

Application for ROIE status

Direction under section 287(2) of the Financial Services and Markets Act 2000

1. Purpose

The Financial Conduct Authority ('FCA') makes the following direction, pursuant to section 287(2) of the Financial Services and Markets Act 2000 ('the Act'), in relation to the manner in which an applicant having neither its head office nor its registered office in the United Kingdom ('overseas applicant') must make an application under section 287(1) of the Act, for an order declaring it to be a recognised investment exchange ('recognition order').

This direction may be amended by the FCA by further direction.

Italicised terms used in this direction have the same meaning as in the FCA Handbook Glossary.

2. Manner in which an application by an overseas applicant must be made

A. All applicants

1. **The application should be made in accordance with REC 6**, subject to paragraph 4), and include the information set out in paragraphs 2) and 3).

2. **The application should include a regulatory business plan explaining:**
 - a. any arrangements it expects to establish or maintain in the UK for the purpose of its exchange operation;
 - b. the nature of the membership of the exchange that it expects to attract in the UK;
 - c. the range of *specified investments* that it expects to be available for members to trade on the exchange; and
 - d. details of its business continuity arrangements, including a schedule of any events that have occurred within the previous 12 months, and that have caused serious disruptions to:
 - i. trading on the exchange;
 - ii. the supply of market data; or
 - iii. the monitoring of activity on the exchange.

3. The application should also include a letter from the applicant confirming:

- a. that if the applicant is successful in obtaining a recognition order it is willing and able to co-operate with the FCA in relation to the requirements of the order, including in relation to the sharing of information; and
- b. that it complies with:
 - i. if it is an *EEA market operator* - all of the relevant requirements of *MiFID* and *MiFIR* applicable to a market operator, including directly applicable regulations made under that legislation; or
 - ii. if it is not an *EEA market operator* - the relevant law and practice in the country or territory in which the applicant's head office is located.

B. EEA market operators – explanatory material

4. If the applicant is an *EEA market operator*, the application should include, in the first instance, the explanatory material referred to in *REC 6.2.4G(1)* (ie an equivalence analysis) only in relation to the following recognition requirements, under the Schedule to the *Recognition Requirements Regulations*, and directly applicable EU regulations:

- a. Paragraph 1 of the Schedule (see *REC 2.3* - Financial resources);
- b. Paragraph 2 of the Schedule (*REC 2.4* - Suitability);
- c. Paragraphs 2A and 2B of the Schedule (*REC 2.4A* - Management body);
- d. *MiFID RTS 7*;
- e. Paragraph 4 of the Schedule (*REC 2.6* - General safeguards for investors etc; *REC 2.10* - Financial crime and market abuse); and
- f. Paragraph 7B of the Schedule (*REC 2.7* - Access to facilities).

Note:

All applicants should note that the FCA may reasonably require other information for the purpose of determining the application, under s 287(2)(d) of the Act, and that s 287(3)(a) and (b) of the Act may require the applicant to supply further particulars.

The FCA's guidance set out in *REC 6* is otherwise confirmed.

Applicants are also reminded that the application fee should be paid in accordance with *FEES 3.2.1R* and *3.2.7R(1)(h)*, on or before the date the application is formally made.

The Financial Conduct Authority

14 September, 2018