

**TECHNICAL STANDARDS (ALTERNATIVE INVESTMENT FUNDS  
MANAGEMENT DIRECTIVE) (EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA makes the modifications specified in the Annex to this instrument to the Commission Delegated Regulation (EU) 694/2014 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining types of alternative investment fund managers.

**Commencement**

- G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Alternative Investment Funds Management Directive) (EU Exit) Instrument 2019.

By order of the FCA Board  
[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex

### **COMMISSION DELEGATED REGULATION (EU) No 694/2014 of 17 December 2013 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining types of alternative investment fund managers**

~~(Text with EEA relevance)~~

...

#### Article 1

#### **Types of AIFMs**

1. An AIFM may be either or both of the following:
  - an AIFM of open-ended AIF(s);
  - an AIFM of closed-ended AIF(s).

...

5. For the purposes of ~~Article 61(3)~~ regulations 74 and 75 (4) of Directive 2011/61/EU the Alternative Investment Fund Managers Regulations 2013, an AIFM in so far as it manages AIFs whose shares or units are, at the request of any of its shareholders or unitholders, repurchased or redeemed prior to the commencement of its liquidation phase or wind-down, directly or indirectly, out of the assets of the AIFs after an initial period of at least 5 years during which redemption rights are not exercisable shall also be considered to be an AIFM of a closed-ended AIF.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (BENCHMARK REGULATION) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in [Part 1 of the Schedule to the Regulations].
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA amends the following EU Regulations in accordance with Annexes A - K of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) 2018/1106 laying down implementing technical standards with regard to templates for the compliance statement to be published and maintained by administrators of significant and non-significant benchmarks	Annex A

pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council	
Commission Delegated Regulation (EU) 2018/1637 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the procedures and characteristics of the oversight function	Annex B
Commission Delegated Regulation (EU) 2018/1638 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further how to ensure that input data is appropriate and verifiable, and the internal oversight and verification procedures of a contributor that the administrator of a critical or significant benchmark has to ensure are in place where the input data is contributed from a front office function	Annex C
Commission Delegated Regulation (EU) 2018/1639 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the elements of the code of conduct to be developed by administrators of benchmarks that are based on input data from contributors	Annex D
Commission Delegated Regulation (EU) 2018/1640 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the governance and control requirements for supervised contributors	Annex E
Commission Delegated Regulation (EU) 2018/1641 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the information to be provided by administrators of critical or significant benchmarks on the methodology used to determine the benchmark, the internal review and approval of the methodology and on the procedures for making material changes in the methodology	Annex F
Commission Delegated Regulation (EU) 2018/1642 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the criteria to be taken into account by competent authorities when assessing whether administrators of significant benchmarks should apply certain requirements	Annex G
Commission Delegated Regulation (EU) 2018/1643 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the contents of, and cases where updates are required to, the	Annex H

benchmark statement to be published by the administrator of a benchmark	
Commission Delegated Regulation (EU) 2018/1644 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards determining the minimum content of cooperation arrangements with competent authorities of third countries whose legal framework and supervisory practices have been recognised as equivalent	Annex I
Commission Delegated Regulation (EU) 2018/1645 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the form and content of the application for recognition with the competent authority of the Member State of reference and of the presentation of information in the notification to European Securities and Markets Authority (ESMA)	Annex J
Commission Delegated Regulation (EU) 2018/1646 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the information to be provided in an application for authorisation and in an application for registration	Annex K

## Revocations

G. The FCA revokes the following EU Regulation.

Commission Implementing Regulation (EU) 2018/1105 laying down implementing technical standards with regard to procedures and forms for the provision of information by competent authorities to ESMA under Regulation (EU) 2016/1011 of the European Parliament and of the Council

## Commencement

H. This instrument comes into force on [29 March 2019 at 11 p.m.].

## Citation

I. This instrument may be cited as the Technical Standards (Benchmark Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

**Annex A**

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1106 of 8 August 2018 laying down implementing technical standards with regard to templates for the compliance statement to be published and maintained by administrators of significant and non-significant benchmarks pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

**Article 2**

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX I

**Template for the compliance statement referred to in Article 25(7) of Regulation (EU) 2016/1011**

Item	Text field
<b>A. General Information</b>	
...	
2. Name of the administrator	2. [As it appears in the ‘Register of administrators and benchmarks’ published by <del>ESMA</del> <u>the FCA</u> ]
<del>3. Relevant National Competent Authority</del>	<del>3. [The competent authority which has authorised or registered the administrator pursuant to Article 34(1) of Regulation (EU) 2016/1011]</del>
...	

## ANNEX II

**Template for the compliance statement referred to in Article 26(3) of Regulation (EU)  
2016/1011**

Item	Text field
<b>A. General Information</b>	
...	
2. Name of the administrator	2. [As it appears in the 'Register of administrators and benchmarks' published by <del>ESMA</del> <u>the FCA</u> ]
...	

## Annex B

### COMMISSION DELEGATED REGULATION (EU) 2018/1637 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the procedures and characteristics of the oversight function

~~(Text with EEA relevance)~~

...

#### Article 1

##### Composition of the oversight function

1. The structure and composition of the oversight function shall be proportionate to the ownership and control structure of the administrator and shall, as a general rule, be determined in accordance with one or more appropriate governance arrangements listed in the Annex to this Regulation. Administrators shall provide ~~competent authorities~~ the FCA with a justification for any deviation from such arrangements.

...

4. Administrators of regulated-data benchmarks shall include, as members of the oversight function, representatives from the entities listed in the definition of a regulated-data benchmark at point (a) of Article 3(1)(24) of Regulation (EU) 2016/1011 and, where applicable, from entities contributing net asset values of investment funds to regulated-data benchmarks. Administrators shall provide ~~competent authorities~~ the FCA with a justification for any exclusion of representatives from these entities.

...

#### Article 3

##### Procedures governing the oversight function

1. An oversight function shall have procedures at least relating to the following areas:

...

- (e) where applicable, the criteria for choosing the person or committee responsible for its overall direction and coordination and for acting as the contact point for the management body of the administrator and for the ~~competent authority~~ FCA, in accordance with the appropriate governance arrangements for oversight functions consisting of multiple committees as set out in the Annex;

...

- (m) the notification to the ~~competent authority~~ FCA of any suspected misconduct by contributors or by the administrator and of any anomalous or suspicious input data;

...

#### Article 4

#### **Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

#### ANNEX

#### **Non-exhaustive list of appropriate governance arrangements**

...

4. An oversight function consisting of multiple committees, each responsible for the oversight of a benchmark, type of benchmarks or family of benchmarks, provided that a single person or committee is designated as responsible for the overall direction and coordination of the oversight function and for interaction with the management body of the benchmark administrator and the ~~competent authority~~ FCA;
5. An oversight function consisting of multiple committees, each performing a subset of the oversight responsibilities and tasks, provided that a single person or committee is designated as responsible for the overall direction and coordination of the oversight function and for interaction with the management body of the benchmark administrator and the ~~competent authority~~ FCA.

...

**Annex C**

**COMMISSION DELEGATED REGULATION (EU) 2018/1638 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further how to ensure that input data is appropriate and verifiable, and the internal oversight and verification procedures of a contributor that the administrator of a critical or significant benchmark has to ensure are in place where the input data is contributed from a front office function**

~~(Text with EEA relevance)~~

...

**Article 4**

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex D**

**COMMISSION DELEGATED REGULATION (EU) 2018/1639 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the elements of the code of conduct to be developed by administrators of benchmarks that are based on input data from contributors**

~~(Text with EEA relevance)~~

...

Article 9

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex E**

**COMMISSION DELEGATED REGULATION (EU) 2018/1640 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the governance and control requirements for supervised contributors**

~~(Text with EEA relevance)~~

...

Article 8

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex F**

**COMMISSION DELEGATED REGULATION (EU) 2018/1641 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the information to be provided by administrators of critical or significant benchmarks on the methodology used to determine the benchmark, the internal review and approval of the methodology and on the procedures for making material changes in the methodology**

~~(Text with EEA relevance)~~

...

Article 5

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex G

**COMMISSION DELEGATED REGULATION (EU) 2018/1642 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the criteria to be taken into account by competent authorities when assessing whether administrators of significant benchmarks should apply certain requirements**

~~(Text with EEA relevance)~~

...

### Article 1

#### **Vulnerability of the benchmark to manipulation**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the vulnerability of the benchmark to manipulation shall include at least the following:

...

### Article 2

#### **Nature of the input data**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the nature of the input data shall include at least the following:

...

### Article 3

#### **Level of conflicts of interest**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the level of conflicts of interest shall include at least the following:

...

## Article 4

**Degree of discretion of the administrator**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the degree of discretion of the administrator shall include at least the following:

...

## Article 5

**Impact of the benchmark on markets**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the nature of the impact of the benchmark on markets shall include at least the following:

...

- (b) in cases where the benchmark qualifies as a significant benchmark by virtue of point (b) of Article 24(1) of Regulation (EU) 2016/1011, and where the information is known to the ~~competent authority~~ FCA, any relevant quantitative relation of financial instruments, financial contracts, or investment funds referencing the benchmark to the total value of the respective instruments in a ~~Member State~~ the United Kingdom;

## Article 6

**Nature, scale and complexity of the provision of the benchmark**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the nature, scale and complexity of the provision of the benchmark shall include at least the following:

...

## Article 7

**Importance of the benchmark to financial stability**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the importance of the benchmark to financial stability shall include at least an assessment of the relationship between the total value of the financial instruments, financial contracts and investment funds referencing the benchmark and the value of the total assets of the financial sector and of the banking sector in a ~~Member State~~ the United Kingdom, where that information is known to the ~~competent authority~~ FCA.

## Article 8

**Value of financial instruments, financial contracts and investment funds that reference the benchmark**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the value of financial instruments, financial contracts or investment funds that reference the benchmark shall include at least the following:

- (a) the total value of all financial instruments, financial contracts and investment funds referencing the benchmark on the basis of all the ranges of maturities or tenors of the benchmark, where known to the ~~competent authority~~ FCA;

...

- (c) in cases where the benchmark is a significant benchmark by virtue of point (a) of Article 24(1) of Regulation (EU) 2016/1011, and where known to the ~~competent authority~~ FCA, how close the total value of financial instruments, financial contracts and investment funds that reference the benchmark is to the thresholds referred to in Article 20(1)(a) and (c)(i) of that Regulation.

...

## Article 9

**The administrator's size, organisational form or structure**

The further criteria to be considered by the ~~competent authority~~ FCA under Article 25(3) of Regulation (EU) 2016/1011 in taking into account the administrator's size, organisational form or structure shall include at least the following:

...

Article 10  
**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex H**

**COMMISSION DELEGATED REGULATION (EU) 2018/1643 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the contents of, and cases where updates are required to, the benchmark statement to be published by the administrator of a benchmark**

~~(Text with EEA relevance)~~

...

Article 7

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex I

### COMMISSION DELEGATED REGULATION (EU) 2018 / 1644 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards determining the minimum content of cooperation arrangements with competent authorities of third countries whose legal framework and supervisory practices have been recognised as equivalent

~~(Text with EEA relevance)~~

...

#### Article 1

#### Scope of the cooperation arrangements

1. The cooperation arrangements referred to in Article 30(4) of Regulation (EU) 2016/1011 ("cooperation arrangements") shall clearly set out their scope of application. That scope shall include cooperation by the parties on at least the following matters:

...

- (b) any issues that may be relevant to the operations, activities or services of administrators covered by the cooperation arrangements in question, including the provision to ~~ESMA~~ the FCA of information on the laws and regulations to which those administrators are subject in the third country and any material changes to those laws or regulations;
- (c) any regulatory or supervisory actions taken, or approvals given, by the competent authority of the third country in relation to any administrator which has given its consent to the use of benchmarks in the ~~Union~~ United Kingdom, including changes to the obligations or requirements to which the administrator is subject that may have an impact on the administrator's continued compliance with applicable laws and regulations

...

...

Article 4

**Confidentiality, use of information and data protection**

1. Cooperation arrangements shall require the parties to refrain from disclosing information exchanged or provided to them under the cooperation arrangements, except where the party which had provided the information has given its prior written consent or where the disclosure of data is a necessary and proportionate obligation required under ~~Union or national law~~ the laws of the United Kingdom or any part thereof, or any other law applicable in the jurisdictions in which the competent authorities which are party to the relevant cooperation arrangement are located, in particular in the context of investigations or subsequent judicial proceedings.

...

Article 5

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex J

**COMMISSION DELEGATED REGULATION (EU) 2018/1645 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the form and content of the application for recognition with ~~the competent authority of the Member State of reference and of the presentation of information in the notification to European Securities and Markets Authority (ESMA)~~ the FCA**

~~(Text with EEA relevance)~~

...

## Article 2

**Format of the application**

1. The application for recognition shall be submitted in ~~the official language or one of the official languages of the Member State of reference~~ English, unless otherwise indicated in the Annex. The documents referred to in point 8 of the Annex shall be submitted in a ~~language customary in the sphere of international finance or in the official language or one of the official languages of the Member State of reference~~ English.
2. The application for recognition shall be submitted by electronic means or, if accepted by the ~~relevant competent authority~~ FCA, in paper form. Those electronic means shall ensure that completeness, integrity and confidentiality of the information are maintained during the transmission. The applicant shall ensure that each submitted document clearly identifies to which specific requirement of this Regulation it refers.

...

## Article 4

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

**Information to be provided in the application for recognition under Article 32 of  
Regulation (EU) 2016/1011**

**SECTION A – INFORMATION ON THE PROVIDING PERSON AND ITS LEGAL  
REPRESENTATIVE IN THE ~~UNION~~ UNITED KINGDOM**

## 1. GENERAL INFORMATION

...

- (e) Where the applicant is supervised in the non-~~EU~~ UK country where it is located, information about its current authorisation status, including the activities for which it is authorised, the name and address of the competent authority of the non-~~EU~~ UK country and the link to the register of such competent authority, where available; where more than one authority is responsible for supervision, the details of the respective areas of competence shall be provided.
- (f) A description of the operations of the applicant in the ~~EU~~ United Kingdom and in non-~~EU~~ UK countries, whether or not subject to any ~~EU~~ UK or extra-~~EU~~ UK financial regulation, that are relevant for the activity of provision of benchmarks, along with a description of where these operations are conducted.

...

...

1. LEGAL REPRESENTATIVE IN THE ~~MEMBER STATE OF REFERENCE~~  
UNITED KINGDOM

- (a) ~~Documented evidence supporting the choice of the Member State of reference, by application of the criteria laid down in Article 32(4) of Regulation (EU) 2016/1011.~~
- (b) With respect to the legal representative established in the ~~Member State of reference~~ United Kingdom as set out in Article 32(3) of Regulation (EU) 2016/1011, its:

...

- (viii) details of the performance of the oversight function by the legal representative relating to the provision of benchmarks that may be used in the ~~Union~~ United Kingdom;

...

...

4. CONFLICTS OF INTEREST

(a) Policies and procedures that address:

...

(ii) particular circumstances which apply to the applicant or to any particular benchmark provided by the applicant and which may be used in the ~~Union~~ United Kingdom, in relation to which conflicts of interest are most likely to arise, including where expert judgment or discretion is exercised in the benchmark's determination process, where the applicant is within the same group as a user of a benchmark and where the provider is a participant in the market or economic reality that the benchmark intends to measure.

...

...

7. COMPLIANCE WITH IOSCO PRINCIPLES

...

(b) Where available, in cases where the applicant is subject to supervision, a certification provided by the competent authority of the non-~~EU~~ UK country where the applicant is located, attesting compliance with the IOSCO principles referred to in letter (a).

8. OTHER INFORMATION

...

(b) The applicant shall provide this information in a manner and form stipulated by the ~~competent authority~~ FCA.

...

...

**SECTION B – INFORMATION ON THE BENCHMARKS**

**9. DESCRIPTION OF THE ACTUAL OR PROSPECTIVE BENCHMARKS OR FAMILIES OF BENCHMARKS THAT MAY BE USED IN THE ~~UNION~~ UNITED KINGDOM**

- (a) A list including all the benchmarks provided by the applicant that are already used in the ~~Union~~ United Kingdom and, where available, their International Securities Identification Numbers (ISINs).
  - (b) A description of the benchmark or family of benchmarks provided and that are already used in the ~~Union~~ United Kingdom, including a description of the underlying market or economic reality that the benchmark or the family of benchmarks is intended to measure, along with an indication of the sources used to provide these descriptions, and a description of contributors, if any, to this benchmark or family of benchmarks.
  - (c) A list including all the benchmarks that are intended to be marketed for their use in the ~~Union~~ United Kingdom and, where available, their ISINs.
  - (d) A description of the benchmark or family of benchmarks that are intended to be marketed for its use in the ~~Union~~ United Kingdom, including a description of the underlying market or economic reality that the benchmark or the family of benchmarks is intended to measure, along with an indication of the sources used to provide these descriptions, and a description of contributors, if any, to this benchmark or family of benchmarks.
- ...
- (h) Any documented evidence that a benchmark or family of benchmarks described under point (b) has a degree of use within the ~~Union territory~~ United Kingdom which qualifies this benchmark or all the benchmarks included in that family of benchmarks either as significant benchmarks, as defined by point (26) Article 3(1) of Regulation (EU) 2016/1011, or as non-significant benchmarks, as defined by point (27) of Article 3(1) of Regulation (EU) 2016/1011. The information to be provided shall be determined, to the extent possible, on the basis of the provisions in Commission Delegated Regulation (EU) 2018/662 for the assessment of the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds that make reference to the non-~~EU~~ UK-country benchmarks, within the ~~Union~~ United Kingdom, including in the event of an indirect reference to any such benchmark within a combination of benchmarks.

...

...

**Annex K**

**COMMISSION DELEGATED REGULATION (EU) 2018/1646 of 13 July 2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the information to be provided in an application for authorisation and in an application for registration**

~~(Text with EEA relevance)~~

...

Article 1

**General requirements**

...

4. The applicant shall not be required to provide the information listed under points (f) to (j) of paragraph 1 of Annex I or Annex II, as applicable, to the extent that the applicant is already supervised in the ~~Member State~~ United Kingdom by the ~~same competent authority~~ FCA for other activities than the provision of benchmarks.

...

Article 4

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX I

**Information to be provided in the application for recognition under Article 34 of Regulation (EU) 2016/1011**

## 1. GENERAL INFORMATION

...

- (b) Address of the office within the ~~European Union~~ United Kingdom.

...

- (f) Where the applicant is a supervised entity, information about its current authorisation status, including the activities for which it is authorised ~~and its relevant competent authority in its home Member State~~ by the FCA.

- (g) A description of the operations of the applicant in the ~~European Union~~ United Kingdom, whether or not subject to financial regulation, that are relevant for the activity of provision of benchmarks, along with a description of where these operations are conducted.

...

...

## 8. OTHER INFORMATION

...

- (b) The applicant shall provide the requisite information in the manner and form stipulated by the ~~competent authority~~ FCA.

...

...

**TECHNICAL STANDARDS (CREDIT RATINGS AGENCIES REGULATION) (EU  
EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA makes the modifications contained in the Annex listed in column (2) to the corresponding EU Regulation listed in column (1) below.

(1)	(2)
Commission Delegated Regulation (EU) 447/2012 of 21 March 2012 supplementing Regulation (EC) 1060/2009 of the European Parliament and of the Council on credit rating agencies by laying down regulatory technical standards for the assessment of compliance of credit rating methodologies	Annex A
Commission Delegated Regulation (EU) 449/2012 of 21 March 2012 supplementing Regulation (EC) 1060/2009 of the European	Annex B

Parliament and of the Council with regard to regulatory technical standards on information for registration and certification of credit rating agencies	
Commission Delegated Regulation (EU) 2015/1 of 30 September 2014 supplementing Regulation (EC) 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the periodic reporting on fees charged by credit rating agencies for the purpose of ongoing supervision by the European Securities and Markets Authority	Annex C
Commission Delegated Regulation (EU) 2015/2 of 30 September 2014 supplementing Regulation (EC) 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority.	Annex D

### Revocations

- G. The FCA deletes Commission Delegated Regulation (EU) 2015/3 of 30 September 2014 supplementing Regulation (EC) 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on disclosure requirements for structured finance instruments.

### Commencement

- H. This instrument comes into force on [29 March 2019 at 11 p.m.].

### Citation

- I. This instrument may be cited as the Technical Standards (Credit Ratings Agencies Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

### **COMMISSION DELEGATED REGULATION (EU) No 447/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies by laying down regulatory technical standards for the assessment of compliance of credit rating methodologies**

~~(Text with EEA relevance)~~

...

#### Article 1

##### **Subject matter**

This Regulation lays down the rules to be used in the assessment of compliance of credit rating methodologies with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009.

#### Article 2

##### **Demonstration of compliance**

A credit rating agency shall at all times be able to demonstrate to ~~ESMA~~ the Financial Conduct Authority ("FCA") its compliance with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009 relating to the use of credit rating methodologies.

#### Article 3

##### **Assessment of compliance by ~~ESMA~~ the FCA**

1. In addition to examining the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 in relation to an application for registration according to Article 15 of that Regulation, ~~ESMA~~ the FCA shall examine compliance by each credit rating agency with Article 8(3) of Regulation (EC) No 1060/2009 on an ongoing basis as ~~ESMA~~ the FCA considers appropriate.
2. When examining the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 ~~ESMA~~ the FCA shall use all information relevant to assess the process of developing, approving, using and reviewing credit rating methodologies.

3. In determining the appropriate level of assessment, ~~ESMA~~ the FCA shall consider whether a credit rating methodology has a demonstrable history of consistency and accuracy in predicting credit worthiness and may have regard to methods of validation such as appropriate default or transition studies designed to test that specific methodology.

#### Article 4

##### **Assessing that a credit rating methodology is rigorous**

...

4. A credit rating agency shall use credit rating methodologies and their associated analytical models, key credit rating assumptions and criteria that promptly incorporate findings or outcomes from an internal review or a monitoring review undertaken by one or more of the following:
- (a) the credit rating agency's independent members of the ~~administrative or supervisory~~ board;
  - (b) the credit rating agency's review function;
  - (c) any other relevant person or committee involved in the monitoring and reviewing of credit rating methodologies.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex B****COMMISSION DELEGATED REGULATION (EU) No 449/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on information for registration and certification of credit rating agencies**

~~(Text with EEA relevance)~~

...

**CHAPTER 1  
SUBJECT MATTER****Article 1****Subject matter**

This Regulation lays down the rules which determine the information to be provided to ~~ESMA~~ The Financial Conduct Authority (“FCA”) by a credit rating agency in its application for:

- (a) registration, as set out in Annex II to Regulation (EC) No 1060/2009; or
- (b) certification and for the assessment of its systemic importance to the financial stability or integrity of financial markets referred to in Article 5 of Regulation (EC) No 1060/2009.

...

**Article 3****Attestation of the accuracy and completeness of the application**

Any information submitted to ~~ESMA~~ the FCA during the registration or certification process shall be accompanied by a letter signed by a member of the credit rating agency’s senior management or a representative authorised by the senior management, attesting that the submitted information is accurate and complete to the best of their knowledge, as of the date of that submission.

Article 4

**Number of employees**

Any information regarding the number of employees shall be provided on a full time equivalent basis calculated as the total hours worked divided by the maximum number of hours subject to compensation within a working year as defined by ~~the relevant national~~ UK law.

...

Article 6

**Policies and procedures**

1. Policies and procedures provided in an application shall contain or be accompanied by:

...

- (d) an indication of the procedure for reporting to ~~ESMA~~ the FCA a material breach of the policy or procedure which may result in a breach of the conditions for initial registration or certification.

...

Article 7

**Identification, legal status and class of credit ratings**

A credit rating agency shall provide ~~ESMA~~ the FCA with:

- (a) the information listed in Annex II to this Regulation;
- (b) an excerpt from the relevant commercial or court register, or other form of evidence of the place of incorporation and scope of business activity of the credit rating agency, as of the application date.

SECTION 2

**Ownership structure**

Article 8

**Owners and parent undertaking of a credit rating agency**

1. A credit rating agency shall provide ~~ESMA~~ the FCA with:

- (a) a list of each person who directly or indirectly holds 5 % or more of the credit rating agency's capital or of voting rights or whose holding makes it possible to exercise a significant influence over the management of the credit rating agency;
  - (b) the information set out in points 1 and 2 of Annex III in relation to each such person.
2. A credit rating agency shall also provide the following information to ~~ESMA~~ the FCA:
- (a) a list of any undertakings in which a person referred to in paragraph 1 holds 5 % or more of the capital or voting rights or over whose management that person exercises a significant influence;
  - (b) an identification of their business activity referred to in point 3 of Annex III.

...

## Article 9

### **Ownership chart**

A credit rating agency shall provide ~~ESMA~~ the FCA with a chart showing the ownership links between any parent undertaking, subsidiaries and any other associated entities established in the ~~Union~~ UK and their branches. The undertakings shown in the chart shall be identified by their full name, legal status and address of the registered office and head office.

## SECTION 3

### **Organisational structure and corporate governance**

## Article 10

### **Organisational chart**

A credit rating agency shall provide ~~ESMA~~ the FCA with an organisational chart detailing its organisational structure, including a clear identification of significant roles and the identity of the person responsible for each significant role. Significant roles shall include at least senior management, persons who direct the activities of the branches and senior rating analysts. Where the credit rating agency conducts ancillary services, the organisational chart shall also detail its organisational structure in respect of those services.

## Article 11

### **Organisational structure**

1. A credit rating agency shall provide to ~~ESMA~~ the FCA information regarding its policies and procedures in relation to its compliance function as set out in point 5 of Section A of Annex I to Regulation (EC) No 1060/2009, review function as set out in point 9 of Section A of Annex I to Regulation (EC) No 1060/2009 and information

regarding its policies and procedures established to meet the requirements set out in points 4 and 10 of Section A of Annex I to Regulation (EC) No 1060/2009.

The information provided under this paragraph shall include the information set out in Annex IV points 1, 3 and 4.

2. Where the policies and procedures referred to in paragraph 1 are carried out at group of undertakings level, a credit rating agency shall also provide ~~ESMA~~ the FCA with the information set out in Annex IV point 2.
3. A credit rating agency shall also provide ~~ESMA~~ the FCA with the information set out in Annex X.

## Article 12

### Corporate governance

1. A credit rating agency shall provide ~~ESMA~~ the FCA with information regarding its internal corporate governance policies and the procedures and terms of reference which govern its senior management, including the ~~administrative or supervisory~~ board, its independent members and, where established, committees.
2. Where a credit rating agency adheres to a recognised corporate governance code of conduct, it shall identify the code and provide an explanation for any situations where it deviates from the code.
3. A credit rating agency shall provide the information set out in points 1 and 2 of Annex V on the members of its ~~administrative or supervisory~~ board.
4. A credit rating agency shall provide ~~ESMA~~ the FCA with a copy of the documents referred to in point 3 of Annex V.

## SECTION 4

### Financial resources for the performance of credit rating activities

## Article 13

### Financial reports

1. A credit rating agency shall provide ~~ESMA~~ the FCA with a copy of its annual financial reports, including individual and consolidated financial statements where applicable, for the three financial years preceding the date of the submission of its application to the extent available. Where the financial statements of the credit rating agency are subject to statutory audit ~~within the meaning given in Article 2(1) of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, as required by UK law~~ the financial reports shall include the audit report on the annual and consolidated financial statement.
2. Where the financial reports referred to in paragraph 1 are not available for the requested period of time, a credit rating agency shall provide ~~ESMA~~ the FCA with an interim financial report.

...

4. A credit rating agency shall provide ~~ESMA~~ the FCA with a description of the measures it has adopted to ensure sound accounting procedure.

## SECTION 5

### Staffing and compensation

#### Article 14

#### Staffing policies and procedures

1. A credit rating agency shall provide ~~ESMA~~ the FCA with information regarding the following policies and procedures:
  - (a) reporting to the compliance officer of any situations where one of the persons referred to in point 1 of Section C of Annex I to Regulation (EC) No 1060/2009 considers that any other such person has engaged in conduct that he or she considers illegal, pursuant to the provisions of point 5 of Section C of Annex I to Regulation (EC) No 1060/2009;
  - (b) the rotation of lead rating analysts, rating analysts and persons approving credit rating;
  - (c) the compensation and performance evaluation practices for rating analysts, persons approving credit ratings, senior management and the compliance officer;
  - (d) the training and development relevant to the rating process, including any examination or other type of formal assessment required for the conduct of rating activities.
2. A credit rating agency shall also provide ~~ESMA~~ the FCA with:
  - (a) a description of the measures in place to mitigate the risk of over-reliance on individual employees;
  - (b) for each class of credit ratings, information on the size and experience of the quantitative teams responsible for developing and reviewing methodologies and models;
  - (c) the name and function of any employee of the credit rating agency who has obligations, either individually or on behalf of the credit rating agency, to any other entity within the group of credit rating agencies;
  - (d) the average annual fixed and variable remuneration of the rating analysts, lead analysts and the compliance officer for each of the preceding three financial years.
3. A credit rating agency shall describe the arrangements in place to ensure that it is informed when a rating analyst terminates his or her employment and joins a rated entity as set out in point 6 of Section C of Annex I to Regulation (EC) No 1060/2009.

A credit rating agency shall describe the arrangements in place to ensure that the persons referred in point 1 of Section C of Annex I to Regulation (EC) No 1060/2009 are aware of the prohibition established as set out in point 7 of Section C of Annex I to Regulation (EC) No 1060/2009.

## Article 15

### **Fitness and appropriateness**

1. A credit rating agency shall provide ~~ESMA~~ the FCA with the curriculum vitae, including employment history with relevant dates, identification of positions held and a description of the functions occupied, for each of the following:
  - (a) members of senior management;
  - (b) persons appointed to direct the business of the branches;
  - (c) officers responsible for internal audit, internal control, compliance function, risk assessment and review function.
2. A credit rating agency shall provide ~~ESMA~~ the FCA with the following information in respect of each member of its senior management:
  - (a) a recent criminal-record file from the country of origin of the relevant person, unless the relevant national authorities do not issue such a file;
  - (b) a self-declaration of their good repute including at least the statements set out in Annex VI and signed by the individual.

## SECTION 6

### **Issuance and review of credit ratings**

## Article 16

### **Development, validation, review and disclosure of rating methodologies**

1. A credit rating agency shall provide ~~ESMA~~ the FCA, for each class of credit rating, with a high-level description of the range of core models and methodologies used to determine credit ratings.
2. A credit rating agency shall provide ~~ESMA~~ the FCA with the following information regarding its policies and procedures:
  - (a) information regarding the development, validation and review of its rating methodologies, including at least the information set out in point 1 of Annex VII;
  - (b) information regarding the disclosure of the credit methodologies and descriptions of models and key rating assumptions used in its credit rating activities as set out in point 5 of Part I of Section E of Annex I to Regulation (EC) No 1060/2009.

## Article 17

**Issuance of credit ratings**

1. A credit rating agency shall provide ~~ESMA~~ the FCA with the following information:
  - (a) the rating nomenclatures used for each class of credit rating;
  - (b) the definition of any rating action and statuses used by the credit rating agency;
  - (c) its policies and procedures regarding the issuance of credit ratings, including at least the information set out in point 2 of Annex VII;
  - (d) the terms of reference of any rating committees;
  - (e) a description of the arrangements in place for disclosing a rating decision, including at least the information set out in point 3 of Annex VII;
  - (f) a description of the procedures in place to ensure that a methodology is applied and implemented consistently across classes of credit rating, offices and regions.
2. A credit rating agency shall identify any differences between the treatment of unsolicited and solicited ratings in the policies and procedures provided under points (c) and (e) of paragraph 1.
3. Where the rating process is regularly audited by an independent third party, a credit rating agency shall provide ~~ESMA~~ the FCA with the last audit report.
4. A credit rating agency shall also provide ~~ESMA~~ the FCA with the following information:
  - (a) details and criteria for the selection of data providers;
  - (b) details on the reliability of internal and external data input into rating models;
  - (c) details of the data sources used.

## Article 18

**Monitoring of credit ratings**

A credit rating agency shall provide ~~ESMA~~ the FCA with information regarding its policies and procedures concerning:

- (a) the monitoring of ratings, identifying any differences between solicited and unsolicited ratings, and including at least the information set out in point 4 of Annex VII;
- (b) the disclosure of the decision to review or change a rating;
- (c) the monitoring of the impact of changes in macroeconomic or financial market conditions on credit ratings as described in Article 8(5) of Regulation (EC) No 1060/2009.

## SECTION 7

**Description of issue and review procedures and methodologies**

## Article 19

**Credit rating presentation requirements**

A credit rating agency shall provide ~~ESMA~~ the FCA with information regarding the following items:

- (a) policies and procedures with respect to the credit rating disclosure requirements laid down in the following provisions of Regulation (EC) No 1060/2009:
  - (i) paragraphs 1, 2 and 5 of Article 10;
  - (ii) Part I of Section D of Annex 1;
- (b) where the credit rating agency rates structured instruments, policies and procedures with respect to the following provisions of Regulation (EC) No 1060/2009:
  - (i) Article 10(3);
  - (ii) point 4 of Section B of Annex I; (iii) Part II of Section D of Annex I;
- (c) samples of typical credit rating reports or other documents demonstrating how the credit rating agency meets or intends to meet these disclosure requirements; and
- (d) samples of typical rating letters for each class of credit rating produced by the credit rating agency.

## SECTION 8

**Conflicts of interest**

## Article 20

**Independence and avoidance of conflicts of interest**

1. A credit rating agency shall provide ~~ESMA~~ the FCA with information regarding its policies and procedures with respect to the identification, management and disclosure of conflicts of interest and the rules on rating analysts and other persons directly involved in credit rating activities covering at least the requirements set out in Annex VIII.

...

## Article 21

**Inventory of conflicts of interest**

1. A credit rating agency shall provide ~~ESMA~~ the FCA with an up-to-date inventory of existing and potential conflicts of interest relevant to it. Where a credit rating agency is

part of a group of undertakings, it shall include in the inventory any conflicts of interest arising from other entities which belong to its group of undertakings.

...

#### Article 22

### **Conflicts of interest with respect to ancillary services**

1. A credit rating agency shall provide ~~ESMA~~ the FCA with a description of the resources, both human and technical, shared by the rating and ancillary services of the credit rating agency or shared with the group of undertakings to which it belongs.
2. A credit rating agency shall describe the arrangements in place to prevent, disclose and mitigate any existing or potential conflicts of interest between the rating business and ancillary services.
3. A credit rating agency shall provide ~~ESMA~~ the FCA with a copy of the results of any internal assessment performed to identify any existing or potential conflict of interest between the rating business and ancillary services.

#### SECTION 9

### **Programme of operations**

#### Article 23

### **Information regarding the programme of operations**

A credit rating agency shall provide ~~ESMA~~ the FCA with the annual information described in Annex IX covering a period of three years following the date of registration.

#### SECTION 10

### **Use of endorsement**

#### Article 24

### **Expected use of endorsement**

Where a credit rating agency intends to endorse credit ratings issued in third countries as set out in Article 4(3) of Regulation (EC) No 1060/2009, it shall provide ~~ESMA~~ the FCA with the information set out in Annex XI.

## SECTION 11

**Outsourcing**

## Article 25

**Outsourcing requirements**

1. Where a credit rating agency outsources any important operational functions, it shall provide ~~ESMA~~ the FCA the following information:
  - (a) its policies with respect to outsourcing;
  - (b) an explanation on how it intends to identify, manage and monitor the risks posed by the outsourcing of important operational functions;
  - (c) a copy of the outsourcing agreements between the credit rating agency and the entity to which the activities are outsourced;
  - (d) a copy of any internal or external report on the outsourced activities issued in the past five years.
2. For the purposes of paragraph 1, important operational functions shall comprise rating review, lead analyst, rating methodology development and review, rating approval, internal quality control, data storage, IT systems, IT support and accounting.

## CHAPTER 3

**CERTIFICATION**

## SECTION 1

**Application for certification**

## Article 26

**Information for application for certification**

1. A credit rating agency shall provide ~~ESMA~~ the FCA with the following information:
  - (a) the general information requested in points 1 to 10 of Annex II;
  - (b) the information regarding its owners referred to in Article 8;
  - (c) the organisational chart referred to in Article 10;
  - (d) details on the arrangements in place to prevent, disclose and mitigate any existing or potential conflicts of interest between the rating business and ancillary services;
  - (e) the information referred to in Article 13 regarding the credit rating agency's financial resources.
2. A credit rating agency shall provide ~~ESMA~~ the FCA with the following information regarding its business activities:
  - (a) for the preceding three years, the number of employees contracted and involved in the rating and ancillary services both permanent and temporary;

- (b) if the applicant has a branch, the number of employees involved in the rating and ancillary business in each branch;
  - (c) the number of rating analysts contracted to the applicant including, if the credit rating agency has a branch, the number of rating analysts contracted in each branch;
  - (d) if a credit rating agency is planning to establish a new branch, a description of the type of business activities the new branch is expected to conduct, its full name and address and the timeframe for its establishment;
  - (e) if a credit rating agency is planning to conduct any new ancillary services, a description of the new services and the timeframe for their commencement;
  - (f) the revenue generated over the past three years by the credit rating agency from rating and ancillary services as a proportion of total revenue, presented on a financial year basis;
  - (g) if the credit rating agency has one or more branches, the revenue generated over the past three years by each branch as a proportion of total revenue, presented on a financial year basis.
3. A credit rating agency shall also provide ~~ESMA~~ the FCA with the following information regarding the credit ratings it issues or proposes to issue:
- (a) the class of credit ratings;
  - (b) the rating nomenclatures used for each class of credit rating;
  - (c) the definition of any rating action and statuses used by the credit rating agency;
  - (d) details of whether the credit rating agency produces solicited or unsolicited ratings or both;
  - (e) for each class of credit rating, the number of years of experience it has in producing these ratings;
  - (f) for each class of credit rating, the current or expected proportion of public ratings and private ratings.
4. ~~The credit rating agency shall indicate whether it currently holds, or expects to apply for, External Credit Assessment Institution (ECAI) status in one or more Member States and, if so, it shall identify the relevant Member State.~~

## Article 27

### **General requirements for the application for certification**

A credit rating agency shall ensure that its application complies with Articles 2 to 6 regarding the format of its application, the attestation of its accuracy, the class of credit ratings, number of employees and the policies and procedures provided to ~~ESMA~~ the FCA.

## SECTION 2

**Systemic importance**

## Article 28

**Systemic importance**

A credit rating agency shall provide ~~ESMA~~ the FCA with the information set out in Annex XII regarding the systemic importance of its credit ratings and credit rating activities to the financial stability or integrity of the financial markets of ~~one or more Member States~~ the UK.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX IV

**ORGANISATIONAL STRUCTURE**

(Article 11)

1. A credit rating agency shall provide the following information regarding policies and procedures referred to in Article 11(1):
  - (a) a description of the roles and responsibilities of the employees;
  - (b) a description of the mechanisms to monitor the effectiveness of the policy or procedure;
  - (c) the number of employees and the ratio of temporary to permanent employees;
  - (d) information on the reporting lines and the frequency of reporting; and
  - (e) a description of the interaction between the relevant function and employees directly involved in the rating process and between that function and any other functions.
2. Where the arrangements referred to in point 1 of this Annex are carried out at group of undertakings level, a credit rating agency shall provide ~~ESMA~~ the FCA with a copy of relevant service level agreements that it has entered into, or proposes to enter into, with other group members, and the following information:
  - (a) a description of the relevant tasks carried out by each group undertaking, including undertakings located in third countries;
  - (b) a clear identification of the undertaking involved in performing the task, specifying its location;

- (c) information on the reporting lines and frequency of reporting of each entity involved and on the way information is collected from each entity; and
- (d) information on any dedicated resources located in the ~~Union~~ UK. In the case of human resources, a credit rating agency shall specify the time devoted to the function on the basis of full time equivalence.

...

ANNEX V  
**INFORMATION TO BE PRESENTED WITH REGARD TO CORPORATE GOVERNANCE**

(Article 12)

1. Identification of the members of the ~~administrative or supervisory~~ board and other committees as established in Article 12(3):

Identification of the member	Body ( <del>administrative board, supervisory board,</del> audit committee, remunerations committee, etc.) and position (Chair, vice-chair, member)	Body of other undertakings where the person is a member and position
...	...	

2. Identification of the independent members of the ~~administrative or supervisory~~ board as established in Article 12(3) and justification of their independence if they are independent members and of their in-depth knowledge and experience at a senior level of the market in structured finance instruments, where the credit agency applies to issue credit ratings of structured finance products, according to Section A(2) of Annex I to Regulation (EC) No 1060/2009:

Identification of the member	Body ( <del>administrative or supervisory</del> board)	Independent member (YES/NO) and if YES, provide justification	Experience in structured finance instruments (YES/NO) and if YES, provide justification
A. ...	B. ...		
C. ...	D. ...		
E. ...	F. ...		

3. A credit rating agency shall provide to ~~ESMA~~ the FCA a copy of the following documents as established in Article 12(4):

- (a) the last three sets of minutes of the meetings of the ~~administrative and supervisory~~ board;
- (b) the most recent minutes of the meetings of any other committees, such as the remuneration or strategy committees; and
- (c) the last three opinions or reports presented to the ~~administrative or supervisory~~ board by the independent members.

...

ANNEX IX  
**PROGRAMME OF OPERATIONS**  
 (Article 23)

...

**Class of credit ratings**

- 2. The following information regarding the class of credit ratings:

...

- (d) the number and volume (in billions of ~~euro~~ pounds sterling) of structured finance ratings;
- (e) the number and volume (in billions of ~~euro~~ pounds sterling) of corporate ratings, with the following detail: financial institutions, insurance, corporate issuers; and

...

...

**Corporate governance**

- 5. Number of members of the following bodies:
  - (a) ~~administrative and supervisory~~ the board; and
  - (b) independent members of the ~~administrative and supervisory~~ board.

...

**Human Resources/Staffing**

- 7. Number of permanent and temporary employees working for the following functions and their seniority:
  - (a) senior management other than members of the ~~administrative or supervisory~~ board and persons appointed to direct the branches;
  - ...

ANNEX XI  
**USE OF ENDORSEMENT**  
 (Article 24)

...

**Assessment of the third-country regulatory regime**

- 3. In relation to each relevant third-country jurisdiction, detailed information, structured analysis and reasoning for each requirement set out in Articles 6 to 12 of Regulation (EC) No 1060/2009, including any reference to the relevant sections of the third-country law/regulation.  
  
 The obligation set out in the first subparagraph of this point shall not apply where ~~ESMA~~ the FCA is satisfied that the requirements of the third-country regime are as stringent as the requirements set out in Articles 6 to 12 of Regulation (EC) No 1060/2009.

ANNEX XII  
**SYSTEMIC IMPORTANCE INDICATORS**  
 (Article 28)

- 1. A credit rating agency shall provide ~~ESMA~~ the FCA with the volume of outstanding credit ratings it has issued with the details set out in the following table. The information regarding the corporate rating and sovereign and public finance ratings shall be provided on the basis of number of credit ratings and the information regarding structured finance ratings shall be provided on the basis of the amount (in millions of ~~euro~~ pounds sterling) of issuing of the structured finance instruments.

	Total
Corporate ratings (number of credit ratings)	

Financial institution including credit institutions and investment firms	
Insurance undertaking	
Corporate issuer that is not considered a financial institution or an	
Sovereign and public finance ratings (number of credit ratings)	
Structured Finance ratings (amount of the issuing in millions of <del>euro</del> pounds sterling)	

2. A credit rating agency shall provide information on the annual revenues generated in ~~any European Union Member State~~ the UK and in other countries outside the ~~European Union~~ UK (third countries) for the past three years with the following level of detail:

	<del>EU Member State 1</del> <u>UK</u>	<del>EU Member State 2</del> <u>Third Countries</u>	<del>EU Member State 3</del>	(...)	<del>Other non-EU countries</del>	Total
<b>Rating activities</b>						
From rated entities or related third parties						
From subscribers						
Other sources						
<b>Non-rating activities</b>						

~~Member States shall be individually identified.~~

## Annex C

**COMMISSION DELEGATED REGULATION (EU) 2015/1 of 30 September 2014 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the periodic reporting on fees charged by credit rating agencies for the purpose of ongoing supervision by the European Securities and Markets Authority**

~~(Text with EEA relevance)~~

...

Article -1

**Definitions**

1. For the purposes of this Regulation the following definitions apply:
- (a) 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

Article 1

**General principles**

1. Registered credit rating agencies shall submit the following types of reports to ~~ESMA~~ the Financial Conduct Authority ("FCA"):
- (a) pricing policies and procedures as set out in Article 2;
  - (b) fee data for credit ratings activities provided under the issuer-pays model as set out in Article 3(1);
  - (c) fee data for credit rating activities provided under the subscriber- or investor-pays model as set out in Article 3(2).
2. Registered credit rating agencies shall ensure the accuracy and completeness of the information and data reported to ~~ESMA~~ the FCA.
3. For groups of credit rating agencies, the members of each group may mandate one member to submit reports required under this Regulation on their behalf. Each credit rating agency on whose behalf such a report is submitted shall be identified in the data submitted to ~~ESMA~~ the FCA.

## Article 2

**Pricing policies and procedures**

1. Registered credit rating agencies shall provide to ~~ESMA~~ the FCA their pricing policies, fee structure or fee schedules and pricing criteria in relation to those rated entities or financial instruments on which they are issuing credit ratings and, where applicable, pricing policies regarding ancillary services.
2. Registered credit rating agencies shall ensure that for each type of credit rating offered the pricing policies contain or are accompanied by the following items:
  - (a) the names of the persons responsible for the approval and maintenance of the pricing policies, fee schedules and/or fee programmes, including those responsible for setting fees, the internal identifier, the function and internal department to which the persons belong;
  - (b) any internal guidelines for application of the pricing criteria in the pricing policies, fee schedules and/or fee programmes relating to the setting of individual fees;
  - (c) a detailed description of the fee range or fee schedule and criteria applicable to the different types of fees, including those provided for in the fee schedules;
  - (d) a detailed description of any fee programme, including a relationship programme, frequency of use programme, loyalty programme or other programme, and including the criteria of application and fee range, from which individual credit ratings or set of ratings may benefit in fee terms;
  - (e) where applicable, the pricing principles and rules to be employed whenever there is a relationship or link between the fees charged for credit rating services and ancillary services or any other services provided to the client, within the meaning of the second subparagraph of point 2 of Part II of Section E of Annex I to Regulation (EC) No 1060/2009 (client), by the credit rating agency and/or any of the entities belonging to the credit rating agency's group within the meaning of ~~Articles 1 and 2 of Council Directive 83/349/EEC~~ (1) Articles 22(1)-(5) of Directive 2013/34/EU, as well as any entity linked to the credit rating agency or other company of the credit rating agency's group by a relationship within the meaning of ~~Article 12(1) of Directive 83/349/EEC~~ Article 22(7) of Directive 2013/34/EU;
  - (f) the geographical scope of application of the pricing policy, fee schedule or fee programme in terms of the location of the clients and the credit rating agency or agencies applying the pricing policy, fee schedule or fee programme;
  - (g) the names of the persons authorised to set fees and other charges under the respective pricing policy, fee schedule or fee programme, including those responsible for setting fees, the internal identifier, the function and internal department to which the persons belong.
3. Registered credit rating agencies shall ensure that the pricing procedures contain or are accompanied by the following items:

...

- (g) a detailed description of the procedure for reporting to ~~ESMA~~ the FCA any material breach of pricing policies or procedures which may result in a breach of point 3c of Section B of Annex I to Regulation (EC) No 1060/2009.

### Article 3

#### **List of fees charged to each client**

1. Registered credit rating agencies providing credit ratings on an issuer-pays model shall provide to ~~ESMA~~ the FCA the fees charged to each client for individual credit ratings and any ancillary services per legal entity as well as aggregated by group of companies.
2. Registered credit rating agencies providing credit ratings on a subscriber- or investor-pays model shall provide to ~~ESMA~~ the FCA, on a per client basis, the total fees charged for such services as well as for the ancillary services provided.
3. All deviations from pricing policies or pricing procedures, or the non-application of a pricing policy, fee schedule or fee programme, or pricing procedure to a rating shall be recorded by the registered credit rating agencies, with a clear identification of the main explanations for the deviation and the individual rating involved in the format set out in Table 1 of Annex II. This record shall be made promptly available to ~~ESMA~~ the FCA upon request.

...

### Article 5

#### **Data to be provided**

1. Registered credit rating agencies shall provide to ~~ESMA~~ the FCA the items set out in Article 2(2) and (3), and the data set out in Tables 1 to 4 of Annex I, as well as the pricing policies, fee schedules, fee programmes and procedures in separate files.
2. Registered credit rating agencies shall provide to ~~ESMA~~ the FCA the data set out in Tables 1 and 2 of Annex II for fees data on each individual credit rating issued and the fees charged for credit ratings and any ancillary services per client in accordance with Article 3(1).
3. Registered credit rating agencies that have provided credit ratings on a subscriber or investor-pays model shall provide to ~~ESMA~~ the FCA the data set out in Table 1 of Annex III for each client of the credit ratings services provided, in accordance with Article 3(2).
4. The data specified in Tables 1 to 4 of Annex I, Tables 1 and 2 of Annex II, and Table 1 of Annex III shall be submitted to ~~ESMA~~ the FCA in separate files.

