
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”) in order to address deficiencies in retained EU law arising from the withdrawal of the United Kingdom from the European Union.

Part 3 of the Gibraltar (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/680) saved the effect of certain legislation in relation to Gibraltar-based firms and activities. The legislation concerned forms part of retained EU law and is otherwise revoked or amended by specified regulations made under the 2018 Act. Regulation 2 of these Regulations makes new savings, transferring certain functions from EU bodies to the Financial Conduct Authority and the Treasury in relation to Gibraltar-based firms and activities.

Regulation 3 amends Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (“the UK EMIR”). Regulation 37 of the Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660) (“the 2019 Regulations”) amended the exception to the clearing obligation imposed on counterparties by the UK EMIR in relation to a securitisation notified as simple, transparent and standardised (“STS”) during a temporary recognition period where the person responsible for notification is established in an EEA State. Regulation 3 extends the end of the temporary recognition period from two years after IP completion day to four years after that day; that is, the end is now 11 p.m. on 31st December 2024.

Regulation 4 amends Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (“the UK Securitisation Regulation”). Regulation 7 of the 2019 Regulations amended Article 5 of the UK Securitisation Regulation (which imposes due diligence requirements on certain institutional investors) in relation to a securitisation notified as STS during a temporary recognition period where the person responsible for notification is established in an EEA State. Regulation 4 extends the end of the temporary recognition period from two years after IP completion day to four years after that 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. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.