

Norton Rose Fulbright LLP has created this consolidated version of Regulation No 600/2014 of 15 May 2014 on markets in financial instruments to show the changes proposed under The Markets in Financial Instruments (Amendment)(EU Exit) Regulations 2018. This text is meant purely as a documentation tool and has no legal effect.

**REGULATION (EU) No 600/2014 OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL**

of 15 May 2014

on markets in financial instruments and amending Regulation  
(EU) No 648/2012

(Text with EEA relevance)

**TITLE I  
SUBJECT MATTER, SCOPE AND DEFINITIONS**

**Article 1  
Subject matter and scope**

1. This Regulation establishes uniform requirements in relation to the following:
  - (a) disclosure of trade data to the public;
  - (b) reporting of transactions to the competent authorities;
  - (c) trading of derivatives on organised venues;
  - (d) ~~non-discriminatory access to clearing and non-discriminatory access to trading in benchmarks;~~ [\[DELETED\]](#);
  - (e) product intervention powers of competent authorities, ~~ESMA and EBA~~ and powers of ~~ESMA~~ [the competent authority](#) on position management controls and position limits;
  - (f) provision of investment services or activities by third-country firms following an applicable equivalence decision by the ~~Commission~~ [Treasury](#) with or without a branch.
  
2. This Regulation applies to ~~investment firms, authorised~~
  - (a) [investment firms and credit institutions which have their head office in the United Kingdom which –](#)
    - (i) [\(subject to paragraphs 2A and 2C\) have permission under Part 4A of FSMA to carry on regulated activities relating to investment services and activities in the United Kingdom, when those firms or institutions are providing investment services or performing investment activities; and](#)
    - (ii) [would require authorisation](#) under Directive 2014/65/EU ~~and credit institutions authorised under Directive 2013/36/EU of the European Parliament and of the Council~~ [of the European Parliament and of the](#)

~~Council on markets in financial instruments<sup>1</sup> when providing investment services and/or performing investment activities and to market operators including any trading venues they operate.~~(in the case of investment firms) or Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms<sup>2</sup> (in the case of credit institutions) (as those directives applied in the European Union immediately before exit day) if they had their head offices in an EEA state; and

(b) market operators which have their registered office or head office in the United Kingdom, including any UK trading venues they operate.

2A. Subject to paragraph 2B, Titles II, III, IV, V, Article 38 and Title VII and EU tertiary legislation (within the meaning of section 20(1) of the European Union (Withdrawal) Act 2018<sup>3</sup>) made under those provisions also apply to investments firms and credit institutions which have temporary permission to carry on such activities under the EEA Passport Rights (Amendments, etc., and Transitional Provisions) (EU Exit) Regulations 2018.

2B. Articles 20, 21, 26, and 27 only apply to a firm referred to in paragraph 2A in relation to business of that firms which is carried on through a branch in the United Kingdom.

2C. This Regulation does not apply to any firm which has permission under Part 4A of FSMA to carry on regulated activities as an exempt investment firm, within the meaning of regulation 8 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.

2D. Subject to paragraph 2E, if-

(a) a firm referred to in paragraph 2A complies with a requirement in 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 ("the EEA requirement") in relation to the services it provides in the United Kingdom; and

(b) the EEA requirement has equivalent effect to a requirement in this Regulation as it applies in the United Kingdom ("the UK requirement").

the firm is to be treated as complying with the UK requirement.

2E. Paragraph 2D does not apply in relation to requirements in Article 23, Title IV, Article 28, Article 29 (so far as that Article applies to CCPs), Article 30, Article 31 or Title VI.

3. Title V of this Regulation also applies to all financial counter- parties as defined in Article 2(8) of Regulation (EU) No 648/2012 and to all non-financial counterparties falling under Article 10(1)(b) of that Regulation.

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<sup>1</sup> ~~Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, OJ L173, 12.6.2014, p. 338); 349~~

<sup>2</sup> OJ L176, 27.6.2013, p.338

<sup>3</sup> 2018 c.16

4. Title VI of this Regulation also applies to CCPs and persons with proprietary rights to benchmarks.
5. Title VIII of this Regulation applies to third-country firms providing investment services or activities within the ~~Union~~United Kingdom following an applicable equivalence decision by the ~~Commission~~Treasury with or without a branch.

5za. For the purposes of paragraph 1(f) and 5, references to applicable equivalence decisions by the Treasury include references to applicable decisions made by the Commission as they applied immediately before exit day.

- 5a. Title II and Title III of this Regulation shall not apply to securities financing transactions as defined in point (11) of Article 3 of Regulation (EU) 2015/2365 of the European Parliament and of the Council<sup>24</sup>.
6. Articles 8, 10, 18 and 21 shall not apply to regulated markets, market operators and investment firms in respect of a transaction where the counterparty is a member of the European System of Central Banks (ESCB), the Treasury or the Bank of England (“a relevant organisation”) and where that transaction is entered into in performance of monetary, foreign exchange and financial stability policy which that ~~member of the ESCB~~relevant organisation is legally empowered to pursue and where that member has given prior notification to its counterparty that the trans- action is exempt.
7. Paragraph 6 shall not apply in respect of transactions entered into by any ~~member of the ESCB~~relevant organisation in performance of their investment operations.
8. ~~ESMA shall, in close cooperation~~The Bank of England may, after consultation with the ~~ESCB, develop draft regulatory~~FCA, make technical standards ~~to specify~~specifying the monetary, foreign exchange and financial stability policy operations and the types of transactions to which paragraphs 6 and 7 apply.