## Article 6

**Initial reporting**

1. Each registered credit rating agency shall provide data to ~~ESMA~~ the FCA by filling in Tables 1 to 4 of Annex I and separate files for pricing policies, fee schedules, fee programmes and procedures it is applying for each credit rating type in which it is active, in accordance with Article 5(1), within 30 days after ~~the date of entry into force of this Regulation~~ exit day.
2. ~~Initial reporting on fees referred to in Article 5(2) and (3) shall be submitted to ESMA nine months after the date of entry into force of this Regulation and shall include the data accumulated from the date of entry into force of this Regulation until 30 June 2015.~~
3. ~~The second report on fees referred to in Article 5(2) and (3) shall be submitted to ESMA by 31 March 2016 and shall include the data accumulated from 1 July 2015 until 31 December 2015.~~

## Article 7

**Ongoing reporting**

1. Without prejudice to the initial reporting requirements set out in Article 6, the information submitted in accordance with Article 5 shall be submitted on a yearly basis by 31 March and shall include data and pricing policies, fee schedules, fee programmes and procedures relating to the preceding calendar year.
2. Without prejudice to paragraph 1, material changes to pricing policies, fee schedules, fee programmes and procedures shall be reported to ~~ESMA~~ the FCA on an ongoing basis without undue delay after their adoption and at the latest 30 days after their implementation.
3. Registered credit rating agencies shall notify ~~ESMA~~ the FCA immediately of any exceptional circumstances that may temporarily prevent or delay reporting in accordance with this Regulation.

## Article 8

**Reporting procedures**

1. Registered credit rating agencies shall submit data files in accordance with the technical instructions provided by ~~ESMA~~ the FCA and using ~~ESMA's~~ the FCA's reporting system.
2. Registered credit rating agencies shall store the data files sent to and received by ~~ESMA~~ the FCA under Article 5 as well as the deviation records referred to in Article 3(3) in electronic form for at least five years. Those files shall be made available to ~~ESMA~~ the FCA on request.

3. Where a registered credit rating agency identifies factual errors in data that have been reported, it shall inform ~~ESMA~~ the FCA without undue delay and correct the relevant data according to the technical instructions provided by ~~ESMA~~ the FCA.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX I

Table 1

## Reporting of pricing policies per rating class in force and subsequent material updates

No.	Field name	Description	Type	Standard
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration.	Mandatory	
2	CRA scope	Identification of the CRAs applying the pricing policy.	Mandatory	ISO 17442
3	Pricing policy identifier	Unique identifier of the pricing policy that shall be maintained. All changes other than the scope of the rating types covered by the pricing policy should maintain the same unique identifier. Changes in the scope require a new pricing policy identifier.	Mandatory	Pricing policy identifier in format 'PP [internal pricing policy identifier]'
4	Pricing policy validity date	The date from which the pricing policy is valid.	Mandatory	ISO 8601 date format (YYYY-MM-DD)
5	Pricing policy end date	The end validity date of the pricing policy.	Mandatory	ISO 8601 date <del>format</del> <u>format</u> (YYYY-MM-DD) or 9999-01-01

6	Indication of model	Indication of whether the pricing policy relates to issuer-pays ratings or investor-pays or subscriber-pays model. <del>ESMA</del> <u>The FCA</u> understands that CRAs may operate services under more than one model and therefore it is possible that a pricing policy may be used for both types of models. In such cases I and S may both be chosen.	Mandatory	
...				

...

Table 2

**Reporting of fee schedules per rating class in force and subsequent material updates**

No.	Field name	Description	Type	Standard
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration.	Mandatory	
...				

...

Table 3

**Reporting of fee programmes per rating class in force and subsequent material updates**

No.	Field name	Description	Type	Standard
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration.	Mandatory	
...				

...

Table 4

**Reporting of pricing procedures in force and subsequent material updates**

No.	Field name	Description	Type	Standard
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration.	Mandatory.	
...				

## ANNEX II

Table 1

**Data to be reported to ~~ESMA~~ the FCA for each individual credit rating assigned under the issuer-pays model**

No.	Field name	Description	Type	Standard
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration.	Mandatory.	
...				
9	Total amount of fees charged	Identifies the total amount of fees billed for the rating during the prior calendar reporting year. Where no fee was paid for the individual credit rating the amount should be 0 for all but one of the ratings benefitting from the Group Fee.	Mandatory.	Amount in <del>EUR</del> <u>GBP</u>
10	Amount of initial fees paid	Identifies the amount of up-front/initial fees billed during the prior calendar reporting year.	Mandatory.	Amount in <del>EUR</del> <u>GBP</u>
11	Surveillance fees paid	Identifies the annual surveillance/monitoring fees billed in prior calendar year.	Mandatory.	Amount in <del>EUR</del> <u>GBP</u>
12	Other fees charged for rating service	Identifies total of other fees or compensation billed in prior calendar year.	If applicable.	Amount in <del>EUR</del> <u>GBP</u>
...				

Table 2

**Data to be provided to ~~ESMA~~ the FCA for fees received on a per client basis for rating services and ancillary services**

No.	Field name	Description	Type	Standard
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration.	Mandatory.	
...				
4	Total overall fees billed	Total fees billed from the Client in the prior calendar year for issuer-pays rating services.	Mandatory.	Amount in <del>EUR</del> <u>GBP</u>
5	Client ratings	Identifies how many credit ratings the Client has with the credit rating agency at 31 December of the prior calendar year.	Mandatory.	Number of ratings
6	Total fees for programmes	Total fees billed from the Client in the prior calendar year for rating services not derived from an individual rating but from a frequency issuance, relationship or other type of flat fee programme and excess issuance fees, which may cover one or more ratings.	Mandatory.	Amount in <del>EUR</del> <u>GBP</u>
...				
8	Fees received for ancillary services	Total fees billed by the CRA group of companies from the Client for ancillary services in the previous calendar year.	Mandatory.	<del>EUR</del> <u>GBP</u>
...				
11	Other services	Indication of whether account was taken for the setting of fees for the credit rating services provided to the Client of any services provided by any entities belonging to the credit rating agency's	Mandatory.	...

		group within the meaning of <del>Articles 1 and 2 of Directive 83/349/EEC</del> <u>Article 22(1)-(5) of Directive 2013/34/EU</u> as well as any entity linked to the credit rating agency or other company of the credit rating agency's group by a relationship within the meaning of <del>Article 12(1) of Directive 83/349/EEC</del> <u>Article 22(7) of Directive 2013/34/EU</u> .		
--	--	--	--	--

## ANNEX III

Table 1

**Data to be provided to ~~ESMA~~ the FCA for fees received for subscription or investor-pays based rating services**

...

No.	Field name	Description	Type	Standard
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration.	Mandatory.	
...				
3	Fees per client	Total fees billed from the Client for subscription based rating services provided in prior calendar year.	Mandatory.	Amount in <del>EUR</del> <u>GBP</u>
...				
9	Fees received for ancillary services	Total fees billed by the CRA group of companies from the client for ancillary services in the prior calendar year.	Mandatory.	Amount in <del>EUR</del> <u>GBP</u>

## Annex D

**COMMISSION DELEGATED REGULATION (EU) 2015/2 of 30 September 2014 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority**

~~(Text with EEA relevance)~~

...

### Article -1

#### **Definitions**

1. For the purposes of this Regulation the following definitions apply:
  - (a) 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

### Article 1

#### **Data to be reported**

1. Credit rating agencies shall report data on all their issued or endorsed credit ratings or rating outlooks in accordance with Articles 8, 9, and 11. Credit rating agencies shall report all credit ratings and rating outlooks issued at rated entity level and on all their issued debt instruments, where applicable.
2. Credit rating agencies shall ensure the accuracy, completeness and availability of the data reported to ~~ESMA~~ the Financial Conduct Authority ("FCA") and shall ensure that reports are submitted in accordance with Articles 8, 9 and 11 using appropriate systems developed on the basis of technical instructions provided by ~~ESMA~~ the FCA.
3. Credit rating agencies shall notify ~~ESMA~~ the FCA immediately of any exceptional circumstances that may temporarily prevent or delay their reporting in accordance with this Regulation.
4. For groups of credit rating agencies, the members of each group may mandate one member to submit reports required under this Regulation on their behalf. Each credit rating agency on whose behalf such a report is submitted shall be identified in the data submitted to ~~ESMA~~ the FCA.
5. For the purposes of Article 11(2) and Article 21(4)(e) of Regulation (EC) No 1060/2009, a credit rating agency reporting on behalf of a group may include data on

credit ratings and rating outlooks issued by third-country credit rating agencies belonging to the same group and not endorsed. Where a credit rating agency does not report such data it shall give an explanation in its qualitative data report, in Fields 9 and 10 of Table 1 of Part 1 of Annex I to this Regulation.

6. Credit rating agencies shall disclose the solicitation status of each reported credit rating or rating outlook by specifying whether it is unsolicited with participation or unsolicited without participation in accordance with Article 10(5) of Regulation (EC) No 1060/2009 or solicited.

...

#### Article 4

### Corporate ratings

1. Credit rating agencies shall, when reporting corporate ratings, classify them within one of the following industry segments:
  - (a) financial institutions, including banks, brokers and dealers;
  - (b) insurance;
  - (c) all other corporate entities or issuers which are not included in points (a) and (b).
2. Credit rating agencies shall classify corporate issues as one of the following issue types:
  - (a) bonds;
  - (b) CRR covered bonds as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council defined in point 128A of Article 4(1) of Regulation (EU) No 575/2013 and that meet the eligibility requirements set out in paragraphs 1 to 3, 6 and 7 of Article 129 of that Regulation (EU) No 575/2013;
  - (c) other types of covered bonds, for which the credit rating agency has used specific covered bond methodologies, models or key rating assumptions for issuing the credit rating and which are not included in point (b);
  - (d) other types of corporate issues which are not included in points (a), (b) and (c).
3. The country code of a rated entity or its issues in Field 10 of Table 1 of Part 2 of Annex I shall be that of the country of domicile of the entity.

## Article 5

**Structured finance ratings**

1. Structured finance ratings shall relate to a financial instrument or other assets resulting from a securitisation transaction or scheme referred to in ~~Article 4(1)(61) of Regulation (EU) No 575/2013~~ point 1 of Article 2 of Regulation 2017/2402/EU.
2. Credit rating agencies shall, when reporting structured finance ratings, classify them within one of the following asset classes:

...

- (f) other ~~structured finance~~ securitisation instruments which are not included in points (a) to (e), including structured covered bonds, structured investment vehicles, insurance-linked securities and derivative product companies.

3. Where applicable, a credit rating agency shall also indicate which specific sub-asset class each rated instrument belongs to in Field 34 of Table 1 of Part 2 of Annex I.
4. The country code of ~~structured finance~~ securitisation instruments which shall be reported in Field 10 of Table 1 of Part 2 of Annex I and shall be that of the country of domicile of the majority of the underlying assets. Where it is not possible to identify the country of domicile of the majority of the underlying assets, the rated instrument shall be classified as 'international'.

...

## Article 8

**Reporting for the purpose of publication on the ~~ERP~~ public rating database**

...

## Article 9

**Reporting for the purpose of ~~ESMA~~ the FCA supervision**

1. As referred to in Article 21(4)(e) of Regulation (EC) No 1060/2009, credit rating agencies shall report data on all credit ratings and rating outlooks issued or endorsed, or issued in a third country and not endorsed as referred to in Article 1(5), including information on all entities or debt instruments submitted for their initial review or for preliminary rating, as referred to in point 6 of Part I of Section D of Annex I to Regulation (EC) No 1060/2009.

2. For those credit ratings and rating outlooks to which Article 8 does not apply, credit rating agencies shall report rating data relating to the preceding calendar month on a monthly basis.
3. A credit rating agency that has fewer than 50 employees and that is not part of a group of credit rating agencies may provide the rating data referred to in paragraph 2 every two months, unless ~~ESMA~~ the FCA requires monthly reporting in view of the nature, complexity and range of issues of its credit ratings. That rating data shall refer to the preceding two calendar months.
4. The rating data referred to in paragraph 2 shall be submitted to ~~ESMA~~ the FCA within 15 days from the end of the period that is covered by the report. Where the 15th day of the month falls on a public holiday in the country of domicile of the credit rating agency, or where a credit rating agency reports on behalf of a group in accordance with Article 1(4), the country of domicile of that credit rating agency, the deadline shall be the next working day.
5. Where no credit ratings or rating outlooks referred to in paragraph 1 were issued during the preceding calendar month, the credit rating agency shall not be obliged to submit any data.

#### Article 10

#### **Reporting for the purpose of historical performance**

The credit ratings issued or endorsed, or issued in a third country and not endorsed as referred to in Article 1(5), shall be used by ~~ESMA~~ the FCA for making available the historical performance data, in accordance with Article 11(2) of Regulation (EC) No 1060/2009 and point 1 of Part II of Section E of Annex I to that Regulation.

#### Article 11

#### **Initial reporting**

1. Credit rating agencies registered or certified on or before 21 June 2015 exit day shall prepare a first report to be reported to ~~ESMA~~ the FCA by 1 January 2016 on exit day or on such later day as notified by the FCA, that shall contain ~~all of the following~~:
  - (a) information on all credit ratings and rating outlooks referred to in Articles 8 and 9, and that have been issued and not withdrawn by 21 June 2015 exit day;
  - (b) ~~credit ratings and rating outlooks referred to in Articles 8 and 9 that have been issued between 21 June 2015 and 31 December 2015.~~
2. ~~Credit rating agencies registered or certified between 21 June 2015 and 31 December 2015 shall comply with this Regulation from 1 January 2016. In their first report, they shall report, in accordance with Articles 8 and 9, all the credit ratings and rating outlooks that were issued from the date of registration or certification.~~
3. Credit rating agencies registered or certified after 1 January 2016 exit day shall comply with this Regulation within three months after the date of registration or certification.

In their first report, they shall report, in accordance with Articles 8 and 9, all the credit ratings and rating outlooks that were issued from the date of registration or certification.

4. In addition to the first report referred to in paragraphs 2 and 3, a credit rating agency that is certified after ~~21 June 2015~~ exit day shall also report, pursuant to Article 11(2) of Regulation (EC) No 1060/2009 and point 1 of Part II of Section E of Annex I to that Regulation, its historical performance data relating to at least 10 years before the date of certification or, where it started its rating activity less than 10 years before the date of certification, relating to the period since it started its rating activity. Certified credit rating agencies shall not be required to report those data, partially or totally, where they can demonstrate that this would not be proportionate in view of their scale and complexity.

## Article 12

### **Data structure**

1. Credit rating agencies shall submit to ~~ESMA~~ the FCA qualitative data reports in the format specified in the tables in Part 1 of Annex I together with their first report of rating data in accordance with Article 11. Any changes to those qualitative data reports shall be immediately reported to ~~ESMA's~~ the FCA's system as an update, before the rating data which are affected by those changes are submitted to ~~ESMA~~ the FCA. Where a credit rating agency reports on behalf of a group, as referred to in Article 1(4), one set of qualitative data reports may be submitted to ~~ESMA~~ the FCA.
2. Credit rating agencies shall submit rating data reports for ratings referred to in Articles 8, 9 and 11 in the format specified in the tables in Part 2 of Annex I.

## Article 13

### **Reporting procedures**

1. Credit rating agencies shall submit the qualitative data reports and rating data reports referred to in Article 12 in accordance with the technical instructions provided by ~~ESMA~~ the FCA and using ~~ESMA's~~ the FCA's reporting system.
2. Credit rating agencies shall store the files sent to and received by ~~ESMA~~ the FCA in electronic form for at least five years. Those files shall be made available to ~~ESMA~~ the FCA on request.
3. Where a credit rating agency identifies factual errors in data that have been reported, it shall correct the relevant data without undue delay according to the technical instructions provided by ~~ESMA~~ the FCA.

## Article 14

### **~~Repeal and transitional provisions~~**

1. ~~The following Regulations are repealed with effect from 1 January 2016:~~

- (a) ~~Delegated Regulation (EU) No 446/2012;~~
- (b) ~~Delegated Regulation (EU) No 448/2012.~~
- 2. ~~References to the Regulations set out in paragraph 1 shall be construed as references to this Regulation and read in accordance with the correlation table in Annex II.~~
- 3. ~~Data submitted to the ESMA in accordance with the Regulations set out in paragraph 1 before 1 January 2016 shall be considered as having been submitted in accordance with this Regulation and shall continue to be used by ESMA in accordance with Article 11(2) and Article 21(4)(e) of Regulation (EC) No 1060/2009 and point 1 of Part II of Section E of Annex I to that Regulation.~~

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**ANNEX I**

**PART 1**

**LIST OF FIELDS FOR THE QUALITATIVE DATA FILE**

Table 1

**CRA identification and methodology description**

...

No	Field name	Description	Type	Standard	Scope
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <del>ESMA</del> <u>the FCA</u> upon registration or certification.	Mandatory.		Technical
...					
3	CRA name	Name used to identify the credit rating agency. It	Mandatory.		Public

		shall correspond to the name used by the credit rating agency in the registration process and all other supervisory procedures within <del>ESMA</del> <u>the FCA</u> . Where one member of a group of credit rating agencies reports for the whole group it shall be the name referring to the group of credit rating agencies.			
...					
9	Geographical reporting scope	In the case of a credit rating agency part of a group, they should mention whether they report all the ratings issued by the group (global scope) or not (only the <del>EU</del> <u>UK</u> and endorsed ratings). Where the coverage is not global, the credit rating agency shall explain why not. For all other CRAs it should be reported as 'global' ('Y').	Mandatory.	Y — yes N — no	Public
...					

...

Table 5  
**Lead analysts list**

This table shall contain a list of all the lead analysts that operate in the ~~Union~~ UK. If a lead analyst worked in different time periods as a lead analyst (with time gaps in between) then the lead analyst should be reported in the table multiple times: one for each lead analyst appointment period. The start and end date of allocation to the function shall not overlap for the same lead analyst. The table shall contain one line for each lead analyst and distinct function period.

...

Table 6  
**Rating scale**

...

...					
8	Rating scale used for <del>CEREP</del> <u>central repository</u>	Indicates if the rating is to be used by <del>ESMA</del> <u>the FCA</u> for the central repository ( <del>CEREP</del> ) statistics calculations.  For any given period, only one rating scale per combination of rating type and time horizon can be used.	Mandatory.	Y — yes N — no	Technical
...					

PART 2  
**LIST OF FIELDS FOR THE RATING DATA FILE**

Table 1  
**Data describing the rated entity/instrument**

This table shall identify and describe all credit ratings issued by the credit rating agency and are to be reported for the scope of this Regulation. This table shall contain one line for each

individual credit rating to be reported. Where it applies, for each credit rating line, one or more ‘Originators’ can be reported.

No	Field name	Description	Type	Standard	Scope
1	CRA identifier	Code used to identify the reporting credit rating agency. It is provided by <u>ESMA the FCA</u> upon registration or certification.	Mandatory.		Technical
2	Reporting CRA LEI	LEI code of the credit rating agency sending the file.	Mandatory.	ISO 17442	Public
3	Responsible CRA LEI	LEI code of the credit rating agency responsible for the rating, i.e. in case of:  a rating issued in the <u>Union UK</u> , the registered credit rating agency that has issued the rating,	Mandatory.	ISO 17442	Public
4	Issuer CRA LEI	LEI code of the credit rating agency that issued the rating, that is to say in case of:  - a rating issued in the <u>Union UK</u> , the registered credit rating agency,  ...	Mandatory.	ISO 17442	Public
5	Rating identifier	Unique identifier of the rating, which shall be maintained unchanged over time. The rating identifier shall be unique in all reports to <u>ESMA the FCA</u> .	Mandatory.		Technical
...					
<del>22</del>	<del>Instrument unique identifier [deleted]</del>	<del>A combination of instrument's attributes</del>	<del>Optional.</del>	<del>ESMA standard</del>	<del>Supervision only</del>

		that uniquely identifies the instrument.			
...					
36	Corporate issues classifications	Classification of covered bonds.	Mandatory. Applicable for 'Rating type' = 'C' and 'Rated object' = 'INT'.	BND — bonds CBR — <u>CRR</u> covered bonds as referred to in <del>Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council defined in point 128A of Article 4(1) of Regulation (EU) No 575/2013</del> and that meet the eligibility requirements set out in Article 129 of <del>that Regulation (EU) No 575/2013</del> ...	Public
...					
49	Type of rating for <del>ERP</del> <u>the public rating database</u>	Identifies the credit ratings that fall under the scope of <del>ERP</del> <u>the public rating database</u> , based on the requirements set out in Article 11a of the Regulation (EC) No 1060/2009.	Mandatory.	NXI — the rating is not exclusively produced for and disclosed to investors for a fee  EXI — the rating is exclusively produced for and disclosed to investors for a fee	Technical
50	Relevant for <del>CEREP</del> <u>central repository</u> statistics calculation	Indicates if the rating shall be used for <del>CEREP</del> <u>central</u>	Mandatory.	Y — yes N — no	Technical

		repository statistics calculation.			
--	--	------------------------------------	--	--	--

Table 2

**Data about the individual credit rating actions**

This table contains all the rating actions that are issued in relation to the credit ratings reported in Table 1. Where the press releases or the sovereign research reports are issued in multiple languages, multiple versions of the press releases or the sovereign research reports can be reported for the same rating action.

...					
4	Action communication date and time	The date and time of communication of the action to the rated entity. It shall be expressed as Coordinated Universal Time (UTC). Should be reported only for the ratings issued in the <del>Union</del> <u>UK</u> .	Mandatory. Applicable for 'Location of the rating issuance' = 'I'.	ISO 8601 extended date time format: YYYY-MM-DD (HH:MM:SS)	Supervision only
5	Action decision date	Identifies the date when the action is decided. It shall be the date of preliminary approval (such as by the rating committee) of the action where this is then	Mandatory. Applicable for 'Location of the rating issuance' = 'I'.	ISO 8601 date format: (YYYY-MM-DD)	Supervision only

		<p>communicated to the rated entity before final approval.</p> <p>Should be reported only for the ratings issued in the <del>Union</del> <u>UK</u>.</p>			
6	Action type	Identifies the type of action carried out by the credit rating agency with respect to a specific rating.	Mandatory.	...	Public
7	Outlook/watch/default status	An outlook/watch/suspension/default status is assigned, kept or removed with respect to the rating;	Mandatory. Applicable for 'Action type' = 'OT', 'WR', 'DF', 'SP' or 'OR'	P — status is placed M — status is maintained R — status is removed	Public
...					
10	Watch/Review determinant	Identifies the reason for the watch/review status of a rating. Should be reported only for the ratings issued in the <del>Union</del> <u>UK</u> .	Mandatory. Applicable for 'Action type' = 'WR' and 'OR' and 'Location of the rating issuance' = 'I'.	1 — where the watch/review status is due to changes in methodologies, models or key rating assumptions 2 — where the watch/review status is due to economic,	Public

				<p>financial or credit reasons</p> <p>3 — where the watch or review status is due to other reasons (e.g. departure of analysts, occurrence of conflicts of interests)</p>	
...					
17	Location of the rating issuance	<p>Specifies the location of the issuance of the credit ratings by: ratings issued in the <del>Union</del> <u>UK</u> by a registered credit rating agency, ratings issued by third country credit rating agency belonging to the same group of credit rating agencies and endorsed in the <del>Union</del> <u>UK</u>, ratings issued by certified credit rating agencies or ratings issued by third country credit rating agency belonging to the same group of</p>	Mandatory.	<p>I — issued in the <del>Union</del> <u>UK</u></p> <p>E — endorsed</p> <p>T — issued in a third country by a certified CRA</p> <p>O — other (not endorsed)</p> <p>N — not available (only valid before 1.1.2011).</p>	Public

		credit rating agencies but not endorsed in the <del>Union</del> <u>UK</u> .			
18	Lead analyst identifier	Unique identifier of the lead analyst responsible for the rating. Should be reported only for the ratings issued in the <del>Union</del> <u>UK</u> .	Mandatory. Applicable for 'Location of the rating issuance' = 'I'.	Valid 'Lead analyst internal identifier', previously reported in the 'Lead analysts list'.	Supervision only
...					
23		Press release file name	Indicates the file name under which the press release was reported.	Mandatory. Applicable for 'Press release' = 'Y'.	<del>ESMA</del> <u>FCA</u> standard
...					
27		Research report file name	Indicates the file name under which the research report was reported.	Mandatory. Applicable for 'Sovereign Research Report' = 'Y'	<del>ESMA</del> <u>FCA</u> standard
...					

Delete Annex II in its entirety. The deleted text is not shown.

**TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE  
REGULATION) (EU EXIT) (No 1) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The following EU Regulations are amended in accordance with Annexes A–C of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) 1248/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of applications for registration of trade repositories according to Regulation (EU) 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories.	Annex A
Commission Delegated Regulation (EU) 150/2013 of 19 December 2012 supplementing Regulation (EU) 648/2012 of the European Parliament and	Annex B

of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the details of the application for registration as a trade repository.	
Commission Delegated Regulation (EU) 151/2013 of 19 December 2012 supplementing Regulation (EU) 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, with regard to regulatory technical standards specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data.	Annex C

### Commencement

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

### Citation

H. This instrument may be cited as the Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 1) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## **Annex A**

**COMMISSION IMPLEMENTING REGULATION (EU) No 1248/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of applications for registration of trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories**

~~(Text with EEA relevance)~~

...

### Article 1

#### **Format of the application**

1. An application for registration shall be provided in an instrument which stores information in a durable medium as defined in Article 2(1)(m) of Directive 2009/65/EC of the European Parliament and of the Council.
2. An application for registration shall be submitted in the format set out in the Annex.
3. A trade repository shall give a unique reference number to each document it submits and shall ensure that the information submitted clearly identifies which specific requirement of the delegated act with regard to regulatory technical standards specifying the details of the application for registration of trade repositories adopted pursuant to Article 56(3) of Regulation (EU) No 648/2012 it refers to, in which document that information is provided and also provides a reason if the information is not submitted as outlined in the document references section of the Annex.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex B**

**COMMISSION DELEGATED REGULATION (EU) No 150/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the details of the application for registration as a trade repository**

~~(Text with EEA relevance)~~

...

CHAPTER 1  
**REGISTRATION**

SECTION 1

**General**

Article 1

**Identification, legal status and class of derivatives**

...

2. The application for registration as a trade repository shall in particular contain the following information:

(a) the corporate name of the applicant and legal address within the ~~Union~~ UK;

...

3. Upon request by ~~ESMA~~ the FCA, the applicants shall also send to it additional information during the examination of the application for registration where such information is needed for the assessment of the applicants' capacity to comply with the requirements set out in Articles 56 ~~to 59~~ and 58 of Regulation (EU) No 648/2012 and for ~~ESMA~~ the FCA to duly interpret and analyse the documentation to be submitted or already submitted.

...

Article 2

**Policies and procedures**

Where information regarding policies or procedures is to be provided, an applicant shall ensure that the policies or procedures contain or are accompanied by each of the following items:

...

- (d) an indication of the procedure for reporting to ~~ESMA~~ the FCA any material breach of policies or procedures which may result in a breach of the conditions for initial registration.

...

Article 9

**Senior management and members of the board**

1. An application for registration as a trade repository shall contain the following information in respect of each member of the senior management and each member of the board:

- (a) a copy of the curriculum vitae in order to enable the assessment on the adequate experience and knowledge to adequately perform their responsibilities;
- (b) details regarding any criminal convictions in connection with the provision of financial or data services or in relation to acts of fraud or embezzlement, notably via an official certificate if available within the ~~relevant Member State~~ UK;

...

2. Any information received by ~~ESMA~~ the FCA under paragraph 1 shall only be used for the purpose of registration and compliance at all times with the conditions for registration of the applicant trade repository.

...

## SECTION 5

**Financial resources for the performance of the trade repository**

## Article 12

**Financial reports and business plans**

1. An application for registration as a trade repository shall contain the following financial and business information about the applicant:
  - (a) a complete set of financial statements, prepared in conformity with international accounting standards which are adopted for use within the United Kingdom by virtue of Chapter 2 or 3 of Part 2 of the International Accounting Standards and European Public Limited Liability Company (Amendment etc.) (EU Exit) Regulations 2019, or, in respect of a financial year beginning before exit day, in conformity with international standards adopted in accordance with Article 3 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards as they applied immediately before exit day;
  - (b) where the financial statements of the applicant are subject to statutory audit within the meaning of section 1210 of the Companies Act 2006 ~~given in Article 2(1) of the Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts~~, the financial reports shall include the audit report on the annual and consolidated financial statements;

...

## Article 14

**Confidentiality**

1. An application for registration as a trade repository shall contain the internal policies and mechanisms preventing any use of information stored in the prospective trade repository:
  - (a) for illegitimate purposes;
  - (b) for disclosure of confidential information;
  - (c) not permitted for commercial use.
2. The latter shall include a description of the internal procedures on the staff permissions for using passwords to access the data, specifying the staff purpose, the scope of data being viewed and any restrictions on the use of data.

3. Applicants shall provide ~~ESMA~~ the FCA with information on the processes to keep a log identifying each staff member accessing the data, the time of access, the nature of data accessed and the purpose.

...

#### Article 24

##### **Verification of the accuracy and completeness of the application**

1. Any information submitted to ~~the ESMA~~ FCA during the registration process shall be accompanied by a letter signed by a member of the board of the trade repository and of the senior management, attesting that the submitted information is accurate and complete to the best of their knowledge, as of the date of that submission.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex C

**COMMISSION DELEGATED REGULATION (EU) No 151/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, with regard to regulatory technical standards specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data**

~~(Text with EEA relevance)~~

...

Article 2

**Data access by relevant authorities**

1. ~~A trade repository shall provide access to all transaction data to the European Securities and Markets Authority (ESMA) FCA, the Bank of England and the Pensions Regulator for the purpose of fulfilling ~~its~~ their supervisory competences, respective responsibilities and mandates.~~
2. ~~ESMA~~ The FCA, the Bank of England and the Pensions Regulator shall enact internal procedures in order to ensure the appropriate staff access and any relevant limitations of access as regards non-supervisory activities under ~~ESMA's~~ their respective responsibilities and mandates.
3. ~~A trade repository shall provide the Authority for the Cooperation of Energy Regulators (ACER) with access to all transaction data regarding derivatives where the underlying is energy or emission allowances.~~
4. ~~A trade repository shall provide a competent authority supervising a CCP and the relevant member of the European System of Central Banks (ESCB) overseeing the CCP, where applicable, with access to all the transaction data cleared or reported by the CCP.~~
5. ~~A trade repository shall provide a competent authority supervising the venues of execution of the reported contracts with access to all the transaction data on contracts executed on those venues.~~
6. ~~A trade repository shall provide a supervisory authority appointed under Article 4 of Directive 2004/25/EC with access to all the transaction data on derivatives where the underlying is a security issued by a company which meets one of the following conditions:~~
  - ~~(a) it is admitted to trading on a regulated market within their jurisdiction;~~
  - ~~(b) it has its registered office or, where it has no registered office, its head office, in their jurisdiction;~~

- (e) ~~it is an offeror for the entities provided for in points (a) or (b) and the consideration it offers includes securities.~~
7. ~~The data to be provided in accordance with paragraph 6 shall include information on:~~
- ~~(a) the underlying securities;~~
  - ~~(b) the derivative class;~~
  - ~~(c) the sign of the position;~~
  - ~~(d) the number of reference securities;~~
  - ~~(e) the counterparties to the derivative.~~
8. ~~A trade repository shall provide the relevant Union securities and markets authorities referred to in Article 81(3)(h) of Regulation (EU) No 648/2012 with access to all transaction data on markets, participants, contracts and underlyings that fall within the scope of that authority according to its respective supervisory responsibilities and mandates.~~
9. ~~A trade repository shall provide the European Systemic Risk Board, ESMA and the relevant members of the ESCB with transaction level data:~~
- ~~(a) for all counterparties within their respective jurisdictions;~~
  - ~~(b) for derivatives contracts where the reference entity of the derivative contract is located within their respective jurisdiction or where the reference obligation is sovereign debt of the respective jurisdiction.~~
10. ~~A trade repository shall provide a relevant ESCB member with access to position data for derivatives contracts in the currency issued by that member.~~
11. ~~A trade repository shall provide, for the prudential supervision of counterparties subject to the reporting obligation, the relevant entities listed in Article 81(3) of Regulation (EU) No 648/2012 with access to all transaction data of such counterparties.~~

### Article 3

#### Third country authorities

1. In relation to a relevant authority of a third country that has ~~entered into an international agreement with the Union as referred to in Article 75 of Regulation (EU) No 648/2012~~ been prescribed by HM Treasury as one in which the arrangements for trade repositories are equivalent to those in the United Kingdom (in accordance with Article 75(1)) (equivalence), a trade repository shall provide access to the data, taking account of the third country authority's mandate and responsibilities ~~and in line with the provisions of the relevant international agreement.~~
2. In relation to a relevant authority of a third country that has entered into a cooperation arrangement with ~~ESMA~~ the FCA as referred to in Article 76 of Regulation (EU) No 648/2012, a trade repository shall provide access to the data, taking account of the third country authority's mandate and responsibilities and in line with the provisions of the relevant cooperation arrangement.

## Article 4

**Operational standards for aggregation and comparison of data**

1. A trade repository shall provide the entities listed in Article 81(3) of Regulation (EU) No 648/2012 with direct and immediate access, ~~including where delegation under Article 28 of Regulation (EU) No 1095/2010 exists,~~ to details of derivatives contracts in accordance with Articles 2 and 3 of this Regulation.

For the purposes of the first subparagraph, a trade repository shall use an XML format and a template developed in accordance with ISO 20022 methodology. A trade repository may in addition, after agreement with the entity concerned, provide access to details of derivatives contracts in another mutually agreed format.

## Article 5

**Operational standards for access to data**

...

3. A trade repository shall establish and maintain the necessary technical arrangements to enable the entities listed in Article 81(3) of Regulation (EU) No 648/2012 to connect using a secure machine-to-machine interface in order to submit data requests and to receive data.

For the purposes of the first subparagraph, a trade repository shall use the SSH File Transfer Protocol, except in relation to the FCA, for whom the use of Amazon S3 HTTPS API to upload/download files is required. The trade repository shall use standardised XML messages developed in accordance with the ISO 20022 methodology to communicate through that interface. A trade repository may in addition, after agreement with the entity concerned, set up a connection using another mutually agreed protocol.

...

## Article 6

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (EUROPEAN SOCIAL ENTREPRENEURSHIP FUND  
REGULATION) (EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Revocations**

- F. The FCA revokes Commission Implementing Regulation (EU) 594/2014 of 3 June 2014 laying down implementing technical standards with regard to the format of the notification according to Article 17(1) of Regulation (EU) 346/2013 of the European Parliament and of the Council on European social entrepreneurship funds.

**Commencement**

- G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (European Social Entrepreneurship Fund Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

**TECHNICAL STANDARDS (EUROPEAN VENTURE CAPITAL FUNDS  
REGULATION) (EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Revocations**

- F. The FCA revokes Commission Implementing Regulation (EU) 593/2014 of 3 June 2014 laying down implementing technical standards with regard to the format of the notification according to Article 16(1) of Regulation (EU) 345/2013 of the European Parliament and of the Council on European venture capital funds.

**Commencement**

- G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (European Venture Capital Funds Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

**TECHNICAL STANDARDS (INSURANCE DISTRIBUTION DIRECTIVE) (EU  
EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulation in accordance with Annex A of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) 2017/1469 of 11 August 2017 laying down a standardised presentation format for the insurance product information document.	Annex A

**Commencement**

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Insurance Distribution Directive) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

### COMMISSION IMPLEMENTING REGULATION (EU) 2017/1469 of 11 August 2017 laying down a standardised presentation format for the insurance product information document

~~(Text with EEA relevance)~~

...

#### Article -1

#### **Application**

1. Articles 1 to 7 apply to persons carrying on insurance distribution to which Commission Implementing Regulation (EU) 2017/1469 would have applied prior to 23:00 GMT on 29 March 2019.
2. Paragraph 1 includes any person able to carry on insurance distribution in the UK due to regulations 8 or 11 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018.

#### Article 1

#### **Name and company logo of the manufacturer**

1. The name of the manufacturer of the non-life insurance product, ~~the Member State where that manufacturer is registered,~~ its regulatory status, and, where relevant, its authorisation number shall immediately follow the title ‘insurance product information document’ at the top of the first page.

...

Article 3

**Length**

The insurance product information document shall be set out on two sides of A4-sized paper when printed. Exceptionally, if more space is needed, the insurance product information document may be set out on a maximum of three sides of A4-sized paper when printed. Where a manufacturer uses three sides of A4-sized paper, it shall, upon request by the ~~competent authority~~ Financial Conduct Authority, be able to demonstrate that more space was needed.

...

Article 8

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (LONG-TERM INVESTMENT FUND REGULATION)  
(EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in [Part 1 of the Schedule to the Regulations].
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulation in accordance with the Annex to this instrument.

(1)	(2)
Commission Delegated Regulation 2018/480 supplementing Regulation (EU) 2015/760 of the European Parliament and of the Council with regard to regulatory technical standards on financial derivative instruments solely serving hedging purposes, sufficient length of the life of the European long-term investment funds, assessment criteria for the market for potential buyers and valuation of the assets to be divested, and the types and characteristics of the facilities available to retail investors	Annex A

**Commencement**

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Long-Term Investment Fund Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex

**COMMISSION DELEGATED REGULATION (EU) 2018/480 of 4 December 2017 supplementing Regulation (EU) 2015/760 of the European Parliament and of the Council with regard to regulatory technical standards on financial derivative instruments solely serving hedging purposes, sufficient length of the life of the European long-term investment funds, assessment criteria for the market for potential buyers and valuation of the assets to be divested, and the types and characteristics of the facilities available to retail investors**

~~(Text with EEA relevance)~~

...

### Article 4

#### Criteria for the valuation of the assets to be divested

1. For the purpose of Article 21(2)(c) of Regulation (EU) 2015/760, the valuation of the assets to be divested shall comply with the following criteria:
  - a. it shall start as soon as it is appropriate and well in advance of the deadline for the disclosure of the itemised schedule for the orderly disposal of the ~~ELTIF~~ assets to the ~~competent authority of the ELTIF~~ FCA;
  - b. it shall be concluded no more than 6 months before the deadline referred to in point (a).
2. Valuations made in accordance with Article 19 of Directive 2011/61/EU may be taken into account where a valuation has been concluded no more than 6 months before the deadline referred to in paragraph 1 of this Article.

### Article 5

#### Specifications on the facilities available to retail investors

1. For the purposes of Article 26(1) of Regulation (EU) 2015/760, the manager of an ~~ELTIF~~ shall put in place facilities to perform the following tasks:
  - (a) process retail investors' subscription, payment, repurchase and redemption orders relating to the units or shares of the ~~ELTIF~~, in accordance with the conditions set out in the ~~LTIF~~ marketing documents;
  - (b) provide retail investors with information on how orders referred to in point (a) can be made and how repurchase and redemption proceeds are paid;
  - (c) facilitate the handling of information relating to the retail investors' exercise of their rights arising from their investment in the ~~ELTIF in the Member State where the ELTIF is marketed~~;
  - (d) make available to retail investors, for inspection and for the obtaining of

copies of:

- (i) the fund rules or instruments of incorporation of the ELTIF;
  - (ii) the latest annual report of the ELTIF;
- (e) provide investors with information relevant to the tasks they perform in a durable medium as defined in Article 2(1)(m) of Directive 2009/65/EC, meaning paper or any instrument which enables the recipient to store information addressed personally to him or her in a way accessible for future reference and for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored. In particular, this covers floppy disks, CD-ROMs, DVDs and hard drives of personal computers on which electronic mail is stored, but it excludes internet sites, unless such sites meet the criteria specified in the first sentence of this paragraph. For the purposes of this term, the provision of information by means of electronic communications shall be treated as appropriate to the context in which the business between the firm and the client is, or is to be, carried on if there is evidence that the client has regular access to the internet. The provision by the client of an e-mail address for the purposes of the carrying on of that business is sufficient.
2. The manager of the ELTIF shall ensure that the facilities referred to in Article 26(1) of Regulation (EU) 2015/760 have the following technical infrastructure:
- (a) they perform their tasks in the official language or official languages of the ~~Member State where the ELTIF is marketed~~ United Kingdom, when the LTIF is marketed in the United Kingdom;
  - (b) they perform their tasks in person, by telephone or electronically.

...

## Article 7

### **Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (MARKET ABUSE REGULATION) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulations in accordance with Annexes A - K of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) 2016/347 of 10 March 2016 laying down implementing technical standards with regard to the precise format of insider lists and for updating insider lists in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council	Annex A
Commission Implementing Regulation (EU) 2016/378 of 11 March 2016 laying down implementing technical standards with regard to the timing, format and	Annex B

template of the submission of notifications to competent authorities according to Regulation (EU) No 596/2014 of the European Parliament and of the Council	
Commission Implementing Regulation (EU) 2016/523 of 10 March 2016 laying down implementing technical standards with regard to the format and template for notification and public disclosure of managers' transactions in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council	Annex C
Commission Delegated Regulation (EU) 2016/908 of 26 February 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council laying down regulatory technical standards on the criteria, the procedure and the requirements for establishing an accepted market practice and the requirements for maintaining it, terminating it or modifying the conditions for its acceptance	Annex D
Commission Delegated Regulation (EU) 2016/909 of 1 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the content of notifications to be submitted to competent authorities and the compilation, publication and maintenance of the list of notifications	Annex E
Commission Delegated Regulation (EU) 2016/957 of 9 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the appropriate arrangements, systems and procedures as well as notification templates to be used for preventing, detecting and reporting abusive practices or suspicious orders or transactions	Annex F
Commission Delegated Regulation (EU) 2016/958 of 9 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the technical arrangements for objective presentation of investment recommendations or other information recommending or suggesting an investment strategy and for disclosure of particular interests or indications of conflicts of interest	Annex G
Commission Implementing Regulation (EU) 2016/959 of 17 May 2016 laying down implementing technical standards for market soundings with regard to the systems and notification templates to be used by disclosing market participants and the format of the records in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council	Annex H
Commission Delegated Regulation (EU) 2016/960 of 17 May 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the appropriate arrangements, systems and procedures for disclosing market participants conducting market soundings	Annex I
Commission Delegated Regulation (EU) 2016/1052 of 8 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the conditions applicable to buy-back programmes and stabilisation measures	Annex J
Commission Implementing Regulation (EU) 2016/1055 of 29 June 2016 laying down implementing technical standards with regard to the technical means for appropriate public disclosure of inside information and for delaying the public disclosure of inside information in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council	Annex K

**Revocations**

G. The FCA revokes the following EU Regulations.

Commission Implementing Regulation (EU) 2017/1158 of 29 June 2017 laying down implementing technical standards with regards to the procedures and forms for competent authorities exchanging information with the European Securities Market Authority as referred to in Article 33 of Regulation (EU) No 596/2014 of the European Parliament and of the Council
--

Commission Implementing Regulation (EU) 2018/292 of 26 February 2018 laying down implementing technical standards with regard to procedures and forms for exchange of information and assistance between competent authorities according to Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse
---

**Commencement**

H. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

I. This instrument may be cited as the Technical Standards (Market Abuse Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

### **COMMISSION IMPLEMENTING REGULATION (EU) 2016/347 of 10 March 2016m laying down implementing technical standards with regard to the precise format of insider lists and for updating insider lists in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

#### Article -2

#### **Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

#### Article -1

#### **Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

#### Article 2

#### **Format for drawing up and updating the insider list**

1. Issuers, and emission allowance market participants, ~~and auction platforms, auctioneers and auction monitor~~, or any person acting on their behalf or on their account, shall ensure that their insider list, drawn up pursuant to Article 18 of Regulation (EU) No 596/2014, is divided into separate sections relating to different inside information. New sections shall be added to the insider list upon the identification of new inside information, as defined in Article 7 of Regulation (EU) No 596/2014.

Each section of the insider list shall only include details of individuals having access to the inside information relevant to that section.

...

4. The electronic formats referred to in paragraph 3 shall at all times ensure:
- (a) the confidentiality of the information included by ensuring that access to the insider list is restricted to clearly identified persons from within the issuer and emission allowance market participant, ~~auction platform, auctioneer and auction monitor~~, or any person acting on their behalf or on their account that need that access due to the nature of their function or position;
  - (b) the accuracy of the information contained in the insider list;
  - (c) the access to and the retrieval of previous versions of the insider list.
5. The insider list referred to in paragraph 3 shall be submitted using the electronic means specified by the ~~competent authority~~ Financial Conduct Authority. ~~Competent authorities~~ The Financial Conduct Authority shall publish on ~~their~~ its website the electronic means to be used. Those electronic means shall ensure that completeness, integrity and confidentiality of the information are maintained during the transmission.

### Article 3

#### **SME growth market issuers**

For the purposes of Article 18(6)(b) of Regulation (EU) No 596/2014, an issuer whose financial instruments are admitted to trading on an SME growth market shall provide the ~~competent authority~~ Financial Conduct Authority, upon its request, with an insider list in accordance with the template in Annex II and in a format that ensures that the completeness, integrity and confidentiality of the information are maintained during the transmission.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX I

TEMPLATE 1

**Insider list: section related to [Name of the deal-specific or event-based inside information]**

...

**Date of transmission to the ~~competent authority~~ Financial Conduct Authority: [yyyy-mm-dd]**

...					
[Text]	[Text]	[Text]	[Numbers (no space)]	[Address of issuer/emission allowance market participant / <del>auction platform/auctioneer/auction monitor</del> or third party of insider]	

TEMPLATE 2

**Permanent insiders section of the insider list**

...

**Date of transmission to the ~~competent authority~~ Financial Conduct Authority: [yyyy-mm-dd]**

...					
-----	--	--	--	--	--

[Text]	[Text]	[Text]	[Numbers (no space)]	[Address of... issuer/emission allowance market participant/auction platform/auctioneer/auction monitor or third party of insider]	
--------	--------	--------	----------------------	--	--

ANNEX II

**Template for the insider list to be submitted by issuers of financial instruments admitted to trading on SME growth markets**

...

**Date of transmission to the ~~competent authority~~ Financial Conduct Authority:** [yyyy-mm-dd]

...	<p><b>Personal full home address</b> (street name; street number; city; post/zip code; country)</p> <p>(If available at the time of the request by the <del>competent authority</del> <u>Financial Conduct Authority</u>)</p>	<p><b>Personal telephone numbers</b> (home and personal mobile telephone numbers)</p> <p>(If available at the time of the request by the <del>competent authority</del> <u>Financial Conduct Authority</u>)</p>
...		

## Annex B

### COMMISSION IMPLEMENTING REGULATION (EU) 2016/378 of 11 March 2016 laying down implementing technical standards with regard to the timing, format and template of the submission of notifications to competent authorities according to Regulation (EU) No 596/2014 of the European Parliament and of the Council

(Text with EEA relevance)

...

#### Article -2

#### **Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

#### Article -1

#### **Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

#### Article 1

1. By no later than 21.00 CET on each day that it is open for trading, a trading venue shall, using automated processes, provide to ~~its competent authority~~ the Financial Conduct Authority pursuant to Article 4(1) of Regulation (EU) No 596/2014 the notifications of all financial instruments which, before 18.00 CET on that day, were for the first time subject to a request for admission to trading or admitted to trading or traded on that trading venue, including where orders or quotes were placed through its system, or ceased to be traded or to be admitted to trading on the trading venue.
2. Notifications of financial instruments which, after 18.00 CET, were for the first time subject to a request for admission to trading or admitted to trading or traded on the trading venue, including where orders or quotes were placed through its system, or ceased to be traded or to be admitted to trading on the trading venue, shall be made, using automated processes, by the trading venue to the ~~competent authority~~ Financial Conduct Authority by no later than 21.00 CET of the next day on which it is open for trading.

3. ~~Competent authorities shall transmit notifications referred to in paragraphs 1 and 2 pursuant to Article 4(2) of Regulation (EU) No 596/2014 to ESMA each day by no later than 23.59 CET using automated processes and secure electronic communication channels between them and ESMA.~~

Article 2

All details to be included in notifications pursuant to Article 4(1) ~~and (2)~~ of Regulation (EU) No 596/2014 shall be submitted in accordance with the standards and formats specified in the Annex to this Regulation, in an electronic and machine-readable form and in a common XML template in accordance with the ISO 20022 methodology.

Article 3

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX

**Standards and formats of the submission of notifications to ~~competent authorities~~ the Financial Conduct Authority according to Regulation (EU) No 596/2014**

...

Table 2

...

...		
<p>‘OTHC’ — Other C10 ‘as defined in Table 10.1 Section 10 of Annex III to Commission Delegated Regulation (EU) 2017/583 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives.</p>	<p>‘DLVR’ — Deliverable ‘NDLV’ — Non-deliverable</p>	...
...		

Table 3

**Standards and formats to be used in the notifications to be submitted in accordance with Article 4(1) and (2) of Regulation (EU) No 596/2014**

...

## Annex C

**COMMISSION IMPLEMENTING REGULATION (EU) 2016/523 of 10 March 2016 laying down implementing technical standards with regard to the format and template for notification and public disclosure of managers' transactions in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

Article -2

**Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

**Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

Article 2

**Format and template for the notification**

...

2. Persons discharging managerial responsibilities and persons closely associated with them shall ensure that electronic means are used for the transmission of the notifications referred to in paragraph 1. Those electronic means shall ensure that completeness, integrity and confidentiality of the information are maintained during the transmission and provide certainty as to the source of the information transmitted.
3. ~~Competent authorities~~ The Financial Conduct Authority shall specify and publish on ~~their~~ its website the electronic means referred to in paragraph 2 with respect to the transmission to ~~them~~ it.

Article 3  
Entry into force

...

This Regulation shall be binding in its entirety and directly applicable in all Member States.

...

