
STATUTORY INSTRUMENTS

2019 No. 632

**The Financial Services and Markets Act 2000
(Amendment) (EU Exit) Regulations 2019**

PART 5

Amendments to other secondary legislation

The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014

192.—(1) The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014(1) is amended as follows.

(2) In article 1(4) (interpretation)—

(a) for the definition of “alternative investment fund” substitute—

““alternative investment fund” has the meaning given in regulation 3 of the Alternative Investment Fund Managers Regulations 2013(2), but as if in paragraph (1)(b) of that regulation for “UKUCITS” there were substituted “UCITS,”;

(b) for the definition of “alternative investment fund manager” substitute—

““alternative investment fund manager” means a legal person whose regular business is managing one or more alternative investment funds;”;

(c) after the definition of “alternative investment fund manager” insert—

““Annex 1 activities” has the meaning given in article 4.1(26A) of the prudential requirements regulation;”;

(d) for the definition of “derivative instrument” substitute—

““derivative instrument” includes any instruments within the meaning of article 2.1(29) of the markets in financial instruments regulation;”;

(e) after the definition of “exposure” insert—

““financial conglomerate” means—

(a) a financial conglomerate within the meaning of regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004(3) (but disregarding any decision taken under Article 3(3) of the conglomerates directive(4) as applied and modified by those Regulations), or

(b) a financial conglomerate within the meaning of Article 2.14 of [Directive 2002/87/EC](#) of the European Parliament and of the Council of 16 December

(1) [S.I. 2014/2080](#), amended by [S.I. 2016/1032](#) and [2017/1167](#).

(2) [S.I. 2013/1773](#), to which there are amendments not relevant to these Regulations.

(3) [S.I. 2004/1862](#), to which there are amendments not relevant to these Regulations.

(4) The term “conglomerates directive” is defined in regulation 1(2) of [S.I. 2004/1862](#).

- 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate⁽⁵⁾ (but disregarding any decision taken under Article 3(3) of that directive);”;
- (f) in the definition of “financial holding company”, for the words from “Annex I” to the end substitute “the Annex 1 activities”;
- (g) omit the definition of “insurance undertaking”;
- (h) in the definition of “liquid assets”, for the words from “delegated acts” to the end substitute “Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions”;
- (i) for the definition of “management company” substitute—
 ““management company” means—
 (a) an undertaking, within the meaning of section 1161 of the Companies Act 2006⁽⁶⁾, whose regular business is the management of UK UCITS, or
 (b) a company within the meaning of Article 2.1(b) of the UCITS directive;”;
- (j) in the definition of “mixed financial holding company”—
 (i) after “insurance undertaking” in each place it occurs insert “a third country insurance undertaking whose head office is located in an EEA state”,
 (ii) omit the words from “(within” to the end;
- (k) in the definition of “payment exposures”, in paragraph (d) omit—
 (i) “, an EEA central counterparty”,
 (ii) “, an EEA CSD”,
 (iii) “, EEA central counterparty”,
 (iv) “, EEA CSD”;
- (l) omit the definition of “reinsurance undertaking”;
- (m) omit the definition of “solvency II directive”;
- (n) in the definition of “third country insurance undertaking”, for the words from “Article” to the end substitute “regulation 2(1) of the Solvency 2 Regulations 2015⁽⁷⁾”;
- (o) in the definition of “third country reinsurance undertaking”, for the words from “Article” to the end substitute “regulation 2(1) of the Solvency 2 Regulations 2015”;
- (p) in the definition of “UCITS”, for the words from “Article” to the end substitute “section 236A of the Act”;
- (q) after the definition of “UK deposit-taker”, insert—
 ““UK UCITS” has the meaning given in section 237(3) of the Act;”.
- (3) In article 2 (relevant financial institution), in paragraph (3)—
 (a) in sub-paragraph (c)(ii), omit the words from “other” to the end;
 (b) in sub-paragraph (e), omit “, EEA central counterparties”;
 (c) in sub-paragraph (ea), omit “, EEA CSDs”;
 (d) in sub-paragraph (g), for “EEA firm” in each place it occurs substitute “undertaking located in an EEA state”.

(5) OJNo. L 35, 11.02.2003, p.1, amended by [Directive 2011/89/EU](#) (OJ No. L 326, 8.12.2011, p.113); there are other amending instruments but none is relevant.

(6) [2006 c.46](#).

(7) [S.I. 2015/575](#).

- (4) In article 6 (excluded activities: general exceptions), in paragraph (4)—
 - (a) in sub-paragraph (e)(iii), omit “, an EEA central counterparty”;
 - (b) in sub-paragraph (f), omit “or an EEA central counterparty”.
- (5) In article 12 (derivatives: general conditions)—
 - (a) in paragraph (1)(e), for paragraphs (i) and (ii) substitute—
 - “(i) a UK trading venue,
 - (ii) a trading venue in the EEA, or
 - (iii) a non-EEA trading venue.”;
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (c), for the words from “Article 4.1(24)” to the end substitute “Article 2.1(16) of the markets in financial instruments regulation”,
 - (ii) after sub-paragraph (c) insert—
 - “(ca) “non-EEA trading venue” means a trading venue—
 - (i) which is not a UK trading venue or a trading venue in the EEA, and
 - (ii) which satisfies paragraph 1(d) of Article 28 of the markets in financial instruments regulation;
 - (cb) “UK trading venue” has the meaning given in Article 2.1(16A) of the markets in financial instruments regulation.”.
- (6) In article 19A(8) (financial institution exposures: financing of infrastructure projects), in paragraph (2)(b) after “within” insert “the United Kingdom or”.
- (7) In article 20 (prohibitions: non-EEA branches and subsidiaries)—
 - (a) in the heading, for “Non-EEA” substitute “Non-UK and non-EEA”;
 - (b) in paragraph (1)(a), after “not” insert “the United Kingdom or”;
 - (c) in paragraph (1)(b)—
 - (i) after “not” insert “the United Kingdom or”, and
 - (ii) for “(a “non-EEA undertaking”)” substitute “(a “non-UK and non-EEA undertaking”)”;
 - (d) in paragraph (2), after “interest in a” insert “non-UK and”.