~~ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.~~

~~Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.~~

9. The ~~Commission shall be empowered to adopt delegated acts in accordance with Article 50 to~~Treasury may, by regulations extend the scope of paragraph 6 to other central banks.

~~To that end, the Commission shall, by 1 June 2015, submit a report to the European Parliament and to the Council assessing the treatment of transactions by third country central banks which for the purposes of this paragraph includes the Bank for International Settlements. The report shall include an analysis of their statutory tasks and their trading volumes in the Union. The report shall:~~

~~(a) identify provisions applicable in the relevant third countries regarding the regulatory disclosure of central bank transactions, including transactions undertaken by members of the ESCB in those third countries, and~~

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<sup>24</sup> Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

~~(b) assess the potential impact that regulatory disclosure requirements in the Union may have on third country central bank transactions.~~

~~If the report concludes that the exemption provided for in paragraph 6 is necessary in respect of transactions where the counterparty is a third country central bank carrying out monetary policy, foreign exchange and financial stability operations, the Commission shall provide that that exemption applies to that third country central bank.~~

## Article 2 Definitions

1. For the purposes of this Regulation, the following definitions apply:
  - (1) ~~“investment firm” means an investment firm as defined in Article 4(1)(1) of Directive 2014/65/EU~~ has the meaning given in Paragraph 1A;
  - (2) ~~“investment services and activities”~~ means investment any of the services and activities defined in Article 4(1)(2) of Directive 2014/65/EU listed in Part 3 of Schedule 2 to the Regulated Activities Order, relating to any of the instruments listed in Part 1 of Schedule 2 to that Order;
  - (3) ~~“ancillary services”~~ means ancillary any of the services as defined listed in Article 4(1)(3) of Directive 2014/65/EU Part 3A of Schedule 2 to the Regulated Activities Order;
  - (4) ~~“execution of orders on behalf of clients” means execution on behalf of clients as defined in Article 4(1)(5) of Directive 2014/65/EU~~ means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients and includes the conclusion of agreements to sell financial instruments issued by an investment firm or a credit institution at the moment of their issuance;
  - (5) ~~“dealing on own account” means dealing on own account as defined in Article 4(1)(6) of Directive 2014/65/EU~~ “dealing on own account” means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments;
  - (6) ~~“market maker” means a market maker as defined in Article 4(1)(7) of Directive 2014/65/EU;~~ “market maker” means a natural or legal person holding themselves out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against that person’s proprietary capital at prices defined by that person;
  - (7) ~~“client” means a client as defined in Article 4(1)(9) of Directive 2014/65/EU;~~ “client” means any natural or legal person to whom an investment firm provides investment or ancillary services;
  - (8) ~~“professional client”~~ means a professional client as defined in Article 4(1)(10) of Directive 2014/65/EU; client who
    - (a) meets the criteria in Schedule 1 to this Regulation; or

- (b) is a local public authority or municipality
- (i) which has requested to be treated as a professional client; and
  - (ii) in relation to which the investment firm has complied with the applicable requirements set out in Chapter 3.5 of the Conduct of Business sourcebook;
- (9) ~~“financial instrument” means a financial instrument as defined in Article 4(1)(15) of Directive 2014/65/EU of Schedule 2 to the Regulated Activities Order;~~  
“financial instrument” means a financial instrument as defined in Article 4(1)(15) of Directive 2014/65/EU of Schedule 2 to the Regulated Activities Order;
- (10) ~~“market operator” means a market operator as defined in Article 4(1)(18) of Directive 2014/65/EU;~~  
“market operator” means a person who manages or operates the business of a regulated market, and may be the regulated market itself;
- (11) ~~“multilateral system” means a multilateral system as defined in Article 4(1)(19) of Directive 2014/65/EU;~~  
“multilateral system” means any system or facility in which multiple third party buying and selling trading interests in financial instruments are able to interact in the system;
- (12) ~~“systematic internaliser” means a systematic internaliser as defined in Article 4(1)(20) of Directive 2014/65/EU;~~  
“systematic internaliser” means an investment firm which-
- ~~(13) “regulated market” means a regulated market as defined in Article 4(1)(21) of Directive 2014/65/EU;~~
- ~~(14) “multilateral trading facility” or “MTF” means a multilateral trading facility as defined in Article 4(1)(22) of Directive 2014/65/EU;~~
- ~~(15) “organised trading facility” or “OTF” means an organised trading facility as defined in Article 4(1)(23) of Directive 2014/65/EU;~~
- ~~(16) “trading venue” means a trading venue as defined in Article 4(1)(24) of Directive 2014/65/EU;~~
- (a) on an organised, frequent, systematic and substantial basis, deals on own account when executing client orders outside a UK regulated market, UK MTF or UK OTF without operating a multilateral system; and
- (b) either –
- (i) satisfies the criteria set out in Article 12, 13, 14, 15 or 16 of 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, assessed in accordance with Article 17 of that Regulation; or
  - (ii) has chosen to opt in to the systematic internaliser regime;
- (12A) for the purposes of point (12)
- (a) the frequent and systematic basis is to be measured by the number of OTC trades in the financial instrument carried out by the investment firm on own account when executing client orders; and