ANNEX

**Template for notification and public disclosure of transactions by persons discharging managerial responsibilities and persons closely associated with them**

...		
<b>2</b>	<b>Reason for the notification</b>	
a)	Position/status	[For persons discharging managerial responsibilities: the position occupied within the issuer, / emission allowances market participant/ <del>auction platform/auctioneer/auction monitor</del> should be indicated, e.g. CEO, CFO.] [For persons closely associated, — An indication that the notification concerns a person closely associated with a person discharging managerial responsibilities; — Name and position of the relevant person discharging managerial responsibilities.]
b)	Initial notification/ Amendment	[Indication that this is an initial notification or an amendment to prior notifications. In case of amendment, explain the error that this notification is amending.]
<b>3</b>	<b>Details of the issuer, <u>or</u> emission allowance market participant, <del>auction platform, auctioneer or auction monitor</del></b>	
a)	Name	[Full name of the entity.]

b)	LEI	[Legal Entity Identifier code in accordance with ISO 17442 LEI code.]	
<b>4</b>	<b>Details of the transaction(s): section to be repeated for (i) each type of instrument; (ii) each type of transaction; (iii) each date; and (iv) each place where transactions have been conducted</b>		
a)	Description of the financial instrument, type of instrument Identification code	<p>[— Indication as to the nature of the instrument:</p> <ul style="list-style-type: none"> <li>— a share, a debt instrument, a derivative or a financial instrument linked to a share or a debt instrument;</li> <li>— an emission allowance, an auction product based on an emission allowance or a derivative relating to an emission allowance.</li> </ul> <p>— Instrument identification code as defined under Commission Delegated Regulation (EU) 2017/590 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities adopted under Article 26 of Regulation (EU) No 600/2014.]</p>	
...			
c)	Price(s) and volume(s)		
		Price(s)	Volume(s)
		<p>[Where more than one transaction of the same nature (purchases, sales, lendings, borrows, ...) on the same financial instrument or emission allowance are executed on the same day and on the same place of transaction, prices and volumes of these transactions shall be reported in this field, in a two columns form as presented above, inserting as many lines as needed.</p> <p>Using the data standards for price and quantity, including where applicable the price currency and the quantity currency, as defined under Commission Delegated Regulation (EU)</p>	

		<u>2017/590</u> supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities adopted under Article 26 of Regulation (EU) No 600/2014.]
d)	<p>Aggregated information</p> <ul style="list-style-type: none"> <li>— Aggregated volume</li> <li>— Price</li> </ul>	<p>[The volumes of multiple transactions are aggregated when these transactions:</p> <ul style="list-style-type: none"> <li>— relate to the same financial instrument or emission allowance;</li> <li>— are of the same nature;</li> <li>— are executed on the same day; and</li> <li>— are executed on the same place of transaction.</li> </ul> <p>Using the data standard for quantity, including where applicable the quantity currency, as defined under Commission Delegated Regulation (EU) 2017/590 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities adopted under Article 26 of Regulation (EU) No 600/2014.] [Price information:</p> <ul style="list-style-type: none"> <li>— In case of a single transaction, the price of the single transaction;</li> <li>— In case the volumes of multiple transactions are aggregated: the weighted average price of the aggregated transactions.</li> </ul> <p>Using the data standard for price, including where applicable the price currency, as defined under Commission Delegated Regulation (EU) 2017/590 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities adopted under Article 26 of Regulation (EU) No 600/2014.]</p>
...		
f)	Place of the transaction	[Name and code to identify the <del>MiFID</del> <u>UK</u> trading venue or <u>EU</u> trading venue, the systematic internaliser or the organised trading platform outside of the <del>Union</del> <u>UK</u> where the transaction was executed as defined under Commission Delegated Regulation (EU) 2017/590 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities adopted under Article 26 of Regulation (EU) No 600/2014, or if the

		transaction was not executed on any of the above mentioned venues, please mention 'outside a trading venue'.]
--	--	---

## Annex D

**COMMISSION DELEGATED REGULATION (EU) 2016/908 of 26 February 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council laying down regulatory technical standards on the criteria, the procedure and the requirements for establishing an accepted market practice and the requirements for maintaining it, terminating it or modifying the conditions for its acceptance**

~~(Text with EEA relevance)~~

...

### CHAPTER I GENERAL PROVISION

Article -2

#### **Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

#### **Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

Article 1

#### **Definitions**

For the purposes of this Regulation, ‘supervised persons’ means any of the following:

- (a) ~~investment firms authorised under Directive 2014/65/EU of the European Parliament and of the Council;~~ an investment firm within the meaning given in Article 2(1A) of the Markets in Financial Instruments Regulation which:
  - (i) has its registered office or head office in the United Kingdom;

- (ii) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on regulated activities relating to investment services and activities (as defined in Article 2(1)(2) of the Markets in Financial Instruments Regulation) in the United Kingdom;
  - (iii) would require authorisation under Directive 2014/65/EU (as it had effect immediately before exit day) if it had its registered office (or if it does not have a registered office, its head offices) in an EEA state; and
  - (iv) is not a firm which has permission under Part 4A of the Financial Services and Markets Act 2000 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;
- (b) ~~credit institutions authorised under Directive 2013/36/EU of the European Parliament and of the Council~~ a credit institution that satisfies the following conditions:
- (i) it is an authorised person within the meaning of section 31(1)(a) of the Financial Services and Markets Act 2000 and has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity of accepting deposits;
  - (ii) its registered office, or if it has no registered office, its head office, is in the United Kingdom; and
  - (iii) it is not a credit union within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985, or a friendly society within the meaning of section 417(1) of the Financial Services and Markets Act 2000;
- and for the purposes of this paragraph, ‘regulated activity’ has the meaning in section 22 of the Financial Services and Markets Act 2000, and ‘accepting deposits’ has the meaning in Article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
- (c) financial counterparties as defined in Article 2(8) of Regulation (EU) No 648/2012 of the European Parliament and of the Council;
  - (d) any person subject to authorisation, organisational requirements and supervision by ‘competent financial authority’ or ‘national regulatory authority’ as defined in Regulation (EU) No 1227/2011 of the European Parliament and of the Council;
  - (e) any person subject to authorisation, organisational requirements and supervision by ~~competent authorities,~~ the Financial Conduct Authority or other UK regulators or agencies responsible for commodities spot or derivatives markets;
  - (f) ~~operators with compliance obligations under Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading.~~
  - (g) ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

CHAPTER II  
ACCEPTED MARKET PRACTICES  
SECTION 1  
Establishing an accepted market practice

Article 2

**General requirements**

1. Prior to establishing a market practice as an accepted market practice (AMP) ~~competent authorities~~ the Financial Conduct Authority shall:
  - (a) evaluate the market practice against each of the criteria set out in Article 13(2) of Regulation (EU) No 596/2014 and specified further in Section 2 of this Chapter;
  - (b) consult as appropriate with relevant bodies including, at a minimum, representatives of issuers, investment firms, credit institutions, investors, emission allowance market participants, market operators operating a UK multilateral trading facility (MTF) or ~~an~~ a UK organised trading facility (OTF) and operators of a UK regulated market, and other authorities on the appropriateness of establishing a market practice as an AMP.
2. ~~Competent authorities intending to establish a market practice as an AMP shall notify ESMA and the other competent authorities of that intention in accordance with the procedure laid down in Section 3, using the template set out in the Annex.~~
3. Where ~~competent authorities~~ the Financial Conduct Authority establishes a market practice as an AMP in accordance with Article 13 of Regulation (EU) No 596/2014 and with this Regulation, ~~they~~ it shall publicly disclose on ~~their~~ its website the decision establishing the market practice as an AMP and a description of the AMP concerned, in accordance with the template set out in the Annex including the following information:

...

...

SECTION 2

**Specification of the criteria to consider when establishing accepted market practices**

Article 3

**Transparency**

1. In determining whether a market practice can be established as an AMP and whether it fulfils the criterion set out in point (a) of Article 13(2) of Regulation (EU) No

596/2014, ~~competent authorities~~ the Financial Conduct Authority shall examine whether the market practice ensures that the following information will be disclosed to the public:

- (a) ...
- (iv) the identification of the UK trading venues on which the AMP will be carried out, and, where applicable, indication of the possibility to execute transactions outside a UK trading venue;

...

...

...

2. In determining whether a market practice can be established as an AMP and whether it fulfils the criterion set out in point (a) of Article 13(2) of Regulation (EU) No 596/2014, ~~competent authorities~~ the Financial Conduct Authority shall examine whether the market practice ensures that the following information will be disclosed to ~~them~~ it:
  - (a) before a market practice is performed as an AMP, the arrangements or contracts between the identified beneficiaries and the persons who will perform the market practice once established as an AMP where such arrangements or contracts are needed for its performance;
  - (b) once the market practice is performed as an AMP, periodic report to the ~~competent authority~~ Financial Conduct Authority providing details about the transactions executed and about the operations of any arrangement or contract between the beneficiary and the persons performing the AMP.

#### Article 4

### **Safeguards of the operations of ~~the~~ market forces operating in UK markets and interplay of the forces of supply and demand**

1. In determining whether a market practice proposed to be established as an AMP complies with the criterion set out in point (b) of Article 13(2) of Regulation (EU) No 596/2014, ~~competent authorities~~ the Financial Conduct Authority shall consider whether the market practice limits the opportunities for other market participants to respond to transactions. ~~Competent authorities~~ The Financial Conduct Authority shall also consider at a minimum the following criteria relating to the types of persons who will perform the market practice once established as an AMP:
  - (a) whether they are supervised persons;

- (b) whether they are members of a UK trading venue where the AMP will be performed;
  - (c) whether they maintain records of orders and transactions relating to the market practice performed in a way that allows it to be easily distinguished from other trading activities, including through the maintenance of separate accounts for the performance of the AMP, in particular to demonstrate that orders introduced are entered separately and individually without aggregating orders from several clients;
  - (d) whether they have put in place specific internal procedures allowing:
    - (i) immediate identification of the activities relating to the market practice;
    - (ii) ready availability of the relevant orders and transaction records to the ~~competent authority~~ Financial Conduct Authority upon request;
  - (e) whether they possess the compliance and audit resources necessary to be able to monitor and ensure compliance at all times with the conditions set for the AMP;
  - (f) whether they keep the records mentioned in point (c) for a period of at least five years.
2. ~~Competent authorities~~ The Financial Conduct Authority shall consider the extent to which the market practice establishes an ex ante list of trading conditions for its performance as an AMP, including limits with regard to prices and volumes and limits on positions.
3. ~~Competent authorities~~ The Financial Conduct Authority shall assess the extent to which the market practice and the arrangement or contract for its performance:
- (a) enables the person performing the AMP to act independently from the beneficiary without being subject to instructions, information or influence from the beneficiary as regards the manner in which trading is to be conducted;
  - (b) allows for the avoidance of conflicts of interest between the beneficiary and the clients of the person performing the AMP.

## Article 5

### Impact on UK market liquidity and efficiency

In determining whether a market practice proposed to be established as an AMP complies with the criterion set out in point (c) of Article 13(2) of Regulation (EU) No 596/2014, ~~competent authorities~~ the Financial Conduct Authority shall assess the impact the market practice has on at least the following elements:

...

## Article 6

**Impact on the proper functioning of the UK market**

1. In determining whether a market practice proposed to be established as an AMP complies with the criterion set out in point (d) of Article 13(2) of Regulation (EU) No 596/2014, ~~competent authorities~~ the Financial Conduct Authority shall consider the following elements:
  - (a) the possibility that the market practice could affect price formation processes in a UK trading venue;
  - (b) the extent to which the market practice could facilitate the evaluation of prices and orders entered into the order book and whether the transactions to be carried out or orders to be introduced for its performance as an AMP do not contravene the trading rules of the corresponding UK trading venue;
  - (c) the modalities by which the information referred to in Article 3 is disclosed to the public including where it is disclosed on the website of the relevant trading platform and, when appropriate, where it is simultaneously released on the websites of the beneficiaries;
  - (d) the extent to which the market practice establishes an ex ante list of situations or conditions when its performance as an AMP is temporarily suspended or restricted, inter alia, particular trading periods or phases such as auction phases, takeovers, initial public offerings, capital increases, secondary offerings.

For the purposes of point (b) of the first subparagraph, a market practice where transactions and orders are monitored in real time by the market operator or the investment firm or market operators operating a UK MTF or a UK OTF shall also be taken into consideration.

2. ~~Competent authorities~~ The Financial Conduct Authority shall assess the extent to which a market practice enables:

...

## Article 7

**Risks for the integrity of related markets within the United Kingdom**

In determining whether a market practice proposed to be established as an AMP complies with the criterion set out in point (e) of Article 13(2) of Regulation (EU) No 596/2014, ~~competent authorities~~ the Financial Conduct Authority shall consider:

- (a) whether the transactions related to the performance of the market practice once established as an AMP will be reported to ~~competent authorities~~ the Financial Conduct Authority on a regular basis;

- (b) whether the resources (cash or financial instruments) to be allocated to the performance of the AMP are proportionate and commensurate with the objectives of the AMP itself;
- (c) the nature and level of the compensation for services provided within the performance of an AMP and whether that compensation is established as a fixed amount; where variable compensation is proposed, it shall not lead to behaviour which may be prejudicial to UK market integrity or to the orderly functioning of the UK market and shall be available to the ~~competent authority~~ Financial Conduct Authority for assessment;

...

#### Article 8

##### **Investigation of the market practice**

In determining whether a market practice proposed to be established as an AMP complies with the criterion set out in point (f) of Article 13(2) of Regulation (EU) No 596/2014, ~~competent authorities~~ the Financial Conduct Authority shall in particular take into account the outcome of any investigation ~~in the markets they monitor~~ by the Financial Conduct Authority that might question the AMP to be established.

#### Article 9

##### **Structural characteristics of the UK market**

In taking into account, in accordance with point (g) of Article 13(2) of Regulation (EU) No 596/2014, the participation of retail-investors in the relevant UK market, ~~competent authorities~~ the Financial Conduct Authority shall assess at a minimum:

- (a) the impact the market practice might have on retail investors' interests where the market practice concerns financial instruments traded on UK markets in which retail investors participate;
- (b) whether the market practice increases the probability of retail investors to find counterparties in low-liquidity financial instruments, without increasing the risks borne by them.

## SECTION 3

**Procedures**

## Article 10

**Notification when intending to establish an accepted market practice**

1. ~~Competent authorities shall notify, in accordance with Article 13(3) of Regulation (EU) No 596/2014, their intention to establish an AMP by post or e-mail to ESMA and to the other competent authorities simultaneously, using a pre-identified list of contact points to be set up and regularly maintained by competent authorities and ESMA.~~
2. ~~The notification referred to in paragraph 1 shall include the following elements:~~
  - (a) ~~a statement of the intention to establish an AMP, including the expected date of establishment;~~
  - (b) ~~the identification of the notifying competent authority and the contact details of the contact person(s) within that competent authority (name, professional telephone number and e-mail address, title);~~
  - (c) ~~a detailed description of the market practice including:~~
    - (i) ~~the identification of the types of financial instrument and trading venues on which the AMP will be performed;~~
    - (ii) ~~the types of persons who can perform the AMP;~~
    - (iii) ~~the type of beneficiaries;~~
    - (iv) ~~the indication of whether the market practice can be performed for a determined period of time and of any situations or conditions leading to a temporary interruption, suspension or termination of the practice;~~
  - (d) ~~the reason for which the practice could constitute market manipulation under Article 12 of Regulation (EU) No 596/2014;~~
  - (e) ~~the details of the assessment made according to Article 13(2) of Regulation (EU) No 596/2014.~~
3. ~~The notification referred to in paragraph 1 shall include the table for assessing a proposed market practice using the template in the Annex.~~

## Article 11

**ESMA opinion**

1. ~~Following receipt of the notification referred to Article 13(4) of Regulation (EU) No 596/2014 and before issuing the opinion required under that paragraph, ESMA shall initiate, on its own initiative or upon request of any competent authority, a process to provide the notifying competent authority with preliminary comments, concerns, disagreement or request for clarifications, if any, concerning the notified market~~

~~practice. The notifying competent authority may provide further clarification concerning the notified market practice to ESMA.~~

2. ~~Where in the course of the process referred to in paragraph 1, any fundamental or significant change is introduced that affects the basis or substance of the notified market practice or the assessment carried out by the notifying competent authority, the process of issuing the ESMA opinion on the notified practice shall cease. If appropriate, the competent authority shall initiate a new process for establishing the modified practice as an AMP in accordance with Article 13(3) of Regulation (EU) No 596/2014.~~

## SECTION 4

### Maintenance, modification and termination of accepted market practices

#### Article 12

#### Review of an established AMP

1. ~~Competent authorities that have~~ Where the Financial Conduct Authority has established AMPs, ~~it~~ shall assess regularly, and at a minimum every two years, whether the conditions for establishing the AMP set out in Article 13(2) of Regulation (EU) No 596/2014 and in Section 2 of this Chapter continue to be met.
2. Notwithstanding the regular review in accordance with Article 13(8) of Regulation (EU) No 596/2014, the assessment process referred to in paragraph 1 shall also be triggered:
  - (a) when any sanction involving an established AMP has been imposed;
  - (b) when due to a significant change in the UK market environment referred to in Article 13(8) of that Regulation, one or more of the conditions of acceptance of an established practice are no longer met;
  - (c) ~~when a competent authority~~ the Financial Conduct Authority has reasons to suspect that acts contrary to Regulation (EU) No 596/2014 are being or have been carried out by beneficiaries of the AMP, or by persons performing it.
3. In the event that the assessment reveals that an established AMP no longer meets the conditions of the ~~competent authorities'~~ Financial Conduct Authority's original assessment set out in Section 2, ~~competent authorities~~ the Financial Conduct Authority shall either propose the modification of the conditions of the acceptance or terminate the AMP, taking into account the criteria set out in Article 13.
4. ~~Competent authorities shall inform ESMA of the outcome of the assessment process, including when the AMP is maintained without modification.~~
5. ~~Where a competent authority~~ the Financial Conduct Authority proposes to modify the conditions of acceptance of an established AMP, it shall comply with the requirements set out in Article 2.
6. ~~Where a competent authority~~ the Financial Conduct Authority decides to terminate an established AMP, it shall publicly disclose ~~and communicate~~ its decision ~~simultaneously to all other competent authorities and to ESMA~~, indicating the date of

termination, in view of updating the list of AMPs published by it in accordance with Article 13(9) of Regulation (EU) No 596/2014.

### Article 13

#### Criteria for modifying or terminating an established AMP

In determining whether to terminate an established AMP or propose modification of the conditions of its acceptance, ~~competent authorities~~ the Financial Conduct Authority shall have regard to:

- (a) the extent to which the beneficiaries or the persons performing the AMP have complied with the conditions established under that AMP;
- (b) the extent to which the conduct of the beneficiaries or the persons performing an AMP has resulted in any of the criteria set out in Article 13(2) of Regulation (EU) No 596/2014 no longer being met;
- (c) the extent to which the AMP has not been used by market participants for a period of time;
- (d) whether a significant change in the relevant UK market environment referred to in Article 13(8) of Regulation (EU) No 596/2014 results in any of the conditions for establishing the AMP being no longer possible to meet or being not necessary to be met, considering in particular:
  - (i) whether the objective of the AMP has become unfeasible;
  - (ii) whether the continued use of the established AMP might adversely affect the integrity or efficiency of the markets under the supervision of the ~~competent authority~~ Financial Conduct Authority;
- (e) whether there exists a situation falling within any general termination provision included in the established AMP itself.

### CHAPTER III

#### FINAL PROVISION

### Article 14

#### Entry into force

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

## Template for notifying the intention to establish accepted market practices

<b>Accepted market practice (AMP) on</b> [insert name of the AMP]	
<b>Proposed date of establishment of the AMP:</b> [insert the date on which the AMP is intended to be established by the <del>notifying competent authority</del> <u>Financial Conduct Authority</u> ]	
<b>Description of the AMP:</b> [insert text, including the identification of the types of financial instrument and <u>UK</u> trading venues on which the AMP will be performed; the types of persons who can perform the AMP; the type of beneficiaries, and, the indication of whether the market practice can be performed for a determined period of time and of any situations or conditions leading to a temporary interruption, suspension or termination of the practice]	
<b>Rationale for which the practice could constitute market manipulation</b> [insert text]	
<b>ASSESSMENT</b>	
<b>List of criteria taken into account</b>	<b>Conclusion of the <del>competent authority</del> <u>Financial Conduct Authority</u> and rationale</b>
(a) Level of transparency provided to the <u>UK</u> market	[insert text to fill in the rationale for this criterion]
(b) Degree of safeguards to the operation of market forces <u>operating in UK markets</u> and the proper interplay of the forces of supply and demand.	[insert text to fill in the rationale for this criterion]
(c) Impact on <u>UK</u> market liquidity and efficiency.	[insert text to fill in the rationale for this criterion]
(d) The trading mechanism of the relevant <u>UK</u> market and the possibility for market participants to react properly and in a timely manner to the new market situation created by that practice.	[insert text to fill in the rationale for this criterion]
(e) Risks for the integrity of, directly or indirectly, related markets, whether regulated or not, in the relevant financial	[insert text to fill in the rationale for this criterion]

<p>instruments within the <del>Union</del> <u>United Kingdom</u>.</p>	
<p>(f) Outcome of any investigation of the relevant market practice by <del>any competent authority or other authority</del> <u>the Financial Conduct Authority</u>, in particular whether the relevant market practice infringed rules or regulations designed to prevent market abuse or codes of conduct, irrespective of whether — it concerns, directly or indirectly, — the relevant <u>UK</u> market or related markets within the <del>Union</del> <u>United Kingdom</u>.</p>	<p>[insert text to fill in the rationale for this criterion]</p>
<p>(g) Structural characteristics of the relevant <u>UK</u> market, inter alia, whether it is regulated or not, the types of financial instruments traded and the type of market participants, including the extent of retail investors' participation in the relevant <u>UK</u> market.</p>	<p>[insert text to fill in the rationale for this criterion]</p>

## Annex E

### COMMISSION DELEGATED REGULATION (EU) 2016/909 of 1 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the content of notifications to be submitted to competent authorities and the compilation, publication and maintenance of the list of notifications

(Text with EEA relevance)

...

#### Article -2

#### **Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

#### Article -1

#### **Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

#### Article 2

1. ~~Competent authorities~~ The Financial Conduct Authority shall monitor and assess, using automated processes, whether the notifications received pursuant to Article 4(1) of Regulation (EU) No 596/2014 comply with the requirements under Article 1 of this Regulation and Article 2 of Commission Implementing Regulation (EU) 2016/378.
2. Trading venue operators shall be informed using automated processes without delay of any incompleteness in the received notifications and of any failure to deliver the notifications before the deadline specified in Article 1 of Implementing Regulation (EU) 2016/378.
3. ~~Competent authorities shall, using automated processes, transmit complete and accurate notifications of financial instruments to ESMA pursuant to Article 1.~~

~~On the day following receipt of the notifications of financial instruments in accordance with Article 4(2) of Regulation (EU) No 596/2014, ESMA shall, using automated processes, consolidate the notifications received from each competent authority.~~

- ~~4. ESMA shall, using automated processes, monitor and assess whether the notifications received from competent authorities are complete and accurate and comply with the applicable standards and formats specified in Table 3 of the Annex to Implementing Regulation (EU) 2016/378.~~
- ~~5. ESMA shall, using automated processes, without delay inform the competent authorities concerned of any incompleteness in the transmitted notifications and of any failure to deliver notifications before the deadline specified in Article 1(3) of Implementing Regulation (EU) 2016/378.~~
6. ESMA The Financial Conduct Authority shall, using automated processes, publish the complete list of notifications in an electronic, downloadable and machine readable form on its website.

### Article 3

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

**Notifications of financial instruments pursuant to Article 4(1) of Regulation (EU) No 596/2014**

Table 1

**Classification of commodity and emission allowances derivatives for Table 2 (fields 35-37)**

Base product	Sub product	Further sub product
...		
'OEST' — Official economic statistics'		
'OTHC' — Other C10 'as defined in Table 10.1 Section 'Other C10 derivatives' of Annex III to Commission Delegated Regulation (EU) 2017/583 supplementing Regulation (EU) No 600/2014 with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives.	'DLVR' — Deliverable 'NDLV' — Non-deliverable	
'OTHR' — Other		

Table 2

**Content of the notifications to be submitted to ~~competent authorities~~ the Financial Conduct Authority in accordance with Article 4(1) of Regulation (EU) No 596/2014**

...

## Annex F

**COMMISSION DELEGATED REGULATION (EU) 2016/957 of 9 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the appropriate arrangements, systems and procedures as well as notification templates to be used for preventing, detecting and reporting abusive practices or suspicious orders or transactions**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

**Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

Article 2

**General requirements**

1. Persons professionally arranging or executing transactions shall establish and maintain arrangements, systems and procedures that ensure:
  - (a) effective and ongoing monitoring, for the purposes of detecting and identifying orders and transactions that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation, of all orders received and transmitted and all transactions executed;
  - (b) the transmission of STORs to ~~competent authorities~~ the Financial Conduct Authority in accordance with the requirements set out in this Regulation and using the template set out in the Annex.
2. The obligations referred to in paragraph 1 shall apply to orders and transactions relating to any financial instrument and shall apply irrespective of:

- (a) the capacity in which the order is placed or the transaction is executed;
  - (b) the types of clients concerned;
  - (c) whether the orders were placed or transactions executed on or outside a UK trading venue.
3. Market operators and investment firms operating a UK trading venue shall establish and maintain arrangements, systems and procedures that ensure:
- (a) effective and ongoing monitoring, for the purposes of preventing, detecting and identifying insider dealing, market manipulation and attempted insider dealing and market manipulation, of all orders received and all transactions executed;
  - (b) the transmission of STORs to ~~competent authorities~~ the Financial Conduct Authority in accordance with the requirements set out in this Regulation and using the template set out in the Annex.

...

5. Persons professionally arranging or executing transactions, and market operators and investment firms operating a UK trading venue shall ensure that the arrangements, systems and procedures referred to in paragraphs 1 and 3:
- (a) are appropriate and proportionate in relation to the scale, size and nature of their business activity;
  - (b) are regularly assessed, at least through an annually conducted audit and internal review, and updated when necessary;
  - (c) are clearly documented in writing, including any changes or updates to them, for the purposes of complying with this Regulation, and that the documented information is maintained for a period of five years.

The persons referred to in the first subparagraph shall, upon request, provide the ~~competent authority~~ Financial Conduct Authority with the information referred to in point (b) and (c) of that subparagraph.

### Article 3

#### **Prevention, monitoring and detection**

1. The arrangements, systems and procedures referred to in Article 2(1) and (3) shall:
- (a) allow for the analysis, individually and comparatively, of each and every transaction executed and order placed, modified, cancelled or rejected in the systems of the UK trading venue and, in the case of persons professionally arranging or executing transactions, also outside a UK trading venue;
  - (b) produce alerts indicating activities requiring further analysis for the purposes of detecting potential insider dealing or market manipulation or attempted insider dealing or market manipulation;

- (c) cover the full range of trading activities undertaken by the persons concerned.
2. Persons professionally executing or arranging transactions and market operators and investment firms operating UK trading venues shall, upon request, provide the ~~competent authority~~ Financial Conduct Authority with the information to demonstrate the appropriateness and proportionality of their systems in relation to the scale, size and nature of their business activity, including the information on the level of automation put in place in such systems.
3. Market operators and investment firms operating UK trading venues shall, to a degree which is appropriate and proportionate in relation to the scale, size and nature of their business activity, employ software systems and have in place procedures which assist the prevention and detection of insider dealing, market manipulation or attempted insider dealing or market manipulation.
- ...
4. Persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall put in place and maintain arrangements and procedures that ensure an appropriate level of human analysis in the monitoring, detection and identification of transactions and orders that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation.
5. Market operators and investment firms operating a UK trading venue shall put in place and maintain arrangements and procedures that ensure an appropriate level of human analysis also in the prevention of insider dealing, market manipulation or attempted insider dealing or market manipulation.
- ...
8. As part of the arrangements and procedures referred to in Article 2(1) and (3), persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall maintain for a period of five years the information documenting the analysis carried out with regard to orders and transactions that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation which have been examined and the reasons for submitting or not submitting a STOR. That information shall be provided to the ~~competent authority~~ Financial Conduct Authority upon request.
- ...

#### Article 4

#### **Training**

1. Persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall organise and provide effective and comprehensive training to the staff involved in the monitoring, detection and identification of orders and transactions that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation, including the staff involved in the processing of orders and transactions. Such training shall take place on a regular basis and shall be appropriate and proportionate in relation to the scale, size and nature of the business.
2. Market operators and investment firms operating a UK trading venue shall in addition provide the training referred to in paragraph 1 to staff involved in the prevention of insider dealing, market manipulation or attempted insider dealing or market manipulation.

#### Article 5

#### **Reporting obligations**

1. Persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall establish and maintain effective arrangements, systems and procedures that enable them to assess, for the purpose of submitting a STOR, whether an order or transaction could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation. Those arrangements, systems and procedures shall take due account of the elements constituting the actual or attempted insider dealing or market manipulation under Articles 8 and 12 of Regulation (EU) No 596/2014 and of the non-exhaustive indicators of market manipulation referred to in Annex I to that Regulation, as further specified in the Commission Delegated Regulation (EU) 2016/522 (1).

...

4. Persons referred to in paragraph 1 shall have in place procedures to ensure that the person in respect of which the STOR was submitted and anyone who is not required to know about the submission of a STOR by virtue of their function or position within the reporting person, is not informed of the fact that a STOR has been or will or is intended to be submitted to the ~~competent authority~~ Financial Conduct Authority.

...

#### Article 6

#### **Timing of STORs**

1. Persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall ensure that they have in place effective arrangements, systems and procedures for the submission of a STOR

without delay, in accordance with Article 16(1) and (2) of Regulation (EU) No 596/2014, once reasonable suspicion of actual or attempted insider dealing or market manipulation is formed.

2. ...

In such cases, the person professionally arranging or executing transactions and the market operator and investment firm operating a UK trading venue shall explain in the STOR to the ~~competent authority~~ Financial Conduct Authority the delay between the suspected breach and the submission of the STOR according to the specific circumstances of the case.

3. Persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall submit to the ~~competent authority~~ Financial Conduct Authority any relevant additional information which they become aware of after the STOR has been originally submitted, and shall provide any information or document requested by the ~~competent authority~~ Financial Conduct Authority.

#### Article 7

##### **Content of STORs**

1. Persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall submit a STOR using the template set out in the Annex.

2. ...

...

(e) any other information and supporting documents which may be deemed relevant for the ~~competent authority~~ Financial Conduct Authority for the purposes of detecting, investigating and enforcing insider dealing, market manipulation and attempted insider dealing and market manipulation.

#### Article 8

##### **Means of transmission**

1. Persons professionally arranging or executing transactions and market operators and investment firms operating a UK trading venue shall submit a STOR, including any supporting documents or attachments, to the ~~competent authority referred to in Article~~

~~16(1) and (3) of Regulation (EU) No 596/2014~~ Financial Conduct Authority using the electronic means specified by ~~that competent authority~~ the Financial Conduct Authority.

2. ~~Competent authorities~~ The Financial Conduct Authority shall publish on ~~their~~ its website the electronic means referred to in paragraph 1. Those electronic means shall ensure that completeness, integrity and confidentiality of the information are maintained during the transmission.

## Article 9

### **Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

## STOR template

SECTION 1 — IDENTITY OF ENTITY/PERSON SUBMITTING THE STOR	
<b>Persons professionally arranging or executing transactions/Market operators and investment firms that operate a <u>UK</u> trading venue — Specify in each case:</b>	
...	
SECTION 2 — TRANSACTION/ORDER	
Description of the financial instrument:	<p>Describe the financial instrument which is the subject of the STOR, specifying:</p> <ul style="list-style-type: none"> <li>—the full name or description of the financial instrument,</li> <li>—the instrument identifier code as defined in a Commission Delegated Regulation (EU) 2017/590 adopted under Article 26 of Regulation (EU) No 600/2014, when applicable, or other codes,</li> <li>...</li> </ul> <p>—Describe the underlying financial instrument of the OTC derivative specifying:</p> <ul style="list-style-type: none"> <li>— The full name of the underlying financial instrument or description of the financial instrument,</li> <li>— The instrument identifier code as defined under Commission Delegated Regulation <del>to be</del> (EU) 2017/590 adopted under Article 26 of Regulation (EU) No 600/2014 when applicable, or other codes,</li> <li>...</li> </ul>
...	

<p>Market where order or transaction occurred</p>	<p>[Specify:          — name and code to identify the <u>UK trading venue</u> or <u>EU trading venue</u>, the systematic internaliser or the organised trading platform outside the <del>Union</del> <u>UK</u> where the order was placed and the transaction was executed as defined under Commission Delegated Regulation (<u>EU</u>) 2017/590 adopted under Article 26 of Regulation (EU) No 600/2014, or          ...</p>
<p>...</p>	
<p>Description of the order or transaction</p>	<p>...</p> <p>[Where there are multiple orders or transactions that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation, the details on the prices and volumes of such orders and transactions can be provided to the <del>competent authority</del> <u>Financial Conduct Authority</u> in an Annex to the STOR.]</p> <p>...</p> <p>[Where there are multiple orders or transactions that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation, the details on the prices and volumes of such orders and transactions can be provided to the <del>competent authority</del> <u>Financial Conduct Authority</u> in an Annex to the STOR.]</p> <p>...</p>
<p>...</p>	

**Annex G**

**COMMISSION DELEGATED REGULATION (EU) 2016/958 of 9 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the technical arrangements for objective presentation of investment recommendations or other information recommending or suggesting an investment strategy and for disclosure of particular interests or indications of conflicts of interest**

~~(Text with EEA relevance)~~

...

**CHAPTER I  
GENERAL PROVISIONS**

Article -2

**Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

**Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

**CHAPTER II  
PRODUCTION OF RECOMMENDATIONS**

Article 2

**Identity of producers of recommendations**

...

2. Where the person who produces recommendations is an investment firm, a credit institution, or a natural person working for an investment firm or a credit institution

under contract of employment or otherwise, that person shall, in addition to the information laid down in paragraph 1, state the identity of the relevant ~~competent authority~~ regulator (whether that is the Financial Conduct Authority or the relevant competent authority) in the recommendation.

...

### Article 3

#### **General obligations in relation to objective presentation of recommendations**

...

3. Persons who produce recommendations shall substantiate any recommendation they have produced to the ~~competent authority~~ Financial Conduct Authority upon its request.

...

### Article 6

#### **Additional obligations in relation to disclosure of interests or of conflicts of interest by persons referred to in Article 3(1)(34)(i) of Regulation (EU) No 596/2014 and experts**

1. ...

(c) ...

- (iii) is party to an agreement with the issuer relating to the provision of services of investment firms set out in ~~Sections A and B of Annex I to Directive 2014/65/EU of the European Parliament and of the Council~~ (2) Parts 3 and 3A of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, a statement to that effect, provided that this would not entail the disclosure of any confidential commercial information and that the agreement has been in effect over the previous 12 months or has given rise during the same period to the obligation to pay or receive compensation;

...

2. ...

- (b) if the remuneration of natural or legal persons working for it under a contract of employment or otherwise, and who were involved in producing the recommendation, is directly tied to transactions in services of investment firms set out in Sections A and B of Annex I to Directive 2014/65/EU Parts 3 and 3A of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or other type of transactions it or any legal person part of the same group performs, or to trading fees it or any legal person that is part of the same group receives, a statement to that effect;

...

3. Where the person referred to in paragraph 1 is an investment firm, a credit institution, or a natural or legal person working for an investment firm or credit institution under a contract, including a contract of employment, or otherwise, that person shall publish, on a quarterly basis, the proportion of all recommendations that are ‘buy’, ‘hold’, ‘sell’ or equivalent terms over the previous 12 months, and the proportion of issuers corresponding to each of those categories to which such person has supplied material services of investment firms set out in Sections A and B of Annex I to Directive 2014/65/EU Parts 3 and 3A of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 over the previous 12 months.

...

### CHAPTER III

## DISSEMINATION OF RECOMMENDATIONS PRODUCED BY THIRD PARTIES

### Article 8

#### Arrangements for dissemination of recommendations

...

2. ...

- (a) the identity of the relevant competent authority regulator (whether that is the Financial Conduct Authority or the relevant competent authority);

...

CHAPTER IV  
**FINAL PROVISIONS**

Article 11

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex H

**COMMISSION IMPLEMENTING REGULATION (EU) 2016/959 of 17 May 2016 laying down implementing technical standards for market soundings with regard to the systems and notification templates to be used by disclosing market participants and the format of the records in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

Article -2

### **Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

### **Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

Article 5

### **Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex I**

**COMMISSION DELEGATED REGULATION (EU) 2016/960 of 17 May 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the appropriate arrangements, systems and procedures for disclosing market participants conducting market soundings**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

**Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

Article 6

**Record keeping requirements**

...

4. The records referred to in paragraphs 1, 2 and 3 shall be made available to the ~~competent authority~~ Financial Conduct Authority upon request.

Article 7  
**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex J**

**COMMISSION DELEGATED REGULATION (EU) 2016/1052 of 8 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the conditions applicable to buy-back programmes and stabilisation measures**

~~(Text with EEA relevance)~~

...

**CHAPTER I**  
**GENERAL PROVISIONS**

Article -3

**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2

**Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

**Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3 of Regulation (EU) No 596/2014 that definition applies.

Article 1

For the purposes of this Regulation, the following definitions shall apply:

...

- (b) ‘adequate public disclosure’ means making information public in a manner which enables fast access and complete, correct and timely assessment of the information by the public in accordance with Commission Implementing Regulation (EU) 2016/1055 and, where applicable, in ~~the officially appointed mechanism referred to in Article 21 of Directive 2004/109/EC of the European Parliament and of the Council~~ a mechanism referred to in section 89W of the Financial Services and Markets Act 2000;

...

## CHAPTER II

### BUY-BACK PROGRAMMES

#### Article 2

#### **Disclosure and reporting obligations**

1. In order to benefit from the exemption laid down in Article 5(1) of Regulation (EU) No 596/2014, prior to the start of trading in a buy-back programme permitted in accordance with the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement Article 21(1) of Directive 2012/30/EU of the European Parliament and of the Council (3), the issuer shall ensure adequate public disclosure of the following information:

...

2. The issuer shall have in place mechanisms that allow it to fulfil reporting obligations to the ~~competent authority~~ Financial Conduct Authority and to record each transaction related to a buy-back programme including the information specified in Article 5(3) of Regulation (EU) No 596/2014. The issuer shall report to the ~~competent authority of each trading venue on which the shares are admitted to trading or are traded~~ Financial Conduct Authority no later than by the end of the seventh daily market session following the date of the execution of the transaction, all the transactions relating to the buy-back programme, in a detailed form and in an aggregated form. The aggregated form shall indicate the aggregated volume and the weighted average price per day and per trading venue.

...

## Article 4

**Trading restrictions**

...

3. Point (a) of paragraph 1 shall not apply if the issuer is an investment firm or credit institution and has established, implemented and maintains adequate and effective internal arrangements and procedures, subject to the supervision of the Financial Conduct Authority or the relevant competent authority, to prevent unlawful disclosure of inside information by persons having access to inside information concerning directly or indirectly the issuer to persons responsible for any decision relating to the trading of own shares, when trading in own shares on the basis of such decision.
4. Points (b) and (c) of paragraph 1 shall not apply if the issuer is an investment firm or credit institution and has established, implemented and maintains adequate and effective internal arrangements and procedures, subject to the supervision of the Financial Conduct Authority or the relevant competent authority, to prevent unlawful disclosure of inside information by persons having access to inside information concerning directly or indirectly the issuer, including acquisition decisions under the buy-back programme, to persons responsible for the trading of own shares on behalf of clients, when trading in own shares on behalf of those clients.

## CHAPTER III

**STABILISATION MEASURES**

## Article 5

**Conditions regarding the stabilisation period**

...

2. For the purposes of point (a) of paragraph 1, where the initial offer publicly announced takes place ~~in a Member State that permits~~ on a trading venue where trading prior to the commencement of trading on a that trading venue is permitted, the stabilisation period shall start on the date of adequate public disclosure of the final price of the securities and last no longer than 30 calendar days thereafter. Such trading shall be carried out in compliance with the applicable rules of the trading venue ~~on which the securities are to be admitted to trading~~, including any rules concerning public disclosure and trade reporting.

...

## Article 6

**Disclosure and reporting obligations**

...

4. For the purpose of complying with the notification requirement set out in Article 5(5) of Regulation (EU) No 596/2014, the entities undertaking the stabilisation, whether or not they act on behalf of the issuer or the offeror, shall record each stabilisation order or transaction in securities and associated instruments pursuant to Article 25(1) and Article 26(1), (2) and (3) of Regulation (EU) No 600/2014 of the European Parliament and of the Council (and for these purposes, Article 26 of that Regulation applies as if the obligations in paragraphs (2)(a), (b) and (c) only applied to financial instruments which are admitted to trading or traded on a UK trading venue). The entities undertaking the stabilisation, whether or not acting on behalf of the issuer or the offeror, shall notify all stabilisation transactions in securities and associated instruments carried out to:
- (a) ~~the competent authority of each trading venue on which the securities under the stabilisation are admitted to trading or are traded;~~
  - (b) ~~the competent authority of each trading venue where transactions in associated instruments for the stabilisation of securities are carried out.~~ the Financial Conduct Authority.
5. The issuer, the offeror and any entity undertaking the stabilisation, as well as the persons acting on their behalf, shall appoint one among them to act as central point responsible:
- (a) for the public disclosure requirements referred to in paragraphs 1, 2 and 3; and
  - (b) for handling any request from ~~any of the competent authorities referred to in paragraph 4~~ the Financial Conduct Authority.

...

## CHAPTER IV

**FINAL PROVISION**

## Article 9

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex K

### **COMMISSION IMPLEMENTING REGULATION (EU) 2016/1055 of 29 June 2016 laying down implementing technical standards with regard to the technical means for appropriate public disclosure of inside information and for delaying the public disclosure of inside information in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

#### CHAPTER I GENERAL PROVISIONS

Article -2

##### **Application**

This Regulation applies in accordance with Regulation (EU) No 596/2014.

Article -1

##### **Interpretation**

For the purposes of this Regulation, where a term is defined in Article 3(1) of Regulation (EU) No 596/2014 that definition applies.

...

#### CHAPTER II TECHNICAL MEANS FOR APPROPRIATE PUBLIC DISCLOSURE OF INSIDE INFORMATION

Article 2

##### **Means for public disclosure of inside information**

1. Issuers and emission allowance market participants shall disclose inside information pursuant to Article 17 of Regulation (EU) No 596/2014 using technical means that ensure:
  - (a) inside information is disseminated:

- (i) to as wide a public as possible on a non-discriminatory basis;
- (ii) free of charge;
- (iii) simultaneously throughout the ~~Union~~ UK;

...

### CHAPTER III

## TECHNICAL MEANS FOR DELAYING THE PUBLIC DISCLOSURE OF INSIDE INFORMATION

### Article 4

#### Notification of delayed disclosure of inside information and written explanation

1. ...
  - (b) ...
  - (iv) providing the requested information about the delay and ~~the any~~ written explanation to the ~~competent authority~~ Financial Conduct Authority;

...

2. Issuers and emission allowance market participants shall inform, by means of a written notification, the ~~competent authority~~ Financial Conduct Authority of a delay in the disclosure of inside information and provide any written explanation of such delay through the dedicated contact point within, or designated by, the ~~competent authority~~ Financial Conduct Authority using the electronic means specified by the ~~competent authority~~ Financial Conduct Authority.

~~Competent authorities~~ The Financial Conduct Authority shall publish on ~~their~~ its website the dedicated contact point within, or designated by, the ~~competent authority~~ Financial Conduct Authority and the electronic means referred to in the first subparagraph. Those electronic means shall ensure that completeness, integrity and confidentiality of the information are maintained during the transmission.

...

4. ~~Where the written explanation of a delay in the disclosure of inside information is provided only upon request of the competent authority in accordance with the third subparagraph of Article 17(4) of Regulation (EU) No 596/2014, the~~ The electronic means referred to in paragraph 2 of this Article shall ensure that ~~such~~ any written

explanation of a delay in the disclosure of inside information includes the information referred to in paragraph 3 of this Article.

## Article 5

### Notification of intention to delay the disclosure of inside information

1. For the purpose of delaying the public disclosure of inside information in accordance with Article 17(5) of Regulation (EU) No 596/2014, an issuer that is a credit institution or a financial institution shall provide the ~~competent authority~~ Financial Conduct Authority with a notification in writing, of its intention to delay the disclosure of inside information in order to preserve the stability of the financial system, ensuring the completeness, integrity and confidentiality of the information, through a dedicated contact point within, or designated by, the ~~competent authority~~ Financial Conduct Authority.

Where the issuer transmits the notification referred to in the first subparagraph electronically, it shall use the electronic means referred to in Article 4(2) of this Regulation.

2. The ~~competent authority~~ Financial Conduct Authority shall communicate to the issuer its decision to consent or not to the delay of the disclosure on the basis of the information provided pursuant to paragraph 1 in writing and ensuring the completeness, integrity and confidentiality of the information.
3. The issuer shall use the same technical means used to provide the ~~competent authority~~ Financial Conduct Authority with the notification referred to in paragraph 1 to inform the ~~competent authority~~ Financial Conduct Authority of any new information that may affect the decision of the ~~competent authority~~ Financial Conduct Authority regarding the delay of the disclosure of the inside information.

## CHAPTER IV

### FINAL PROVISIONS

## Article 6

### Entry into force

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (MARKETS IN FINANCIAL INSTRUMENTS  
DIRECTIVE) (EU EXIT) (No 1) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in the exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations as specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Amendments to EU Regulations**

- F. The following EU Regulations are amended in accordance with Annexes A–S of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) 2016/824 of 25 May 2016 laying down implementing technical standards with regard to the content and format of the description of the functioning of multilateral trading facilities and organised trading facilities and the notification to the European Securities and Markets Authority according to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments.	Annex A

Commission Delegated Regulation (EU) 2017/566 of 18 May 2016 Supplementing Directive 2014/65/EU of the European Parliament and of the Council on Markets in Financial Instruments with regard to regulatory technical standards for the ratio of unexecuted orders to transactions in order to prevent disorderly trading conditions.	Annex B
Commission Delegated Regulation (EU) 2017/568 of 24 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the admission of financial instruments to trading on regulated markets.	Annex C
Commission Delegated Regulation (EU) 2017/569 of 24 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the suspension and removal of financial instruments from trading.	Annex D
Commission Delegated Regulation (EU) 2017/570 of 26 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards for the determination of a material market in terms of liquidity in relation to notifications of a temporary halt in trading.	Annex E
Commission Delegated Regulation (EU) 2017/571 of 2 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers.	Annex F
Commission Delegated Regulation (EU) 2017/573 of 6 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on requirements to ensure fair and non-discriminatory co-location services and fee structures.	Annex G
Commission Delegated Regulation (EU) 2017/574 of 7 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the level of accuracy of business clocks.	Annex H
Commission Delegated Regulation (EU) 2017/575 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions.	Annex I
Commission Delegated Regulation (EU) 2017/576 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the annual publication by investment firms of information on the identity of execution venues and on the quality of execution.	Annex J
Commission Delegated Regulation (EU) 2017/578 of 13 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying the requirements on market making agreements and schemes.	Annex K
Commission Delegated Regulation (EU) 2017/584 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of	Annex L

the Council with regard to regulatory technical standards specifying organisational requirements of trading venues.	
Commission Delegated Regulation (EU) 2017/591 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives.	Annex M
Commission Delegated Regulation (EU) 2017/592 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business.	Annex N
Commission Implementing Regulation (EU) 2017/953 of 6 June 2017 laying down implementing technical standards with regard to the format and the timing of position reports by investment firms and market operators of trading venues pursuant to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial Instruments.	Annex O
Commission Implementing Regulation (EU) 2017/1005 of 15 June 2017 laying down implementing technical standards with regard to the format and timing of the communications and the publication of the suspension and removal of financial instruments pursuant to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial Instruments.	Annex P
Commission Implementing Regulation (EU) 2017/1093 of 20 June 2017 laying down implementing technical standards with regard to the format of position reports by investment firms and market operators.	Annex Q
Commission Implementing Regulation (EU) 2017/1110 of 22 June 2017 laying down implementing technical standards with regard to the standard forms, templates and procedures for the authorisation of data reporting services and related notifications pursuant to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial Instruments.	Annex R
Commission Delegated Regulation (EU) 2017/1943 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on information and requirements for the authorisation of investment firms.	Annex S

**Revocations**

G. The FCA revokes the following EU Regulations.

(1)
Commission Delegated Regulation (EU) No 2017/586 regarding the exchange of information between competent authorities when cooperating in supervisory activities, on-the-spot verifications and investigations.
Implementing Regulation (EU) No 2017/980 on standard forms, templates and procedures for cooperation in supervisory activities, for on-site verifications, and investigations and exchange of information between competent authorities.
Implementing Regulation (EU) No 2017/981 on standard forms, templates and procedures for the consultation of other competent authorities prior to granting an authorisation.
Implementing Regulation (EU) No 2017/988 on standard forms, templates and procedures for cooperation arrangements in respect of a trading venue whose operations are of substantial importance in a host Member State.
Delegated Regulation (EU) No 2017/1018 specifying information to be notified by investment firms, market operators and credit institutions.
Implementing Regulation (EU) No 2017/1111 on procedures and forms for submitting information on sanctions and measures.
Commission Implementing Regulation (EU) No 2017/1944 regarding standard forms, templates and procedures for the consultation process between relevant competent authorities in relation to the notification of a proposed acquisition of a qualifying holding in an investment firm.
Commission Implementing Regulation (EU) No 2017/2382 regarding standard forms, templates and procedures for the transmission of information.

