completion day falls.”

The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018

9. In the following provisions of the Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018(b) for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 7 (determination of an advance application);

(a) S.I. 2018/1201, amended by S.I. 2019/405.

(b) S.I. 2018/1318, amended by S.I. 2019/405.

- (b) regulation 8 (effect of determining an advance application);
- (c) regulation 11 (conditions to be satisfied for regulation 9 to apply);
- (d) regulation 12 (period during which regulation 9 is to apply);
- (e) regulation 14 (registration under the European Markets Infrastructure Regulation);
- (f) regulation 16 (conditions to be satisfied for regulation 14 to apply);
- (g) regulation 17 (notification for registration);
- (h) regulation 23 (interpretation).

The Central Securities Depositories (Amendment) (EU Regulations) 2018

10. In the following provisions of the Central Securities Depositories (Amendment) (EU Exit) Regulations 2018(a), for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 25 (interpretation);
- (b) regulation 26 (notification requirements).

The Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2019

11. In the following provisions of the Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019(b) for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 27 (effect of determining an advance application);
- (b) regulation 30 (conditions to be satisfied for regulation 28 to apply);
- (c) regulation 31 (period during which regulation 28 is to apply);
- (d) regulation 33 (registration under the CRA regulation);
- (e) regulation 35 (conditions to be satisfied for regulation 33 to apply);
- (f) regulation 36 (notification for registration);
- (g) regulation 39 (certification under the CRA regulation);
- (h) regulation 41 (condition to be satisfied for regulation 39 to apply);
- (i) regulation 42 (notification for certification);
- (j) regulation 49 (interpretation of Part 8).

The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019

12. In the following provisions of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019(c) for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 62 (temporary recognition for EEA UCITS or sub-fund of EEA UCITS);
- (b) regulation 63 (the appropriate conditions);
- (c) regulation 65 (duty to provide further information);
- (d) regulation 69 (directions given by FCA);
- (e) regulation 70 (application of repealed or amended provisions).

(a) S.I. 2018/1320.
 (b) S.I. 2019/266.
 (c) S.I. 2019/325.

The Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019

13. In the following provisions of the Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019(a) for the words “exit day”, wherever they occur, substitute “IP completion day”—

- (a) regulation 14 (application of Part 4);
- (b) regulation 15 (notification requirement);
- (c) regulation 16 (effect of acknowledgment of notification);
- (d) regulation 17 (cessation of temporary designation);
- (e) regulation 18 (temporary designation period duration).

*David Rutley
Rebecca Harris*

27th January 2020

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential provision in exercise of the powers in section 41(1) and (5) of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the Act”).

Regulation 1 provides that these Regulations come into force immediately before exit day, and in this respect paragraph 1(1) of Schedule 5 to the Act 2020, which would otherwise provide for the Regulations to be read as coming into force immediately before IP completion day, does not apply.

Regulations 2 to 13 amend a number of financial services temporary permissions and transitional regimes made under the European Union (Withdrawal) Act 2018 (c. 16) which are already in force, but which only have application on and after exit day. The amendments ensure that such provisions, instead, will only have application on or after IP completion day.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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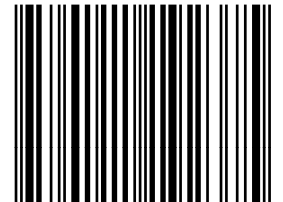
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