
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the fourth commencement regulations made under the Financial Services and Markets Act 2023 (c. 29) (“the Act”).

Section 1 of the Act revokes retained EU law which is referred to in Schedule 1 to the Act. These Regulations bring into force section 1(1) so far as it relates to the revocation of certain instruments (or provisions of instruments) referred to in Schedule 1 to the Act. In particular—

- regulation 2 brings into force the revocation of the provisions set out in paragraphs (b) and (c) of that regulation on the day after these Regulations are made. Those provisions contain obligations for the Treasury to review legislation that is revoked by the Act; the revocation of the other provisions of that legislation will be brought into force by further instruments in the future;
- regulation 3 brings into force the revocation of the provisions set out in the Schedule to these Regulations on 1st January 2024;
- regulation 4 brings into force the revocation of the provisions set out in paragraphs (b) to (d) of that regulation on 5th April 2024. Those provisions concern data reporting services and insurance distribution;
- regulation 5 brings into force the revocation of the provisions set out in paragraphs (b) and (c) of that regulation on 30th June 2024. Those provisions concern the prudential regulation of insurance undertakings.

Regulation 6 brings into force on the day after these Regulations are made a transitional amendment to Regulation (EU) No600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No648/2012 (paragraph 4 of Schedule 2 to the Act and the partial commencement of section 2(1)).

Regulation 7 brings into force on 26th December 2023 provisions of the Act dealing with panel remuneration, so far as they are not already in force.

Regulation 8 brings into force on 31st December 2023 section 57 (central counterparties in financial difficulties) and Schedule 11 (central counterparties) of the Act, so far as they are not already in force. These provisions introduce a special resolution regime for central counterparties (“CCPs”) where all or part of a CCP’s business has encountered, or is likely to encounter, financial difficulties.

Regulation 9(1)(a) brings into force on 1st January 2024 provisions of the Act dealing with sustainability disclosure requirements. Paragraph (1)(b) and (d) of regulation 9 brings into force on 1st January 2024 provisions of the Act dealing with international trade obligations (section 33 and paragraphs 2(b) and 8 of Schedule 7). Paragraph (1)(d) of regulation 9 also commences paragraph 1 of Schedule 7 to the extent it relates to the commencement of paragraphs 2(b) and 8 of Schedule 7. Those commence at the same time as the coming into force of new powers provided to the Payment Systems Regulator pursuant to the Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790).

Regulation 9(1)(c) brings into force on 1st January 2024 provisions of the Act dealing with the Bank of England levy for certain purposes. Section 70(4) inserts a new Schedule 2ZA into the Bank of England Act 1998 (c. 11). Regulation 9(1)(c) brings paragraph 3(1) of that Schedule into force for the purpose of enabling the Bank of England to determine the day on which a levy year begins and

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brings paragraphs 5 and 10 of that Schedule into force for the purpose of enabling the Treasury to make regulations.

Regulation 10 brings into force at 1.00 a.m. on 1st January 2024 provisions of the Act dealing with the Bank of England's regulation of central counterparties and central securities depositories, except to the extent the Bank is required to have regard to targets under the Environment Act 2021 when exercising those functions, to the extent it is required to consult the PRA Cost Benefit Analysis Panel in relation to rules, and to the extent the Treasury is required to send written recommendations to the Bank's Financial Market Infrastructure Committee ("FMI Committee") at least once in each Parliament.

Regulation 11 brings into force on 1st August 2024 provisions of the Act related to the Financial Conduct Authority ("FCA")'s and Prudential Regulation Authority ("PRA")'s Cost Benefit Analysis Panels, including relating to the Bank of England consulting the PRA Cost Benefit Analysis Panel, and the Payment Systems Regulator ("PSR") consulting the FCA Cost Benefit Analysis Panel.

Regulation 12 brings into force on 1st January 2025 provisions of the Act which require the Bank, FCA, PRA and PSR to have regard in exercising their functions to the need to contribute towards achieving compliance by the Secretary of State with section 5 of the Environment Act 2021 (c.30). Regulation 13 brings into force on 1st February 2025 the Treasury's obligation to send written recommendations to the Bank of England's FMI Committee at least once in each Parliament.

Regulation 14 makes saving provision in relation to the commencement of Schedule 11 of the Act. Paragraph 162 of Schedule 11 amends Part 1 of the Banking Act 2009 (c. 1) (special resolution regime) so that it will no longer apply to CCPs. Regulation 14(1) preserves the application of Part 1 of the Banking Act 2009 in relation to a CCP which has entered into resolution prior to 31st December 2023, and allows the Bank or the Treasury to take any action permitted under Part 1 of the Banking Act 2009 in relation to that CCP or its clearing members for the purposes of that resolution only.

Regulation 15 makes transitional provision in respect of the commencement of section 33 and of paragraph 8 of Schedule 7 to the Act concerning international trade obligations (which are brought into force by regulation 9). Regulation 15 provides that where a regulator or the Payment Systems Regulator has published proposals in respect of a relevant action to be taken after those provisions come into force and a duty to consult applies, the Treasury must be notified of the proposed action as soon as reasonably practicable.

Regulation 16(1) disapplies the amendments made by the provisions in regulation 12 in relation to the making of rules and technical standards, the preparation and issuing of codes, the giving of guidance or the determination of general policy and principles by the Bank, FCA and PRA where a proposed draft of the rules, technical standards, codes, guidance, policy or principles has been published before 1st January 2025. Regulation 16(2) disapplies the amendments made by the provisions in regulation 12 in relation to the giving of directions or guidance or the determination of general policy and principles by the Payment Systems Regulator under the Financial Services (Banking Reform) Act 2013 where a proposed draft of the directions, guidance, policy or principles has been published before 1st January 2025.

Regulation 17 provides that sections 1MA(1) and 2LA(1) of the Financial Services and Markets Act 2000 (c. 8) and section 103(5A) of the Financial Services (Banking Reform) Act 2013 (c. 33) do not apply to panel appointments that were made before 26th December 2023.

Regulation 18 amends regulation 4 of the Financial Services and Markets Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2023 (S.I. 2023/936 (C. 55)) ("the 2023 Regulations"). Regulation 4 disapplies certain provisions of the Financial Services and Markets Act 2000 which came into force on 29th August 2023 by virtue of the Financial Services and Markets Act 2023 (Commencement No. 1) Regulations 2023 (S.I. 2023/779 (C. 40)). The provisions listed in regulation 4(2) of the 2023 Regulations are disapplied in relation to the making of PRA rules, technical standards and policies implementing reforms to the Basel international prudential standards for banks and other financial institutions. Regulation 18 amends regulation 4(2) to disapply sections

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138JA(2)(a) and 409B of the Financial Services and Markets Act 2000 (respectively inserted by sections 43 and 33 of the Act).

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 full impact assessment has been published in relation to the Act and copies can be obtained from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ or at <https://bills.parliament.uk/publications/49053/documents/2621>.