**Commencement**

H. This instrument comes into force on [29 March 2019 at 11.00 p.m.].

**Citation**

I. This instrument may be cited as the Technical Standards (Markets in Financial Instruments Directive) (EU Exit) (No 1) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

**COMMISSION IMPLEMENTING REGULATION (EU) 2016/824 of 25 May 2016 laying down implementing technical standards with regard to the content and format of the description of the functioning of multilateral trading facilities and organised trading facilities and the notification to the European Securities and Markets Authority according to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments**

~~(Text with EEA relevance)~~

...

### Article -2

#### **Application**

This Regulation applies to operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014.

### Article -1

#### **Interpretation**

1. Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.
4. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.

### Article 1

#### **Definitions**

For the purposes of this Regulation, the following definitions apply:

1. 'relevant operator' means:
  - (a) an investment firm operating a multilateral trading facility (MTF);
  - (b) an investment firm operating an organised trading facility (OTF);
  - (c) a market operator operating an MTF;
  - (d) a market operator operating an OTF;
2. 'asset classes' means the categories of financial instruments as set out in Section C of Annex I to Directive 2014/65/EU.
3. 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

## Article 2

### Information to be provided on MTFs and OTFs

1. A relevant operator shall provide ~~its~~ the competent authority with the following information:
  - (a) the asset classes of financial instruments traded on the MTF or OTF;
  - (b) the rules and procedures for making financial instruments available for trading, together with details of the publication arrangements used to make that information available to the public;
  - (c) the rules and procedures to ensure the objective and non-discriminatory access to the trading facilities together with details on the publication arrangements used to make that information available to the public;
  - (d) the measures and procedures to ensure that sufficient information is publicly available to users of the MTF or OTF to form an investment judgement, taking into account both the nature of the users and the classes of financial instruments traded;
  - (e) the systems, procedures and arrangements to ensure compliance with the conditions laid down in UK law corresponding to Articles 48 and 49 of Directive 2014/65/EU;
  - (f) a detailed description of any arrangements to facilitate the provision of liquidity to the system such as market making schemes;
  - (g) the arrangements and procedures to monitor transactions as required by UK law corresponding to Article 31 of Directive 2014/65/EU;
  - (h) the rules and procedures for suspension and removal of financial instruments from trading as required by UK law corresponding to Article 32 of Directive 2014/65/EU;
  - (i) the arrangements to comply with pre-trade and post-trade transparency obligations that apply to the financial instruments traded and the trading functionality of the MTF or OTF; that information shall be accompanied by information on any intention to use waivers under Articles 4 and 9 of Regulation (EU) No 600/2014 and deferred publication under Articles 7 and 11

- of that Regulation;
- (j) the arrangements for the efficient settlement of the transactions effected under its systems and for ensuring that users are aware of their respective responsibilities in this regard;
  - (k) a list of the members or participants of the MTF or OTF which it operates.
2. A relevant operator shall provide ~~its~~ the competent authority with a detailed description of the functioning of its trading system specifying:
    - (a) whether the system represents a voice, electronic or hybrid functionality;
    - (b) in the case of an electronic or hybrid trading system, the nature of any algorithm or program used to determine the matching and execution of trading interests;
    - (c) in the case of a voice trading system, the rules and protocols used to determine the matching and execution of trading interests;
    - (d) a description explaining how the trading system satisfies each element of the definition of an MTF or an OTF.
  3. A relevant operator shall provide ~~its~~ the competent authority with information on how and in what instances the operation of the MTF or OTF will give rise to any potential conflicts between the interests of the MTF or OTF, its operator or its owners and the sound functioning of the MTF or OTF. The relevant operator shall specify the procedures and arrangements to comply with the requirements set out in UK law corresponding to Article 18(4) of Directive 2014/65/EU.
  4. A relevant operator shall provide ~~its~~ the competent authority with the following information on its outsourcing arrangements that relate to the management, operation or oversight of the MTF or OTF:
    - (a) the organisational measures to identify the risks in relation to those outsourced activities and to monitor the outsourced activities;
    - (b) the contractual agreement between the relevant operator and the entity providing the outsourced service in which the nature, scope, objectives, and service level agreements are outlined.
  5. A relevant operator shall provide ~~its~~ the competent authority with information on any links to or participation by a regulated market, MTF, OTF or systematic internaliser owned by the same relevant operator.

### Article 3

#### **Additional information to be provided on MTFs**

In addition to the information set out in Article 2, a relevant operator shall provide ~~its~~ the competent authority with the following information relating to the requirements set out in UK law corresponding to Article 19(3) of Directive 2014/65/EU:

- (a) a description of the arrangements and the systems implemented to manage the risks to which the operator is exposed, to identify all significant risks to its operation and to put in place effective measures to mitigate those risks;
- (b) a description of the arrangements implemented to facilitate the efficient and timely

finalisation of the transactions executed under the operator's systems;

- (c) having regard to the nature and extent of the transactions concluded on the market and the range and degree of the risks to which the operator is exposed, a description of the financial resources considered sufficient to facilitate its orderly functioning.

...

## Article 6

### **Additional information to be provided on OTFs**

In addition to Article 2, a relevant operator operating an OTF shall provide ~~its~~ the competent authority with the following information:

- (a) information on whether another investment firm is engaged to carry out market making on its OTF on an independent basis in accordance with UK law corresponding to Article 20(5) of Directive 2014/65/EU;
- (b) a detailed description of how and under what circumstances it executes orders on the OTF on a discretionary basis in accordance with UK law corresponding to Article 20(6) of Directive 2014/65/EU;
- (c) the rules, procedures and protocols which allow the operator to route the trading interest of a member or participant outside the facilities of the OTF;
- (d) a description of the use of matched principal trading which complies with UK law corresponding to Article 20(7) of Directive 2014/65/EU;
- (e) the rules and procedures to ensure compliance with UK law corresponding to Articles 24, 25, 27 and 28 of Directive 2014/65/EU for transactions concluded on the OTF where those rules are applicable to the relevant operator in relation to an OTF user.

...

## Article 8

### **Material changes**

1. A relevant operator shall provide ~~its~~ the competent authority with a description of any material changes to the information previously submitted in accordance with this Regulation which would be relevant to an assessment of that operator's compliance with Directive 2014/65/EU and Regulation (EU) No 600/2014.
2. Where a relevant operator sends new information to ~~its~~ the competent authority to correct, update or clarify information previously submitted in accordance with this Regulation, it does not need to include information which is of a purely minor or technical nature that would not be relevant to an assessment of its compliance with UK law corresponding to Directive 2014/65/EU or Regulation (EU) No 600/2014.
3. An investment firm or market operator authorised to operate an MTF under Directive 2004/39/EC which is operating at the date of application of this Regulation shall, in

addition to paragraph 1 of this Article, provide ~~its~~ the competent authority with a description of any material changes to the information previously submitted to the competent authority in respect of that MTF under that Directive.

#### Article 9

##### **Format for providing the description**

...

3. A relevant operator shall provide the information required by this Regulation to ~~its~~ the competent authority in an electronic format.

...

#### Article 10

##### **Notification to ESMA**

~~A competent authority shall notify ESMA of the authorisation of a relevant operator as an MTF or an OTF in electronic format and in the format set out in Table 2 of the Annex.~~

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

#### ANNEX

##### **Formats**

...

#### Table 2

##### **Information to be sent to ESMA**

<del>Notifying competent authority</del>	<del>Name of the relevant operator</del>	<del>Name of the MTF or OTF operated</del>	<del>MIC code</del>	<del>Services provided by MTF or OTF</del>
--	--	--	---------------------	--

**Annex B****COMMISSION DELEGATED REGULATION (EU) 2017/566 of 18 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards for the ratio of unexecuted orders to transactions in order to prevent disorderly trading conditions**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies to UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014.

Article -1

**Interpretation**

1. Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**ANNEX**  
**Counting methodology for orders set out for each type**

<b>Types of order</b>	<b>Number of orders received by the trading venue to be counted when calculating the ratio of unexecuted orders to transactions (each submission, modification, cancellation shall be counted as one single order)</b>	<b>Updates potentially sent by the trading venue not to be counted when calculating the ratio of unexecuted orders to transactions (excluding executions/cancellations by market operations)</b>
Limit	1	0
...		
<p>Peg</p> <p>Market peg: an order to the opposite side of the <del>(European)</del> Best Bid and Offer (BBO)</p> <p>Primary peg: an order to the same side of the <del>(European)</del> BBO</p> <p>Midpoint peg: an order to the midpoint of the <del>(European)</del> BBO</p> <p>Alternate peg to the less aggressive of the midpoint or 1 tick</p> <p>Midpoint inside the same side of the Protected BBO</p>	1	potentially unlimited as the order tracks the BBO
...		

Trailing stop: Stop order which stop price at which the order is triggered changes in function of the <del>(European)</del> BBO	1	potentially unlimited as the stop limit tracks the BBO
At best limit order where the limit price is equal to the opposite side of the <del>(European)</del> BBO at the time of entry	1	0
...		

## Annex C

**COMMISSION DELEGATED REGULATION (EU) 2017/568 of 24 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the admission of financial instruments to trading on regulated markets**

~~(Text with EEA relevance)~~

...

Article -3

**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2

**Application**

This Regulation applies to a ‘UK RIE’ as defined in the Glossary of the Handbook of Rules and Guidance published by the Financial Conduct Authority immediately after Exit Day.

Article -1

**Interpretation**

1. Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators’ requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.
4. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

...

## Article 2

**Transferable securities — fair, orderly and efficient trading**

1. When assessing whether a transferable security is capable of being traded in a fair, orderly and efficient manner, a regulated market shall take into account the information required to be prepared under UK law corresponding to Directive 2003/71/EC or information that is otherwise publicly available such as:
  - (a) historical financial information;
  - (b) information about the issuer;
  - (c) information providing a business overview.
2. In addition to paragraph 1, when assessing whether a share is capable of being traded in a fair, orderly and efficient manner a regulated market shall take into account the distribution of those shares to the public.
3. When assessing whether a transferable security referred to in ~~Article 4(1)(44) of Directive 2014/65/EU~~ Article 2(1)(24) of Regulation 600/2014/EU is capable of being traded in a fair, orderly and efficient manner, the regulated market shall take into account, depending on the nature of the security being admitted, whether the following criteria are satisfied:
  - (a) the terms of the security are clear and unambiguous and allow for a correlation between the price of the security and the price or other value measure of the underlying;
  - (b) the price or other value measure of the underlying is reliable and publicly available;
  - (c) there is sufficient information publicly available of a kind needed to value the security;
  - (d) the arrangements for determining the settlement price of the security ensure that this price properly reflects the price or other value measures of the underlying;
  - (e) where the settlement of the security requires or provides for the possibility of the delivery of an underlying security or asset rather than cash settlement, there are adequate settlement and delivery procedures for that underlying as well as adequate arrangements to obtain relevant information about it.

## Article 3

**Transferable securities — official listing**

A transferable security that is officially listed in accordance with UK law corresponding to Directive 2001/34/EC, and the listing of which is not suspended, shall be deemed to be freely negotiable and capable of being traded in a fair, orderly and efficient manner.

## Article 4

**Units and shares in collective investment undertakings**

1. A regulated market shall, when admitting units or shares of a collective investment undertaking to trading, ensure that those units or shares are permitted to be marketed ~~in the Member State of the regulated market~~ the United Kingdom.

...

## Article 5

**Derivatives**

1. When assessing whether a financial instrument referred to in ~~points 4 to 10 of Section C of Annex I to Directive 2014/65/EU~~ paragraphs 4 to 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 are capable of being traded in a fair, orderly and efficient manner, a regulated market shall verify that the following conditions are satisfied:
  - (a) the terms of the contract establishing the financial instrument are clear and unambiguous, and enable a correlation between the price of the financial instrument and the price or other value measure of the underlying;
  - (b) the price or other value measure of the underlying is reliable and publicly available;
  - (c) sufficient information of a kind needed to value the derivative is publicly available;
  - (d) the arrangements for determining the settlement price of the contract is such that the price properly reflects the price or other value measures of the underlying;
  - (e) where the settlement of the derivative requires or provides for the possibility of the delivery of an underlying security or asset rather than cash settlement, there are adequate arrangements to enable market participants to obtain relevant information about that underlying as well as adequate settlement and delivery procedures for the underlying.
2. Point (b) of paragraph 1 of this Article shall not apply to financial instruments referred to in ~~points 5, 6, 7 and 10 of Section C of Annex I to Directive 2014/65/EU~~ paragraphs 5, 6, 7 and 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, where the following conditions are fulfilled:
  - (a) the contract establishing that instrument is likely to provide a means of disclosing to the market, or enabling the market to assess, the price or other value measure of the underlying, where the price or value measure is not otherwise publicly available;
  - (b) the regulated market ensures that appropriate supervisory arrangements are in place to monitor trading and settlement in such financial instruments;

- (c) the regulated market ensures that settlement and delivery, whether physical delivery or by cash settlement, can be effected in accordance with the contract terms and conditions of those financial instruments.

#### Article 6

##### **Emission allowances**

Any emission allowance referred to in ~~point 11 of Section C of Annex I to Directive 2014/65/EU~~ paragraph 11 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 recognised for compliance with the requirements of Directive 2003/87/EC, is eligible for admission to trading on a regulated market with no further requirements.

#### Article 7

##### **Verification of issuer obligations**

1. Regulated markets shall adopt and publish on their website procedures for verifying compliance by an issuer of a transferable security with its obligations under ~~Union~~ UK law.
2. Regulated markets shall ensure that compliance with the obligations referred to in paragraph 1 is checked effectively in accordance with the nature of the obligation under review taking into account the supervisory tasks performed by ~~relevant competent authorities~~ the competent authority.

...

#### Article 8

##### **Facilitation of access to information**

Regulated markets shall have arrangements which are easily accessible, free of charge and published on their website to facilitate access of their members or participants to information which has been made public in accordance with ~~Union~~ UK law.

#### Article 9

##### **Entry into force and application**

...

It shall apply from the date that appears in the second subparagraph of Article 93(1) of Directive 2014/65/EU.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex D

### COMMISSION DELEGATED REGULATION (EU) 2017/569 of 24 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the suspension and removal of financial instruments from trading

~~(Text with EEA relevance)~~

...

#### Article -2

#### **Application**

This Regulation applies to operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014.

#### Article -1

#### **Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.
- (4) A reference to the 'Regulated Activities Order' is to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

#### Article 1

#### **Connection between a derivative related or referenced to a financial instrument suspended or removed from trading and the original financial instrument**

A market operator of a regulated market and an investment firm or market operator operating a multilateral trading facility (MTF) or an organised trading facility (OTF) shall suspend or remove a derivative referred to in ~~points paragraphs~~ 4 to 10 of ~~Section C of Annex I to Directive 2014/65/EU~~ Part 1 of Schedule 2 to the Regulated Activities Order from trading where that derivative is related or referenced to only one financial instrument, and that financial instrument has been suspended or removed from trading.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex E

**COMMISSION DELEGATED REGULATION (EU) 2017/570 of 26 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards for the determination of a material market in terms of liquidity in relation to notifications of a temporary halt in trading**

~~(Text with EEA relevance)~~

...

Article -2

**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -1

**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators’ requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.
- (4) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

Article 1

**Material market in terms of liquidity**

For the purposes of the second subparagraph of UK law corresponding to Article 48(5) of Directive 2014/65/EU, the material market in terms of liquidity shall be considered to be:

- (a) in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments, the trading venue which is the most relevant market in

terms of liquidity for the instrument as set out in Article 4 of Commission Delegated Regulation (EU) 2017/587;

- (b) in respect of financial instruments other than those set out in point (a) which are admitted to trading on a regulated market, the regulated market where the financial instrument was first admitted to trading;
- (c) in respect of financial instruments other than those set out in point (a) which are not admitted to trading on a regulated market, the trading venue where the financial instrument was first traded.

## Article 2

### **Entry into force and application**

...

This Regulation shall apply from the date that appears first in the second subparagraph of Article 93(1) of Directive 2014/65/EU.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex F

**COMMISSION DELEGATED REGULATION (EU) 2017/571 of 2 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the authorisation, organisational requirements and the publication of transactions for data reporting services providers**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies to persons.

Article -1

**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) or (3) applies;
- (2) Subject to (3), where a term is defined in the Data Reporting Services Regulations 2017, that definition shall apply for the purposes of this Regulation.
- (3) Where a term it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (4) ‘Information system’ means a device or group of inter-connected or related devices, one or more of which, pursuant to a programme, automatically processes computer data, as well as computer data stored, processed, retrieved or transmitted by that device or group of devices for the purpose of its or their operation, use, protection and maintenance.

‘Computer data’, for these purposes, means a representation of facts, information or concepts in a form suitable for processing in an information system, including a programme suitable for causing an information system to perform a function.

## CHAPTER I

## AUTHORISATION

(Article 61(2) of Directive 2014/65/EU)

## Article 1

**Information to the competent authorities authority**

1. An applicant seeking authorisation to provide data reporting services shall submit to the competent authority the information set out in Articles 2, 3 and 4 and the information regarding all the organisational requirements set out in Chapters II and III.
2. A data reporting services provider shall promptly inform the competent authority ~~of its home Member State~~ of any material change to the information provided at the time of the authorisation and thereafter.

## Article 2

**Information on the organisation**

1. An applicant seeking authorisation to provide data reporting services shall include in its application for authorisation a programme of operations referred to in ~~Article 61(2) of Directive 2014/65/EU~~ regulation 7 of the Data Reporting Services Regulations 2017. The programme of operations shall include the following information:
  - (a) information on the organisational structure of the applicant, including an organisational chart and a description of the human, technical and legal resources allocated to its business activities;
  - (b) information on the compliance policies and procedures of the data reporting services provider, including:
    - (i) the name of the person or persons responsible for the approval and maintenance of those policies;
    - (ii) the arrangements to monitor and enforce the compliance policies and procedures;
    - (iii) the measures to be undertaken in the event of a breach which may result in a failure to meet the conditions for initial authorisation;
    - (iv) a description of the procedure for reporting to the competent authority any breach which may result in a failure to meet the conditions for initial authorisation;
  - (c) a list of all outsourced functions and resources allocated to the control of the outsourced functions;
2. A data reporting services provider offering services other than data reporting services shall describe those services in the organisational chart.

...

## Article 4

**Information on the members of the management body**

1. An applicant seeking authorisation to provide data reporting services shall include in its application for authorisation the following information in respect of each member of the management body:
  - (a) name, date and place of birth, personal national identification number or an equivalent thereof, address and contact details;
  - (b) the position for which the person is or will be appointed;
  - (c) a curriculum vitae evidencing sufficient experience and knowledge to adequately perform the responsibilities;
  - (d) criminal records, notably through an official certificate, or, where such a document is not available ~~in the relevant Member State~~, a self-declaration of good repute and the authorisation to the competent authority to inquire whether the member has been convicted of any criminal offence in connection with the provision of financial or data services or in relation to acts of fraud or embezzlement;
  - (e) a self-declaration of good repute and the authorisation to the competent authority to inquire whether the member:
    - (i) has been subject to an adverse decision in any proceedings of a disciplinary nature brought by a regulatory authority or government body or is the subject of any such proceedings which are not concluded;
    - (ii) has been subject to an adverse judicial finding in civil proceedings before a court in connection with the provision of financial or data services, or for misconduct or fraud in the management of a business;
    - (iii) has been part of the management body of an undertaking which was subject to an adverse decision or penalty by a regulatory authority or whose registration or authorisation was withdrawn by a regulatory authority;
    - (iv) has been refused the right to carry on activities which require registration or authorisation by a regulatory authority;
    - (v) has been part of the management body of an undertaking which has gone into insolvency or liquidation while the person held such position or within a year after which the person ceased to hold such position;
    - (vi) has been otherwise fined, suspended, disqualified, or been subject to any other sanction in relation to fraud, embezzlement or in connection with the provision of financial or data services, by a professional body;

- (vii) has been disqualified from acting as a director, disqualified from acting in any managerial capacity, dismissed from employment or other appointment in an undertaking as a consequence of misconduct or malpractice;
- (f) An indication of the minimum time that is to be devoted to the performance of the person's functions within the data reporting services provider;
- (g) a declaration of any potential conflicts of interest that may exist or arise in performing the duties and how those conflicts are managed.

## Article 6

### **Organisational requirements regarding outsourcing**

...

6. Where a data reporting services provider outsources any critical function, it shall provide the competent authority ~~of its home Member State~~ with:
  - (a) the identification of the third party service provider;
  - (b) the organisational measures and policies with respect to outsourcing and the risks posed by it as specified in paragraph 4;
  - (c) internal or external reports on the outsourced activities.

For the purpose of the first sub paragraph 6, a function shall be regarded as critical if a defect or failure in its performance would materially impair the continuing compliance of the data reporting services provider with the conditions and obligations of its authorisation or its other obligations under ~~Directive 2014/65/EU~~ the Data Reporting Services Regulations 2017.

## Article 7

### **Business continuity and back-up facilities**

1. A data reporting services provider shall use systems and facilities that are appropriate and robust enough to ensure continuity and regularity in the performance of the services provided referred to in ~~Directive 2014/65/EU~~ the Data Reporting Services Regulations 2017.

...

5. A data reporting services provider shall publish on its website and promptly inform the competent authority ~~of its home Member State~~ and its clients of any service interruptions or connection disruptions as well as the time estimated to resume a regular service.

6. ~~In the case of ARMs, the notifications referred to in paragraph 5 shall also be made to any competent authority to whom the ARM submits transaction reports.~~

## Article 8

### Testing and capacity

...

3. A data reporting services provider shall promptly notify the competent authority ~~of its home Member State~~ of any planned significant changes to the IT system prior to their implementation.
4. ~~In the case of ARMs, the notifications referred to in paragraph 3 shall also be made to any competent authority to whom the ARM submits transaction reports.~~

...

## Article 9

### Security

1. A data reporting services provider shall set up and maintain procedures and arrangements for physical and electronic security designed to:
- protect its IT systems from misuse or unauthorised access;
  - minimise the risks of attacks against the information systems ~~as defined in Article 2(a) of Directive 2013/40/EU of the European Parliament and of the Council;~~
  - prevent unauthorised disclosure of confidential information;
  - ensure the security and integrity of the data.
2. Where an investment firm ('reporting firm') uses a third party ('submitting firm') to submit information to an ARM on its behalf, an ARM shall have procedures and arrangements in place to ensure that the submitting firm does not have access to any other information about or submitted by the reporting firm to the ARM which may have been sent by the reporting firm directly to the ARM or via another submitting firm.
3. A data reporting services provider shall set up and maintain measures and arrangements to promptly identify and manage the risks identified in paragraph 1.
4. In respect of breaches in the physical and electronic security measures referred to in paragraphs 1, 2 and 3, a data reporting services provider shall promptly notify:
- the competent authority ~~of its home Member State~~ and provide an incident report, indicating the nature of the incident, the measures adopted to cope with the incident and the initiatives taken to prevent similar incidents;

(b) its clients that have been affected by the security breach.

5. ~~In the case of ARMs, the notification referred to in paragraph 4(a) shall also be made to any other competent authorities to whom the ARM submits transaction reports.~~

Article 10

**Management of incomplete or potentially erroneous information by APAs and CTPs**

...

Article 11

**Management of incomplete or potentially erroneous information by ARMs**

...

4. An ARM shall perform periodic reconciliations at the request of the competent authority ~~of its home Member State or the competent authority to whom the ARM submits transaction reports~~ between the information that the ARM receives from its client or generates on the client's behalf for transaction reporting purposes and data samples of the information provided by the competent authority.

...

8. An ARM shall promptly notify the client of the details of the error or omission and provide an updated transaction report to the client. An ARM shall also promptly notify the competent authority ~~of its home Member State and the competent authority to whom the ARM reported the transaction report~~ about the error or omission.

Article 12

**Connectivity of ARMs**

1. An ARM shall have in place policies, arrangements and technical capabilities to comply with the technical specification for the submission of transaction reports required by the competent authority ~~of its home Member State and by other competent authorities to whom the ARM sends transaction reports.~~

...

CHAPTER III

**PUBLICATION ARRANGEMENTS**

(Article 64(1) and (2) and Article 65(1) of Directive 2014/65/EU)

#### Article 14

##### **Machine readability**

1. APAs and CTPs shall publish the information which has to be made public in accordance with ~~Articles 64(1) and 65(1) of Directive 2014/65/EU~~ regulations 14(1) and 15(1) of the Data Reporting Services Regulations 2017 in a machine readable way.
2. ~~CTPs shall publish the information which has to be made in accordance with Article 65(2) of Directive 2014/65/EU in a machine readable way.~~

...

#### Article 20

##### **Details to be published by the CTP**

A CTP shall make public:

- (a) for transactions executed in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments, the details of a transaction specified in Table 2 of Annex I to Delegated Regulation (EU) 2017/587 and use the appropriate flags listed in Table 3 of Annex I to Delegated Regulation (EU) 2017/587;
- (b) ~~for transactions executed in respect of bonds, structured finance products, emission allowances and derivatives the details of a transaction specified in Table 1 of Annex II to Delegated Regulation (EU) 2017/583 and use the appropriate flags listed in Table 2 of Annex II to Delegated Regulation (EU) 2017/583.~~

#### Article 21

##### **Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from the date that appears first in the second subparagraph of Article 93(1) of Directive 2014/65/EU. ~~However, Articles 14(2) and 20(b) shall apply from the first day of the ninth month following the date of application of Directive 2014/65/EU.~~

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex G

**COMMISSION DELEGATED REGULATION (EU) 2017/573 of 6 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on requirements to ensure fair and non-discriminatory co-location services and fee structures**

~~(Text with EEA relevance)~~

...

### Article -3

#### **Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

### Article -2

#### **Application**

This Regulation applies to operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014/EU.

### Article -1

#### **Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators’ requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.
- (4) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

...

## Article 3

**Fair and non-discriminatory fees**

1. Trading venues shall charge the same fee and provide the same conditions to all users of the same type of services based on objective criteria. Trading venues shall only establish different fee structures for the same type of services where those fee structures are based on non-discriminatory, measurable and objective criteria relating to:
  - (a) the total volume traded, the numbers of trades or cumulated trading fees;
  - (b) the services or packages of services provided by the trading venue;
  - (c) the scope or field of use demanded;
  - (d) the provision of liquidity in accordance with UK law corresponding to Article 48(2) of Directive 2014/65/EU or in a capacity of being a market maker as defined in Article 4(1)(7) of Directive 2014/65/EU 2(1)(6) of Regulation 600/2014/EU;

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex H

**COMMISSION DELEGATED REGULATION (EU) 2017/574 of 7 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the level of accuracy of business clocks**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies to:

- (1) Operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014/EU; and
- (2) UK trading venue members or participants.

Article -1

**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) or (3) apply.
- (2) Where a term it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) 'Algorithmic trading' is defined in regulation 2(1) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.
- (4) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex I****COMMISSION DELEGATED REGULATION (EU) 2017/575 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions**

~~(Text with EEA relevance)~~

...

Article -3**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to a MiFID investment firm and a UK RIE.

Article -1**Interpretation**

1. Where a term is defined in article 4 of Directive 2014/65/EU, the same definition applies for this Regulation except that:
  - (a) where it is defined in article 2 Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition applies; and
  - (b) ‘limit order’ is defined as ‘an order to buy or sell a financial instrument, as specified in Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities Order) 2001 [SI 2001/544], at its specified price limit or better and for a specified size’.
2. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation.

3. ‘MiFID investment firm’ and ‘UK RIE’ are defined in accordance with the Glossary to the Handbook of Rules and Guidance published by the Financial Conduct Authority immediately after Exit Day.

## Article 1

### **Subject matter**

Subject to the ‘Application’ and ‘Interpretation’ provisions above, This this Regulation lays down the specific content, the format and the periodicity of the data to be published by execution venues relating to the quality of execution of transactions. It shall apply to trading venues, systematic internalisers, market makers, or other liquidity providers.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex J****COMMISSION DELEGATED REGULATION (EU) 2017/576 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the annual publication by investment firms of information on the identity of execution venues and on the quality of execution**

~~(Text with EEA relevance)~~

...

Article -3**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to a MiFID investment firm and a UK RIE.

Article -1**Interpretation**

- (1) Where a term is defined in article 4 of Directive 2014/65/EU, the same definition applies for this Regulation except where it is defined in article 2 Regulation 600/2014/EU, as amended by Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, in which case that definition applies.
- (2) Article 2(1)(62) and (63) of Regulation 600/2014/EU applies for the purposes of this Regulation.
- (3) References to ‘tick size bands’ are to those in Commission Delegated Regulation 2017/588, as amended at Exit Day.
- (4) ‘MiFID investment firm’ and ‘UK RIE’ are defined in accordance with the Glossary to the Handbook of Rules and Guidance published by the Financial Conduct Authority, immediately after Exit Day.

...

## Article 3

**Information on the top five execution venues and quality of execution obtained**

...

3. Investment firms shall publish for each class of financial instruments, a summary of the analysis and conclusions they draw from their detailed monitoring of the quality of execution obtained on the execution venues where they executed all client orders in the previous year. The information shall include:
- (a) an explanation of the relative importance the firm gave to the execution factors of price, costs, speed, likelihood of execution or any other consideration including qualitative factors when assessing the quality of execution;
  - (b) a description of any close links, conflicts of interests, and common ownerships with respect to any execution venues used to execute orders;
  - (c) a description of any specific arrangements with any execution venues regarding payments made or received, discounts, rebates or non-monetary benefits received;
  - (d) an explanation of the factors that led to a change in the list of execution venues listed in the firm's execution policy, if such a change occurred;
  - (e) an explanation of how order execution differs according to client categorisation, where the firm treats categories of clients differently and where it may affect the order execution arrangements;
  - (f) an explanation of whether other criteria were given precedence over immediate price and cost when executing retail client orders and how these other criteria were instrumental in delivering the best possible result in terms of the total consideration to the client;
  - (g) an explanation of how the investment firm has used any data or tools relating to the quality of execution, including any data published under Delegated Regulation (EU) 2017/575;
  - (h) where applicable, an explanation of how the investment firm has used output of a consolidated tape provider authorised in accordance with the Data Reporting Services Regulations 2017 established under Article 65 of Directive 2014/65/EU.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex K****COMMISSION DELEGATED REGULATION (EU) 2017/578 of 13 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying the requirements on market making agreements and schemes (Text with EEA relevance)**

~~(Text with EEA relevance)~~

...

Article -3**Definitions**

In this Regulation, 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014/EU.

Article -1**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.
- (4) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

...

## Article 2

**Content of market making agreements**

1. The content of a binding written agreement referred to in UK law corresponding to Article 17(3)(b) and Article 48(2) of Directive 2014/65/EU shall include at least:
  - (a) the financial instrument or instruments covered by the agreement;
  - (b) the minimum obligations to be met by the investment firm in terms of presence, size and spread that shall require at least posting firm, simultaneous two-way quotes of comparable size and competitive prices in at least one financial instrument on the trading venue for at least 50% of daily trading hours of during which continuous trading takes place excluding opening and closing auctions and calculated for each trading day;
  - (c) where appropriate, the terms of the applicable market making scheme;
  - (d) the obligations of the investment firm in relation to the resumption of trading after volatility interruptions;
  - (e) the surveillance, compliance and audit obligations of the investment firm enabling it to monitor its market making activity;
  - (f) the obligation to flag firm quotes submitted to the trading venue under the market making agreement in order to distinguish those quotes from other order flows;
  - (g) the obligation to maintain records of firm quotes and transactions relating to the market making activities of the investment firm, which are clearly distinguished from other trading activities and to make those records available to the trading venue and the competent authority upon request.
2. Trading venues shall continuously monitor the effective compliance of the relevant investment firms with the market making agreements.

## Article 3

**Exceptional circumstances**

The obligation for investment firms to provide liquidity on a regular and predictable basis laid down in UK law corresponding to Article 17(3)(a) of Directive 2014/65/EU shall not apply in any of the following exceptional circumstances:

- (a) a situation of extreme volatility triggering volatility mechanisms for the majority of financial instruments or underlyings of financial instruments traded on a trading segment within the trading venue in relation to which the obligation to sign a market making agreement applies;
- (b) war, industrial action, civil unrest or cyber sabotage;
- (c) disorderly trading conditions where the maintenance of fair, orderly and transparent execution of trades is compromised, and evidence of any of the following is provided:

- (i) the performance of the trading venue's system being significantly affected by delays and interruptions;
  - (ii) multiple erroneous orders or transactions;
  - (iii) the capacity of a trading venue to provide services becoming insufficient;
- (d) where the investment firm's ability to maintain prudent risk management practices is prevented by any of the following:
- (i) technological issues, including problems with a data feed or other system that is essential to carry out a market making strategy;
  - (ii) risk management issues in relation to regulatory capital, margining and access to clearing,
  - (iii) the inability to hedge a position due to a short selling ban;
- (e) for non-equity instruments, during the suspension period referred to in Article 9(4) of Regulation (EU) No 600/2014 of the European Parliament and of the Council.

...

## Article 5

### **Obligation for trading venues to have market making schemes in place**

1. Trading venues shall not be required to have market making scheme as referred to in the UK law corresponding to Article 48(2)(b) of Directive 2014/65/EU in place except for any of the following classes of financial instruments traded through a continuous auction order book trading system:
  - (a) shares and exchange traded funds for which there is a liquid market as defined in accordance with Article 2(1)(17) of Regulation (EU) No 600/2014 and as specified in Commission Delegated Regulation (EU) 2017/567;
  - (b) options and futures directly related to the financial instruments set out in point (a);
  - (c) equity index futures and equity index options for which there is a liquid market as specified in accordance with point (c) of Article 9(1) and point (c) of Article 11(1) of Regulation (EU) No 600/2014 and Commission Delegated Regulation (EU) 2017/583.
2. For the purposes of paragraph 1, a continuous auction order book trading system means a system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with buy orders on the basis of the best available price on a continuous basis.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex L****COMMISSION DELEGATED REGULATION (EU) 2017/584 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying organisational requirements of trading venues**

~~(Text with EEA relevance)~~

...

Article -3**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to operators of UK trading venues, as defined by article 2(1)(16A) of Regulation 600/2014/EU.

Article -1**Interpretation**

1. Where a term is defined in Directive 2014/65/EU, that definition shall apply for the purposes of this Regulation except:
  - (i) where it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, in which case that definition shall apply for the purposes of this Regulation;
  - (ii) in the case of ‘algorithmic trading’ and ‘direct electronic access’ or ‘DEA’ which are as defined in regulation 2(1) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017;
  - (iii) in the case of the definition of ‘senior management’, where the definition in the Handbook of Rules and Guidance published by the Financial Conduct Authority immediately after Exit Day shall apply.

2. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.
3. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

## CHAPTER I

### GENERAL ORGANISATIONAL REQUIREMENTS FOR TRADING VENUES ENABLING OR ALLOWING ALGORITHMIC TRADING THROUGH THEIR SYSTEMS

#### Article 1

##### **Subject matter and scope**

(Article 48 of Directive 2014/65/EU)

1. This Regulation lays down detailed rules for the organisational requirements of the systems of the trading venues allowing or enabling algorithmic trading, in relation to their resilience and capacity, requirements on trading venues to ensure appropriate testing of algorithms and requirements in relation to the controls concerning DEA pursuant to the UK law corresponding to Article 48(12)(a), (b) and (g) of Directive 2014/65/EU.
2. For the purposes of this Regulation, it is considered that a trading venue allows or enables algorithmic trading where order submission and order matching is facilitated by electronic means.
3. For the purposes of this Regulation, any arrangements or systems that allow or enable algorithmic trading shall be considered 'algorithmic trading systems'.

#### Article 2

##### **Self-assessments of compliance with Article 48 of Directive 2014/65/EU**

(Article 48 of Directive 2014/65/EU)

1. Before the deployment of a trading system and at least once a year, trading venues shall carry out a self-assessment of their compliance with the UK law corresponding to Article 48 of Directive 2014/65/EU, taking into account the nature, scale and complexity of their business. The self-assessment shall include an analysis of all parameters set out in the Annex to this Regulation.
2. Trading venues shall keep a record of their self-assessment for at least five years.

...

## Article 6

**Outsourcing and procurement**

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues outsourcing all or part of their operational functions in relation to the systems allowing or enabling algorithmic trading shall ensure that:
  - (a) the outsourcing agreement exclusively relates to operational functions and does not alter the responsibilities of the senior management and the management body;
  - (b) the relationship and obligations of the trading venue towards its members, competent authorities, or any third parties, such as clients of data feed services are not altered;
  - (c) they meet the requirements that they must comply with in order to be authorised in accordance with the UK law corresponding to Title III of Directive 2014/65/EU.

...

5. Trading venues shall report to the competent ~~authorities~~ authority their intention to outsource operational functions in the following cases:
  - (a) where the service provider provides the same service to other trading venues;
  - (b) where critical operational functions necessary for business continuation would be outsourced, in which case the trading venues shall request a prior authorisation from the competent authority.
6. For the purposes of point (b) in paragraph 5, critical operational functions shall include those functions necessary to comply with the obligations referred to in the UK law corresponding to Article 47(1)(b), (c) and (e) of Directive 2014/65/EU.
7. Trading venues shall inform the competent authority ~~authorities~~ of any outsourcing agreements not subject to prior authorisation requirement immediately after the signature of the agreement.

...

## Article 21

**Pre-determination of the conditions to provide direct electronic access**

(Article 48(7) of Directive 2014/65/EU)

Trading venues permitting DEA through their systems shall set out and publish the rules and conditions pursuant to which their members may provide DEA to their own clients. Those rules and conditions shall at least cover the specific requirements set out in Article 22 of Commission Delegated Regulation (EU) 2017/589.

## Article 22

**Specific requirements for trading venues permitting sponsored access**

(Article 48(7) of Directive 2014/65/EU)

1. Trading venues shall make the provision of sponsored access subject to their authorisation and shall require that firms having sponsored access are subject to at least the same controls as those referred to in Article 18(3)(b).
2. Trading venues shall ensure that sponsored access providers are at all times exclusively entitled to set or modify the parameters that apply to the controls referred to in paragraph 1 over the order flow of their sponsored access clients.
3. Trading venues shall be able to suspend or withdraw the provision of sponsored access to clients having infringed the UK law corresponding to Directive 2014/65/EU, Regulations of the European Parliament and of the Council (EU) No 600/2014 and (EU) No 596/2014 or the trading venue's internal rules.

## Article 23

**Security and limits to access**

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall have in place procedures and arrangements for physical and electronic security designed to protect their systems from misuse or unauthorised access and to ensure the integrity of the data that is part of or passes through their systems, including arrangements that allow the prevention or minimisation of the risks of attacks against the information systems as defined in the UK law corresponding to Article 2(a) of Directive 2013/40/EU of the European Parliament and of the Council.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex M****COMMISSION DELEGATED REGULATION (EU) 2017/591 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives**

~~(Text with EEA relevance)~~

...

Article -3**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to:

- (1) a person to whom a position limit imposed under regulation 16 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 may apply;
- (2) a non-financial entity; and
- (3) where applicable, the Financial Conduct Authority as competent authority.

Article -1**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.

- (3) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.
- (4) A reference to the ‘Regulated Activities Order’ is to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.
- (5) A reference to a ‘CRD credit institution’, ‘UK UCITS’, ‘UK-adopted IFRS’ and an ‘occupational pension scheme’ is to the definition in the Glossary to the Handbook of Rules and Guidance published by the Financial Conduct Authority immediately after Exit Day.

...

## Article 2

### Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘non-financial entity’ means a natural or legal person other than:
- (a) an investment firm authorised as such by means of a Part 4A permission under the Financial Services and Markets Act 2000 or in accordance with Directive 2014/65/EC,
  - (b) a credit institution authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council or a CRD credit institution,
  - (c) an insurance undertaking authorised as such by means of a Part 4A permission under the Financial Services and Markets Act 2000 or in accordance with Council Directive 73/239/EEC,
  - (d) an assurance undertaking authorised as such by means of a Part 4A permission under the Financial Services and Markets Act 2000 or in accordance with Directive 2002/83/EC of the European Parliament and of the Council,
  - (e) a reinsurance undertaking authorised as such by means of a Part 4A permission under the Financial Services and Markets Act 2000 or in accordance with Directive 2005/68/EC of the European Parliament and of the Council,
  - (f) a UCITS or UK UCITS and, where relevant, its management company, authorised as such by means of a Part 4A permission under the Financial Services and Markets Act 2000 or in accordance with Directive 2009/65/EC of the European Parliament and of the Council,
  - (g) an institution for occupational retirement provision within the meaning of Article 6(a) of Directive 2003/41/EC of the European Parliament and of the Council or corresponding UK law, including an occupational pension scheme,
  - (h) an alternative investment fund managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU of the European Parliament and of the Council or authorised as such by means of a Part 4A permission under the

Financial Services and Markets Act 2000 or registered as such pursuant to the Alternative Fund Managers Regulations 2013,

- (i) a CCP authorised in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council or recognised as such by means of a recognition order under Part XVIII of the Financial Services and Markets Act 2000,
- (j) a central securities depository authorised in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council or recognised as such by means of a recognition order under Part XVIII of the Financial Services and Markets Act 2000.

A third-country entity is a non-financial entity if it would not require authorisation under any of the aforementioned legislation if it was based in the ~~Union~~ United Kingdom and subject to ~~Union~~ UK law.

- (2) ‘spot month contract’ means the commodity derivative contract in relation to a particular underlying commodity whose maturity is the next to expire in accordance with the rules set by the trading venue.
- (3) ‘other months’ contract’ means any commodity derivative contract that is not a spot month contract.

## CHAPTER II

### METHOD FOR CALCULATING THE SIZE OF THE NET POSITION OF A PERSON

#### Article 3

#### **Aggregation and netting of positions in a commodity derivative**

(Article 57(1) of Directive 2014/65/EU)

- 1. The net position of a person in a commodity derivative shall be the aggregation of its positions held in that commodity derivative traded on a trading venue, ~~in commodity derivatives considered the same commodity derivative to that commodity derivative in accordance with paragraph 1 of Article 5,~~ and in economically equivalent OTC contracts pursuant to Article 6.

...

#### ~~Article 5~~

#### ~~Same commodity derivatives and significant volumes~~

~~(Article 57(6) of Directive 2014/65/EU)~~

- 1. ~~A commodity derivative traded on a trading venue shall be considered the same commodity derivative as a commodity derivative traded on another trading venue where the following conditions are met:~~

- (a) ~~both commodity derivatives have identical contractual specifications, terms and conditions, excluding post trade risk management arrangements;~~
  - (b) ~~both commodity derivatives form a single fungible pool of open interest or, in the case of commodity derivatives defined under point (c) of Article 4(1)(44) of Directive 2014/65/EU, of securities in issue by which the positions held in a commodity derivative traded on one trading venue may be closed out against the positions held in the commodity derivative traded on the other trading venue.~~
2. ~~A commodity derivative shall be considered to be traded in a significant volume on a trading venue when the trading in the commodity derivative on that trading venue over a consecutive three month period:~~
- (a) ~~exceeds an average daily open interest of 10,000 lots in the spot and other months' combined; or~~
  - (b) ~~in the case of commodity derivatives defined under point (c) of Article 4(1)(44) of Directive 2014/65/EU, when the number of units traded multiplied by the price exceeds an average daily amount of 1 million EUR.~~
3. ~~The trading venue where the largest volume of trading in the same commodity derivative takes place shall be the trading venue that over one year has:~~
- (a) ~~the largest average daily open interest; or~~
  - (b) ~~in the case of commodity derivatives defined under point (c) of Article 4(1)(44) of Directive 2014/65/EU, the highest average daily amount.~~

#### Article 6

### **OTC contracts economically equivalent to commodity derivatives traded on trading venues**

(Article 57(1) of Directive 2014/65/EU)

An OTC derivative shall be considered economically equivalent to a commodity derivative traded on a trading venue where it has identical contractual specifications, terms and conditions, excluding different lot size specifications, delivery dates diverging by less than one calendar day and different post trade risk management arrangements.

#### Article 7

### **Positions qualifying as reducing risks directly related to commercial activities**

(Article 57(1) of Directive 2014/65/EU)

1. A position held by a non-financial entity in commodity derivatives traded on trading venues or in economically equivalent OTC contracts pursuant to Article 6 qualifies as reducing risks directly relating to the commercial activities of that non-financial entity where by itself, or in combination with other derivatives in accordance with paragraph 2 ('position in a portfolio of commodity derivatives'), the position meets one of the following criteria:

...

- (b) it qualifies as a hedging contract pursuant to ~~International Financial Reporting Standards (IFRS) adopted in accordance with Article 3 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council~~ UK-adopted IFRS.

...

## Article 8

### **Application for the exemption from position limits**

(Article 57(1) of Directive 2014/65/EU)

1. A non-financial entity holding a qualifying position in a commodity derivative shall apply for the exemption referred to in ~~the second subparagraph of paragraph 1 of Article 57 of Directive 2014/65/EU to the competent authority which sets the position limit for that commodity derivative~~ regulation 17 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.
2. The person referred to in paragraph 1 shall submit to the competent authority the following information which demonstrates how the position reduces risks directly relating to the non-financial entity's commercial activity:
  - (a) a description of the nature and value of the non-financial entity's commercial activities in the commodity to which the commodity derivative for which an exemption is sought is relevant;
  - (b) a description of the nature and value of the non-financial entity's activities in the trading of and positions held in the relevant commodity derivatives traded on trading venues and in their economically equivalent OTC contracts;
  - (c) a description of the nature and size of the exposures and risks in the commodity which the non-financial entity has or expects to have as a result of its commercial activities and which are or would be mitigated by the use of commodity derivatives;
  - (d) an explanation of how the non-financial entity's use of commodity derivatives directly reduces its exposure and risks in its commercial activities.
3. The competent authority shall approve or reject the application within 21 calendar days after it has received the application and shall notify the non-financial entity of its approval or rejection of the exemption.
4. The non-financial entity shall notify the competent authority if there is a significant change to the nature or value of the non-financial entity's commercial activities or its trading activities in commodity derivatives and the change is relevant to the information set out in point (b) of paragraph 2 and shall submit a new application for the exemption if it intends to continue to use it.

## CHAPTER III

**METHODOLOGY FOR THE COMPETENT AUTHORITIES AUTHORITY TO  
CALCULATE POSITION LIMITS**

## SECTION 1

**Determination of baseline figures**

## Article 9

**Methodology for determining the baseline figure for spot month limits**

(Article 57(4) of Directive 2014/65/EU)

1. ~~Competent authorities~~ The competent authority shall determine a baseline figure for the spot month position limit in a commodity derivative by calculating 25% of the deliverable supply for that commodity derivative.
2. The baseline figure shall be specified in lots which shall be the unit of trading used by the trading venue on which the commodity derivative trades representing a standardised quantity of the underlying commodity.
3. Where ~~a~~ the competent authority establishes different position limits for different times within the spot month period, those position limits shall decrease on an incremental basis towards the maturity of the commodity derivative and shall take into account the position management arrangements of the trading venue.
4. By way of derogation to paragraph 1, the competent ~~authorities~~ authority shall determine the baseline figure for the spot month position limit for any derivative contract with an underlying that qualifies as food intended for human consumption with a total combined open interest in spot and other months' contracts exceeding 50,000 lots over a consecutive three month period by calculating 20% of the deliverable supply in that commodity derivative.

## Article 10

**Deliverable supply**

(Article 57(3) of Directive 2014/65/EU)

1. ~~Competent authorities~~ The competent authority shall calculate the deliverable supply for a commodity derivative by identifying the quantity of the underlying commodity that can be used to fulfil the delivery requirements of the commodity derivative.
2. ~~Competent authorities~~ The competent authority shall determine the deliverable supply for a commodity derivative referred to in paragraph 1 by reference to the average monthly amount of the underlying commodity available for delivery over the one year period immediately preceding the determination.
3. In order to identify the quantity of the underlying commodity meeting the conditions of paragraph 1, the competent ~~authorities~~ authority shall take into account the following criteria:

- (a) the storage arrangements for the underlying commodity;
- (b) the factors that may affect the supply of the underlying commodity.

#### Article 11

##### **Methodology for determining the baseline figure for other months' limits**

(Article 57(4) of Directive 2014/65/EU)

1. ~~Competent authorities~~ The competent authority shall determine a baseline figure for the other months' position limit in a commodity derivative by calculating 25% of the open interest in that commodity derivative.
2. The baseline figure shall be specified in lots which shall be the unit of trading used by the trading venue on which the commodity derivative trades representing a standardised quantity of the underlying commodity.

#### Article 12

##### **Open interest**

(Article 57(3) of Directive 2014/65/EU)

~~Competent authorities~~ The competent authority shall calculate the open interest in a commodity derivative by aggregating the number of lots of that commodity derivative that are outstanding on trading venues at a point in time.

#### Article 13

##### **Methodology for determining the baseline figure in respect of certain contracts**

(Article 57(4) of Directive 2014/65/EU)

1. By way of derogation to Article 9, ~~the competent authorities~~ authority shall determine the baseline figure for the spot month position limits for cash settled spot month contracts which are under ~~Article 10 of Annex I to Directive 2014/65/EU~~ paragraph 10 of Part 1 of Schedule 2 to the Regulated Activities Order and which have no measurable deliverable supply of their underlying commodities by calculating 25% of the open interest in those commodity derivative contracts
2. By way of derogation to Articles 9 and 11, ~~the competent authorities~~ authority shall determine the baseline figure for the position limits for commodity derivatives defined under ~~Article 4(1)(44) of Directive 2014/65/EU~~ Article 2(1)(24) of Regulation 600/2014/EU by calculating 25% of the number of securities issued. The baseline figure shall be specified in number of securities.
3. By way of derogation to Articles 9 and 11, where a commodity derivative provides that the underlying is delivered constantly over a specified period of time, the baseline figures calculated pursuant to Articles 9 and 11 shall apply to related commodity

derivatives for the same underlying to the extent that their delivery periods overlap. The baseline figure shall be specified in units of the underlying.

## SECTION II

### Factors relevant for the calculation of position limits

#### Article 14

##### Assessment of factors

(Article 57(3) of Directive 2014/65/EU)

~~Competent authorities~~ The competent authority shall set the spot month and other months' position limits for a commodity derivative by taking the baseline figure determined in accordance with Articles 9, 11 and 13 and adjusting it according to the potential impact of the factors referred to in Articles 16 to 20 on the integrity of the market for that derivative and for its underlying commodity to a limit:

- (a) between 5% and 35%; or
- (b) between 25% and 35%, for any derivative contract with an underlying that qualifies as food intended for human consumption with a total combined open interest in spot and other months' contracts exceeding 50,000 lots over a consecutive three month period.

#### Article 15

##### New and illiquid contracts

(Article 57(3)(g) of Directive 2014/65/EU)

1. By way of derogation to Article 14,
  - (a) for commodity derivatives traded on a trading venue with a total combined open interest in spot and other months' contracts not exceeding 10,000 lots over a consecutive three month period, ~~the competent authorities~~ authority shall set the limit of positions held in those commodity derivatives at 2,500 lots;
  - (b) for commodity derivatives traded on a trading venue with a total combined open interest in spot and other months' contracts in excess of 10,000 but not exceeding 20,000 lots over a consecutive three month period, ~~the competent authorities~~ authority shall set the spot and other months' position limit between 5% and 40%;
  - (c) for commodity derivatives as defined in ~~Article 4(1)(44) of Directive 2014/65/EU~~ Article 2(1)(24) of Regulation 600/2014/EU with a total number of securities in issue not exceeding 10 million over a consecutive three month period, the competent authority shall set the limit of positions held in those commodity derivatives at 2.5 million securities;
  - (d) for commodity derivatives as defined in ~~Article 4(1)(44) of Directive 2014/65/EU~~ Article 2(1)(24) of Regulation 600/2014/EU with a total number of securities in issue in excess of 10 million but not exceeding 20 million over

a consecutive three month period, the competent authority shall set the spot and other months' position limit between 5% and 40%.

2. The trading venue shall notify the competent authority when the total open interest of any such commodity derivative reaches any of the amounts of lots or number of securities in issue mentioned in the previous paragraph over a consecutive three month period. ~~Competent authorities~~ The competent authority shall review the position limit upon receiving such notifications.

#### Article 16

##### **The maturity of the commodity derivatives contracts**

(Article 57(3)(a) of Directive 2014/65/EU)

1. For spot month position limits, if the commodity derivative has a short maturity, the competent authority shall adjust the position limit downwards.
2. For other months' position limits, where the commodity derivative has a large number of separate expiries, the competent ~~authorities~~ authority shall adjust the position limit upwards.

#### Article 17

##### **Deliverable supply in the underlying commodity**

(Article 57(3)(b) of Directive 2014/65/EU)

Where the deliverable supply in the underlying commodity can be restricted or controlled or if the level of deliverable supply is low relative to the amount required for orderly settlement the competent authority shall adjust the position limit downwards. ~~Competent authorities~~ The competent authority shall assess the extent to which this deliverable supply is used also as the deliverable supply for other commodity derivatives.

#### Article 18

##### **The overall open interest**

(Article 57(3)(c) of Directive 2014/65/EU)

1. Where there is a large volume of overall open interest, the competent authority shall adjust the position limit downwards.
2. Where the open interest is significantly higher than the deliverable supply, the competent authority shall adjust the position limit downwards.
3. Where the open interest is significantly lower than the deliverable supply, the competent authority shall adjust the position limit upwards.

## Article 19

**The number of market participants**

(Article 57(3)(e) of Directive 2014/65/EU)

1. Where the daily average number of market participants holding a position in the commodity derivative over a period of one year is high the competent authority shall adjust the position limit downwards.
2. By way of derogation to Article 14, ~~the competent authorities~~ authority shall set the spot month and other months' position limit between 5% and 50% if:
  - (a) the average number of market participants holding a position in the commodity derivative in the period leading up to the setting of the position limit is lower than 10; or
  - (b) the number of investment firms acting as a market maker in accordance with ~~Article 4(1)(7) of Directive 2014/65/EU~~ Article 2(1)(6) of Regulation 600/2014/EU in the commodity derivative at the time the position limit is set or reviewed is lower than 3.

For the purposes of the first subparagraph, ~~the competent authorities~~ authority may establish different position limits for different times within the spot month period, the other months' period or for both periods.

## Article 20

**Characteristics of the underlying commodity market**

(Article 57(3)(f) of Directive 2014/65/EU)

1. ~~Competent authorities~~ The competent authority shall take into account how the characteristics of the underlying market impact on the functioning and trading of the commodity derivative and on the size of the positions held by market participants, including having regard to the ease and speed of access which market participants have to the underlying commodity.
2. The assessment of the underlying commodity market referred to in paragraph 1 shall take into account:
  - (a) whether there are restrictions on the supply of the commodity, including the perishability of the deliverable commodity;
  - (b) the method of transportation and delivery of the physical commodity, including the following:
    - (i) whether the commodity can be delivered to specified delivery points only;
    - (ii) the capacity constraints of specified delivery points.
  - (c) the structure, organisation and the operation of the market, including the seasonality present in extractive and agricultural commodity markets whereby physical supply fluctuates over the calendar year;

- (d) the composition and role of market participants in the underlying commodity market, including consideration of the number of market participants which provide specific services that enable the functioning of the underlying commodity market such as risk management, delivery, storage, or settlement services;
- (e) macroeconomic or other related factors that influence the operation of the underlying commodity market including the delivery, storage, and settlement of the commodity;
- (f) the characteristics, physical properties and lifecycles of the underlying commodity.

#### Article 21

#### **Volatility of the relevant markets**

(Article 57(3)(d) of Directive 2014/65/EU)

After having applied the factors referred to in Articles 16 to 20 which are relevant to set the position limit for each contract in commodity derivatives referred to in ~~Article 57(4) of Directive 2014/65/EU~~ regulation 16 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017, the competent ~~authorities~~ authority shall further adjust that position limit where the following conditions are met:

- (a) there is excessive volatility in the price of commodity derivative or in the underlying commodity;
- (b) a further adjustment of the position limit would effectively reduce the excessive volatility in the price of that commodity derivative or in the underlying commodity.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex N

**COMMISSION DELEGATED REGULATION (EU) 2017/592 of 1 December 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies to persons.

Article -1

**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) Article 2(1)(62) of Regulation 600/2014/EU shall not apply for the purposes of this Regulation.
- (4) References in this Regulation to ‘the Union’ are to be interpreted as if the United Kingdom continues to be a Member State.
- (5) ‘CRD credit institution’ is defined in accordance with the Glossary to the Handbook of Rules and Guidance published by the Financial Conduct Authority, immediately after Exit Day.

Article 1

**Application of thresholds**

The activities of persons referred to in points (i) and (ii) of Article 2(1)(j) of Directive 2014/65/EU An ‘article 2.1(j) activity’, as referred to in article 72J(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 shall be considered to be ancillary to

the main business of the group if those activities meet the conditions set out in Article 2 and constitute a minority of activities at group level in accordance with Article 3.

## Article 2

### Overall market threshold

1. The size of the activities referred to in Article 1 calculated in accordance with paragraph 2 divided by the overall market trading activity calculated in accordance with paragraph 3 shall, in each of the following asset classes, account for less than the following values:
  - (a) 4% in relation to derivatives on metals;
  - (b) 3% in relation to derivatives on oil and oil products;
  - (c) 10% in relation to derivatives on coal;
  - (d) 3% in relation to derivatives on gas;
  - (e) 6% in relation to derivatives on power;
  - (f) 4% in relation to derivatives on agricultural products;
  - (g) 15% in relation to derivatives on other commodities, including freight and commodities referred to in Section C 10 of Annex I to Directive 2014/65/EU paragraph 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
  - (h) 20% in relation to emission allowances or derivatives thereof.
  
2. The size of the activities referred to in Article 1 undertaken in the Union by a person within a group in each of the asset classes referred to in paragraph 1 shall be calculated by aggregating the gross notional value of all contracts within the relevant asset class to which that person is a party.
 

The aggregation referred to in the first subparagraph shall not include contracts resulting from transactions referred to in points (a), (b) and (c) of the fifth subparagraph of Article 2(4) of Directive 2014/65/EU or contracts where the person within the group that is a party to any of them is authorised in accordance with Directive 2014/65/EU or Directive 2013/36/EU of the European Parliament and of the Council or in accordance with Part 4A of the Financial Services and Markets Act 2000 to provide investment services or perform investment activities or accept deposits (as a CRD credit institution).
  
3. The overall market trading activity in each of the asset classes referred to in paragraph 1 shall be calculated by aggregating the gross notional value of all contracts that are not traded on a trading venue within the relevant asset class to which any person located in the Union is a party and of any other contract within that asset class that is traded on a trading venue located in the Union during the relevant annual accounting period referred to in Article 4(2).
  
4. The aggregate values referred to in paragraphs 2 and 3 shall be denominated in EUR.

## Article 3

**Main business threshold**

1. The activities referred to in Article 1 shall be considered to constitute a minority of activities at group level where they comply with any of the following conditions:
  - (a) the size of those activities calculated in accordance with the first subparagraph of paragraph 3 does not account for more than 10% of the total size of the trading activity of the group calculated in accordance with the second subparagraph of paragraph 3;
  - (b) the estimated capital employed for carrying out those activities calculated in accordance with paragraphs 5 to 7 does not account for more than 10% of the capital employed at group level for carrying out the main business calculated in accordance with paragraph 9.
2. The following derogations from paragraph 1(a) shall apply:
  - (a) where the size of the activities referred to in Article 1 calculated in accordance with the first subparagraph of paragraph 3 accounts for more than 10% but less than 50% of the total size of the trading activity of the group calculated in accordance with the second subparagraph of paragraph 3, ancillary activities shall be considered to constitute a minority of activities at group level only where the size of the trading activity for each of the asset classes referred to in Article 2(1) accounts for less than 50% of the threshold established by Article 2(1) for each relevant asset class;
  - (b) where the size of the trading activities calculated in accordance with the first subparagraph of paragraph 3 accounts for equal to or more than 50% of the total size of the trading activity of the group calculated in accordance with the second subparagraph of paragraph 3, ancillary activities shall be considered to constitute a minority of activities at group level only where the size of the trading activity for each of the asset classes referred to in Article 2(1) accounts for less than 20% of the threshold established by Article 2(1) for each relevant asset class.
3. The size of the activities referred to in Article 1 undertaken by a person within a group shall be calculated by aggregating the size of the activities undertaken by that person with respect to all of the asset classes referred to in Article 2(1) in accordance with the same calculation criteria as that referred to in Article 2(2).

The total size of the trading activity of the group shall be calculated by aggregating the gross notional value of all contracts in commodity derivatives, emission allowances and derivatives thereof to which persons within that group are a party to.
4. The aggregation referred to in the first subparagraph of paragraph 3 shall not include contracts where the person within the group that is a party to any of those contracts is authorised in accordance with Directive 2014/65/EU or Directive 2013/36/EU or as such in accordance with Part 4A of the Financial Services and Markets Act 2000 to provide investment services or perform investment activities or accept deposits (as a CRD credit institution).

5. The estimated capital employed for carrying out the activities referred to in Article 1 shall be the sum of the following:
  - (a) 15% of each net position, long or short, multiplied by the price for the commodity derivative, emission allowance or derivatives thereof;
  - (b) 3% of the gross position, long plus short, multiplied by the price for the commodity derivative, emission allowance or derivatives thereof.
6. For the purposes of paragraph 5, point (a), the net position in a commodity derivative, an emission allowance or derivative thereof shall be determined by netting long and short positions:
  - (a) in each type of commodity derivative contract with a particular commodity as underlying in order to calculate the net position per type of contract with that commodity as underlying;
  - (b) in an emission allowance contract in order to calculate the net position in that emission allowances contract; or
  - (c) in each type of emission allowance derivative contract in order to calculate the net position per type of emission allowance derivative contract.

For the purposes of paragraph 5, point (a), net positions in different types of contracts with the same commodity as underlying or different types of derivative contracts with the same emission allowance as underlying can be netted against each other.

7. For the purposes of paragraph 5, point (b), the gross position in a commodity derivative, an emission allowance or a derivative contract thereof, shall be determined by computing the sum of the absolute values of the net positions per type of contract with a particular commodity as the underlying, per emission allowance contract or per type of contract with a particular emission allowance as the underlying.

For the purposes of paragraph 5, point (b), net positions in different types of derivative contracts with the same commodity as underlying or different types of derivative contracts with the same emission allowance as underlying cannot be netted against each other.

8. The calculation of the estimated capital shall not include positions resulting from transactions referred to in points (a), (b) and (c) of subparagraph 5 of Article 2(4) of Directive 2014/65/EU.
9. The capital employed for carrying out the main business of a group shall be the sum of the total assets of the group minus its short-term debt as recorded in its consolidated financial statements of the group at the end of the relevant annual calculation period. For the purposes of the first sentence, short-term debt means debt with a maturity of less than 12 months.
10. The values resulting from the calculations referred to in this Article shall be denominated in EUR.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex O

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/953 of 6 June 2017 laying down implementing technical standards with regard to the format and the timing of position reports by investment firms and market operators of trading venues pursuant to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies to operators of ‘UK trading venues’ as defined by article 2(1)(16A) of Regulation 600/2014/EU.

Article -1

**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

Article 1

**Reporting deadlines**

Market operators and investment firms ~~operating trading venues referred to in Article 58(1) of Directive 2014/65/EU~~ shall send ~~ESMA~~ the competent authority the weekly report referred to in point (a) of that Article regarding the aggregate positions held at the close of business of each week no later than Wednesday 17.30 CET of the following week.

Where either Monday, Tuesday or Wednesday of the week in which that report is to be submitted is not a working day for the market operator or investment firm referred to in the first paragraph, that market operator or investment firm shall submit the report as soon as possible and no later than Thursday 17.30 CET of that week.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex P****COMMISSION IMPLEMENTING REGULATION (EU) 2017/1005 of 15 June 2017 laying down implementing technical standards with regard to the format and timing of the communications and the publication of the suspension and removal of financial instruments pursuant to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments**

~~(Text with EEA relevance)~~

...

Article -3**Definitions**

In this Regulation, 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to:

- (1) Operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014; and
- (2) MiFID investment firms, as defined in accordance with the Glossary to the Handbook of Rules and Guidance published by the Financial Conduct Authority, immediately after Exit Day.

Article -1**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.

- (3) Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

## Article 1

### Scope

This Regulation sets down the format and timing for the following communications and publications:

- (a) publication by a market operator operating a regulated market or by an investment firm or a market operator operating an MTF or an OTF of its decision to suspend or remove a financial instrument and, where relevant, related derivatives from trading or to lift a suspension;
- (b) communication of the decisions referred to in point (a) to the relevant competent authority;
- (c) publication by a competent authority of its decision to suspend trading or remove from trading a financial instrument and, where relevant, related derivatives or to lift a suspension;
- ~~(d) communication by a competent authority to ESMA and other competent authorities of the decision to suspend trading or to remove from trading a financial instrument and, where relevant, related derivatives or to lift a suspension;~~
- ~~(e) communication by a notified competent authority to ESMA and other competent authorities of its decision on whether to follow a decision as referred to in point (d).~~

## Article 2

### Definition of the term ‘trading venue operator’

For the purposes of this Regulation, ‘trading venue operator’ means any of the following:

- (a) a market operator operating a regulated market, an MTF or an OTF;
- (b) an investment firm operating an MTF or an OTF.

...

## Article 4

### Timing of the publications and communications by trading venue operators

1. Trading venue operators shall publish the decisions referred to in point (a) of Article 1 immediately.

2. Trading venue operators shall not publish the decisions referred to in point (a) of Article 1 by other means prior to their publication in accordance with Article 3(1).
3. Trading venue operators shall communicate the decisions referred to in point (a) of Article 1 to the ~~relevant~~ competent authority simultaneously with its publication or immediately thereafter.

#### Article 5

##### **Format of the publications and communications by competent authorities**

1. ~~Competent authorities~~ The competent authority shall publish the decision referred to in point (c) of Article 1 on a website in the format set out in Table 3 of the Annex.
2. ~~Competent authorities shall communicate the decisions referred to in points (d) and (e) of Article 1 in a standard machine-readable format using the formats set out in Tables 3 and 4 of the Annex, respectively.~~

#### Article 6

##### **Timing of the publications and communications by competent authorities**

1. ~~Competent authorities~~ The competent authority shall publish the decision referred to in point (c) of Article 1 immediately.
2. ~~Competent authorities shall communicate the decision referred to in point (d) of Article 1 simultaneously with its publication or immediately thereafter.~~
3. ~~A notified competent authority shall communicate the decision referred to in point (e) of Article 1 without undue delay upon receipt of the communication referred to in point (d) of Article 1.~~

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

Table 3

**Format of the publication and communication by ~~the~~ Competent Authorities ~~Authority~~ of the decision to suspend or remove a financial instrument and related derivatives from trading and to lift a suspension of a financial instrument and related derivatives**

FIELD	DETAILS TO BE REPORTED	FORMAT FOR REPORTING
Competent authority	Field to be populated with the acronym of the competent authority doing the publication / communication.	{ALPHANUM-10}
<del>Member State of the competent authority</del>	<del>Field to be populated with the country-code of the Member State of the competent authority doing the publication / communication.</del>	<del>{COUNTRYCODE_2}</del>
Trading venue operator as initiator of the action	Field to be populated with: — true, if the initiator of the action is a trading venue operator; or — false, if the initiator of the action is not a trading venue operator but a competent authority.	‘True’ — Trading venue initiator ‘False’ — Not a trading venue initiator
...		

Table 4

**~~Format of the communication to ESMA and other competent authorities by competent authorities of their decisions on whether to follow a suspension, a removal or a lifting of a suspension~~**

<del>FIELD</del>	<del>DETAILS TO BE REPORTED</del>	<del>FORMAT FOR REPORTING</del>
<del>Competent authority</del>	<del>Field to be populated with the acronym of the competent authority that communicated the original action.</del>	<del>{ALPHANUM-10}</del>

<del>Member State of the competent authority</del>	<del>Field to be populated with the country code of the Member State of the competent authority that communicated the original action.</del>	<del>{COUNTRYCODE_2}</del>
<del>Competent authority initiating the current action</del>	<del>Field to be populated with the acronym of the competent authority following or not following the original action.</del>	<del>{ALPHANUM_10}</del>
<del>Member State of the competent authority initiating the current action</del>	<del>Field to be populated with the country code of the Member State of the competent authority following or not following the original action.</del>	<del>{COUNTRYCODE_2}</del>
<del>Original action type</del>	<del>Field to be populated with the type of the original action.</del>	<del>Suspension, removal, lifting of a suspension.</del>
<del>Decision to follow, if applicable</del>	<del>Field to be populated, if applicable, with: true if the action is followed; or false if the action is not followed.</del>	<del>'True' — Action is followed 'False' — Action is not followed</del>
<del>Reasons for the decision not to follow a removal, suspension or lifting thereof, if applicable</del>	<del>Field to be populated with the reasons for the decision not to follow a removal, suspension or lifting thereof, if applicable.</del>	<del>{ALPHANUM_350}</del>
<del>Date and time of the communication</del>	<del>Field to be populated with the date and time of the communication of the current action.</del>	<del>{DATE_TIME_FORMAT}</del>
<del>Effective from</del>	<del>Field to be populated with the date and time from which the current action is effective.</del>	<del>{DATE_TIME_FORMAT}</del>
<del>Effective to</del>	<del>Field to be populated with the date and time until which the current action is effective.</del>	<del>{DATE_TIME_FORMAT}</del>
<del>Ongoing</del>	<del>Field to be populated with 'true' if the action is ongoing, or 'false' otherwise.</del>	<del>'True' — Action is ongoing 'False' — Action is not ongoing</del>

<del>Trading venue(s)</del>	<del>Field to be populated with the MIC or MICs of the trading venues(s) or segments thereof to which the current action relates.</del>	<del>{MIC} If multiple MICs have to be provided, this field shall be populated with multiple MICs separated by comma.</del>
<del>Issuer name</del>	<del>Field to be populated with the name of the issuer of the instrument to which the action relates.</del>	<del>{ALPHANUM 350}</del>
<del>Issuer</del>	<del>Field to be populated with the LEI of the issuer of the instrument to which the action relates.</del>	<del>{LEI}</del>
<del>Instrument identifier</del>	<del>Field to be populated with the ISIN of the instrument.</del>	<del>{ISIN}</del>
<del>Instrument full name</del>	<del>Field to be populated with the name of the instrument.</del>	<del>{ALPHANUM 350}</del>
<del>Related derivatives</del>	<del>Field to be populated with the ISINs of the related derivatives as specified in Delegated Regulation (EU) 2017/569, to which the action also relates.</del>	<del>{ISIN} If multiple ISINs have to be provided, this field shall be populated with multiple ISINs separated by comma.</del>
<del>Other related instruments</del>	<del>Field to be populated with the ISINs of the related derivatives affected by the action.</del>	<del>{ISIN} If multiple ISINs have to be provided, this field shall be populated with multiple ISINs separated by comma.</del>
<del>Comments</del>	<del>Field to be populated with comments.</del>	<del>{ALPHANUM 350}</del>

## Annex Q

### COMMISSION IMPLEMENTING REGULATION (EU) 2017/1093 of 20 June 2017 laying down implementing technical standards with regard to the format of position reports by investment firms and market operators

~~(Text with EEA relevance)~~

...

#### Article -3

#### **Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

#### Article -2

#### **Application**

This Regulation applies to:

- (1) Operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014/EU; and
- (2) MiFID investment firms, as defined in accordance with the Glossary to the Handbook of Rules and Guidance published by the Financial Conduct Authority immediately after Exit Day.

#### Article -1

#### **Interpretation**

1. Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

## Article 1

**Weekly reports**

1. Investment firms or market operators operating a trading venue shall prepare the weekly report referred to in ~~Article 58(1)(a) of Directive 2014/65/EU~~ chapter 10 of the Market Conduct sourcebook published by the Financial Conduct Authority immediately after Exit Day, separately for each commodity derivative, emission allowance or derivative thereof that is traded on that trading venue, in accordance with the format set out in the tables of Annex I to this Regulation.
2. The reports referred to in paragraph 1 shall contain the aggregate of all positions held by the different persons in each of the categories set out in Table 1 to Annex I in an individual commodity derivative, emission allowance or derivative thereof that is traded on that trading venue.

## Article 2

**Daily reports**

1. Investment firms shall provide the competent authority with the breakdown of their positions as referred to in ~~Article 58(2) of Directive 2014/65/EU~~ the direction in chapter 10.4.8 of the Market Conduct sourcebook published by the Financial Conduct Authority immediately after Exit Day by means of a daily position report in the format set out in the tables to Annex II to this Regulation.
2. The report referred to in paragraph 1 shall contain all positions across all maturities of all contracts.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex R****COMMISSION IMPLEMENTING REGULATION (EU) 2017/1110 of 22 June 2017 laying down implementing technical standards with regard to the standard forms, templates and procedures for the authorisation of data reporting services providers and related notifications pursuant to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments**

~~(Text with EEA relevance)~~

...

Article -2**Application**

This Regulation applies to persons.

Article -1**Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) or (3) applies.
- (2) Subject to (3), where a term is defined in the Data Reporting Services Regulations 2017, that definition shall apply for the purposes of this Regulation.
- (3) Where a term it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.

Article 1**Designation of a contact point**

~~Competent authorities~~ The competent authority shall designate a contact point for handling all information received from applicants seeking authorisation as a data reporting services provider. The contact details of the designated contact point shall be made public and regularly updated on the competent authorities' websites authority's website.

## Article 2

**Provision of information and notification to the competent authority**

1. An applicant for authorisation to provide data reporting services under the ~~provisions of Title V of Directive 2014/65/EU~~ Data Reporting Services Regulations 2017 shall provide the competent authority with all information in accordance with ~~Article 61(2) of Directive 2014/65/EU~~ regulation 7 of the Data Reporting Services Regulations 2017 by filling in the application form set out in Annex I.
2. The applicant shall notify the competent authority with information of all members of its management body by filling in the notification form set out in Annex II.
3. The applicant shall clearly identify in its submission which specific requirement under the provisions of it refers to and in which document attached to its submission that information is provided.
4. The applicant shall indicate in its submission whether any specific requirement under the provisions of ~~Title V of Directive 2014/65/EU~~ the Data Reporting Services Regulations 2017 or Commission Delegated Regulation (EU) 2017/571 is not applicable to the data reporting service that it is applying for.
5. ~~Competent authorities~~ The competent authority shall indicate on ~~their websites~~ its website whether duly completed application forms, notifications and any related additional information are to be submitted on paper, electronically, or both.

...

## Article 7

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex S

**COMMISSION DELEGATED REGULATION (EU) 2017/1943 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on information and requirements for the authorisation of investment firms**

~~(Text with EEA relevance)~~

...

Article -1

**Interpretation**

1. Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.

Article 1

**General information**

An applicant seeking authorisation as an investment firm in accordance to the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall submit to the competent authority an application that includes the following general information:

- (a) its name (including its legal name and any other trading name to be used); legal structure (including information on whether it will be a legal person or, where allowed by national legislation, a natural person), address of the head office and, for existing companies, registered office; contact details; its national identification number, where available; as well as:
  - (i) for domestic branches: information on where the branches will operate;
  - (ii) for domestic tied agents: details on its intention to use tied agents;
- (b) the list of investment services and activities, ancillary services and financial instruments to be provided, and whether clients' financial instruments and funds will be held (even on a temporary basis).

- (c) copies of corporate documents and evidence of registration with the national register of companies, where applicable.

## Article 2

### Information on capital

An applicant seeking authorisation as an investment firm in accordance to the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall provide to the competent authority information and, where available, evidence on the sources of capital available to it. The information shall include:

- (a) details on the use of private financial resources including the origin and availability of those funds;
- (b) details on access to capital sources and financial markets including details of financial instruments issued or to be issued;
- (c) any relevant agreements and contracts regarding the capital raised;
- (d) information on the use or expected use of borrowed funds including the name of relevant lenders and details of the facilities granted or expected to be granted, including maturities, terms, pledges and guarantees, along with information on the origin of the borrowed funds (or funds expected to be borrowed) where the lender is not a supervised financial institution;
- (e) details on the means of transferring financial resources to the firm including the network used to transfer such funds.

For the purposes of point (b), information on types of capital raised shall refer, where relevant, to the types of capital specified under Regulation (EU) No 575/2013, specifically whether the capital comprises Common Equity Tier 1 items, Additional Tier 1 items or Tier 2 items.

## Article 3

### Information on shareholders

An applicant seeking authorisation as an investment firm in accordance to the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall provide to the competent authority the following information on its shareholders:

- (a) the list of persons with a direct or indirect qualifying holding in the investment firm, and the amount of these holdings and, for indirect holdings, the name of the person through which the stake is held and the name of the final holder;
- (b) for persons with a qualifying holding (direct or indirect) in the investment firm the documentation required from proposed acquirers for the acquisition and increases in qualifying holdings in investment firms in accordance with Articles 3, 4 and 5 of Commission Delegated Regulation 2017/1946 of 11 July 2017 supplementing Directives 2004/39/EC and 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for an exhaustive list of information to be included by proposed acquirers in the notification of a proposed acquisition of a qualifying holding in an investment firm;

- (c) for corporate shareholders that are members of a group, an organisational chart of the group indicating the main activities of each firm within the group, identification of any regulated entities within the group and the names of the relevant supervisory authorities as well as the relationship between the financial entities of the group and other non-financial group entities.
- (d) For the purposes of point (b), where the holder of a qualifying holding is not a natural person, the documentation shall also relate to all members of the management body and the general manager, or any other person performing equivalent duties.

#### Article 4

#### **Information on the management body and persons who direct the business**

An applicant seeking authorisation as an investment firm in accordance to the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall provide to the competent authority the following information:

- (a) in respect of members of the management body and persons effectively directing the business and their related powers and any proxies:
  - (i) personal details comprising the person's name, date and place of birth, personal national identification number, where available, address and contact details;
  - (ii) the position for which the person is/will be appointed;
  - (iii) a curriculum vitae stating relevant education and professional training, professional experience, including the names of all organisations for which the person has worked and nature and duration of the functions performed, in particular for any activities within the scope of the position sought; for positions held in the previous 10 years, when describing those activities, details shall be included on all delegated powers and internal decision-making powers held and the areas of operations under control;
  - (iv) documentation relating to person's reputation and experience, in particular a list of reference persons including contact information, letters of recommendation;
  - (v) criminal records and information on criminal investigations and proceedings relevant civil and administrative cases, and disciplinary actions opened against them (including disqualification as a company director, bankruptcy, insolvency and similar procedures), notably through an official certificate (if and so far as it is available from the relevant ~~Member State or~~ third country), or through another equivalent document; for ongoing investigations, the information may be provided through a declaration of honour;

...

## Article 5

**Financial information**

An applicant seeking authorisation as an investment firm in accordance to the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall provide to the competent authority the following information on its financial situation:

- (a) forecast information at an individual and, where applicable, at consolidated group and sub-consolidated levels, including:
  - (i) forecast accounting plans for the first three business years including:
    - forecast balance sheets;
    - forecast profit and loss accounts or income statements;
  - (ii) planning assumptions for the above forecasts as well as explanations of the figures, including expected number and type of customers, expected volume of transactions/orders, expected assets under management;
  - (iii) where applicable, forecast calculations of the firm's capital requirements and liquidity requirements under Regulation (EU) No 575/2013 of the European Parliament and of the Council and forecast solvency ratio for the first year;
- (b) for companies that are already active, statutory financial statements, at an individual and, where applicable, at consolidated group and sub-consolidated levels for the last three financial periods, approved, where the financial statements are audited, by the external auditor, including:
  - (i) the balance sheet;
  - (ii) the profit and loss accounts or income statements;
  - (iii) the annual reports and financial annexes and any other documents registered with the relevant registry or authority in the particular territory relevant to the company financial statements and, where applicable, a report by the company's auditor of the last three years or since the beginning of the activity;
- (c) an analysis of the scope of consolidated supervision under Regulation (EU) No 575/2013, including details on which group entities will be included in the scope of consolidated supervision requirements post-authorisation and at which level within the group these requirements will apply on a full or sub-consolidated basis.

## Article 6

**Information on the organisation of the firm**

An applicant seeking authorisation as an investment firm in accordance to the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall provide to the competent authority the following information on its organisation:

- (a) a programme of initial operations for the following three years, including information on planned regulated and unregulated activities detailed information on the

geographical distribution and activities to be carried out by the investment firm.  
Relevant information in the programme of operations shall include:

- (i) the domicile of prospective customers and targeted investors;
  - (ii) the marketing and promotional activity and arrangements, including languages of the offering and promotional documents; identification of the ~~Member-States~~ country where advertisements are most visible and frequent; type of promotional documents (in order to assess where effective marketing will be mostly developed);
  - (iii) the identity of direct marketers, financial investment advisers and distributors, geographical localisation of their activity;
- (b) details of the firm's auditors, when available at time of application for authorisation;
- (c) the organisational structure and internal control systems of the company, comprising:
- (i) the personal details of the heads of internal functions (management and supervisory), including a detailed curriculum vitae, stating relevant education and professional training, professional experience;
  - (ii) the description of the resources (in particular human and technical) allocated to the various planned activities;
  - (iii) in relation to holding client financial instruments and funds, information, specifying any client asset safeguarding arrangements (in particular, where financial instruments and funds are held in a custodian, the name of the custodian, and related contracts);
  - (iv) an explanation of how the firm will satisfy its prudential and conduct requirements.
- (d) information on the status of the application undertaken by the investment firm to become a member of the investor compensation scheme of the ~~Home Member State~~ UK or evidence of membership to the investor compensation scheme, where available;

...

## Article 7

### General requirements

1. The information to be provided to the competent authority ~~of the home Member State~~, as set out in Articles 1 and 6, shall refer to both the head office of the firm and its branches and tied agents.
2. The information to be provided to the competent authority ~~of the home Member State~~, as set out in Articles 2 to 5, shall refer to the head office of the firm.

...

## Article 9

**Requirements applicable to shareholders and members with qualifying holdings**

The competent authority shall verify that the request of an applicant for authorisation as an investment firm, in accordance to the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU, offers sufficient guarantees for a sound and prudent management of the entity by assessing the suitability of proposed shareholders and members with qualifying holdings, having regard to the likely influence on the investment firm of each proposed shareholder or member with qualifying holdings, against all of the following criteria:

- (a) the reputation and experience of any person who will direct the business of the investment firm;
- (b) the reputation of the proposed shareholders and members with qualifying holdings;
- (c) the financial soundness of the proposed shareholders and members with qualifying holding, in particular in relation to the type of business pursued and envisaged in the investment firm;
- (d) whether the investment firm will be able to comply and continue to comply with the prudential requirements set out in the United Kingdom's legislation implementing Article 15 of Directive 2014/65/EU and, where applicable, the United Kingdom's legislation implementing Directives 2002/87/EC and 2013/36/EU of the European Parliament and of the Council and in particular, whether the group of which it will become a part has a structure that makes it possible to exercise effective supervision, ~~effectively exchange information among the competent authorities and determine the allocation of responsibilities among the competent authorities;~~
- (e) whether there are reasonable grounds to suspect that, in connection with the authorisation of the investment firm, money laundering or terrorist financing within the meaning of the United Kingdom's legislation corresponding to Article 1 of Directive 2005/60/EC of the European Parliament and of the Council (3) is being or has been committed or attempted, or that the authorisation of the investment firm could increase the risk thereof.

## Article 10

**Effective exercise of supervisory functions**

A group structure within which the investment firm will operate shall be considered to be an obstacle to the exercise of the supervisory function of the competent authority for the purposes of the United Kingdom's legislation corresponding to Article 10(1) and (2) of Directive 2014/65/EU in any of the following cases:

- (a) it is complex and not sufficiently transparent;
- (b) it has a geographical location of group entities;
- (c) it includes activities performed by the group entities that may prevent the competent authority to effectively appraise the suitability of the shareholders or members with qualifying holdings or the influence of close links with the investment firm.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (MARKETS IN FINANCIAL INSTRUMENTS  
REGULATION) (EU EXIT) (No 1) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in the exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations as specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. In this instrument:

“the Act” means the European Union (Withdrawal) Act 2018; and

“Exit Day” has the meaning given in the Act.

Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of the Act) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the Act.

**Amendments to EU Regulations**

- F. The following EU Regulations are amended in accordance with Annexes A–I of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 2016/2020 of 26 May 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on criteria for determining whether	Annex A

derivatives subject to the clearing obligation should be subject to the trading obligation.	
Commission Delegated Regulation (EU) 2016/2022 of 14 July 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards concerning the information for registration of third-country firms and the format of information to be provided to the clients.	Annex B
Commission Delegated Regulation (EU) 2017/572 of 2 June 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of the offering of pre-and post-trade data and the level of disaggregation of data.	Annex C
Commission Delegated Regulation (EU) 2017/579 of 13 June 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on the direct, substantial and foreseeable effect of derivative contracts within the Union and the prevention of the evasion of rules and obligations.	Annex D
Commission Delegated Regulation (EU) 2017/580 of 24 June 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the maintenance of relevant data relating to orders in financial instruments.	Annex E
Commission Delegated Regulation (EU) 2017/585 of 14 July 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the data standards and formats for financial instrument reference data and technical measures in relation to arrangements to be made by the European Securities and Markets Authority and competent authorities.	Annex F
Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities.	Annex G
Commission Delegated Regulation (EU) 2017/2194 of 14 August 2017 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to package orders.	Annex H
Commission Delegated Regulation (EU) 2017/2417 of 14 August 2017 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to on regulatory technical standards the trading obligation for certain derivatives	Annex I

## Commencement

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 1) Instrument 2019.

By order of the Board  
[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

### **COMMISSION DELEGATED REGULATION (EU) 2016/2020 of 26 May 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on criteria for determining whether derivatives subject to the clearing obligation should be subject to the trading obligation**

~~(Text with EEA relevance)~~

...

#### Article -3 **Application**

This Regulation applies to the Financial Conduct Authority as a competent authority.

#### Article -2 **Interpretation**

1. References in this Regulation to Regulation 600/2014/EU shall mean Regulation 600/2014/EU as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.
2. For the purposes of this Regulation, where a term is defined in Article 2 of Regulation 600/2014/EU the same definition applies.
3. Paragraph 2 is subject to the specific definition set out in Article -1.

#### Article -1 **Definitions**

For the purposes of this Regulation, the following definition applies:

‘trading venue’ means any of the venues referred to in article 28(1)(a) to (d) of Regulation 600/2014/EU.

## Article 1

**Sufficient third party buying and selling interest**

When establishing whether a class of derivatives or relevant subset thereof has sufficient third-party buying and selling interest to be considered sufficiently liquid for the trading obligation, ~~ESMA~~ the competent authority shall apply the criteria in Article 32(3) of Regulation (EU) No 600/2014, as further specified in Articles 2 to 5 below.

## Article 2

**Average frequency of trades**

1. In relation to the average frequency of trades, ~~ESMA~~ the competent authority shall take into consideration the following elements:
  - (a) the number of days on which trading took place;
  - (b) the number of trades.
2. ~~ESMA's~~ The competent authority's analysis of the criteria in paragraph 1 shall take into account the distribution of trading executed on trading venues and executed OTC. ~~ESMA~~ The competent authority shall assess these criteria over a period of time of sufficient length to determine whether the liquidity of each class of derivatives or a relevant subset thereof is subject to seasonal or structural factors. ~~ESMA~~ The competent authority shall also consider whether trades are concentrated at certain points in time and over certain sizes over the period assessed and determine to what extent such concentration constitutes predictable patterns.

## Article 3

**Average size of trades**

1. In relation to the average size of trades, ~~ESMA~~ the competent authority shall take into consideration the following elements:
  - (a) the average daily turnover whereby the notional size of all trades combined shall be divided by the number of trading days;
  - (b) the average value of trades whereby the notional size of all trades combined shall be divided by the number of trades.
2. ~~ESMA~~ The competent authority's analysis of the criteria in paragraph 1 shall take into account the factors specified in Article 2(2).

## Article 4

**Number and type of active market participants**

1. In relation to the number and type of active market participants, ~~ESMA~~ the competent authority shall take into consideration the following elements:
  - (a) the total number of market participants trading in that class of derivatives or relevant subset thereof is not lower than two;
  - (b) the number of trading venues that have admitted to trading or are trading the class of derivatives or a relevant subset thereof;
  - (c) the number of market makers and other market participants under a binding written agreement or an obligation to provide liquidity.
2. ~~ESMA~~ The competent authority's analysis shall compare the ratio of market participants to the findings in the data obtained for the analyses of average size of trades and the average frequency of trades.

## Article 5

**Average size of spreads**

1. In relation to the average size of spreads, ~~ESMA~~ the competent authority shall take into consideration the following elements:
  - (a) the size of weighted spreads, including volume weighted spreads, over different periods of time;
  - (b) spreads at different points in time of trading sessions.
2. Where information on spreads is not available, ~~ESMA~~ the competent authority shall take into consideration a proxy for the assessment of this criterion.

## Article 6

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex B****COMMISSION DELEGATED REGULATION (EU) 2016/2022 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards concerning the information for registration of third-country firms and the format of information to be provided to the clients**

~~(Text with EEA relevance)~~

...

**Article -1****Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.

**Article 1****Information necessary for the registration**

A third-country firm applying for the provision of investment services or performance of activities ~~throughout the Union~~ in the United Kingdom in accordance with the second subparagraph of Article 46(4) of Regulation (EU) No 600/2014 shall submit the following information to ~~ESMA~~ the Financial Conduct Authority:

- (a) full name of the firm, including its legal name and any other trading name to be used by the firm;
- (b) contact details of the firm, including the head office address, telephone number and email address;
- (c) contact details of the person in charge of the application, including telephone number and email address;
- (d) website, where available;
- (e) national identification number of the firm, where available;

- (f) legal entity identifier (LEI) of the firm, where available;
- (g) Business Identifier Code (BIC) of the firm, where available;
- (h) name and address of the competent authority of the third country that is responsible for the supervision of the firm; where more than one authority is responsible for supervision, the details of the respective areas of competence shall be provided;
- (i) the link to the register of each competent authority of the third country, where available;
- (j) information on which investment services, activities, and ancillary services it is authorised to provide in the country where the firm is established;
- (k) the investment services to be provided and activities to be performed in the ~~Union~~ United Kingdom, together with any ancillary services.

## Article 2

### **Information submission requirements**

1. The third-country firm shall inform ~~ESMA~~ the Financial Conduct Authority, within 30 days, of any change of the information provided under Article 1(a) to (g), (j) and (k).
2. Information provided to ~~ESMA~~ the Financial Conduct Authority under Article 1(j) shall be provided through a written declaration issued by a competent authority of the third country.
3. The information provided to ~~ESMA~~ the Financial Conduct Authority under Article 1 shall be in English, using the Latin alphabet. Any accompanying documents provided to ~~ESMA~~ the Financial Conduct Authority under Article 1 and in paragraph 2 of this Article shall be in English or, where they have been written in a different language, a certified English translation shall also be provided.

## Article 3

### **Information concerning type of clients in the ~~Union~~ United Kingdom**

1. A third-country firm shall provide the information referred to in Article 46(5) of Regulation (EU) No 600/2014 to the clients in a durable medium.
2. The information referred to in Article 46(5) of Regulation (EU) No 600/2014, shall be:
  - (a) provided in English ~~or in the official language, or one of the official languages, of the Member State where the services are to be provided;~~

- (b) presented and laid out in a way that is easy to read, using characters of readable size;
- (c) without using colours that may diminish the comprehensibility of the information.

Article 4

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex C****COMMISSION DELEGATED REGULATION (EU) 2017/572 of 2 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on the specification of the offering of pre-and post-trade data and the level of disaggregation of data**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies to operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014/EU.

Article -1

**Interpretation**

1. Where a term is defined in article 2 Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, the same definition applies for the purposes of this Regulation.
2. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex D

### COMMISSION DELEGATED REGULATION (EU) 2017/579 of 13 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on the direct, substantial and foreseeable effect of derivative contracts within the Union and the prevention of the evasion of rules and obligations

~~(Text with EEA relevance)~~

...

#### Article -1

#### Interpretation

1. For the purposes of this Regulation, where a term is defined in Article 2 of Regulation 600/2014/EU that definition applies.
2. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation.

#### Article 1

#### Definitions

For the purposes of this Regulation the following definition shall apply:

‘guarantee’ means an explicitly documented legal obligation by a guarantor to cover payments of the amounts due or that may become due pursuant to the OTC derivative contracts covered by that guarantee and entered into by the guaranteed entity in favour of the beneficiary where there is a default as defined in the guarantee or where no payment has been effected by the guaranteed entity.

#### Article 2

#### **Contracts with a direct, substantial and foreseeable effect within the ~~Union~~ United Kingdom**

1. An OTC derivative contract shall be considered as having a direct, substantial and foreseeable effect within the ~~Union~~ United Kingdom when at least one third country entity benefits from a guarantee provided by a financial counterparty established in the ~~Union~~ United Kingdom which covers all or part of its liability resulting from that OTC derivative contract, to the extent that the guarantee meets both following

conditions:

- (a) it covers the entire liability of a third country entity resulting from one or more OTC derivative contracts for an aggregated notional amount of at least EUR 8 billion or the equivalent amount in the relevant foreign currency, or it covers only a part of the liability of a third country entity resulting from one or more OTC derivative contracts for an aggregated notional amount of at least EUR 8 billion or the equivalent amount in the relevant foreign currency divided by the percentage of the liability covered;
  - (b) it is at least equal to 5 per cent of the sum of current exposures, as defined in Article 272(17) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (1), in OTC derivative contracts of the financial counterparty established in the ~~Union~~ United Kingdom issuing the guarantee.
2. When the guarantee is issued for a maximum amount which is below the threshold set out in paragraph 1(a), the contracts covered by that guarantee shall not be considered to have a direct, substantial and foreseeable effect within the ~~Union~~ United Kingdom unless the amount of the guarantee is increased, in which case the direct, substantial and foreseeable effect of the contracts within the ~~Union~~ United Kingdom shall be re-assessed by the guarantor against the conditions set out in points (a) and (b) of paragraph 1 on the day of the increase.
  3. Where the liability resulting from one or more OTC derivative contracts is below the threshold set out in paragraph 1(a), such contracts shall not be considered to have a direct, substantial and foreseeable effect within the ~~Union~~ United Kingdom even where the maximum amount of the guarantee covering such liability is equal to or above the threshold set out in paragraph 1(a) and even where the condition set out in paragraph 1(b) has been met.
  4. In the event of an increase in the liability resulting from the OTC derivative contracts or of a decrease of the current exposure, the guarantor shall re-assess whether the conditions set out in paragraph 1 are met. Such assessment shall be done respectively on the day of the increase of liability for the condition set out in paragraph 1(a), and on a monthly basis for the condition set out in paragraph 1(b).
  5. OTC derivative contracts for an aggregate notional amount of at least EUR 8 billion or the equivalent amount in the relevant foreign currency concluded before a guarantee is issued or increased, and subsequently covered by a guarantee that meets the conditions set out in paragraph 1, shall be considered as having a direct, substantial and foreseeable effect within the ~~Union~~ United Kingdom.
  6. An OTC derivative contract shall be considered as having a direct, substantial and foreseeable effect within the ~~Union~~ United Kingdom where the two entities established in a third country enter into the OTC derivative contract through their branches in the ~~Union~~ United Kingdom and would qualify as financial counterparties if they were established in the ~~Union~~ United Kingdom.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex E****COMMISSION DELEGATED REGULATION (EU) 2017/580 of 24 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the maintenance of relevant data relating to orders in financial instruments**

~~(Text with EEA relevance)~~

...

Article -3**Definition**

In this Regulation, 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to operators of UK trading venues as defined by article 2(1)(16A) of Regulation 600/2014/EU.

Article -1**Interpretation**

1. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
2. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.
3. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.

## Article 1

**Scope, standards and format of relevant order data**

1. Operators of trading venues shall keep at the disposal of ~~their~~ the competent authority the details of each order advertised through their systems set out in Articles 2 to 13 as specified in the second and third columns of Table 2 of the Annex insofar as they pertain to the order concerned.
2. Where the competent ~~authorities request~~ authority requests any of the details referred to in paragraph 1 in accordance with Article 25(2) of Regulation (EU) No 600/2014, the operators of trading venues shall provide such details using the standards and formats prescribed in the fourth columns of Table 2 of the Annex to this Regulation.

## Article 2

**Identification of the relevant parties**

1. For all orders, operators of trading venues shall maintain the records on the following:
  - (a) the member or participant of the trading venue who submitted the order to the trading venue, identified as specified in field 1 of Table 2 of the Annex;
  - (b) the person or computer algorithm within the member or participant of the trading venue to which an order is submitted that is responsible for the investment decision in relation to the order, identified as specified in field 4 of the Table 2 of the Annex;
  - (c) the person or computer algorithm within the member or participant of the trading venue that is responsible for the execution of the order, identified as specified in field 5 of Table 2 of the Annex;
  - (d) the member or participant of the trading venue who routed the order on behalf of and in the name of another member or participant of the trading venue, identified as a non-executing broker as specified in field 6 of Table 2 of the Annex;
  - (e) the client on whose behalf the member or participant of the trading venue submitted the order to the trading venue, identified as specified in field 3 of Table 2 of the Annex.
2. Where a member or participant or client of the trading venue is authorised under ~~the~~ UK legislation ~~of a Member State~~ to allocate an order to its client following submission of the order to the trading venue and has not yet allocated the order to its client at the time of the submission of the order, that order shall be identified as specified in field 3 of Table 2 of the Annex.
3. Where several orders are submitted to the trading venue together as an aggregated

order, the aggregated order shall be identified as specified in field 3 of Table 2 of the Annex.

...

### Article 13

#### **Trading phases and indicative auction price and volume**

1. Operators of trading venues shall maintain a record of the order details as specified in Section K of Table 2 of the Annex.
2. Where the competent ~~authorities request~~ authority requests details referred to in Section K pursuant to Article 1, the details referred to in fields 9 and 15 to 18 of Table 2 of the Annex shall also be considered as details pertaining to the order concerned by that request.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

...

Table 2  
**Details of orders**

...			
7	Trading capacity	<p>Indicates whether the order submission results from the member or, participant of the trading venue is carrying out matched principal trading under Article 4(1)(38) <del>of</del> <u>as defined by Directive 2014/65/EU</u>, or dealing on its own account <del>under</del> <u>as defined by Article 4(6) of Directive 2014/65/EU Article 2(1)(5) of Regulation 600/2014/EU</u>.</p> <p>Where the order submission does not result from the member or participant of the trading venue carrying out matched principal trading or dealing on its own account, the field shall indicate that the transaction was carried out under any other capacity.</p>	<p>‘DEAL’ — Dealing on own account</p> <p>‘MTCH’ — Matched principal</p> <p>‘AOTC’ — Any other capacity</p>
8	Liquidity provision activity	<p>Indicates whether an order is submitted to a trading venue as part of a market-making strategy pursuant to Articles 17 and 48 of Directive 2014/65/EU <u>or UK law corresponding to these provisions</u>, or is submitted as part of another activity in accordance with Article 3 of this Regulation.</p>	<p>‘true’</p> <p>‘false’</p>
...			

**Annex F**

**COMMISSION DELEGATED REGULATION (EU) 2017/585 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the data standards and formats for financial instrument reference data and technical measures in relation to arrangements to be made by the European Securities and Markets Authority and competent authorities**

~~(Text with EEA relevance)~~

...

Article -3

**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2

**Application**

This Regulation applies to:

a MiFID investment firm (other than a collective portfolio management investment firm) and a UK RIE.

Article -1

**Interpretation**

In this technical standard, unless the contrary intention appears:

- (1) words and expressions used have the same meaning as in Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018;
- (2) in accordance with article 2(1)(62) of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, all references in this technical standard to a ‘trading venue’ are to a ‘UK trading venue’;

- (3) references to the ‘Regulated Activities Order’ are to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; and
- (4) ‘MiFID investment firm’, ‘collective portfolio management investment firm’ and ‘UK RIE’ are defined in accordance with the Glossary to the Handbook of rules and guidance published by the Financial Conduct Authority immediately after Exit Day.

## Article 1

### **Content, standards, form and format of reference data**

Trading venues and systematic ~~internalises~~ internalisers shall provide the competent authorities authority with all details of financial instrument reference data (‘reference data’) referred to in Table 3 of the Annex that pertain to the financial instrument concerned. All details provided shall be submitted in accordance with the standards and formats specified in Table 3 of the Annex, in an electronic and machine-readable form and in a common XML template in accordance with the ISO 20022 methodology.

## Article 2

### **Timing for provision of reference data to the competent authorities authority**

Trading venues and systematic internalisers shall provide ~~their~~ the competent authority by 21.00 CET each day they are open for trading with the reference data for all financial instruments that are admitted to trading or that are traded, including where orders or quotes are placed through their system, before 18.00 CET on that day.

...

## Article 4

### **Arrangements to ensure effective receipt of reference data**

1. ~~Competent authorities~~ The competent authority shall monitor and assess the completeness of the reference data ~~they receive~~ it receives from a trading venue or systematic internaliser, and the compliance of that data with the standards and formats specified in Table 3 of the Annex.
2. Following receipt of reference data in respect of each day on which trading venues and systematic internalisers are open for trading, the competent authorities authority shall notify trading venues and systematic internalisers of any incompleteness in that data and of any failure to deliver reference data by the deadlines set out in Article 2.

3. ~~ESMA shall monitor and assess the completeness of reference data it receives from competent authorities, and compliance of the data with the standards and formats specified in Table 3 of the Annex.~~
4. ~~Following receipt of reference data from competent authorities, ESMA shall notify them of any incompleteness in that data and of any failure to deliver reference data by the deadlines set out in Article 7(1).~~

#### Article 5

#### **Arrangements to ensure the quality of the reference data**

~~Competent authorities~~ The competent authority shall conduct quality assessments regarding the content and accuracy of the reference data received pursuant to Article 27(1) of Regulation (EU) No 600/2014 on at least a quarterly basis.

#### Article 6

#### **Methods and arrangements for supplying reference data**

1. Trading venues and systematic internalisers shall ensure that they provide complete and accurate reference data to ~~their~~ the competent ~~authorities~~ authority pursuant to Articles 1 and 3.
2. Trading venues and systematic internalisers shall put methods and arrangements in place that enable them to identify incomplete or inaccurate reference data previously submitted. A trading venue or systematic internaliser detecting that submitted reference data is incomplete or inaccurate shall promptly notify ~~its~~ the competent authority and transmit to the competent authority complete and correct relevant reference data without undue delay.

#### Article 7

#### **Arrangements for ~~efficient exchange and~~ publication of reference data**

1. ~~Competent authorities shall transmit complete and accurate reference data to ESMA each day no later than 23.59 CET using the secure electronic communication channel established for that purpose between competent authorities and ESMA.~~
2. On the day following receipt of reference data ~~in accordance with paragraph 1~~, ESMA the competent authority shall consolidate the data received from each ~~competent~~

authority trading venue and systematic internaliser.

3. ~~ESMA shall make the consolidated data available to all competent authorities by 8.00 CET on the day following its receipt using the secure electronic communication channels referred to in paragraph 1.~~
4. ~~Competent authorities~~ The competent authority shall use the consolidated data in respect of a given day and other available relevant data it considers necessary to validate the transaction reports in respect of transactions executed on that given day and reported pursuant to Article 26 of Regulation (EU) No 600/2014.
5. ~~Each competent authority shall use the consolidated data for a given day to exchange transaction reports submitted on that given day in accordance with the second subparagraph of Article 26(1) of Regulation (EU) No 600/2014.~~
6. ~~ESMA~~ The competent authority shall publish ~~the~~ consolidated reference data from trading venues and systematic internalisers in an electronic, downloadable and machine-readable form.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

...

Table 3

### Details to be reported as financial instrument reference data

...			
-----	--	--	--

4	Commodities or emission allowance derivative indicator	Indication as to whether the financial instrument falls within the definition of commodities derivative under Article 2(1) (30) of Regulation (EU) No 600/2014 or is a derivative relating to emission allowances referred to in <del>Section C(4) of Annex I to Directive 2014/65/EU, paragraph 4</del> of Part 1 of Schedule 2 to the Regulated Activities Order.	'true' – Yes 'false' – No
...			

## Annex G

### COMMISSION DELEGATED REGULATION (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities

~~(Text with EEA relevance)~~

...

#### Article -3

#### **Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

#### Article -2

#### **Application**

This Regulation applies to:

a MiFID investment firm (other than a collective portfolio management investment firm) and a UK RIE.

#### Article -1

#### **Interpretation**

In this technical standard, unless the contrary intention appears:

- (1) words and expressions used have the same meaning as in Regulation 600/2014/EU, (as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018);
- (2) in accordance with article 2(1)(62) of Regulation 600/2014/EU, all references in this technical standard to a ‘trading venue’ are to a ‘UK trading venue’;
- (3) references to ‘UK or Union trading venues’ include ‘UK trading venues’ as defined in article 2(16A) of Regulation 600/2014/EU and ‘trading venues’ as defined by article 4(1)(24) of Directive 2014/65/EU and operated by a person authorised under

Directive 2014/65/EU; and

- (4) references to a ‘MiFID investment firm’ ‘collective portfolio management investment firm’ and ‘UK RIE’ are to the terms as defined in accordance with the Glossary to the Handbook of rules and guidance published by the Financial Conduct Authority, immediately after Exit Day.

...

## Article 2

### **Meaning of transaction**

For the purposes of Article 26 of Regulation (EU) No 600/2014, the conclusion of an acquisition or disposal of a financial instrument referred to in Article 26(2) of Regulation (EU) No 600/2014 shall constitute a transaction.

...

5. A transaction for the purposes of Article 26 of Regulation (EU) No 600/2014 shall not include the following:
- (a) securities financing transactions as defined in Article 3(11) of Regulation (EU) 2015/2365 of the European Parliament and of the Council;

...

The exclusion provided for in point (a) of the first subparagraph shall not apply to the securities financing transactions to which a member of the European System of Central Banks or Bank of England is a counterparty.

...

## Article 4

### **Transmission of an order**

1. An investment firm transmitting an order pursuant to Article 26(4) of Regulation (EU) No 600/2014 (transmitting firm) shall be deemed to have transmitted that order only if

the following conditions are met:

- (a) the order was received from its client or results from its decision to acquire or dispose of a specific financial instrument in accordance with a discretionary mandate provided to it by one or more clients;
- (b) the transmitting firm has transmitted the order details referred to in paragraph 2 to another investment firm (receiving firm);
- (c) the receiving firm is a MiFID investment firm and is subject to Article 26(1) of Regulation (EU) No 600/2014 and agrees either to report the transaction resulting from the order concerned or to transmit the order details in accordance with this Article to another MiFID investment firm.

For the purposes of point (c) of the first subparagraph the agreement shall specify the time limit for the provision of the order details by the transmitting firm to the receiving firm and provide that the receiving firm shall verify whether the order details received contain obvious errors or omissions before submitting a transaction report or transmitting the order in accordance with this Article;

2. The following order details shall be transmitted in accordance with paragraph 1, insofar as pertinent to a given order:

- (a) the identification code of the financial instrument;
- (b) whether the order is for the acquisition or disposal of the financial instrument;
- (c) the price and quantity indicated in the order;
- (d) the designation and details of the client of the transmitting firm for the purposes of the order;
- (e) the designation and details of the decision maker for the client where the investment decision is made under a power of representation;
- (f) a designation to identify a short sale;
- (g) a designation to identify a person or algorithm responsible for the investment decision within the transmitting firm;
- (h) country of the branch of the investment firm supervising the person responsible for the investment decision and country of the investment firm's branch that received the order from the client or made an investment decision for a client in accordance with a discretionary mandate given to it by the client;
- (i) for an order in commodity derivatives, an indication whether the transaction is to reduce risk in an objectively measurable way in accordance with ~~Article 57 of Directive 2014/65/EU~~ regulation 17 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017;
- (j) the code identifying the transmitting firm.

For the purposes of point (d) of the first subparagraph, where the client is a natural

person, the client shall be designated in accordance with Article 6.

For the purposes of point (j) of the first subparagraph, where the order transmitted was received from a prior firm that did not transmit the order in accordance with the conditions set out in this Article, the code shall be the code identifying the transmitting firm. Where the order transmitted was received from a prior transmitting firm in accordance with the conditions set out in this Article, the code provided pursuant to point (j) referred to in the first subparagraph shall be the code identifying the prior transmitting firm.

3. Where there is more than one transmitting firm in relation to a given order, the order details referred to in points (d) to (i) of the first subparagraph of paragraph 2 shall be transmitted in respect of the client of the first transmitting firm.
4. Where the order is aggregated for several clients, information referred to in paragraph 2 shall be transmitted for each client.

...

## Article 6

### **Designation to identify natural persons**

1. A natural person shall be identified in a transaction report using the designation resulting from the concatenation of the ISO 3166-1 alpha-2 (2 letter country code) of the nationality of the person, followed by the national client identifier listed in Annex II based on the nationality of the person.
2. The national client identifier referred to in paragraph 1 shall be assigned in accordance with the priority levels provided in Annex II using the highest priority identifier that a person has regardless of whether that identifier is already known to the investment firm.
3. Where a natural person is a national of more than one European Economic Area (EEA) country, the country code of the first nationality when sorted alphabetically by its ISO 3166-1 alpha-2 code and the identifier of that nationality assigned in accordance with paragraph 2 shall be used. Where a natural person has a non-EEA nationality, the highest priority identifier in accordance with the field referring to 'all other countries' provided in Annex II shall be used. Where a natural person has EEA and non-EEA nationality, the country code of the EEA nationality and the highest priority identifier of that nationality assigned in accordance with paragraph 2 shall be used. For the purposes of this provision, a reference to 'the EEA' is to be interpreted as if the United Kingdom continues to be an EEA State.

...

## Article 13

**Conditions upon which legal entity identifiers are to be developed, attributed and maintained**

1. ~~Member States~~ The United Kingdom shall ensure that legal entity identifiers are developed, attributed and maintained in accordance with the following principles:
  - (a) uniqueness;
  - (b) accuracy;
  - (c) consistency;
  - (d) neutrality;
  - (e) reliability;
  - (f) open source;
  - (g) flexibility;
  - (h) scalability;
  - (i) accessibility.

~~Member States~~ The United Kingdom shall also ensure that legal entity identifiers are developed, attributed and maintained using uniform global operational standards, are subject to the governance framework of the Legal Entity Identifier Regulatory Oversight Committee and are available at a reasonable cost.

2. An investment firm shall not provide a service triggering the obligation to submit a transaction report for a transaction entered into on behalf of a client who is eligible for the legal entity identifier code, prior to obtaining the legal entity identifier code from that client.
3. The investment firm shall ensure that the length and construction of the code are compliant with the ISO 17442 standard and that the code is included in the Global LEI database maintained by the Central Operating Unit appointed by the Legal Entity Identifier Regulatory Oversight Committee and pertains to the client concerned.

## Article 14

**Reporting transactions executed by branches**

1. ~~An investment firm shall report transactions executed wholly or partly through its branch to the competent authority of the home Member State of the investment firm unless otherwise agreed by the competent authorities of the home and host Member States.~~
2. Where an investment firm executes a transaction wholly or partly through its branch,

it shall report the transaction ~~only once~~ to the competent authority.

3. Where country code details in respect of an investment firm's branch are required to be included in a transaction report in accordance with fields 8, 17, 37, 58 or 60 of Table 2 of Annex I due to the partial or full execution of a transaction through that branch, the investment firm shall provide in the transaction report the ISO 3166 country code for the relevant branch in all of the following cases:

...

- (d) where the transaction was executed on a UK or Union trading venue or an organised trading platform located outside the United Kingdom or the Union using the branch's membership of that trading venue or an organised trading platform.

4. Where one or more of the cases provided in paragraph 3 do not apply to a branch of the investment firm, the relevant fields in Table 2 of Annex I shall be populated with the ISO country code ~~for the home Member State of the investment firm, or, in the case of a third country firm, the country code of the country where the firm has established its head office or registered office.~~

5. ~~The branch of a third country firm shall submit the transaction report to the competent authority which authorised the branch. The branch of a third country firm shall fill in the relevant fields in Table 2 of Annex I with the ISO country code for the Member State of the authorising competent authority.~~

~~Where a third country firm has set up branches in more than one Member State within the Union, those branches shall jointly choose one of the competent authorities from the Member States to whom transaction reports are to be sent pursuant to paragraphs 1 to 3.~~

## Article 15

### **Methods and arrangements for reporting financial transactions**

1. The methods and arrangements by which transaction reports are generated and submitted by trading venues and investment firms shall include:
  - (a) systems to ensure the security and confidentiality of the data reported;
  - (b) mechanisms for authenticating the source of the transaction report;
  - (c) precautionary measures to enable the timely resumption of reporting in the case of a failure of the reporting system;
  - (d) mechanisms for identifying errors and omissions within transaction reports;
  - (e) mechanisms to avoid the reporting of duplicate transaction reports, including where an investment firm relies on a trading venue to report the details of transactions executed by the investment firm through the systems of the

trading venue in accordance with Article 26(7) of Regulation (EU) No 600/2014;

- (f) mechanisms to ensure that the trading venue only submits reports on behalf of those investment firms that have chosen to rely on the trading venue to send reports on their behalf for transactions completed through systems of the trading venue;
  - (g) mechanisms to avoid reporting of any transaction where there is no obligation to report under Article 26(1) of Regulation (EU) No 600/2014 either because there is no transaction within the meaning of Article 2 of this Regulation or because the instrument which is the subject of the transaction concerned does not fall within the scope of Article 26(2) of Regulation (EU) No 600/2014;
  - (h) mechanisms for identifying unreported transactions for which there is an obligation to report under Article 26 of Regulation (EU) No 600/2014, including cases where transaction reports rejected by the competent authority concerned have not been successfully re-submitted.
2. Where the trading venue or investment firm becomes aware of any error or omission within a transaction report submitted to a the competent authority, any failure to submit a transaction report including any failure to resubmit a rejected transaction report for transactions that are reportable, or of the reporting of a transaction for which there is no obligation to report, it shall promptly notify the ~~relevant~~ competent authority of this fact.
  3. Investment firms shall have arrangements in place to ensure that their transaction reports are complete and accurate. Those arrangements shall include testing of their reporting process and regular reconciliation of their front-office trading records against data samples provided to them by ~~their~~ the competent ~~authorities~~ authority to that effect.
  4. Where ~~the~~ competent ~~authorities~~ authority does not provide data samples, investment firms shall reconcile their front-office trading records against the information contained in the transaction reports that they have submitted to the competent ~~authorities~~ authority, or in the transaction reports that ARMs or trading venues have submitted on their behalf. The reconciliation shall include checking the timeliness of the report, the accuracy and completeness of the individual data fields and their compliance with the standards and formats specified in Table 2 of Annex I.
  5. Investment firms shall have arrangements in place to ensure that their transaction reports, when viewed collectively, reflect all changes in their position and in the position of their clients in the financial instruments concerned at the time transactions in the financial instruments are executed.
  6. Where an ARM, in accordance with instructions from the investment firm, cancels or corrects a transaction report submitted on behalf of an investment firm, the investment firm shall retain the details of the corrections and cancellations provided to it by the ARM.

7. ~~The reports referred to in Article 26(5) of Regulation (EU) No 600/2014 shall be sent to the competent authority of the home Member State of the trading venue.~~
8. ~~Competent authorities shall use secure electronic communication channels when exchanging transaction reports with each other.~~

## Article 16

### ~~Determination of the most relevant market in terms of liquidity~~

1. ~~In the case of a transferable security within the meaning of Article 4(1)(44)(a) of Directive 2014/65/EU, an emission allowance or a unit in a collective investment undertaking, the most relevant market in terms of liquidity for that financial instrument (the most relevant market) shall be determined once each calendar year on the basis of the data of the previous calendar year, provided that the financial instrument was admitted to trading or traded at the beginning of the previous calendar year, as follows:~~
  - (a) ~~for instruments admitted to trading on one or more regulated markets, the most relevant market shall be the regulated market where the turnover, as defined in Article 17(4) of Commission Delegated Regulation (EU) 2017/587 (1) for the previous calendar year for that instrument is the highest;~~
  - (b) ~~for instruments not admitted to trading on regulated markets, the most relevant market shall be the MTF where the turnover for the previous calendar year for that instrument is the highest;~~
  - (c) ~~for the purposes of points (a) and (b), the highest turnover shall be calculated by excluding all transactions that benefit from pre-trade transparency waivers pursuant to Article 4(1)(a), (b) or (c) of Regulation (EU) No 600/2014.~~
2. ~~By derogation from paragraph 1 of this Article, where a transferable security within the meaning of Article 4(1)(44)(a) of Directive 2014/65/EU, an emission allowance or a unit in a collective investment undertaking was not admitted to trading or traded at the beginning of the previous calendar year or where there is insufficient or non-existent data to calculate the turnover in accordance with point (c) of paragraph 1 of this Article for the purpose of determining the most relevant market for that financial instrument, the most relevant market for the financial instrument shall be the market of the Member State in which a request for admission to trading was first made or where the instrument was first traded.~~
3. ~~In the case of a transferable security within the meaning of Article 4(1)(44)(b) of Directive 2014/65/EU or a money market instrument whose issuer is established in the Union, the most relevant market shall be the market of the Member State where the registered office of the issuer is situated.~~
4. ~~In the case of a transferable security within the meaning of Article 4(1)(44)(b) of Directive 2014/65/EU or a money market instrument whose issuer is established outside the Union, the most relevant market shall be the market of the Member State~~

where the request for admission to trading of that financial instrument was first made or where the financial instrument was first traded on a trading venue.

5. In the case of a financial instrument which is a derivative contract or a contract for difference or a transferable security within the meaning of Article 4(1)(44)(c) of Directive 2014/65/EU, the most relevant market shall be determined as follows:
- (a) where the underlying in the financial instrument is a transferable security within the meaning of Article 4(1)(44)(a) of Directive 2014/65/EU or an emission allowance which is admitted to trading on a regulated market or is traded on an MTF, the most relevant market shall be the market deemed to be the most relevant market for the underlying security in accordance with paragraph 1 or 2 of this Article;
  - (b) where the underlying in a financial instrument is a transferable security within the meaning of Article 4(1)(44)(b) of Directive 2014/65/EU or a money market instrument which is admitted to trading on a regulated market or traded on an MTF or an OTF the most relevant market shall be the market deemed to be the most relevant market for the underlying financial instrument in accordance with paragraph 3 or 4 of this Article;
  - (c) where the underlying in a financial instrument is a basket which contains financial instruments, the most relevant market shall be the market of the Member State in which the financial instrument was first admitted to trading or traded on a trading venue;
  - (d) where the underlying in a financial instrument is an index which contains financial instruments, the most relevant market shall be the market of the Member State in which the financial instrument was first admitted to trading or traded on a trading venue;
  - (e) where the underlying of the financial instrument is a derivative admitted to trading or traded on a trading venue, the most relevant market shall be the market of the Member State in which that derivative is admitted to trading or traded on a trading venue.
6. For financial instruments that are not covered by paragraphs 1 to 5, the most relevant market shall be the market of the Member State of the trading venue which first admitted the financial instrument to trading or on which the financial instrument was first traded.

...

This Regulation shall be binding in its entirety and directly applicable in all Member States.

...

## ANNEX

...

Table 2

**Details to be reported in transaction reports**

All fields are mandatory, unless stated otherwise.

N	FIELD	CONTENT TO BE REPORTED	FORMAT AND STANDARDS TO BE
...			
3	Trading venue transaction identification code	This is a number generated by <u>UK or Union</u> trading venues and disseminated to both the buying and the selling parties in accordance with Article 12 of Commission Delegated Regulation (EU) 2017/580. This field is only required for the market side of a transaction executed on a <u>UK or Union</u> trading venue.	{ALPHANUM-52}
...			
5	Investment Firm covered by Directive 2014/65/EU	Indicates whether the entity identified in field 4 is <del>an investment firm covered by Article 4(1) of Directive 2014/65/EU</del> a <u>MiFID investment firm</u>	'true'- yes 'false'- no
6	Submitting entity identification code	Code used to identify the entity submitting the transaction report to the competent authority in accordance with Article 26(7) of Regulation (EU) No 600/2014. Where the report is submitted by the executing firm directly to the competent authority, it shall be populated with the LEI of the executing firm (where the executing firm is a legal entity). Where the report is submitted by a trading venue, it shall be populated with the LEI of the operator of the trading venue. Where the report is submitted by an ARM, it shall be populated with the LEI of the ARM.	{LEI}

**Buyer details**

- For joint accounts fields 7-11 shall be repeated for each buyer.
- Where the transaction is for a transmitted order that has met the conditions for transmission set out in Article 4, the information in fields 7-15 shall be populated by the receiving firm in the receiving firm's report with the information received from the transmitting firm.
- Where the transmission is for a transmitted order that has not met the conditions for transmission set out in Article 4 the receiving firm shall treat the transmitting firm as the buyer

7	Buyer identification code	<p>Code used to identify the acquirer of the financial instrument.</p> <p>Where the acquirer is a legal entity, the LEI code of the acquirer shall be used.</p> <p>Where the acquirer is a non-legal entity, the identifier specified in Article 6 shall be used.</p> <p>Where the transaction was executed on:</p> <p>a <u>UK or Union</u> trading venue or on an organised trading platform outside of the <u>United Kingdom or the Union</u> that utilises a central counterparty (CCP) and where the identity of the acquirer is not disclosed, the LEI code of the CCP shall be used.</p> <p>Where the transaction was executed on a <u>UK or Union</u> trading venue or on an organised trading platform outside of the <u>United Kingdom or the Union</u> that does not utilise a CCP and where the identity of the acquirer is not disclosed, the MIC code of the trading venue or of the organised trading platform outside of the <u>United Kingdom or the Union</u> shall be used.</p> <p>...</p>	<p>{LEI}</p> <p>{MIC}</p> <p>{NATIONAL_ID}</p> <p>}</p> <p>'INTC'</p>
8	Country of the branch for the buyer	<p>Where the acquirer is a client, this field shall identify the country of the branch that received the order from the client or made an investment decision for a client in accordance with a discretionary mandate given to it by the client as required by Article 14(3).</p>	<p>{COUNTRYCODE_2}</p>

		<p>Where this activity was not conducted by a branch this shall be populated with the country code of the <del>home Member State of the investment firm or the country code of</del> the country where the investment firm has established its head office or registered office (<del>in the case of third country firms</del>).</p> <p>Where the transaction is for a transmitted order that has met the conditions for transmission set out in Article 4, this field shall be populated using the information received from the transmitting firm.</p>	
...			
16	Seller identification code	<p>Code used to identify the disposer of the financial instrument.</p> <p>Where the disposer is a legal entity, the LEI code of the disposer shall be used.</p> <p>Where the disposer is a non-legal entity, the identifier specified in Article 6 shall be used.</p> <p>Where the transaction was executed on a <u>UK or Union</u> trading venue or on an organised trading platform outside of the <u>United Kingdom or the Union</u> that utilises a CCP and where the identity of the disposer is not disclosed, the LEI code of the CCP shall be used.</p> <p>Where the transaction was executed on a <u>UK or Union</u> trading venue or on an organised trading platform outside of the <u>United Kingdom or the Union</u> that does not utilise a CCP and where the identity of the disposer is not disclosed, the MIC code of the trading venue or of the organised trading platform outside of the <u>United Kingdom or the Union</u> shall be used.</p> <p>...</p>	<p>{LEI}          {MIC}          {NATIONAL_ID          }          'INTC'</p>
...			

28	Trading date time	<p>Date and time when the transaction was executed.</p> <p>For transactions executed on a <u>UK or Union</u> trading venue, the level of granularity shall be in accordance with the requirements set out in Article of Commission Delegated Regulation (EU) 2017/574 (2).</p> <p>For transactions not executed on a <u>UK or Union</u> trading venue, the date and time shall be when the parties agree the content of the following fields: quantity, price, currencies in fields 31, 34 and 44, instrument identification code, instrument classification and underlying instrument code, where applicable.</p> <p>For transactions not executed on a <u>UK or Union</u> trading venue the time reported shall be at least to the nearest second.</p> <p>Where the transaction results from an order transmitted by the executing firm on behalf of a client to a third party where the conditions for transmission set out in Article 4 were not satisfied, this shall be the date and time of the transaction rather than the time of the order transmission.</p>	{DATE_TIME_FORMAT}
...			

36	Venue	<p>Identification of the venue where the transaction was executed. Use the ISO 10383 segment MIC for transactions executed on a <u>UK or Union</u> trading venue, a <u>UK or Union</u> Systematic Internaliser (SI) or organised trading platform outside of the <u>United Kingdom or the Union</u>. Where the segment MIC does not exist, use the operating MIC.</p> <p>Use MIC code 'XOFF' for financial instruments admitted to trading, or traded on a <u>UK or Union</u> trading venue or for which a request for admission was made to a <u>UK or Union</u> trading venue, where the transaction on that financial instrument is not executed on a <u>UK or Union</u> trading venue, <u>UK or Union</u> SI or organised trading platform outside of the <u>United Kingdom or the Union</u> , or where an investment firm does not know it is trading with another investment firm acting as <del>an</del> a <u>UK or Union</u> SI.</p> <p>Use MIC code 'XXXX' for financial instruments that are not admitted to trading or traded on a <u>UK or Union</u> trading venue or for which no request for admission has been made and that are not traded on an organised trading platform outside of the <u>United Kingdom or the Union</u> but where the underlying is admitted to trading or traded on a <u>UK or Union</u> trading venue.</p>	{MIC}
37	Country of the branch membership	<p>Code used to identify the country of a branch of the investment firm whose market membership was used to execute the transaction.</p> <p>Where a branch's market membership was not used, this field shall be populated with the country code of the <del>home Member State of the</del> investment firm or the country where the firm has established its head office or registered office (<del>in the case of third country firms</del>).</p> <p>This field shall only be populated for the market side of a transaction executed on a <u>UK or Union</u> trading venue or on an organised trading platform outside of the <u>United Kingdom or the Union</u>.</p>	{COUNTRY CODE_2}
...			

41	Instrument identification code	Code used to identify the financial instrument This field applies to financial instruments for which a re-quest for admission to trading has been made to a <u>UK</u> or Union trading venue, that are admitted to trading or traded on a <u>UK or Union</u> trading venue or on a <u>UK or Union</u> systematic internaliser. It also applies to financial instruments which have an ISIN and are traded on organised trading platform outside of the <u>United Kingdom or the Union</u> where the underlying is a financial instrument traded on a <u>UK or Union</u> trading venue.	{ISIN}
<p><b>Fields 42-56 are not applicable where:</b>  <b>transactions are executed on a <u>UK or Union</u> trading venue or with an investment firm acting as a <u>UK or Union</u> SI; or</b>  <b>field 41 is populated with an ISIN that exists on the reference data list from ESMA</b></p>			
...			
58	Country of the branch supervising the person responsible for the investment decision	Code used to identify the country of the branch of the investment firm for the person responsible for the investment decision, as set out in Article 14(3)(b). Where the person responsible for the investment decision was not supervised by a branch, this field shall be populated with the country code of <del>the home Member State of the investment firm or the country code</del> of the country where the firm has established its head office or registered office ( <del>in the case of third country firms</del> ).	{COUNTRYCODE_2}
...			

60	Country of the branch supervising the person responsible for the execution	Code used to identify the country of the branch of the investment firm for the person responsible for the execution of the transaction, as set out in Article 14(3)(c). Where the person responsible was not supervised by a branch, this field shall be populated with the country code of the <del>home Member State of the investment firm</del> country code of the country where the firm has established its head office or registered office <del>(in the case of third country firms)</del> . This field is not applicable when the execution was made by an algorithm.	{COUNTRYCODE 2}
...			
64	Commodity derivative indicator	Indication as to whether the transaction reduces risk in an objectively measurable way in accordance with <u>regulation 17 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 Article 57 of Directive 2014/65/EU</u> . Where the transaction is for a transmitted order that has met the conditions for transmission set out in Article 4, this field shall be populated by the receiving firm in the receiving firm's reports using the information received from the transmitting firm. This field is only applicable for commodity derivative transactions.	'true' – yes 'false' – no
...			

...

## Annex H

### **COMMISSION DELEGATED REGULATION (EU) 2017/2194 of 14 August 2017 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to package orders**

~~(Text with EEA relevance)~~

...

#### Article -2

#### **Application**

This technical standard applies in accordance with Regulation 600/2014/EU.

#### Article -1

#### **Interpretation**

Where a term is defined in article 2 Regulation 600/2014/EU, as amended by the Markets in  
Financial Instruments (Amendment) (EU Exit) Regulations 2018, the same definition applies  
for the purposes of this Regulation.

Article 2(1)(62) of Regulation 600/2014/EU shall also apply to references to ‘trading venue’  
in this Regulation.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**Annex I**

**Commission Delegated Regulation (EU) 2017/2417 of 14 August 2017 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to on regulatory technical standards the trading obligation for certain derivatives**

~~(Text with EEA relevance)~~

...

**Article -2****Application**

This Regulation applies to ‘financial counterparties’ and ‘non-financial counterparties’ subject to article 28 of Regulation 600/2014/EU.

**Article -1****Interpretation**

In this Regulation, where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.

**Article 1****Derivatives subject to the trading obligation**

The derivatives set out in the Annex shall be subject to the trading obligation referred to in Article 28 of Regulation (EU) No 600/2014.

A derivative referred to in Table 1, Table 2 and Table 3 of the Annex shall be deemed to have a tenor of 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 15, 20 or 30 years where the period of time between the date at which the obligations under that contract come into effect and the termination date of that contract equals one of those periods of time, plus or minus 5 days.

## Article 2

**Dates from which the trading obligation takes effect**

The trading obligation referred to in Article 28 of Regulation (EU) No 600/2014 shall, for each category of counter-parties referred to in Article 3 of Delegated Regulation (EU) 2015/2205 and Article 3 of Delegated Regulation (EU) 2016/592, take effect from the later of the following dates:

- (a) 3 January 2018;
- (b) the date referred to in Article 3 of Delegated Regulation (EU) 2015/2205 or Article 3 of Delegated Regulation (EU) 2016/592 for that category of counterparties (to the extent operative immediately before exit day).

## Article 3

**Entry into force**

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## TECHNICAL STANDARDS (MIFIR TRANSPARENCY) (EU EXIT) INSTRUMENT 2019

### Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

### Pre-conditions to making

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

### Interpretation

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

### Modifications

- F. The FCA thereafter amends the following EU Regulations in accordance with Annexes A - D of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 2017/587 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments	Annex A

and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser	
Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives	Annex B
Commission Delegated Regulation (EU) 2017/577 of 13 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations	Annex C
Commission Delegated Regulation (EU) 2017/588 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the tick size regime for shares, depositary receipts and exchange-traded funds	Annex D

### Commencement

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

### Citation

H. This instrument may be cited as the Technical Standards (MiFIR Transparency) (EU Exit) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

**COMMISSION DELEGATED REGULATION (EU) 2017/587 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser**

~~(Text with EEA relevance)~~

...

### CHAPTER I GENERAL

#### Article -3

#### **Definitions**

1. In this Regulation, ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018.

#### Article -2

#### **Application**

This Regulation applies to:

- (1) those persons described in Article 1(2) of Regulation 600/2014/EU; and
- (2) the Financial Conduct Authority as a competent authority.

#### Article -1

#### **Interpretation**

1. Where a term is defined in Directive 2014/65/EU (as that directive applied in the European Union immediately before exit day) that definition shall apply for the purposes of this Regulation except where it is defined in article 2 of Regulation No

- 600/2014/EU in which case that definition shall apply for the purposes of this Regulation.
2. The definition of all other terms defined in article 2 of Regulation 600/2014/EU shall apply for the purposes of this Regulation.
  3. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation unless otherwise stated.
  4. Any reference in these Regulations to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by the FCA under FSMA, as the sourcebook has effect on exit day.
  5. The ‘relevant area’ in relation to a financial instrument means the United Kingdom and such other countries or regions as have been specified by the FCA by direction for the purposes of Article 5 or Article 14 of Regulation (EU) No 600/2014, as the context requires.
  6. References to the date of application of Regulation (EU) No 600/2014 mean the date of application of that Regulation in the European Union.

## Article 1

### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘portfolio trade’ means transactions in five or more different financial instruments where those transactions are traded at the same time by the same client and as a single lot against a specific reference price;
- (2) ‘give-up transaction’ or ‘give-in transaction’ means a transaction where an investment firm passes a client trade to, or receives a client trade from, another investment firm for the purpose of post-trade processing;
- (3) ‘securities financing transaction’ means a securities financing transaction as defined in Article 3(6) of Delegated Regulation (EU) 2017/577;
- (4) ~~‘systematic internaliser’ means an investment firm as defined in Article 4(1)(20) of Directive 2014/65/EU of the European Parliament and of the Council;~~
- (5) ‘the Recognition Requirements Regulations’ means the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (SI 2001/995);
- (6) ‘the AIFM Regulations’ means the Alternative Investment Fund Managers Regulations 2013 (SI 2013/1773).

## Article 2

**Transactions not contributing to the price discovery process**

(Article 23(1) of Regulation (EU) No 600/2014)

A transaction in shares does not contribute to the price discovery process where any of the following circumstances apply:

- (a) the transaction is executed by reference to a price that is calculated over multiple time instances according to a given benchmark, including transactions executed by reference to a volume-weighted average price or a time-weighted average price;
- (b) the transaction is part of a portfolio trade;
- (c) the transaction is contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are to be executed only as a single lot;
- (d) the transaction is executed by a management company as defined in ~~Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council~~ section 237(2) of FSMA, or an ~~alternative investment fund manager~~ a UK AIFM as defined in ~~Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council~~ the AIFM Regulations, which transfers the beneficial ownership of shares from one collective investment undertaking to another and where no investment firm is a party to the transaction;
- (e) the transaction is a give-up transaction or a give-in transaction;
- (f) the purpose of the transaction is to transfer shares as collateral in bilateral transactions or in the context of central counterparty (CCP) margin or collateral requirements or as part of the default management process of a CCP;
- (g) the transaction results in the delivery of shares in the context of the exercise of convertible bonds, options, covered warrants or other similar derivatives;
- (h) the transaction is a securities financing transaction;
- (i) the transaction is carried out under the rules or procedures of a trading venue, a CCP or a central securities depository to effect a buy-in of unsettled transactions in accordance with Regulation (EU) No 909/2014 (or a similar third country law for the same type of transactions, where applicable).

...

## Article 4

**Most relevant market in terms of liquidity**

(Article 4(1)(a) of Regulation (EU) No 600/2014)

- 1. For the purposes of this Article, Article 2(1)(62) of Regulation 600/2014/EU shall not apply.

1. For the purposes of Article 4(1)(a) of Regulation (EU) No 600/2014, the most relevant market in terms of liquidity for a share, depositary receipt, ETF, certificate or other similar financial instrument shall be considered to be the trading venue with the highest turnover within the Union relevant area for that financial instrument.
  2. For the purpose of determining the most relevant markets in terms of liquidity in accordance with paragraph 1, ~~competent authorities~~ the FCA shall calculate the turnover in accordance with the methodology set out in Article 17(4) in respect of each financial instrument ~~for which they are the competent authority~~ that is traded on a UK trading venue and for each trading venue in the relevant area where that financial instrument is traded.
  3. The calculation referred to in paragraph 2 shall have the following characteristics:
    - (a) it shall include, for each trading venue in the relevant area, transactions executed under the rules of that trading venue excluding:
      - (i) in the case of UK trading venues, reference price and negotiated transactions flagged as set out in Table 4 of Annex I and transactions executed on the basis of at least one order that has benefitted from a large-in-scale waiver and where the transaction size is above the applicable large-in-scale threshold as determined in accordance with Article 7; and
      - (ii) in the case of non-UK trading venues, transactions benefitting from any similar relief in the form of transparency waivers or otherwise;
    - (b) it shall cover either the preceding calendar year or, where applicable, the period of the preceding calendar year during which the financial instrument was admitted to trading or traded on a UK trading venue and was not suspended from trading.
  4. Until the most relevant market in terms of liquidity for a specific financial instrument is determined in accordance with the procedure specified in paragraphs 1 to 3, the most relevant market in terms of liquidity shall be the trading venue in the relevant area where that financial instrument is first admitted to trading or first traded.
  5. Paragraphs 2 and 3 shall not apply to shares, depositary receipts, ETFs, certificates and other similar financial instruments which were first admitted to trading or first traded on a UK trading venue four weeks or less before the end of the preceding calendar year.
- ...

#### Article 6

#### **Negotiated transactions subject to conditions other than the current market price**

(Article 4(1)(b) of Regulation (EU) No 600/2014)

A negotiated transaction in shares, depositary receipts, ETFs, certificates and other similar financial instruments shall be subject to conditions other than the current market price of the financial instrument where any of the following circumstances applies:

- (a) the transaction is executed in reference to a price that is calculated over multiple time instances according to a given benchmark, including transactions executed by reference to a volume-weighted average price or a time-weighted average price;
- (b) the transaction is part of a portfolio trade;
- (c) the transaction is contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are meant to be executed as a single lot;
- (d) the transaction is executed by a management company as defined in ~~Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council section 237(2) of FSMA, or an alternative investment fund manager a UK AIFM as defined in Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council~~ the AIFM Regulations, or a third country AIFM as defined in the AIFM Regulations, which transfers the beneficial ownership of shares from one collective investment undertaking to another and where no investment firm is a party to the transaction;
- (e) the transaction is a give-up transaction or a give-in transaction;
- (f) the transaction has as its purpose the transferring of financial instruments as collateral in bilateral transactions or in the context of a CCP margin or collateral requirements or as part of the default management process of a CCP;
- (g) the transaction results in the delivery of financial instruments in the context of the exercise of convertible bonds, options, covered warrants or other similar financial derivative;
- (h) the transaction is a securities financing transaction;
- (i) the transaction is carried out under the rules or procedures of a trading venue, a CCP or a central securities depository to effect buy-in of unsettled transactions in accordance with Regulation (EU) No 909/2014 (or similar third country law for the same type of transactions, where applicable);
- (j) any other transaction equivalent to one of those described in points (a) to (i) in that it is contingent on technical characteristics which are unrelated to the current market valuation of the financial instrument traded.

## Article 7

### **Orders that are large in scale**

(Article 4(1)(c) of Regulation (EU) No 600/2014)

1. An order in respect of a share, depositary receipt, certificate or other similar financial instrument shall be considered to be large in scale where the order is equal to or larger than the minimum size of orders set out in Tables 1 and 2 of Annex II.
2. An order in respect of an ETF shall be considered to be large in scale where the order is equal to or larger than EUR 1 000 000.
3. For the purpose of determining orders that are large in scale, ~~competent authorities~~ the FCA shall calculate, in accordance with paragraph 4, the average daily turnover in

respect of shares, depositary receipts, certificates and other similar financial instruments traded on a trading venue.

4. The calculation referred to in paragraph 3 shall have the following characteristics:
  - (a) it shall include transactions executed in the ~~Union~~ relevant area in respect of the financial instrument, whether traded on or outside a trading venue;
  - (b) it shall cover the period beginning on 1 January of the preceding calendar year and ending on 31 December of the preceding calendar year or, where applicable, that part of the calendar year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

Paragraphs 3 and 4 shall not apply to shares, depositary receipts, certificates and other similar financial instruments first admitted to trading or first traded on a trading venue four weeks or less before the end of the preceding calendar year.

5. Unless the price or other relevant conditions for the execution of an order are amended, the waiver referred to in Article 4(1) of Regulation (EU) No 600/2014 shall continue to apply in respect of an order that is large in scale when entered into an order book but that, following partial execution, falls below the threshold applicable for that financial instrument as determined in accordance with paragraphs 1 and 2.
6. Before a share, depositary receipt, certificate or other similar financial instrument is traded for the first time on a trading venue ~~in the Union~~, the ~~competent authority~~ FCA shall estimate the average daily turnover for that financial instrument taking into account any previous trading history of that financial instrument and of other financial instruments that are considered to have similar characteristics, and ensure publication of that estimate.
7. The estimated average daily turnover referred to in paragraph 6 shall be used for the calculation of orders that are large in scale during a six-week period following the date that the share, depositary receipt, certificate or other similar financial instrument was admitted to trading or first traded on a trading venue.
8. The ~~competent authority~~ FCA shall calculate and ensure publication of the average daily turnover based on the first four weeks of trading before the end of the six-week period referred to in paragraph 7.
9. The average daily turnover referred to in paragraph 8 shall be used for the calculation of orders that are large in scale and until an average daily turnover calculated in accordance with paragraph 3 applies.
10. For the purposes of this Article, the average daily turnover shall be calculated by dividing the total turnover for a particular financial instrument as specified in Article 17(4) by the number of trading days in the period considered. The number of trading days in the period considered is the number of trading days on the most relevant market in terms of liquidity for that financial instrument as determined in accordance with Article 4.

...

## Section 2

**Pre-trade transparency for systematic internalisers and investment firms trading outside a trading venue**

## Article 9

**Arrangements for the publication of a firm quote**

(Article 14(1) of Regulation (EU) No 600/2014)

Any arrangement that a systematic internaliser adopts in order to comply with the obligation to make public firm quotes shall satisfy the following conditions:

- (a) the arrangement includes all reasonable steps necessary to ensure that the information to be published is reliable, monitored continuously for errors, and corrected as soon as errors are detected;
- (b) the arrangement complies with technical arrangements equivalent to those specified for approved publication arrangements (APAs) in Article 15 of Delegated Regulation (EU) 2017/571 that facilitate the consolidation of the data with similar data from other sources;
- (c) the arrangement makes the information available to the public on a non-discriminatory basis;
- (d) the arrangement includes the publication of the time the quotes have been entered or amended in accordance with ~~Article 50 of Directive 2014/65/EU~~ paragraph 3H of the schedule to the Recognition Requirements Regulations, rule 5.3A.17 or rule 5A.5.17 of the Market Conduct sourcebook (as applicable) as specified in Commission Delegated Regulation (EU) 2017/574.

...

## Article 11

**Standard market size**

(Article 14(2) and (4) of Regulation (EU) No 600/2014)

1. The standard market size for shares, depositary receipts, ETFs, certificates and other similar financial instruments for which there is a liquid market shall be determined on the basis of the average value of transactions for each financial instrument calculated in accordance with paragraphs 2 and 3 and in accordance with Table 3 of Annex II.
2. For the purpose of determining the standard market size which is applicable to a specific financial instrument as set out in paragraph 1, ~~competent authorities~~ the FCA shall calculate the average value of transactions in respect of all the shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue for which there is a liquid market ~~and for which they are the competent authority~~.
3. The calculation referred to in paragraph 2 shall have the following characteristics:

- (a) it shall take into account the transactions executed in the ~~Union~~ relevant area in respect of the financial instrument concerned whether executed on or outside a trading venue;
- (b) it shall cover either the preceding calendar year or, where applicable, the period of the preceding calendar year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading;
- (c) it shall exclude post-trade large-in-scale transactions as set out in Table 4 of Annex I and any transactions benefitting from any similar relief under a third country regime in the form of a transparency waiver or otherwise.

Paragraphs 2 and 3 shall not apply to shares, depositary receipts, ETFs, certificates and other similar financial instruments first admitted to trading or first traded on a trading venue four weeks or less before the end of the preceding calendar year.

4. Before a share, depositary receipt, ETF, certificate or other similar financial instrument is traded for the first time on a trading venue ~~in the Union~~, the ~~competent authority~~ FCA shall estimate the average daily turnover for that financial instrument taking into account any previous trading history of that financial instrument and of other financial instruments that are considered to have similar characteristics, and ensure publication of that estimate.
5. The estimated average value of transactions laid down in paragraph 4 shall be used as the standard market size for a share, depositary receipt, ETF, certificate or other similar financial instrument during a six-week period following the date that the share, depositary receipt, ETF, certificate or other similar financial instrument was first admitted to trading or first traded on a trading venue.
6. The ~~competent authority~~ FCA shall calculate and ensure publication of the average value of transactions based on the first four weeks of trading before the end of the six-week period referred to in paragraph 5.
7. The average value of transactions in paragraph 6 shall apply immediately after its publication and until a new average value of transactions calculated in accordance with paragraphs 2 and 3 applies.
8. For the purposes of this Article, the average value of transactions shall be calculated by dividing the total turnover for a particular financial instrument as set out in Article 17(4) by the total number of transactions executed for that financial instrument in the period considered.

...

## Article 13

**Application of post-trade transparency to certain types of transactions executed outside a trading venue**

(Article 20(1) of Regulation (EU) No 600/2014)

The obligation in Article 20(1) of Regulation (EU) No 600/2014 shall not apply to the following:

- (a) excluded transactions listed under Article 2(5) of Commission Delegated Regulation (EU) 2017/590 where applicable;
- (b) transactions executed by a management company as defined in ~~Article 2(1)(b) of Directive 2009/65/EC section 237(2) of FSMA, or an alternative investment fund manager~~ a UK AIFM as defined in Article 4(1)(b) of Directive 2011/61/EU the AIFM Regulations, or a third country AIFM as defined in the AIFM Regulations, which transfers the beneficial ownership of financial instruments from one collective investment undertaking to another and where no investment firm is a party to the transaction;
- (c) give-up transactions and give-in transactions;
- (d) transfers of financial instruments as collateral in bilateral transactions or in the context of a CCP margin or collateral requirements or as part of the default management process of a CCP.

...

## Article 15

**Deferred publication of transactions**

(Article 7(1) and 20(1) and (2) of Regulation (EU) No 600/2014)

1. Where ~~a competent authority~~ the FCA authorises the deferred publication of the details of transactions pursuant to Article 7(1) of Regulation (EU) No 600/2014, market operators and investment firms operating a trading venue and investment firms trading outside a trading venue shall make public each transaction no later than at the end of the relevant period set out in Tables 4, 5 and 6 of Annex II provided that the following criteria are satisfied:
  - (a) the transaction is between an investment firm dealing on own account other than through matched principal trading and another counterparty;
  - (b) the size of the transaction is equal to or exceeds the relevant minimum qualifying size specified in Tables 4, 5 or 6 of Annex II, as appropriate.
2. The relevant minimum qualifying size for the purposes of point (b) in paragraph 1 shall be determined in accordance with the average daily turnover calculated as set out in Article 7.

3. For transactions for which deferred publication is permitted until the end of the trading day as specified in Tables 4, 5 and 6 of Annex II, investment firms trading outside a trading venue and market operators and investment firms operating a trading venue shall make public the details of those transactions either:
- (a) as close to real-time as possible after the end of the trading day which includes the closing auction, where applicable, for transactions executed more than two hours before the end of the trading day;
  - (b) no later than noon local time on the next trading day for transactions not covered in point (a).

For transactions that take place outside a trading venue, references to trading days and closing auctions shall be those of the most relevant market in terms of liquidity as determined in accordance with Article 4.

4. ~~Where a transaction between two investment firms is executed outside the rules of a trading venue, the competent authority for the purpose of determining the applicable deferral regime shall be the competent authority of the investment firm responsible for making the trade public through an APA in accordance with paragraphs 5 and 6 of Article 12.~~

...

#### Article 17

### **Methodology, date of publication and date of application of the transparency calculations**

(Article 22(1) of Regulation (EU) No 600/2014)

1. At the latest 14 months after the date of the entry into application of Regulation (EU) No 600/2014 and by 1 March of each year thereafter, ~~competent authorities~~ the FCA shall, in relation to each financial instrument ~~for which they are the competent authority that is traded on a trading venue~~, collect the data, calculate and ensure publication of the following information:
- (a) the trading venue which is the most relevant market in terms of liquidity as set out in Article 4(2);
  - (b) the average daily turnover for the purpose of identifying the size of orders that are large in scale as set out in Article 7(3);
  - (c) the average value of transactions for the purpose of determining the standard market size as set out in Article 11(2).
2. ~~Competent authorities~~ The FCA, market operators and investment firms including investment firms operating a trading venue shall use the information published in accordance with paragraph 1 for the purposes of points (a) and (c) of Article 4(1) and paragraphs 2 and 4 of Article 14 of Regulation (EU) No 600/2014, for a period of 12 months from 1 April of the year in which the information is published.

Where the information referred to in the first subparagraph is replaced by new information pursuant to paragraph 3 during the 12-month period referred to therein,

competent authorities, market operators and investment firms including investment firms operating a trading venue shall use that new information for the purposes of points (a) and (c) of Article 4(1) and paragraphs 2 and 4 of Article 14 of Regulation (EU) No 600/2014.

3. ~~Competent authorities~~ The FCA shall ensure that the information to be made public pursuant to paragraph 1 is updated on a regular basis for the purposes of Regulation (EU) No 600/2014 and that all changes to a specific share, depositary receipt, ETF, certificate or other similar financial instrument which significantly affects the previous calculations and the published information are included in such updates.
4. For the purposes of the calculations referred to in paragraph 1, the turnover in relation to a financial instrument shall be calculated by summing the results of multiplying, for each transaction executed during a defined period of time, the number of units of that instrument exchanged between the buyers and sellers by the unit price applicable to such transaction.
5. After the end of the trading day, but before the end of the day, trading venues shall submit to ~~Competent authorities~~ the FCA the details set out in Tables 1 and 2 of Annex III whenever the financial instrument is admitted to trading or first traded on that trading venue or whenever those previously submitted details have changed.

#### Article 17A

#### **Transitional period for publication of transparency calculations**

1. Article 2(1)(62) of Regulation 600/2014/EU does not apply to this Article.
2. For the purposes of this Article, the term ‘transitional period’ has the same meaning as under Article 5(3A) of Regulation 600/2014/EU.
3. During the transitional period and until the FCA makes a publication under Articles 4, 7, 11 or 17 in relation to the financial instrument in question, the most relevant market, average daily turnover and average value of transactions in respect of a share, depositary receipt, ETF, certificate or other similar financial instrument for the purposes of retained EU law relating to markets in financial instruments shall be as follows in (a) or (b), subject to (c):
  - (a) that stated in the most recent information published before exit day under Article 7(6), 7(8), 11(4), 11(6) or 19 (whichever is the most recent) by the competent authority in the European Union for the relevant instrument under Article 18 as it applied in the European Union before exit day (including the FCA); or
  - (b) if no such information was published by that competent authority in the European Union in respect of a financial instrument under those provisions before exit day:
    - (i) the most relevant market for that financial instrument shall be the trading venue in the relevant area where that financial instrument is first admitted to trading; and
    - (ii) the average daily turnover and average value of transactions for that financial instrument shall be that estimated by the FCA, taking into

- account any previous trading history of that financial instrument and of other financial instruments that are considered to have similar characteristics, and published on exit day; and
- (c) if information was published before exit day under Article 17(1) or 17(3) by the competent authority in the European Union for the relevant instrument under Article 18 as it applied in the European Union before exit day (including the FCA), but the information was not required to be used under Article 17(2) before exit day, then the most relevant market, average daily turnover and average value of transactions shall become that stated in such information from the point at which it would have been required to be used under Article 17(2) as it applied in the European Union before exit day, provided that the calculations used to produce that information did not exclude trading in the UK for the relevant period.
4. From exit day and during the transitional period, the FCA's obligations to perform calculations and publish information under Articles 4, 7, 11, and 17 are modified as follows:
- (a) where the FCA publishes information under Article 17(1) or 17(3):
- (i) it shall publish what appears to it to be the most relevant market in terms of liquidity, the average daily turnover and the average value of transactions as applicable;
- (ii) it is not required to follow the relevant methodology in Article 4(2), Article 7(3) or Article 11(2) (as applicable), but where it does not:
- it must have regard to the relevant methodology; and
  - it may take into account any information available in relation to trading of the financial instrument in question in the United Kingdom or in any other country; and
- (iii) in the case of a publication under Article 17(1), it shall ensure publication by five working days after 1 March;
- (b) where the FCA publishes information under Article 7(8) or 11(6) it shall publish what appears to it to be the average daily turnover and the average value of transactions as applicable, and it may take into account any information available in relation to trading of the financial instrument in question in the United Kingdom or in any other country.

## Article 18

### Reference to competent authorities

(Article 22(1) of Regulation (EU) No 600/2014)

~~The competent authority for a specific financial instrument responsible for performing the calculations and ensuring the publication of the information referred to in Articles 4, 7, 11 and 17 shall be the competent authority of the most relevant market in terms of liquidity in Article 26 of Regulation (EU) No 600/2014 and specified in Article 16 of Delegated Regulation (EU) 2017/571.~~

...

Article 20

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX I

**Information to be made public**

...

Table 3

**List of details for the purpose of post-trade transparency**

<b>Field identifier</b>	<b>Description and details to be published</b>	<b>Type of execution or publication venue Format to be populated as defined in Table 2</b>	<b>Format to be populated as defined in Table 2</b>
...			
Venue of execution	Identification of the venue where the transaction was executed. Use the ISO 10383 segment MIC for transactions executed on a trading venue. Where the segment MIC does not exist, use the operating MIC. Use MIC code 'XOFF' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is not executed on a trading venue, systematic internaliser or	RM, MTF APA CTP	trading venues: {MIC} Systematic internalisers: 'SINT'

	organised trading platform outside of the <del>Union</del> <u>UK</u> .  Use SINT for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is executed on a Systematic Internaliser.		
...			
Venue of Publication	Code used to identify the trading venue or APA publishing the transaction	CTP	trading venue: {MIC}  APA: ISO 10383 segment MIC (4 characters) where available. Otherwise, 4-character code as published in the list of data reporting services providers on <del>ESMA's</del> <u>the FCA</u> website.
...			

Table 4

**List of flags for the purpose of post-trade transparency**

Flag	Name	Type of execution or publication venue	Description
...			
ALGO	Algorithmic transaction flag	RM, MTF CTP	Transactions executed as a result of an investment firm engaging in

			algorithmic trading as defined in <u>Article 4(1)(39) of Directive 2014/65/EU Regulation 2(1) of The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (SI 2017/701).</u>
...			

...

## ANNEX III

**Reference data to be provided for the purpose of transparency calculations**

...

Table 2

**Details of the reference data to be provided for the purpose of transparency calculations**

#	Field	Details to be reported	Format and standards for reporting
...			
4	MiFIR identifier	Identification of equity financial instruments  <b>Shares</b> as referred to in <u>Article 4(44)(a) of Directive 2014/65/EU Article 2(1)(24)(a)</u>	Equity financial instruments: SHRS = shares ETFs = ETFs DPRS = depositary receipts CRFT = certificates OTHR = other equity-like financial instruments

		<p><u>of Regulation (EU) No 600/2014;</u></p> <p><b>Depository receipts</b> as defined in Article 4(45) of Directive 2014/65/EU <u>Article 2(1)(25) of Regulation (EU) No 600/2014;</u></p> <p><b>ETF</b> as defined in Article 4(46) of Directive 2014/65/EU <u>Article 2(1)(26) of Regulation (EU) No 600/2014;</u></p> <p><b>Certificates</b> as defined in Article 2(1)(27) of Regulation (EU) No 600/2014;</p> <p><b>Other equity-like financial instrument</b> is a transferable security which is an equity instrument similar to a share, ETF, depository receipt or certificate but other than a share, ETF, depository receipt or certificate.</p>	
--	--	--	--

**Annex B**

**COMMISSION DELEGATED REGULATION (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives**

~~(Text with EEA relevance)~~

## CHAPTER I

## GENERAL

Article -3**Definitions**

1. In this Regulation, ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2**Application**

This Regulation applies to:

1. those persons described in Article 1(2) of Regulation 600/2014/EU; and
2. the Financial Conduct Authority as a competent authority.

Article -1**Interpretation**

1. Where a term is defined in Directive 2014/65/EU (as that directive applied in the European Union immediately before exit day) that definition shall apply for the purposes of this Regulation except where it is defined in article 2 of Regulation 600/2014/EU in which case that definition shall apply for the purposes of this Regulation.
2. The definition of all other terms defined in article 2 of Regulation 600/2014/EU shall apply for the purposes of this Regulation save where the context otherwise requires.
3. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation unless otherwise stated.

4. The ‘relevant area’ in relation to a financial instrument means the United Kingdom and such other countries or regions as have been specified by the FCA by direction for the purposes of Article 5 or Article 14 of Regulation (EU) No 600/2014, as the context requires.
5. References to the date of application of Regulation (EU) No 600/2014 mean the date of application of that Regulation in the European Union.

## Article 1

### **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

1. ‘package transaction’ means either of the following:
  - (a) a transaction in a derivative contract or other financial instrument contingent on the simultaneous execution of a transaction in an equivalent quantity of an underlying physical asset (Exchange for Physical or EFP);
  - (b) a transaction which involves the execution of two or more component transactions in financial instruments; and:
    - (i) which is executed between two or more counterparties;
    - (ii) where each component of the transaction bears meaningful economic or financial risk related to all the other components;
    - (iii) where the execution of each component is simultaneous and contingent upon the execution of all the other components;
2. ‘request-for-quote system’ means a trading system where the following conditions are met:
  - (a) a quote or quotes by a member or participant are provided in response to a request for a quote submitted by one or more other members or participants;
  - (b) the quote is executable exclusively by the requesting member or participant;
  - (c) the requesting member or market participant may conclude a transaction by accepting the quote or quotes provided to it on request;
3. ‘voice trading system’ means a trading system where transactions between members are arranged through voice negotiation;
4. ‘the AIFM Regulations’ means the Alternative Investment Fund Managers Regulations 2013 (SI 2013/1773).

...

## Article 7

**Post-trade transparency obligations**

(Article 10(1) and Article 21(1) and (5) of Regulation (EU) No 600/2014)

...

4. Post-trade information shall be made available as close to real time as is technically possible and in any case:
- (a) for the first three years from the date of application of Regulation (EU) No 600/2014, within 15 minutes after the execution of the relevant transaction;
  - (b) thereafter, within 5 minutes after the execution of the relevant transaction.

...

## Article 8

**Deferred publication of transactions**

(Article 11(1) and (3) and Article 21(4) of Regulation (EU) No 600/2014)

1. Where ~~a competent authority~~ the FCA authorises the deferred publication of the details of transactions pursuant to Article 11(1) of Regulation (EU) No 600/2014, investment firms trading outside a trading venue and market operators and investment firms operating a trading venue shall make public each transaction no later than 19.00 local time on the second working day after the date of the transaction, provided one of the following conditions is satisfied:
- (a) the transaction is large in scale compared with the normal market size as specified in Article 9;
  - (b) the transaction is in a financial instrument or a class of financial instruments for which there is not a liquid market as specified in accordance with the methodology set out in Article 13;
  - (c) the transaction is executed between an investment firm dealing on own account other than on a matched principal basis ~~(as per Article 4(1)(38) of Directive 2014/65/EU of the European Parliament and of the Council defined in accordance with the definition in effect on exit day for ‘matched principal trading’ in the Glossary to the Handbook of Rules and Guidance published by the FCA)~~ and another counterparty and is above a size specific to the instrument as specified in Article 10;
  - (d) the transaction is a package transaction which meets one of the following criteria:
    - (i) one or more of its components are transactions in financial instruments which do not have a liquid market;

- (ii) one or more of its components are transactions in financial instruments that are large in scale compared with the normal market size as determined by Article 9;
  - (iii) the transaction is executed between an investment firm dealing on own account other than on a matched principal basis (as ~~per Article 4(1)(38) of Directive 2014/65/EU and another counterparty defined in accordance with the definition in effect on exit day for 'matched principal trading' in the Glossary to the Handbook of Rules and Guidance published by the Financial Conduct Authority~~), and one or more of its components are transactions in financial instruments that are above the size specific to the instrument as determined by Article 10.
2. When the time limit of deferral set out in paragraph 1 has lapsed, all the details of the transaction shall be published unless an extended or an indefinite time period of deferral is granted in accordance with Article 11.
  3. ~~Where a transaction between two investment firms, either on own account or on behalf of clients, is executed outside the rules of a trading venue, the relevant competent authority for the purposes of determining the applicable deferral regime shall be the competent authority of the investment firm responsible for making the trade public through an APA in accordance with paragraphs 5, 6 and 7 of Article 7.~~
- ...

#### Article 11

### **Transparency requirements in conjunction with deferred publication at the discretion of the competent authorities**

(Article 11(3) of Regulation (EU) No 600/2014)

1. Where ~~competent authorities~~ the FCA exercises ~~their~~ its powers in conjunction with an authorisation of deferred publication pursuant to Article 11(3) of Regulation (EU) No 600/2014, the following shall apply:
  - (a) where Article 11(3)(a) of Regulation (EU) No 600/2014 applies, ~~competent authorities~~ the FCA shall request the publication of either of the following information during the full period of deferral as set out in Article 8:
    - (i) all the details of a transaction laid down in Tables 1 and 2 of Annex II with the exception of details relating to volume;
    - (ii) transactions in a daily aggregated form for a minimum number of 5 transactions executed on the same day, to be made public the following working day before 9.00 local time;
  - (b) where Article 11(3)(b) of Regulation (EU) No 600/2014 applies, ~~competent authorities~~ the FCA shall allow the omission of the publication of the volume of an individual transaction for an extended time period of four weeks;

- (c) in respect of non-equity instruments that are not sovereign debt and where Article 11(3)(c) of Regulation (EU) No 600/2014 applies, the ~~competent authority~~ FCA shall allow, for an extended time period of deferral of four weeks, the publication of the aggregation of several transactions executed over the course of one calendar week on the following Tuesday before 9.00 local time;
  - (d) in respect of sovereign debt instruments and where Article 11(3)(d) of Regulation (EU) No 600/2014 applies, ~~competent authorities~~ the FCA shall allow, for an indefinite period of time, the publication of the aggregation of several transactions executed over the course of one calendar week on the following Tuesday before 9.00 local time.
2. Where the extended period of deferral set out in paragraph 1(b) has lapsed, the following requirements shall apply:
- (a) in respect of all instruments that are not sovereign debt, the publication of the full details of all individual transactions, on the next working day before 9.00 local time;
  - (b) in respect of sovereign debt instruments where ~~competent authorities decide~~ the FCA decides not to use the options provided for in Article 11(3)(b) and (d) of Regulation (EU) No 600/2014 consecutively, pursuant to the second subparagraph of Article 11(3) of Regulation (EU) No 600/2014, the publication of the full details of all individual transactions on the next working day before 9.00 local time;
  - (c) in respect of sovereign debt instruments, where ~~competent authorities apply~~ the FCA applies the options provided for in Article 11(3)(b) and (d) of Regulation (EU) No 600/2014 consecutively pursuant to the second subparagraph of Article 11(3) of Regulation (EU) No 600/2014, the publication of several transactions executed in the same calendar week in an aggregated form on the Tuesday following the expiry of the extended period of deferral of four weeks counting from the last day of that calendar week before 9.00 local time.

...

## Article 12

### **Application of post-trade transparency to certain transactions executed outside a trading venue**

(Article 21(1) of Regulation (EU) No 600/2014)

The obligation to make public the volume and price of transactions and the time at which they were concluded as set out in Article 21(1) of Regulation (EU) No 600/2014 shall not apply to any of the following:

- (a) transactions listed in Article 2(5) of Commission Delegated Regulation (EU) 2017/590;

- (b) transactions executed by a management company as defined in ~~Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council section 237(2) of FSMA or an alternative investment fund manager~~, a UK AIFM as defined in ~~Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council~~ the AIFM Regulations, or a third country AIFM as defined in the AIFM Regulations which transfer the beneficial ownership of financial instruments from one collective investment undertaking to another and where no investment firm is a party to the transaction;
- (c) ‘give-up transaction’ or ‘give-in transaction’ which is a transaction where an investment firm passes a client trade to, or receives a client trade from, another investment firm for the purpose of post-trade processing;
- (d) transfers of financial instruments such as collateral in bilateral transactions or in the context of a central counterparty (CCP) margin or collateral requirements or as part of the default management process of a CCP.

## CHAPTER IV

### PROVISIONS COMMON TO PRE-TRADE AND POST-TRADE TRANSPARENCY

#### Article 13

##### **Methodology to perform the transparency calculations**

(Article 9(1) and (2), Article 11(1) and Article 22(1) of Regulation (EU) No 600/2014)

...

- 5. In accordance with Delegated Regulations (EU) 2017/590 and (EU) 2017/577 ~~competent authorities~~ the FCA shall collect on a daily basis the data from trading venues, APAs and CTPs which is necessary to perform the calculations to determine:
  - (a) the financial instruments and classes of financial instruments not having a liquid market as set out in paragraph 1;
  - (b) the sizes large in scale compared to normal market size and the size specific to the instrument as set out in paragraphs 2 and 3.
- 6. ~~Competent authorities performing the calculations for a class of financial instruments shall establish cooperation arrangements between each other as to ensure the aggregation of the data across the Union necessary for the calculations.~~
- 7. For the purpose of paragraph 1(b) and (d), paragraph 2(b) and paragraph 3(b), (c) and (d), ~~competent authorities~~ the FCA shall take into account transactions executed in the ~~Union relevant area~~ between 1 January and 31 December of the preceding year.

...

- 16. After the end of the trading day but before the end of that day, trading venues shall submit to ~~competent authorities~~ the FCA the details included in Annex IV for

performing the calculations referred to in paragraph 5 whenever the financial instrument is admitted to trading or first traded on that trading venue or whenever the details previously provided have changed.

17. ~~Competent authorities~~ The FCA shall ensure the publication of the results of the calculations referred to under paragraph 5 for each financial instrument and class of financial instrument by 30 April of the year following the date of application of Regulation (EU) No 600/2014 and by 30 April of each year thereafter. The results of the calculations shall apply from 1 June each year following publication.
18. For the purposes of the calculations in paragraph 1(b)(i) and by way of derogation from paragraphs 7, 15 and 17, ~~competent authorities~~ the FCA shall, in respect of bonds except ETCs and ETNs, ensure the publication of the calculations referred to under paragraph 5(a) on a quarterly basis, on the first day of February, May, August and November following the date of application of Regulation (EU) No 600/2014 and on the first day of February, May, August and November each year thereafter. The calculations shall include transactions executed in the Union relevant area during the preceding calendar quarter and shall apply for the 3 month period beginning on the sixteenth day of February, May, August and November each year.

...

#### Article 13A

#### **Transitional period for publication of transparency calculations**

1. Article 2(1)(62) of Regulation 600/2014/EU does not apply to this Article.
2. For the purposes of this Article, the term ‘transitional period’ has the same meaning as under Article 5(3A) of Regulation 600/2014/EU.
3. During the transitional period, and until the FCA makes a publication under Article 13 in relation to the financial instrument in question, the determination of whether or not it is liquid, the minimum order and transaction size of the size specific to the financial instrument and the minimum sizes of orders and transactions that are large in scale (as appropriate) in respect of a bond, structured finance product, emission allowance or derivative shall be as follows:
  - (a) that stated in the most recent information published before exit day under Article 13 or 18 (whichever is the most recent) by a competent authority in the European Union (including the FCA), provided the calculations used to produce that information did not exclude trading in the UK for the relevant period; or
  - (b) if no such information was published by a competent authority in the European Union in respect of a financial instrument under those provisions before exit day:
    - (i) the financial instrument shall be considered not to have a liquid market;
    - (ii) the minimum order and transaction size of the size specific to the financial instrument and the minimum sizes of orders and transactions

that are large in scale (as appropriate) shall be that estimated by the FCA, taking into account any previous trading history of that financial instrument and of other financial instruments that are considered to have similar characteristics, and published on exit day.

4. From exit day and during the transitional period the FCA's obligations to perform calculations and publish information under Articles 13(17) and 13(18) are modified as follows:
- (a) it shall publish whether or not the relevant instrument appears to it to be liquid, what appears to it to be the minimum order and transaction size of the size specific to the financial instrument, and the minimum sizes of orders and transactions that are large in scale (as appropriate);
  - (b) it is not required to follow the relevant methodology in Article 3, 5, 6, 9, 10, 13 or 17 (as applicable) but where it does not:
    - it must have regard to the relevant methodology; and
    - it may take into account any information available in relation to trading of the financial instrument in question in the United Kingdom or in any other country; and
  - (c) in the case of a publication under Article 13(17), it shall ensure publication by five working days after 30 April; and
  - (d) in the case of a publication under Article 13(18), it shall ensure publication by five working days after the first day of February, May, August and November.

#### Article 14

#### **Transactions to which the exemption in Article 1(6) of Regulation (EU) No 600/2014 applies**

(Article 1(6) of Regulation (EU) No 600/2014)

A transaction shall be considered to be entered into by a member of the European System of Central Banks (ESCB), the [Treasury] or the Bank of England in performance of monetary, foreign exchange and financial stability policy where that transaction meets any of the following requirements:

- (a) ~~the transaction is carried out for the purposes of monetary policy, including an operation carried out in accordance with Articles 18 and 20 of the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty on European Union or an operation carried out under equivalent national provisions for members of the ESCB in Member States whose currency is not the euro;~~
- (b) ~~the transaction is a foreign-exchange operation, including operations carried out to hold or manage official foreign reserves of the Member States or the reserve management service provided by a member of the ESCB to central banks in other countries to which the exemption has been extended in accordance with Article 1(9) of Regulation (EU) No 600/2014;~~

...

## Article 15

**Transactions to which the exemption in Article 1(6) of Regulation (EU) No 600/2014 does not apply**

(Article 1(7) of Regulation (EU) No 600/2014)

Article 1(6) of Regulation (EU) No 600/2014 shall not apply to the following types of transactions entered into by a member of the ESCB, the [Treasury] or the Bank of England for the performance of an investment operation that is unconnected with that member's performance of one of the tasks referred to in Article 14:

- (a) transactions entered into for the management of its own funds;
- (b) transactions entered into for administrative purposes or for the staff of the member of the ESCB the [Treasury] or the Bank of England which include transactions conducted in the capacity as administrator of a pension scheme for its staff;
- (c) transactions entered into for its investment portfolio pursuant to obligations under national law.

## Article 16

**Temporary suspension of transparency obligations**

(Article 9(5)(a) of Regulation (EU) No 600/2014)

- 1. This Article does not apply in relation to a temporary suspension of obligations under Article 9(4A) or Article 11(2A) of Regulation (EU) No 600/2014.
- 1. For financial instruments for which there is a liquid market in accordance with the methodology set out in Article 13, ~~a competent authority~~ the FCA may temporarily suspend the obligations set out in Articles 8 and 10 Regulation (EU) No 600/2014 where for a class of bonds, structured finance products, emission allowances or derivatives, the total volume as defined in Table 4 of Annex II calculated for the previous 30 calendar days represents less than 40 % of the average monthly volume calculated for the 12 full calendar months preceding those 30 calendar days.
- 2. For financial instruments for which there is not a liquid market in accordance with the methodology set out in Article 13, a competent authority may temporarily suspend the obligations referred to in Articles 8 and 10 of Regulation (EU) No 600/2014 when for a class of bonds, structured finance products, emission allowances or derivatives, the total volume as defined in Table 4 of Annex II calculated for the previous 30 calendar days represents less than 20 % of the average monthly volume calculated for the 12 full calendar months preceding those 30 calendar days.
- 3. ~~Competent authorities~~ The FCA shall take into account the transactions executed on all venues in the ~~Union~~ relevant area for the class of bonds, structured finance products, emission allowances or derivatives concerned when performing the calculations referred to in paragraphs 1 and 2. The calculations shall be performed at

the level of the class of financial instruments to which the liquidity test set out in Article 13 is applied.

4. Before ~~competent authorities decide~~ the FCA decides to suspend transparency obligations, they shall ensure that the significant decline in liquidity across all venues is not the result of seasonal effects of the relevant class of financial instruments on liquidity.

#### Article 17

#### **Provisions for the liquidity assessment for bonds and for the determination of the pre-trade size specific to the instrument thresholds based on trade percentiles**

...

4. ~~ESMA~~ The FCA shall, by 30 July of the year following the date of application of Regulation (EU) No 600/2014 and by 30 July of each year thereafter, submit to the ~~Commission~~ Treasury an assessment of the operation of the thresholds for the liquidity criterion 'average daily number of trades' for bonds as well as ~~the trade percentiles that determine~~ the size specific to the financial instruments covered by paragraph 8. ~~The obligation to submit the assessment of the operation of the thresholds for the liquidity criterion for bonds ceases once S4 in the sequence of paragraph 6 is reached. The obligation to submit the assessment of the trade percentiles ceases once S4 in the sequence of paragraph 8 is reached.~~
5. The assessment referred to in paragraph 4 shall take into account:
  - (a) the evolution of trading volumes in non-equity instruments covered by the pre-trade transparency obligations pursuant to Article 8 and 9 of Regulation (EU) No 600/2014;
  - (b) the impact on liquidity providers of the percentile thresholds used to determine the size specific to the financial instrument; and
  - (c) any other relevant factors.
6. ~~ESMA~~ The FCA shall, in light of the assessment undertaken in accordance with paragraphs 4 and 5, consider its use of the powers to amend this Regulation at regulation 3 of the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (SI 2018/1115) and section 138P of FSMA. ~~submit to the Commission an amended version of the regulatory technical standard adjusting the threshold for the liquidity criterion 'average daily number of trades' for bonds according to the following sequence:~~
  - (a) ~~S2 (10 daily trades) by 30 July of the year following the date of application of Regulation (EU) No 600/2014;~~
  - (b) ~~S3 (7 daily trades) by 30 July of the year thereafter; and~~
  - (c) ~~S4 (2 daily trades) by 30 July of the year thereafter.~~
7. ~~Where ESMA does not submit an amended regulatory technical standard adjusting the threshold to the next stage according to the sequence referred to in paragraph 6, the ESMA assessment undertaken in accordance with paragraphs 4 and 5 shall explain~~

~~why adjusting the threshold to the relevant next stage is not warranted. In this instance, the move to the next stage will be postponed by one year.~~

8. ~~ESMA shall, in light of the assessment undertaken in accordance with paragraphs 4 and 5, submit to the Commission an amended version of the regulatory technical standard adjusting the threshold for trade percentiles according to the following sequence:~~
- ~~(a) S2 (40th percentile) by 30 July of the year following the date of application of Regulation (EU) No 600/2014;~~
  - ~~(b) S3 (50th percentile) by 30 July of the year thereafter; and~~
  - ~~(c) S4 (60th percentile) by 30 July of the year thereafter.~~
9. ~~Where ESMA does not submit an amended regulatory technical standard adjusting the threshold to the next stage according to the sequence referred to in paragraph 8, the ESMA assessment undertaken in accordance with paragraphs 4 and 5 shall explain why adjusting the threshold to the relevant next stage is not warranted. In this instance, the move to the next stage will be postponed by one year.~~

## Article 19

### Entry into force and application

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX II

**Details of transactions to be made available to the public**

...

Table 2

**List of details for the purpose of post-trade transparency**

<b>Details</b>	<b>Financial Instruments</b>	<b>Description/Details to be published</b>	<b>Type of execution / publication</b>	<b>Format to be populated as defined in Table 1</b>
...				
Venue of execution	For all financial instruments	<p>Identification of the venue where the transaction was executed.</p> <p>Use the ISO 10383 segment MIC for transactions executed on a trading venue. Where the segment MIC does not exist, use the operating MIC.</p> <p>Use MIC code 'XOFF' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is not executed on a trading venue or systematic internaliser or organised trading platform outside of the <del>Union</del> UK.</p> <p>Use SINT for financial instrument submitted to trading or traded on a trading</p>	RM, MTF, OTF APA CTP	{MIC} –trading venues 'SINT' — systematic internaliser

		venue, where the transaction on that financial instrument is executed on a Systematic Internaliser.		
...				
Venue of publication	For all financial instruments	Code used to identify the trading venue and APA publishing the trans- action.	CTP	Trading venue: {MIC} APA: {MIC} where available. Otherwise, 4 character code as published in the list of data reporting services providers on <del>ESMA's website</del> <u>the FCA's website</u> .
...				

...

ANNEX III

**Liquidity assessment, LIS and SSTI thresholds for non-equity financial instruments**

...

Table 2.2

**Bonds (all bond types except ETCs and ETNs) — classes not having a liquid market**

<b>Asset class — Bonds (all bond types except ETCs and ETNs)</b>	
Each individual bond shall be determined not to have a liquid market as per Article 13(18) if it is characterised by a specific combination of bond type and issuance size as specified in each row of the table.	
<b>Bond Type</b>	<b>Issuance size</b>

Sovereign Bond	<p>means a bond issued by a sovereign issuer which is either:</p> <p>(a) the <u>European Union</u>;</p> <p>(b) <del>a Member State</del> <u>the United Kingdom</u> including a government department, an agency or a special purpose vehicle of <del>a Member State</del> <u>the United Kingdom</u>;</p> <p>(ba) <u>a State other than the United Kingdom, including a government department, an agency or a special purpose vehicle of the State</u>;</p> <p>(c) a sovereign entity which is not listed under points (a) <del>and (b)</del> <u>to (ba)</u>.</p>	smaller than (in EUR)	1 000 000 000
Other Public Bond	<p>means a bond issued by any of the following public issuers:</p> <p>(a) in the case of a federal <del>Member State</del>, a member of that federation;</p> <p>(b) a special purpose vehicle for several <del>Member States</del>; an international financial institution established by two or more <del>Member States</del> which have the purpose of mobilising funding and providing financial assistance to the benefit of its members that are experiencing or are threatened by severe financial problems;</p> <p>(c) an international financial institution established by two or more <del>Member States</del> which have the purpose of mobilising funding and providing financial assistance to the benefit of its members that are experiencing or are threatened by severe financial problems;</p> <p>(d) the European Investment Bank;</p> <p>(da) <u>the International Finance Corporation</u>;</p>	smaller than (in EUR)	500 000 000

	(db) the International Monetary Fund; (e) a public entity which is not an issuer of a sovereign bond as specified in the previous row.		
Convertible Bond	means an instrument consisting of a bond or a securitised debt instrument with an embedded derivative, such as an option to buy the underlying equity	smaller than (in EUR)	500 000 000
Covered Bond	means bonds as referred to in <del>Article 52(4) of Directive 2009/65/EC</del> <u>Article 4(1)(128A) of Regulation (EU) No 575/2013 of the European Parliament and of the Council</u>	during stages S1 and S2	during stages S3 and S4
		smaller than (in EUR)	1 000 000 000 ...
Corporate Bond	means a bond that is issued by a <del>(i) Societas Europaea established before exit day in accordance with Council Regulation (EC) No 2157/2001;</del> or <del>(ii) a UK Societas or a type of company listed in Article 1 of Directive 2009/101/EC of the European Parliament and of the Council incorporated in the UK with limited liability or equivalent in third countries</del>	during stages S1 and S2	during stages S3 and S4
		smaller than (in EUR)	1 000 000 000 ...
...			

...

Table 4.1

**Securitised derivatives — classes not having a liquid market**

## Asset class — Securitised Derivatives

means a transferable security as defined in ~~Article 4(1)(44)(c) of Directive 2014/65/EU~~ Article (2)(1)(24)(c) of Regulation 600/2014/EU different from structured finance products and should include at least:

...

Table 5.1

**Interest rate derivatives — classes not having a liquid market**

<b>Asset class — Interest Rate Derivatives</b>
<b>any contract as defined in <del>Annex I, Section C(4) of Directive 2014/65/EU</del> <u>paragraph 4 of Part 1 of Schedule 2 to the Regulated Activities Order</u> whose ultimate underlying is an interest rate, a bond, a loan, any basket, portfolio or index including an interest rate, a bond, a loan or any other product representing the performance of an interest rate, a bond, a loan.</b>
...

...

Table 6.1

**Equity derivatives — classes not having a liquid market**

<b>Asset class — Equity Derivatives</b>
any contract as defined <del>Annex I, Section C(4) of Directive 2014/65/EU</del> <u>paragraph 4 of Part 1 of Schedule 2 to the Regulated Activities Order</u> related to:
(a) one or more shares, depositary receipts, ETFs, certificates, other similar financial instruments, cash-flows or other products related to the performance of one or more shares, depositary receipts, ETFs, certificates, or other similar financial instruments;
(b) an index of shares, depositary receipts, ETFs, certificates, other similar financial instruments, cash-flows or other products related to the performance of one or more shares, depositary receipts, ETFs, certificates, or other similar financial instruments
...

...

Table 8.1

**Foreign exchange derivatives — classes not having a liquid market**

<b>Asset class — Foreign Exchange Derivatives</b>
<b>a financial instrument relating to currencies as defined in <del>Section C(4) of Annex I of Directive 2014/65/EU</del> <u>paragraph 4 of Part 1 of Schedule 2 to the Regulated Activities Order</u></b>
...

...

Table 9.1

**Credit derivatives — classes not having a liquid market**

<b>Asset class — Credit Derivatives</b>				
...				
<b>Single name credit default swap (CDS)</b> a swap whose exchange of cash flows is linked to the creditworthiness of one issuer of financial instruments and the occurrence of credit events	a single name credit default swap sub-class is defined by the following segmentation criteria:  <b>Segmentation criterion 1</b> — underlying reference entity  <b>Segmentation criterion 2</b> — underlying reference entity type defined as follows:  ‘Issuer of sovereign and public type’ means an issuer entity which is either: (a) the <u>European Union</u> ;  (b) a <del>Member State</del> <u>the United Kingdom</u>	EUR 10 000 000	10	

	<p>including a government department, an agency or a special purpose vehicle of a <del>Member State</del> <u>the United Kingdom</u>;</p> <p><u>(ba) a State other than the United Kingdom, including a government department, an agency or a special purpose vehicle of the State;</u></p> <p>(c) a sovereign entity which is not listed under points (a) <del>and (b)</del> <u>to (ba)</u>;</p> <p>(d) in the case of a federal <del>Member State</del>, a member of that federation;</p> <p>(e) a special purpose vehicle for several <del>Member States</del>;</p> <p>(f) an international financial institution established by two or more <del>Member States</del> which have the purpose of mobilising funding and providing financial assistance to the benefit of its members that are experiencing or are threatened by severe financial problems;</p> <p>(g) the European Investment Bank;</p> <p><u>(ga) the International Finance Corporation;</u></p> <p><u>(gb) the International Monetary Fund;</u></p>			
--	--	--	--	--

	...			
...				

...

Table 10.1  
**C10 derivatives — classes not having a liquid market**

<b>Asset class — C10 Derivatives</b>			
<b>Sub-asset class</b>	<b>For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below</b>	<b>Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria</b>	
		<b>Average daily notional amount (ADNA)</b> <b>[quantitative liquidity criterion 1]</b>	<b>...</b>
Freight derivatives a financial instrument relating to freight rates as defined in <u>Section C(10) of Annex I of Directive 2014/65/EU paragraph 10 of Part 1 of Schedule 2 to the Regulated Activities Order</u>	...	EUR 10 000 000	10
<b>Asset class — C10 Derivatives</b>			

<b>Sub-asset class</b>	<b>For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied</b>
<b>Other C10 derivatives</b>	
a financial instrument as defined in <del>Section C(10) of Annex I of Directive 2014/65/EU</del> paragraph 10 of Part 1 of Schedule 2 to the <u>Regulated Activities Order</u> which is not a 'Freight derivative', any of the following interest rate derivatives sub- asset classes: 'Inflation multi-currency swap or cross-currency swap', a 'Future/forward on inflation multi-currency swaps or cross-currency ...	any other C10 derivatives is within the meaning of considered not to have a liquid market

...

Table 12.1

**Emission allowances — classes not having a liquid market**

...

Table 13.1

**Emission allowance derivatives — classes not having a liquid market**

...		
<b>Emission allowance derivatives whose underlying is of the type European Union Allowances (EUA)</b> a financial instrument relating to emission allowances of the type European Union Allowances (EUA) as defined in <del>Section C(4) of Annex I of Directive 2014/65/EU</del> paragraph 4 of	150 000 tons of Carbon Dioxide Equivalent	5

<u>Part 1 of Schedule 2 to the Regulated Activities Order</u>		
<p><b>Emission allowance derivatives whose underlying is of the type European Union Aviation Allowances (EUAA)</b></p> <p>a financial instrument relating to emission allowances of the type European Union Aviation Allowances (EUAA) as defined in <del>Section C(4) of Annex I of Directive 2014/65/EU</del> paragraph 4 of Part 1 of Schedule 2 to the Regulated Activities Order</p>	150 000 tons of Carbon Dioxide Equivalent	5
<p><b>Emission allowance derivatives whose underlying is of the type Certified Emission Reductions (CER)</b></p> <p>a financial instrument relating to emission allowances of the type Certified Emission Reductions (CER) as defined in <del>Section C(4) of Annex I of Directive 2014/65/EU</del> paragraph 4 of Part 1 of Schedule 2 to the Regulated Activities Order</p>	150 000 tons of Carbon Dioxide Equivalent	5
<p><b>Emission allowance derivatives whose underlying is of the type Emission Reduction Units (ERU)</b></p> <p>a financial instrument relating to emission allowances of the type Emission Reduction Units (ERU) as defined in <del>Section C(4) of Annex I of Directive 2014/65/EU</del> paragraph 4 of Part 1 of Schedule 2 to the Regulated Activities Order</p>	150 000 tons of Carbon Dioxide Equivalent	5
...		

...

## ANNEX IV

## Reference data to be provided for the purpose of transparency calculations

...

Table 2

## Details of the reference data to be provided for the purpose of transparency calculations

#	FIELD	DETAILS TO BE REPORTED	FORMAT FOR REPORTING
1	Instrument identification code	Code used to identify the financial instrument	{ISIN}
2	Instrument full name	Full name of the financial instrument	{ALPHANUM-350}
3	MiFIR identifier	<p><b>Identification of non-equity financial instruments: Securitised derivatives</b> as defined in Table 4.1 in Section 4 of Annex III</p> <p><b>Structured Finance Products (SFPs)</b> as defined in Article 2(1)(28) of Regulation (EU) No 600/2014</p> <p><b>Bonds</b> (for all bonds except ETCs and ETNs) as defined in <del>Article 4(1)(44)(b) of Directive 2014/65/EU</del> <u>Article (2)(1)(24)(b) of Regulation 600/2014/EU</u></p> <p><b>ETCs</b> as defined in <del>Article 4(1)(44)(b) of Directive 2014/65/EU</del> <u>Article (2)(1)(24)(b) of Regulation 600/2014/EU</u></p> <p>and further specified in Table 2.4 of Section 2 of Annex III <del>ETNs</del> <u>as defined in Article 4(1)(44)(b) of Directive 2014/65/EU Article (2)(1)(24)(b) of Regulation 600/2014/EU</u></p> <p>and further specified in Table 2.4 of Section 2 of Annex III</p> <p><b>Emission allowances</b> as defined in Table 12.1 of Section 12 of Annex III</p> <p><b>Derivative</b> as defined in <del>Annex I, Section C (4) to (10) of Directive 2014/65/EU paragraphs 4 to 10 of Part 1 of Schedule 2 to the Regulated Activities Order</del></p>	<p><b>Non-equity financial instruments:</b></p> <p>‘SDRV’ — Securitised derivatives</p> <p>‘SFPS’ — Structured Finance Products (SFPs)</p> <p>‘BOND’ — Bonds</p> <p>‘ETCS’ — ETCs</p> <p>‘ETNS’ — ETNs</p> <p>‘EMAL’ — Emission Allowances</p> <p>‘DERV’ — Derivative</p>

...			
-----	--	--	--

## Annex C

### COMMISSION DELEGATED REGULATION (EU) 2017/577 of 13 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations

~~(Text with EEA relevance)~~

...

#### Article -3

##### **Definitions**

1. In this Regulation, ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018.

#### Article -2

##### **Application**

This Regulation applies to:

1. those persons described in Article 1(2) of Regulation 600/2014/EU;
2. approved publication arrangements (APAs) as defined in Article (2)(1)(34) of Regulation 600/2014/EU and consolidated tape providers (CTPs) as defined in Article (2)(1)(35) of Regulation 600/2014/EU;
3. the Financial Conduct Authority as a competent authority.

#### Article -1

##### **Interpretation**

1. Where a term is defined in Directive 2014/65/EU (as that directive applied in the European Union immediately before exit day) that definition shall apply for the purposes of this Regulation except where it is defined in article 2 of Regulation 600/2014/EU in which case that definition shall apply for the purposes of this Regulation.
2. The definition of all other terms defined in article 2 of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

3. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation.
4. References to the day of entry into application of Regulation (EU) No 600/2014 mean the date of application of that Regulation in the European Union.

## Article 1

### Subject matter and scope

1. This Regulation sets out, the details of the data requests to be sent by ~~competent authorities~~ the FCA and the details of the reply to those requests to be sent by trading venues, approved publication arrangements (APAs) and consolidated tape providers (CTPs), for the purposes of calculating and adjusting the pre-trade and post-trade transparency and trading obligation regimes and in particular for the purposes of determining the following factors:

...

- (g) for equity and equity-like instruments, the total volume of trading for the previous 12 months and of the percentages of trading carried out under both the negotiated trade and reference price waivers across the ~~Union~~ UK and on each trading venue in the previous 12 months;

...

## Article 2

### Content of the data requests and information to be reported

1. For the purpose of carrying out calculations that occur at pre-set dates or in pre-defined frequencies, trading venues, APAs and CTPs shall provide ~~their competent authorities~~ the FCA with all the data required to perform the calculations set out in the following Regulations:
  - (a) Delegated Regulation (EU) 2017/587;
  - (b) Delegated Regulation (EU) 2017/583;
  - (c) Delegated Regulation (EU) 2017/567;
  - (d) Delegated Regulation (EU) 2017/565.
2. ~~Competent authorities~~ The FCA may request, where necessary, additional information for the purpose of monitoring and adjusting the thresholds and parameters referred to in points (a) to (f) and (h) of Article 1 from trading venues, APAs and CTPs.

3. ~~Competent authorities~~ The FCA may request all the data ~~ESMA~~ it is required to take into consideration in accordance with Delegated Regulation (EU) 2016/2020 for non-equity financial instruments, including data on the following:

...

...

## Article 6

### **Reporting requirements for trading venues and CTPs for the purpose of the volume cap mechanism**

1. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014, trading venues shall submit the following data to the ~~competent authority~~ FCA:
  - (a) the total volume of trading in the financial instrument executed on that trading venue;
  - (b) the total volumes of trading in the financial instrument executed on that trading venue falling under the waivers of Article 4(1)(a) or Article 4(1)(b)(i) of Regulation (EU) No 600/2014, respectively, with total volumes reported separately for each waiver.
2. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014 and where requested by the ~~competent authority~~ FCA, CTPs shall submit to the ~~competent authority~~ FCA the following data:
  - (a) the total volumes of trading in the financial instrument executed on all trading venues in the ~~Union~~ UK with total volumes reported separately for each trading venue;
  - (b) the total volumes of trading executed on all trading venues in the ~~Union~~ UK falling under the waivers of Article 4(1)(a) or Article 4(1)(b)(i) of Regulation (EU) No 600/2014, respectively, with total volumes reported separately for each waiver and for each trading venue.
3. Trading venues and CTPs shall report the data set out in paragraphs 1 and 2 to the competent authority using the formats provided in the Annex. They shall, in particular, ensure that the trading venue identifiers they provide are sufficiently granular to enable the ~~competent authority~~ FCA and ~~ESMA~~ to identify the volumes of trading executed under the reference price waiver and, for liquid financial instruments, under the negotiated trade waiver of each trading venue and allow for the calculation of the ratio set out under Article 5(1)(a) of Regulation (EU) No 600/2014.

...

6. Trading venues shall submit the data referred to in paragraphs 1 to 5 to the ~~competent authority~~ FCA on the first and the sixteenth day of each calendar month by 13:00 CET. Where the first or the sixteenth day of the calendar month is a non-working day for the trading venue, the trading venue shall report the data to the ~~competent authority~~ FCA by 13:00 CET on the following working day.
7. Trading venues shall submit to the ~~competent authority~~ FCA the total volumes of trading determined in accordance with paragraphs 1 to 5 in respect of the following time periods:
  - (a) for the reports to be submitted on the sixteenth day of each calendar month, the execution period is from the first day to the fifteenth day of the same calendar month;
  - (b) for the reports to be submitted on the first day of each calendar month, the execution period is from the sixteenth day to the last day of the previous calendar month.
- ...
9. Trading venues and CTPs shall respond to any ad hoc request from ~~competent authorities~~ the FCA on the volume of trading in relation to the calculation to be performed for monitoring the use of the reference price or negotiated trade waivers by close of business on the next working day following the request.

#### ~~Article 7~~

#### ~~Reporting requirements for competent authorities to ESMA for the purposes of the volume cap mechanism and the trading obligation for derivatives~~

- ~~1. Competent authorities shall provide ESMA with the data received from a trading venue or a CTP in accordance with Article 6 by 13:00 CET on the next working day following its receipt.~~
- ~~2. The Competent authorities shall provide ESMA with the data received from a trading venue, APA or CTP for the purpose of determining whether derivatives are sufficiently liquid as referred to in Article 1(h) without undue delay and no later than three working days following the receipt of the relevant data.~~

#### Article 8

#### Reporting requirements for ESMA for the purpose of the volume cap mechanism

- 1. For the purposes of this Article:
  - (a) the term ‘transitional period’ has the same meaning as under Article 5(3A) of Regulation 600/2014/EU); and

(b) the ‘relevant area’ in relation to a financial instrument means the United Kingdom and such other countries or regions as have been specified by the FCA by direction for the purposes of Article 5 of Regulation (EU) 600/2014.

1. ~~ESMA~~ After the transitional period, the FCA shall publish the measurements of the total volume of trading for each financial instrument that is traded on a trading venue in the previous 12 months and of the percentages of trading under both the negotiated trade and reference price waivers across the ~~Union~~ relevant area and on each trading venue in the previous 12 months, in accordance with paragraphs 4, 5 and 6 of Article 5 of Regulation (EU) No 600/2014, no later than 22.00 CET on the ~~fifth~~ tenth working day following the end of the reporting periods set out in Article 6(6) of this Regulation.
2. The publication referred to in paragraph 1 shall be free of charge and in a machine-readable and human-readable format as defined in Article 14 of Commission Delegated Regulation (EU) 2017/571 and in paragraphs 4 and 5 of Article 13 of Delegated Regulation (EU) 2017/567.
3. Where a financial instrument is traded in more than one currency across the ~~Union~~ relevant area, ~~ESMA~~ the FCA shall convert all volumes into euros using average exchange rates calculated on the basis of the daily euro foreign exchange reference rates published by the European Central Bank on its website in the previous 12 months. Those converted volumes shall be used for the calculation and publication of the total volume of trading and of the percentages of trading under both the negotiated trade and reference price waivers across the ~~Union~~ relevant area and on each trading venue as referred to in paragraph 1.

## Article 9

### Entry into force and application

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex D

**COMMISSION DELEGATED REGULATION (EU) 2017/588 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the tick size regime for shares, depositary receipts and exchange-traded funds**

**(Text with EEA relevance)**

...

### Article -3

#### **Definitions**

In this Regulation, ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018.

### Article -2

#### **Application**

This Regulation applies to:

1. those persons described in Article 1(2) of Regulation 600/2014/EU; and
2. the Financial Conduct Authority as a competent authority.

### Article -1

#### **Interpretation**

1. Where a term is defined in Directive 2014/65/EU (as that directive applied in the European Union immediately before exit day) that definition shall apply for the purposes of this Regulation except where it is defined in article 2 of Regulation 600/2014/EU in which case that definition shall apply for the purposes of this Regulation.
2. The definition of all other terms defined in article 2 of Regulation 600/2014/EU shall apply for the purposes of this Regulation.
3. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation.

4. References to the date of application of Regulation (EU) No 600/2014 mean the date of application of that Regulation in the European Union.

#### Article 1

##### **Most relevant market in terms of liquidity**

For the purposes of this Regulation, the most relevant market in terms of liquidity for a share or a depositary receipt shall be considered to be the most relevant market in terms of liquidity as referred to in Article 4(1)(a) of Regulation (EU) No 600/2014 and specified in Article 4 or in accordance with Article 17A of Commission Delegated Regulation (EU) 2017/587.

...

#### Article 3

##### **Average daily number of transactions for shares and depositary receipts**

(Article 49(1) and (2) of Directive 2014/65/EU)

1. By 1 March of the year following the date of application of Regulation (EU) No 600/2014 and by 1 March of each year thereafter, the ~~competent authority for a specific share or depositary receipt~~ FCA shall, when determining the most relevant market in terms of liquidity for ~~that~~ each share or depositary receipt that is traded on a trading venue calculate the average daily number of transactions for that financial instrument in that market and ensure the publication of that information.

~~The competent authority referred to in subparagraph 1 shall be the competent authority of the most relevant market in terms of liquidity as specified in Article 16 of Commission Delegated Regulation (EU) 2017/590.~~

...

5. Before the first admission to trading or before the first day of trading of a share or depositary receipt on a trading venue, the ~~competent authority of the trading venue where that financial instrument is to be first admitted to trading or is to be first traded~~ FCA shall estimate the average daily number of transactions for that trading venue, taking into account the previous trading history of that financial instrument, where applicable, as well as the previous trading history of financial instruments that are considered to have similar characteristics, and publish that estimation.

The tick sizes of the liquidity band corresponding to that published estimate average daily number of transactions shall apply from the publication of that estimate until the publication of the average daily number of transactions for that instrument in accordance with paragraph 6.

6. No later than six weeks after the first day of trading of the share or depositary receipt, the ~~competent authority of the trading venue where the financial instrument was first admitted to trading or was first traded on a trading venue~~ FCA shall calculate and ensure the publication of the average daily number of transactions in that financial instrument for that trading venue, using the data relating to the first four weeks of trading of that financial instrument.

The tick sizes of the liquidity band corresponding to that published average daily number of transactions shall apply from the publication until a new average daily number of transactions for that instrument has been calculated and published in accordance with the procedure set out in paragraphs 1 to 4.

...

### Article 3A

#### **Transitional period for publication of average daily number of transactions**

1. For the purposes of this Article, the term ‘transitional period’ has the same meaning as under Article 5(3A) of Regulation 600/2014/EU).
2. During the transitional period and until the FCA makes a publication under Articles 3, 4 or 5(3) in relation to the financial instrument in question, the average daily number of transactions in respect of a share or depositary receipt for the purposes of retained EU law relating to markets in financial instruments shall be as follows in (a) or (b), subject to (c):
  - (a) that stated in the most recent information published before exit day under Article 4 or 5 (whichever is the most recent) by the competent authority in the European Union (including the FCA) for the relevant instrument under Article 3(1) as it applied in the European Union before exit day (including the FCA);  
or
  - (b) if no such information was published by that competent authority in the European Union in respect of a financial instrument under those provisions before exit day, the average daily number of transactions for that financial instrument shall be that estimated by the FCA, taking into account any previous trading history of that financial instrument and of other financial instruments that are considered to have similar characteristics, and published on exit day; and
  - (c) if information was published before exit day under Article 3(1) by the competent authority in the European Union (including the FCA) for the relevant instrument under Article 3(1) as it applied in the European Union before exit day, but the information was not required to be used under Article 3(4) before exit day, then the average daily number of transactions shall become that stated in such information from the point at which it would have been required to be used under Article 3(4) as it applied in the European Union before exit day, provided that the calculations used to produce that information did not exclude trading in the UK for the relevant period.

3. From exit day and during the transitional period, the FCA's obligations to perform calculations and publish information under Article 3 are modified as follows:
- (a) where the FCA publishes information under Article 3(1):
- (i) it shall publish what appears to it to be the average daily number of transactions;
- (ii) it is not required to follow the relevant methodology in Article 3, but where it does not:
- it must have regard to the relevant methodology; and
  - it may take into account any information available in relation to trading of the financial instrument in question in the United Kingdom or in any other country; and
- (iii) it shall ensure publication by five working days after 1 March; and
- (b) where the FCA publishes information under Article 3(6) it shall publish what appears to it to be the average daily number of transactions, and it may take into account any information available in relation to trading of the financial instrument in question in the United Kingdom or in any other country.

#### Article 4

##### **Corporate actions**

(Article 49(1) and (2) of Directive 2014/65/EU)

Where ~~a competent authority~~ the FCA considers that a corporate action may modify the average daily number of transactions of a particular financial instrument thereby causing this financial instrument to fall within a different liquidity band, the ~~competent authority~~ FCA shall determine and ensure publication of a new applicable liquidity band for that financial instrument treating it as if it were first admitted to trading or first traded on a trading venue and apply the procedure set out in Article 3(5) and (6).

#### Article 5

##### **Transitional provisions**

...

3. The tick sizes of the liquidity band corresponding to the published average daily number of transactions referred to in paragraph 1 shall be applied until 1 April of the year following the date of application of Regulation (EU) No 600/2014. During that period, ~~competent authorities~~ the FCA shall ensure that the tick sizes for financial instruments referred to under points (b) and (c) of paragraph 2 ~~and for which they are the competent authority~~, do not contribute to disorderly trading conditions. Where ~~a competent authority~~ the FCA identifies a risk for the orderly functioning of the markets due to such tick sizes, it shall determine and publish an

updated average daily number of transactions for the relevant financial instruments to address that risk. It shall do so on the basis of longer and more comprehensive trading history data of those instruments. Trading venues shall immediately apply the liquidity band corresponding to that updated average daily number of transactions. They shall do so until 1 April of the year following the date of application of Regulation (EU) No 600/2014 or until any further publication by the ~~competent authority~~ FCA in accordance with this paragraph.

## Article 6

### **Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (MONEY MARKET FUNDS REGULATION) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations [specified in Part 1 of the Schedule to the Regulations].
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulation in accordance with Annexes A of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) 2018/708 of 17 April 2018 laying down implementing technical standards with regard to the template to be used by managers of money market funds when reporting to competent authorities as stipulated by Article 37 of Regulation (EU) 2017/1131 of the European Parliament and of the Council	Annex A

**Commencement**

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Money Markets Funds Regulation) (EU Exit) Instrument 2019.

By order of the Board

[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

**Annex A**

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/708 of 17 April 2018 laying down implementing technical standards with regard to the template to be used by managers of money market funds when reporting to competent authorities as stipulated by Article 37 of Regulation (EU) 2017/1131 of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

Article 2

...

~~This regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX

**Reporting template for managers of Money Market Funds (MMFs)**

Except where otherwise specified, all figures shall be filled in at sub-fund level

...

...			
	<b>(1) General characteristics, identification of the MMF and the manager of that MMF</b>		
(A.1.1)	Reporting period		
(A.1.2)	National code of the MMF as provided by the competent authority of the MMF <u>FCA</u>		
...			
(A.1.9)	<del>Member State where the MMF is authorised</del>	<del>ISO 3166 – Country code</del>	
(A.1.10)	<del>Member States where the MMF is marketed</del>	<del>List of Countries (ISO-3166 – Country code)</del>	

	...		
(A.1.14)	National code of the manager of the MMF as provided by the competent authority of the manager of the MMF <u>FCA</u>		
	...		

(A.6.38)	Type of the Other assets [Select one] The type of other assets shall be selected among the assets listed in Article 9 of Regulation (EU) 2017/1131		<p>Deposits with credit institutions as referred to in Article 12 of Regulation (EU) 2017/1131</p> <p>Reverse repurchase agreements as referred to in Article 15 of Regulation (EU) 2017/1131</p> <p>Repurchase agreements as referred to in Article 14 of Regulation (EU) 2017/1131</p> <p>Units or shares of other MMFs as referred to in Article 16 of Regulation (EU) 2017/1131</p> <p>Financial derivative instruments as referred to in Article 13 of Regulation (EU) 2017/1131 of which:</p> <ul style="list-style-type: none"> <li>— Financial derivative instruments dealt in on a regulated market (and specify if it falls under <del>Article 50(1)(a), (b) or (c) of Directive 2009/65/EC</del> <u>Article 2(1)(13A), Article 2(1)(13B), or Article 2(1)(13) of Regulation (EU) 600/2014</u>)</li> <li>— Financial derivative instruments dealt over-the-counter</li> </ul> <p>Ancillary liquid assets (<del>in accordance with Article 50(2) of Directive 2009/65/EC</del>)</p>
----------	---	--	--

...			
(A.7.2)		Specify the breakdown of investor concentration by status of investors (estimate if no precise information available): 1) Professional clients (as defined in <u>Article 4(1)(10) of Directive 2014/65/EU of the European Parliament and of the Council (MiFID 2)</u> <u>Article 2(1)(8) of Regulation (EU) 600/2014</u> ), 2) retail clients (as defined in <u>Article 4(1)(11) of Directive 2014/65/EU (MiFID 2)</u> ) <u>Article 2(8) of Regulation (EU) 2017/565</u> )	
		— Professional clients (as defined in <u>Article 2(1)(8) of Regulation (EU) 600/2014</u> ) <u>Article 4(1)(10) of Directive 2014/65/EU (MiFID 2)</u> )	% (of NAV)
		— Retail clients (as defined in <u>Article 2(8) of Regulation (EU) 2017/565</u> ) <u>Article 4(1)(11) of Directive 2014/65/EU (MiFID 2)</u> )	% (of NAV)
...			

**TECHNICAL STANDARDS (PACKAGED RETAIL AND INSURANCE-BASED INVESTMENT PRODUCTS REGULATION) (EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulation in accordance with the Annex to this instrument.

<p>Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents</p>
--

**Commencement**

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Packaged Retail and Insurance-Based Investment Products Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex

**COMMISSION DELEGATED REGULATION (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents**

~~(Text with EEA relevance)~~

...

### CHAPTER I

#### CONTENT AND PRESENTATION OF THE KEY INFORMATION DOCUMENT

##### Article -2

##### **Interpretation**

1. In this Regulation, unless the contrary intention appears:
  - (a) words and expressions used have the same meaning as in Regulation 1286/2014/EU, as amended by the [Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019];
  - (b) a reference to a provision of FSMA is a reference to that provision as amended from time to time;
  - (c) a reference to a provision of rules made under FSMA is a reference to that provision as it has effect on Exit Day;
  - (d) any reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by the FCA under FSMA;
  - (e) references to ‘UCITS’ include both UK UCITS and EEA UCITS;
  - (f) ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

##### Article -1

##### **Definitions**

1. For the purposes of this Regulation, the following definitions apply:
- (a) 'AIF' has the meaning given in regulation 3 of the Alternative Investment Fund Managers Regulations 2013;
  - (b) 'EEA UCITS' means a collective investment scheme (as defined in section 235 of FSMA) established in accordance with Directive 2009/65/EC in an EEA State;
  - (c) 'regulated market' means a regulated market which is a UK regulated market or an EU regulated market, as those terms are defined in Regulation (EU) No 600/2014 on markets in financial instruments (as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018);
  - (d) 'UK UCITS' has the meaning given in section 237(3) of FSMA.

## Article 1

### General information section

...

- (d) ~~the name of the competent authority responsible for the supervision of the PRIIP manufacturer in relation to the key information document;~~

...

Information in the section referred to in the first subparagraph shall also include the comprehension alert referred to in Article 8(3)(b) of Regulation (EU) No 1286/2014 where the PRIIP meets one of the following conditions:

- (a) it is an insurance-based investment product which does not meet the requirements laid down in ~~Article 30(3)(a) of Directive (EU) 2016/97 of the European Parliament and of the Council~~ rule 10A.4.1(2A) of the Conduct of Business sourcebook;
- (b) it is a PRIIP which does not meet the requirements laid down in ~~points (i)-(vi) of Article 25(4)(a) of Directive 2014/65/EU of the European Parliament and of the Council~~ rule 10A.4.1(2) of the Conduct of Business sourcebook.

...

## Article 3

**‘What are the risks and what could I get in return?’ section**

...

2.

- ...
- (c) a narrative below the summary risk indicator explaining that if a PRIIP is denominated in a currency other than ~~the official currency of the Member State where the PRIIP is being marketed~~ pounds sterling, the return, when expressed in ~~the official currency of the Member State where the PRIIP is being marketed~~ pounds sterling, may change depending on currency fluctuations;

...

**‘What are the risks and what could I get in return?’ section in the generic key information document**

...

2. Where PRIIP manufacturers use the key investor information document in accordance with Article 14(2), for the purposes of specifying the risk classes referred to in point (a) of paragraph 1, they shall use the synthetic risk and reward indicator pursuant to Article 8 of Regulation (EU) No 583/2010 (or that Regulation as it has effect in the European Union) in relation to UCITS or non-UCITS funds as underlying investment options.

## Article 13

**‘What are the costs?’ section in the generic key information document**

...

3. Where PRIIP manufacturers use the key investor information document in accordance with Article 14(2) with UCITS or non-UCITS funds as the only underlying investment options, by way of derogation from Article 5, they may specify the range of charges for the PRIIP in accordance with Article 10 of Regulation (EU) No 583/2010 (or that Regulation as it has effect in the European Union).

## Article 14

**Specific information on each underlying investment option**

...

2. By way of derogation from paragraph 1, PRIIP manufacturers may use the key investor information document drawn up in accordance with:

- (a) for EEA UCITS, Articles 78 to 81 of Directive 2009/65/EC, as amended from time to time; or
- (b) the rules made under FSMA which implemented those Articles,

to provide specific information for the purposes of Articles 11 to 13 of this Delegated Regulation where at least one of the underlying investment option referred to in paragraph 1 is a UCITS or non-UCITS fund referred to in Article 32 of Regulation (EU) No 1286/2014.

...

## Article 18

### **Final Provision**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**ANNEX I**  
**TEMPLATE FOR THE KEY INFORMATION DOCUMENT**

PRIIP manufacturers shall comply with the section order and titles set out in the template, which however does not fix parameters regarding the length of individual sections and the placing of page breaks, and is subject to an overall maximum of three sides of A4-sized paper when printed.

<b>Key Information Document</b>	
<b>Purpose</b> This document provides you with key information about this investment product. It is not marketing material. The information is required by law to help you understand the nature, risks, costs, potential gains and losses of this product and to help you compare it with other products.	
<b>Product</b> [Name Of Product] [Name Of PRIIP manufacturer] [where applicable ISIN or UPI] [website for PRIIP manufacturer] Call [telephone number] for more information [Competent Authority of the PRIIP Manufacturer in relation the KID] [date of production of the KID]	
[Alert (where applicable) <b>You are about to purchase a product that is not simple and may be difficult to understand</b> ]	
<b>What is this product?</b>	
<b>Type</b>	
<b>Objectives</b>	
<b>Intended retail investor</b>	
<b>[Insurance benefits and costs]</b>	
<b>What are the risks and what could I get in return?</b>	
<b>Risk Indicator</b>	Description of the risk-reward profile Summary Risk Indicator SRI template and narratives as set out in Annex III, including on possible maximum loss: can I lose all invested capital? Do I bear the risk of incurring additional financial commitments or obligations? Is there capital protection against market risk?

<b>Performance Scenarios</b>	Performance Scenario templates and narratives as set out in Annex V including where applicable information on conditions for returns to retail investors or built-in performance caps, and statement that the tax legislation of the <del>retail investor's home Member State</del> <u>United Kingdom</u> may have an impact on actual payout
------------------------------	---

...

**ANNEX II**  
**METHODOLOGY FOR THE PRESENTATION OF RISK**  
**PART 1**  
**Market risk assessment**

**Determination of the market risk measure (MRM)**

...

4. Category 1 covers the following:

...

- (b) PRIIPs that fall within one of the categories referred to in ~~items 4 to 10 of Section C of Annex I to Directive 2014/65/EU of the European Parliament and of the Council~~ paragraphs 4 to 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

...

...

**PART 2**  
**Methodology for assessing credit risk**

...

**II. CREDIT RISK ASSESSMENT**

**Credit assessment of obligors**

37. Where available, a PRIIP manufacturer shall define *ex-ante* one or more external credit assessment institutions (ECAI) certified or registered with:
- (a) the European Securities and Markets Authority (ESMA) immediately after Exit Day in accordance with Regulation (EC) No 1060/2009 of the European Parliament and the Council, as it has effect in the European Union; or
  - (b) the Financial Conduct Authority in accordance with Regulation (EC) No 1060/2009,

whose credit assessments will consistently be referred to for the purpose of the credit risk assessment. Where multiple credit assessments are available according to that policy, the median rating shall be used, defaulting to the lower of the two middle values in case of an even number of assessments.

- 37A. The ability of a PRIIP manufacturer to define an ECAI certified or registered with ESMA for the purpose of the credit risk assessment shall not otherwise affect the application of Article 4(1) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 to a PRIIP manufacturer to which that Regulation also applies.

...

### Allocation of credit assessments to credit quality steps

...

43. If the obligor has no external credit assessments, the default credit assessment as referred to in point 38 of this Annex shall be:
- (a) credit quality step 3, if the rating of the state in which the obligor is domiciled would be credit quality step 3 and if the obligor is regulated as a credit institution or an insurance undertaking under: the applicable Union law or the legal framework deemed equivalent under Union law and if the rating of the Member State where the obligor is domiciled would be credit quality step 3;
    - (i) the law of the United Kingdom;
    - (ii) the law of a Member State for the purposes of Union law; or
    - (iii) the legal framework deemed equivalent under United Kingdom or Union law;
  - (b) credit quality step 5, for any other obligor.

### III. CREDIT RISK MEASURE

...

46. The CRM may be assigned as 1 where the assets of a PRIIP or appropriate collateral, or assets backing the payment obligation of the PRIIP, are:

...

- (b) held with a third party on a segregated account under equivalent terms and conditions as those laid down in Directive 2011/61/EU of the European Parliament and of the Council or Directive 2014/91/EU, as those Directives had effect immediately after Exit Day, or in those enactments which were relied on immediately before Exit Day to implement those directives; and

...

47. The CRM may be assigned as 2 where the assets of a PRIIP or appropriate collateral, or assets backing the payment obligation of the PRIIP, are:

...

- (b) identified and held on accounts or registers, based on applicable law, including Articles 275 and 276 of Directive 2009/138/EC of the European Parliament and of the Council, as those Articles had effect immediately after Exit Day, or those enactments which were relied on immediately before Exit Day to implement those Articles; and

...

...

49. Where a PRIIP is not able to satisfy the criteria under point 47 of this Annex, the CRM pursuant to point 45 of this Annex may be reduced by one class where the claims of retail investors have priority over the claims of ordinary creditors, as set out in Article 108 of Directive 2014/59/EU, as that Article had effect immediately after Exit Day, or those enactments which were relied on immediately before Exit Day to implement that Article, of the PRIIP manufacturer or party bound to make, directly or indirectly, relevant payments to the investor, in so far as the obligor is subject to relevant prudential requirements in respect of ensuring an appropriate matching of assets and liabilities.

...

51. The CRM pursuant to point 45 of this Annex shall be increased by three classes where a PRIIP is part of the own funds of the PRIIP obligor, as defined in Article 4(1)(118) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, or in that Article as it has effect in the European Union, or in Article 93 of Directive 2009/138/EU or those enactments which were relied on immediately before Exit Day to implement that Article.

...

**ANNEX IV**  
**PERFORMANCE SCENARIOS**

...

**General requirements**

...

34. For an insurance based investment product, the following shall apply in addition to the methods referred above including under point 15 when calculating the performance scenarios in respect of the investment:

...

- (c) assumptions on how future profits are shared between the PRIIP manufacturer and the retail investor and other assumptions on future profit sharing shall be realistic and in line with the current business practice and business strategy of the PRIIP manufacturer. Where there is sufficient evidence that the undertaking will change its practices or strategy, the assumptions on future profit sharing shall be consistent with the changed practices or strategy. For life insurers within the scope of Directive 2009/138/EC, or those enactments which were relied on immediately before Exit Day to implement that directive, these assumptions shall be consistent with the assumptions on future management actions used for the valuation of technical provisions in the Solvency II-balance-sheet;

...

...

## ANNEX VI

## METHODOLOGY FOR THE CALCULATION OF COSTS

## Calculation of specific types of costs of investments funds

## Transaction costs

...

9. When calculating the transaction costs incurred by the PRIIP over the previous three years, actual transaction costs must be calculated using the methodology described in points 12 to 18 of this Annex for investments in the following instruments:

- (a) transferable securities as defined by ~~Article 2 of Commission Directive 2007/16/EC~~ by rule 5.2.7A of the Collective Investment Schemes sourcebook;

...

...

## Actual transaction costs

...

16. Costs associated with transactions undertaken by PRIIPs and concerning financial instruments that fall within one of the categories referred to in ~~items 4 to 10 of Section C of Annex I to Directive 2014/65/EU~~ paragraphs 4 to 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 shall be calculated in the following way:

...

...

**Cost disclosure of the biometric risk premium of insurance based investment products****Costs part of biometric risk premiums**

...

58. For manufacturers within the scope of Directive 2009/138/EC, or those enactments which were relied on immediately before Exit Day to implement that directive, these best estimate assumptions shall be consistent with the respective assumptions used for the calculation of the technical provisions in the Solvency II balance sheet.

...

**Calculation methodology for new PRIIPs**

...

89. The PRIIP manufacturer shall ensure that the accuracy of the estimated figure is kept under review. The PRIIP manufacturer shall determine when it is appropriate to begin using *ex-post* figures rather than an estimate; but in any case it shall, no later than 12 months after the date on which the PRIIP was first offered for sale in ~~any Member State~~ the United Kingdom, review the accuracy of the estimate by calculating a figure on an *ex-post* basis.

...

**TECHNICAL STANDARDS (PAYMENT ACCOUNTS DIRECTIVE) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulations in accordance with Annexes A - B of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) 2018/33 of 28 September 2017 laying down implementing technical standards with regard to the standardised presentation format of the statement of fees and its common symbol according to Directive 2014/92/EU of the European Parliament and of the Council	Annex A

Commission Implementing Regulation (EU) 2018/34 of 28 September 2017 laying down implementing technical standards with regard to the standardised presentation format of the fee information document and its common symbol according to Directive 2014/92/EU of the European Parliament and of the Council	Annex B
---	---------

**Commencement**

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Payment Accounts Directive) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

**Annex A**

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/33 of 28 September 2017 laying down implementing technical standards with regard to the standardised presentation format of the statement of fees and its common symbol according to Directive 2014/92/EU of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

Article 1

**Template for the statement of fees and its common symbol**

...

3. The statement of fees shall:

...

- (d) use font type Arial or another font type similar to Arial and font size 11, with exceptions for the title ‘Statement of Fees’, which uses font size 16 in bold type; font size 14 in bold type for the headings, and font size 12 in bold for the sub-headings, unless an increase in the font size or use of braille font type for visually impaired persons is either required under ~~national~~ UK law or agreed between the consumer and the payment service provider;

...

...

## Article 9

**Summary of fees and interest**

...

2. Where interest is not applicable to a specific account, and where the inclusion of such information is enabled or required by ~~national provisions transposing Directive 2014/92/EU,~~ the Payment Accounts Regulations (SI 2015/2038), payment service providers shall use the wording ‘interest not applicable’, in lower case, right aligned.
3. Where interest is applicable but, for the specific period, it amounts to zero, and where the inclusion of such information is enabled or required by ~~national provisions transposing Directive 2014/92/EU~~ the Payment Accounts Regulations (SI 2015/2038), payment service providers shall indicate this by using ‘0’ in the corresponding table.
4. ~~Payment service providers shall display the comprehensive cost indicator summarising the overall annual cost of the payment account in a separate table, where required by the Payment Accounts Regulations national provisions transposing Directive 2014/92/EU. Payment service providers shall delete the table, if those national provisions do not require payment service providers to display the comprehensive cost indicator.~~

## Article 10

**Detailed statement of fees paid on the account**

...

3. Payment service providers shall leave the sub-column ‘Number of times the service was used’ blank where:
  - (a) a service has been used but the payment service provider did not charge a fee for that service, and
  - (b) the inclusion of such information is enabled or required by ~~national provisions transposing Directive 2014/92/EU~~ the Payment Accounts Regulations (SI 2015/2038).

...

5. ...

- (b) the inclusion of such information is enabled or required by ~~national provisions transposing Directive 2014/92/EU~~ the Payment Accounts Regulations (SI 2015/2038).

...

## Article 14

**Detail of interest paid on the account**

...

5. Where no interest is paid by a payment account holder because no interest is applicable to the account, and where the inclusion of such information is enabled or required by ~~national provisions transposing Directive 2014/92/EU~~ the Payment Accounts Regulations (SI 2015/2038), payment service providers shall indicate it by words 'interest not applicable', in lower case, left aligned, in bold, in row 'Total interest paid'.

## Article 15

**Detail of interest earned on the account**

...

7. Where a particular account does not pay the interest because no interest is applicable to the account, and where the inclusion of such information is enabled or required by ~~national provisions transposing Directive 2014/92/EU~~ the Payment Accounts Regulations (SI 2015/2038), payment service providers shall indicate it by words 'interest not applicable', in lower case, left aligned, in bold, in row 'Total interest earned'.

## Article 16

**Additional information**

1. Payment service providers shall display in the table 'Additional information' any additional information that goes beyond the information covered under Articles 2 to 15 and that is directly related to the services or fees paid or interest charged or earned, or interest rates applied, as referred to in ~~Article 5(2) of Directive 2014/92/EU~~ Schedule 2(3) of the Payment Accounts Regulations (SI 2015/2038) during the period covered by the statement of fees. The additional information displayed in that table shall include information required by ~~national provisions~~ the Payment Accounts Regulations (SI 2015/2038).

...

Article 19  
**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX

**Statement of fees template**

...

Total fees paid (total package of services fees and total fees paid)

Total interest paid

Total interest earned

Comprehensive cost indicator

...

## Annex B

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/34 of 28 September 2017 laying down implementing technical standards with regard to the standardised presentation format of the fee information document and its common symbol according to Directive 2014/92/EU of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

Article 1

**Template for the fee information document and its common symbol**

...

2. ...

- (d) use font type Arial or another font type similar to Arial and font size 11, with exceptions for the title 'Fee Information Document', which uses font size 16 in bold type; font size 14 in bold type for the headings, and font size 12 in bold for the sub-headings, unless an increase in the font size or use of braille font type for visually impaired persons is either required under ~~national~~ UK law or agreed between the consumer and the payment service provider;

...

4. Notwithstanding the provision of a payment account with basic features referred to in ~~Chapter IV of Directive 2014/92/EU~~ Part 4 of the Payment Accounts Regulations (SI 2015/2038), where a payment service provider offers only one payment account to consumers that can be combined with different packages of services referred to in ~~Article 4(3) of Directive 2014/92/EU~~ Schedule 1(3) of the Payment Accounts Regulations (SI 2015/2038), the payment service provider may produce more than one fee information document in respect of that account, provided that each fee information document contains at least one package.

...

## Article 7

**‘Services and Fees’ table**

1. Payment service providers shall list the services that are included in the ~~national~~ final linked services list of most representative services linked to a payment account referred to in ~~Article 3(5) of the Directive 2014/92/EU~~ Regulation 3 of the Payment Accounts Regulations (SI 2015/2038), where payment service provider offer such services, and their corresponding fees in the table on services and fees as follows:

...

2. Where none of the services offered by a payment services provider, which would correspond a sub-heading, are included in the ~~national~~ final linked services list of most representative services linked to a payment account, the entire row related to that sub-heading shall be deleted, including the title of the sub-heading.
3. Where payment service providers do not offer one or more services from the ~~national~~ final linked services list of the most representative services referred to in ~~Article 3(5) of the Directive 2014/92/EU~~ Regulation 3 of the Payment Accounts Regulations (SI 2015/2038), or where the service is not made available with the account, the phrase ‘service not available’ shall be used.

...

## Article 8

**Presentation of packages of services charged as part of fees under the sub-heading ‘General account services’**

1. Where a package of services linked to a payment account is charged as part of the fees under the sub-heading ‘General account services’, all services included in the package, regardless of whether they are included in the final ~~national~~ linked services list of most representative services linked to a payment account referred to in ~~Article 3(5) of the Directive 2014/92/EU~~ Regulation 3 of the Payment Accounts Regulations (SI 2015/2038), shall be listed in the section of the table on general account service, in the row on package of services.

...

Article 9

**Presentation of packages of services charged separately from fees under the sub-heading a ‘General account services’**

1. ...

- (a) a list of all services included in the package, regardless of whether they are included in the final ~~national~~ linked services list of most representative services linked to a payment account referred to in ~~Article 3(5) of Directive 2014/92/EU~~ Regulation 3 of the Payment Accounts Regulations (SI 2015/2038);

...

...

~~Article 11~~

~~**Comprehensive cost indicator**~~

- ~~1. Payment service providers shall display the comprehensive cost indicator summarising the overall annual cost of the payment account, in a separate table, where required by the Payment Accounts Regulations national provisions.~~
- ~~2. Payment service providers shall delete the table on comprehensive cost indicator, if the Payment Accounts Regulations national provisions do not require payment service providers to display the comprehensive cost indicator.~~

...

Article 14

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX

**Fee information document template**

...

...
<del>Comprehensive cost indicator</del>

**TECHNICAL STANDARDS (PAYMENT SERVICES DIRECTIVE) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- D. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Revocations**

- E. The FCA revokes Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions.

**Commencement**

- F. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

- G. This instrument may be cited as the Technical Standards (Payment Services Directive) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

**TECHNICAL STANDARDS (PROSPECTUS DIRECTIVE) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulations in accordance with Annexes A - B of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) No 382/2014 of 7 March 2014 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for publication of supplements to the prospectus	Annex A
Commission Delegated Regulation (EU) 2016/301 of 30 November 2015 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for approval and	Annex B

publication of the prospectus and dissemination of advertisements and amending Commission Regulation (EC) No 809/2004	
---	--

**Commencement**

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Prospectus Directive) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## **Annex A**

**COMMISSION DELEGATED REGULATION (EU) No 382/2014 of 7 March 2014 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for publication of supplements to the prospectus**

~~(Text with EEA relevance)~~

...

Article -1

### **Interpretation**

For the purposes of this Regulation, where a term is defined in Article 2 of Regulation (EU) No 809/2004 that definition applies.

...

Article 2

### **Obligation to publish a supplement**

A supplement to the prospectus shall be published in the following situations:

...

- (f) ~~where an issuer is seeking admission to trading on (an) additional regulated market(s) in (an) additional Member State(s) or is intending to make an offer to the public in (an) additional Member State(s) other than the one(s) provided for in the prospectus;~~

...

Article 3  
**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex B

**COMMISSION DELEGATED REGULATION (EU) 2016/301 of 30 November 2015 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for approval and publication of the prospectus and dissemination of advertisements and amending Commission Regulation (EC) No 809/2004**

~~(Text with EEA relevance)~~

...

### CHAPTER I

#### GENERAL PROVISIONS AND APPROVAL OF THE PROSPECTUS

##### Article -1

##### **Interpretation**

In this Regulation:

‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018;

‘FSMA’ means the Financial Services and Markets Act 2000;

‘the FCA’ means the Financial Conduct Authority;

‘the Prospectus Rules sourcebook’ means the Prospectus Rules sourcebook made under FSMA by the FCA, as it has effect on exit day.

For the purposes of this Regulation, where a term is defined in Article 2 of Regulation (EU) No 809/2004 that definition applies.

##### Article 1

##### **Subject matter**

This Regulation establishes regulatory technical standards that further specify:

1. the arrangements for approval of the prospectus as referred to in ~~Article 13 of Directive 2003/71/EC~~ section 1 of chapter 3 of the Prospectus Rules sourcebook;
2. the arrangements for publication of the prospectus laid down in ~~Article 14(1) to (4) of Directive 2003/71/EC~~ section 2 of chapter 3 of the Prospectus Rules sourcebook;
3. the dissemination of advertisements referred to in ~~Article 15 of Directive 2003/71/EC~~

section 3 of chapter 3 of the Prospectus Rules sourcebook;

4. the consistency between information disclosed about an offer to the public or admission to trading on a regulated market, on the one hand, and the information contained in the prospectus, on the other, as laid down in ~~Article 15(4) of Directive 2003/71/EC~~ rule 3.3.4 of the Prospectus Rules sourcebook.

## Article 2

### Submission of an application for approval

...

2. ...

- (a) where required by the ~~competent authority of the home Member State~~ FCA in accordance with Article 25(4) of Regulation (EC) No 809/2004 or on their own initiative, a cross reference list which shall also identify any items from Annexes I to XXX to Regulation (EC) No 809/2004 that have not been included in the prospectus because, due to the nature of the issuer, offerer or person asking for admission to trading or the securities being offered to the public or admitted to trading, they were not applicable.
- ...
- (b) where the issuer, offerer or person asking for admission to trading on a regulated market is requesting that the ~~competent authority of the home Member State~~ FCA authorises the omission of information from the prospectus pursuant to ~~Article 8(2) of Directive 2003/71/EC~~ section 87B FSMA, a reasoned request to that effect;
- (c) ~~where the issuer, offerer or person asking for admission to trading on a regulated market requests that the competent authority of the home Member State notify the competent authority of a host Member State, upon approval of the prospectus, with a certificate of approval pursuant to Article 18(1) of Directive 2003/71/EC, a request to this effect;~~
- (d) any information which is incorporated by reference into the prospectus, unless such information has already been approved by or filed with the ~~same competent authority~~ FCA in accordance with ~~Article 11 of Directive 2003/71/EC~~ section 4 of chapter 2 of the Prospectus Rules sourcebook;
- (e) any other information considered necessary, on reasonable grounds, for the review by the ~~competent authority of the home Member State~~ FCA and expressly required by the ~~competent authority~~ FCA for that purpose.

## Article 3

**Changes to the draft prospectus**

1. Following submission of the first draft of the prospectus to the ~~competent authority of the home Member State~~ FCA, where the issuer, offerer or person asking for admission to trading on a regulated market submits subsequent drafts of the prospectus, the subsequent drafts shall be marked to highlight all changes made to the preceding unmarked draft of the prospectus as submitted to the ~~competent authority~~ FCA. Where only limited changes are made, marked extracts of the draft prospectus, showing all changes from the preceding draft, shall be considered acceptable. An unmarked draft of the prospectus shall always be submitted along with the draft highlighting all changes.

Where the issuer, offerer or person asking for admission to trading on a regulated market is unable to comply with the requirement set out in the first subparagraph due to technical difficulties related to the marking of the prospectus, each change made to the preceding draft of the prospectus shall be identified to the ~~competent authority of the home Member State~~ FCA in writing.

2. Where the ~~competent authority of the home Member State~~ FCA has, in accordance with Article 5(2) of this Regulation, notified the issuer, offerer or person asking for admission to trading on a regulated market that it considers that the draft prospectus does not meet the requirement of completeness, including consistency of the information given and its comprehensibility, the subsequently submitted draft of the prospectus shall be accompanied by an explanation as to how the incompleteness notified by the ~~competent authority~~ FCA has been addressed.

Where changes made to a previously submitted draft prospectus are self-explanatory or clearly address the incompleteness notified by the ~~competent authority~~ FCA, an indication of where the changes have been made to address the incompleteness shall be considered sufficient.

...

## Article 5

**Receipt and processing of the application**

1. The ~~competent authority of the home Member State~~ FCA shall acknowledge receipt of the initial application for approval of a prospectus in writing via electronic means as soon as possible and no later than by close of business on the second working day following the receipt. The acknowledgement shall inform the issuer, offerer or person asking for admission to trading on a regulated market of any reference number of the application for approval and of the contact point within the ~~competent authority~~ FCA to which queries regarding the application may be addressed. The date of acknowledgement shall not affect the date of submission of the draft prospectus, within the meaning of ~~Article 13(2) of Directive 2003/71/EC~~ section 87C FSMA,

from which the time limits for notifications commence.

2. Where the ~~competent authority of the home Member State~~ FCA considers, on reasonable grounds, that the documents submitted to it are incomplete or that supplementary information is needed, for instance due to inconsistencies or incomprehensibility of certain information provided, it shall notify the issuer, offerer or person asking for admission to trading of the need for supplementary information and the reasons therefor, in writing, via electronic means.
3. Where the ~~competent authority of the home Member State~~ FCA considers the incompleteness to be of a minor nature or timing to be of utmost importance, the ~~competent authority~~ FCA may notify the issuer, offerer or person asking for admission to trading orally, in which case there shall be no interruption of the time limits for approval of the prospectus as referred to in ~~Article 13(4) of Directive 2003/71/EC~~ section 87 FSMA.
4. Where the issuer, offerer or person asking for admission to trading on a regulated market is unable or unwilling to provide the supplementary information requested in accordance with paragraph 2, the ~~competent authority of the home Member State~~ FCA shall be entitled to refuse the approval of the prospectus and terminate the review process.
5. The ~~competent authority of the home Member State~~ FCA shall notify the issuer, offerer or person asking for admission to trading on a regulated market of its decision regarding the approval of the prospectus in writing, via electronic means, on the day of the decision. In the case of a refusal to approve the prospectus, the decision of the ~~competent authority~~ FCA shall contain the reasons for such refusal.

## CHAPTER II

### PUBLICATION OF THE PROSPECTUS

#### Article 6

#### **Publication of the prospectus in electronic form**

1. When published in electronic form pursuant to ~~points (e), (d) or (e) of Article 14(2) of Directive 2003/71/EC~~ paragraphs (3) or (4) of rule 3.2.4 of the Prospectus Rules sourcebook, the prospectus, whether a single document or comprising several documents, shall:
  - (a) be easily accessible when entering the website;
  - (b) be in searchable electronic format that cannot be modified;
  - (c) not contain hyperlinks with the exception of links to the electronic addresses where information incorporated by reference is available;
  - (d) be downloadable and printable.

...

3. If a prospectus for offer of securities to the public is made available on the websites of

issuers or financial intermediaries or of regulated markets, these shall take measures to avoid targeting residents in ~~Member States~~ or third countries where the offer of securities to the public does not take place, such as the insertion of a disclaimer as to who are the addressees of the offer.

...

#### Article 7

##### **Publication of final terms**

The publication method for final terms related to a base prospectus does not have to be the same as the one used for the base prospectus as long as the publication method used is one of the methods indicated in ~~Article 14 of Directive 2003/71/EC~~ rule 3.2.4 of the Prospectus Rules sourcebook.

#### Article 8

##### **Publication in newspapers**

1. In order to comply with ~~point (a) of Article 14(2) of Directive 2003/71/EC~~ paragraph (1) of rule 3.2.4 of the Prospectus Rules sourcebook the publication of a prospectus shall be made in a general or financial information newspaper having national or supra-regional scope.
2. If the ~~competent authority~~ FCA is of the opinion that the newspaper chosen for publication does not comply with the requirements set out in paragraph 1, it shall determine a newspaper whose circulation is deemed appropriate for this purpose ~~taking into account, in particular, the geographic area, number of inhabitants and reading habits in each Member State.~~

#### Article 9

##### **Publication of the notice**

1. ~~If a Member State makes use of the option, referred to in Article 14(3) of Directive 2003/71/EC, to require the publication of a notice stating how the prospectus has been made available and where it can be obtained by the public, that notice shall be published in a newspaper that fulfils the requirements for publication of prospectuses according to Article 8 of this Regulation.~~

~~If the notice relates to a prospectus published only for the purpose of admission of securities to trading on a regulated market where securities of the same class are already admitted, it may alternatively be inserted in the gazette of that regulated market, irrespective of whether that gazette is in paper copy or electronic form.~~

2. ~~The notice shall be published no later than the next working day following the date~~

~~of publication of the prospectus pursuant to Article 14(1) of Directive 2003/71/EC.~~

3. ~~The notice shall contain the following information:-~~
- ~~(a) the identification of the issuer;~~
  - ~~(b) the type, class and amount of the securities to be offered and/or in respect of which admission to trading is sought, provided that these elements are known at the time of the publication of the notice;~~
  - ~~(c) the intended time schedule of the offer/admission to trading;~~
  - ~~(d) a statement that a prospectus has been published and where it can be obtained;~~
  - ~~(e) the addresses where and the period of time during which a paper copy is available to the public;~~
  - ~~(f) its date.~~

## Article 10

### List of approved prospectuses

The list of the approved prospectuses published on the website of the ~~competent authority~~ FCA, in accordance with ~~Article 14(4) of Directive 2003/71/EC~~ rule 3.2.7 of the Prospectus Rules sourcebook, shall mention how such prospectuses have been made available and where they can be obtained.

## CHAPTER III

### ADVERTISEMENTS

## Article 11

### Dissemination of advertisements

...

4. Where no prospectus is required ~~in accordance with Directive 2003/71/EC~~ under Part VI of FSMA, any advertisement shall include a warning to that effect unless the issuer, offerer or person asking for admission to trading on a regulated market chooses to publish a prospectus which complies with ~~Directive 2003/71/EC~~ Part VI of FSMA, the Prospectus Rules sourcebook, Regulation (EC) No 809/2004 and this Regulation.

Article 12

**Consistency for the purposes of ~~Article 15(4) of Directive 2003/71/EC~~ rule 3.3.4 of the Prospectus Rules sourcebook**

...

Article 13

**~~Amendments to Regulation (EC) No 809/2004~~**

~~Regulation (EC) No 809/2004 is amended as follows:~~

- ~~1. in Article 1, paragraphs 5 and 6 are deleted;~~
- ~~2. Articles 29 to 34 are deleted.~~

Article 14

**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (SHORT SELLING REGULATION) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The following EU Regulations are amended in accordance with Annexes A–C of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 826/2012 of 29 June 2012 supplementing Regulation (EU) 236/2012 of the European Parliament and of the Council with regard to regulatory technical standards on notification and disclosure requirements with regard to net short positions, the details of the information to be provided to the European Securities and Markets Authority in relation to net short positions and the method for calculating turnover to determine exempted shares.	Annex A

<p>Commission Implementing Regulation (EU) 827/2012 of 29 June 2012 laying down implementing technical standards with regard to the means for public disclosure of net position in shares, the format of the information to be provided to the European Securities and Markets Authority in relation to net short positions, the types of agreements, arrangements and measures to adequately ensure that shares or sovereign debt instruments are available for settlement and the dates and period for the determination of the principal venue for a share according to Regulation (EU) 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps.</p>	<p>Annex B</p>
<p>Commission Delegated Regulation (EU) 919/2012 of 5 July 2012 supplementing Regulation (EU) 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps with regard to regulatory technical standards for the method of calculation of the fall in value for liquid shares and other financial instruments.</p>	<p>Annex C</p>

### Commencement

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

### Citation

H. This instrument may be cited as the Technical Standards (Short Selling Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## **Annex A**

**COMMISSION DELEGATED REGULATION (EU) No 826/2012 of 29 June 2012 supplementing Regulation (EU) No 236/2012 of the European Parliament and of the Council with regard to regulatory technical standards on notification and disclosure requirements with regard to net short positions, the details of the information to be provided to the European Securities and Markets Authority in relation to net short positions and the method for calculating turnover to determine exempted shares**

~~(Text with EEA relevance)~~

### CHAPTER I

#### **GENERAL PROVISIONS**

##### Article 1

##### **Subject matter**

This Regulation lays down regulatory technical standards specifying the following:

- (a) the details of the information on net short positions to be provided to ~~competent authorities~~ the FCA and disclosed to the public by a natural or legal person pursuant to Article 9(5) of Regulation (EU) No 236/2012;
- (b) ~~the details of the information to be provided to the European Securities and Markets Authority (hereinafter 'ESMA') by the competent authority pursuant to Article 11(3) of Regulation (EU) No 236/2012;~~
- (c) the method for calculation of turnover to determine the principal venue for the trading of a share pursuant to Article 16(3) of Regulation (EU) No 236/2012.

## CHAPTER II

**DETAILS OF THE INFORMATION ON NET SHORT POSITIONS TO BE NOTIFIED AND DISCLOSED****(ARTICLE 9 OF REGULATION (EU) No 236/2012)**

## Article 2

**Notification of net short positions in shares, sovereign debt and uncovered sovereign credit default swaps to competent authorities**

1. A notification made under Article 5(1), Article 7(1) or Article 8 of Regulation (EU) No 236/2012 shall contain the information specified in Table 1 of Annex I to this Regulation.

The notification shall be made using a form issued by the ~~competent authority~~ FCA which shall take the format set out in Annex II.

2. Where the ~~competent authority~~ FCA has secure systems in place that allows it to fully identify the person filing the notification and the position holder, including all the information contained in fields 1 to 7 of Table 1 of Annex I, the corresponding fields in the form may be left blank in the notification format.
3. A natural or legal person who has submitted a notification referred to in paragraph 1 which contains an error shall send, on becoming aware of the error, a cancellation to the ~~relevant competent authority~~ FCA.

The cancellation shall be made using a form issued by ~~that competent authority~~ the FCA which shall take the format set out in Annex III.

The natural or legal person concerned shall submit a new notification in accordance with paragraphs 1 and 2 if necessary.

...

~~CHAPTER III~~~~**DETAILS OF THE INFORMATION TO BE PROVIDED TO ESMA IN RELATION TO NET SHORT POSITIONS**~~~~**(ARTICLE 11 OF REGULATION (EU) No 236/2012)**~~~~Article 4~~~~**Periodic information**~~

~~Pursuant to Article 11(1) of Regulation (EU) No 236/2012, competent authorities shall provide ESMA with the following information on a quarterly basis:~~

- ~~(a) the daily aggregated net short position on each individual share in the main national equity index as identified by the relevant competent authority;~~

- (b) ~~the end of quarter aggregated net short position for each individual share which is not in the index referred to in point (a);~~
- (c) ~~the daily aggregated net short position on each individual sovereign issuer;~~
- (d) ~~where applicable, daily aggregated uncovered positions on credit default swaps of a sovereign issuer.~~

#### Article 5

#### **Information upon request**

~~Information to be provided by a relevant competent authority on an ad hoc basis pursuant to Article 11(2) of Regulation (EU) No 236/2012 shall include all requested information specified by ESMA that has not previously been submitted by the competent authority in accordance with Article 4 of this Regulation.~~

### CHAPTER IV

#### **METHOD OF CALCULATION OF TURNOVER TO DETERMINE THE PRINCIPAL TRADING VENUE FOR A SHARE (ARTICLE 16 OF REGULATION (EU) No 236/2012)**

#### Article 6

#### **Turnover calculation to determine the principal venue for the trading of a share**

1. When calculating turnover pursuant to Article 16 of Regulation (EU) No 236/2012, ~~a relevant competent authority~~ the FCA shall use the best available information, which may include:
  - (a) publicly available information;
  - (b) transaction data obtained under ~~Article 25(3) of Directive 2004/39/EC of the European Parliament and of the Council~~ Article 26(1) and (2) of Regulation 600/2014/EU;
  - (c) information from trading venues where the relevant share is traded;
  - (d) information provided by ~~another competent authority~~ a supervisory authority of a third country, including a competent authority of a third country;
  - (e) information provided by the issuer of the relevant share;
  - (f) information from other third parties, including data providers.
2. In determining what constitutes the best available information, ~~a relevant competent authority~~ the FCA shall ensure so far as reasonably possible that:
  - (a) it uses publicly available information in preference to other sources of information;
  - (b) the information covers all trading sessions during the relevant period, irrespective of whether the share traded during all of the sessions;

- (c) transactions received and included in the calculations are counted only once;
  - (d) transactions reported through a trading venue but executed outside it are not counted.
3. The turnover of a share on a trading venue shall be deemed to be zero where the share is no longer admitted to trading on that trading venue even if the share was admitted to trading on the trading venue during the relevant calculation period.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex B

**COMMISSION IMPLEMENTING REGULATION (EU) No 827/2012 of 29 June 2012 laying down implementing technical standards with regard to the means for public disclosure of net position in shares, the format of the information to be provided to the European Securities and Markets Authority in relation to net short positions, the types of agreements, arrangements and measures to adequately ensure that shares or sovereign debt instruments are available for settlement and the dates and period for the determination of the principal venue for a share according to Regulation (EU) No 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps**

~~(Text with EEA relevance)~~

### Article -1

#### **Definitions**

1. For the purposes of this Regulation the following definition applies:
  - (a) 'exit day' has the meaning given in the European Union (Withdrawal) Act 2018.

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

#### **Subject Matter**

This Regulation lays down implementing technical standards specifying the following:

- (a) the means by which information on net short positions may be disclosed to the public by natural or legal persons ~~as well as the format of information to be provided to the European Securities and Markets Authority (hereinafter "ESMA") by competent authorities~~ pursuant to Article 9(6) ~~and Article 11(4)~~ of Regulation (EU) No 236/2012;
- (b) the types of agreements, arrangements and measures that adequately ensure that the shares are available for settlement and the types of agreements or arrangements that adequately ensure that the sovereign debt is available for settlement pursuant to Article 12(2) and 13(5) of Regulation (EU) No 236/2012;

- (c) the date and period for principal trading venue calculations, ~~notification to ESMA~~ and the effectiveness of the relevant list pursuant to 16(4) of Regulation (EU) No 236/2012.

## CHAPTER II

### MEANS FOR PUBLIC DISCLOSURE OF SIGNIFICANT NET SHORT POSITIONS IN SHARES

#### [ARTICLE 9 OF REGULATION (EU) No 236/2012]

##### Article 2

#### Means by which information may be disclosed to the public

Information on net short positions in shares shall be disclosed to the public by posting it on a the central website operated or supervised by the ~~relevant competent authority~~ FCA pursuant to Article 9(4) of Regulation (EU) No 236/2012. The information shall be disclosed to the public through means which:

- (a) publish it in the format specified in Annex I in such a way as to allow the public consulting the website to access one or more tables offering all the relevant information on positions per share issuer;
- (b) allow users to identify and filter on whether the net short positions in a share issuer at the time of accessing the website has reached or exceeded the relevant publication threshold;
- (c) provide for historical data on the published net short positions in a share issuer;
- (d) include, whenever technically possible, downloadable files with the published and historical net short positions in a machine-readable format, meaning that the files are sufficiently structured for software applications to identify reliably individual statements of fact and their internal structure;
- (e) show for one day, together with the information specified in point (b), the net short positions that are published because they have fallen below the publication threshold of 0.5 % of the issued share capital, before removing and transferring the information to a historical data section.

## CHAPTER III

### ~~FORMAT OF THE INFORMATION TO BE PROVIDED TO ESMA BY COMPETENT AUTHORITIES IN RELATION TO NET SHORT POSITIONS~~

#### ~~[ARTICLE 11 OF REGULATION (EU) No 236/2012]~~

##### ~~Article 3~~

#### ~~Format of the periodic information~~

- ~~1. The information to be provided on a quarterly basis to ESMA on net short positions in shares, sovereign debt and credit default swaps pursuant to Article 11(1) of Regulation~~

~~(EU) No 236/2012 shall be provided by relevant competent authorities in the format specified in Annex II to this Regulation.~~

2. ~~The information referred to in paragraph 1 shall be sent to ESMA electronically through a system established by ESMA that ensures that the completeness, integrity and confidentiality of the information are maintained during its transmission.~~

#### ~~Article 4~~

#### ~~Format of the information to be provided upon request~~

1. ~~A relevant competent authority shall provide the information on net short positions in shares and sovereign debt or on uncovered positions relating to sovereign credit default swaps pursuant to Article 11(2) of Regulation (EU) No 236/2012 in the format specified by ESMA in its request.~~
2. ~~Where information requested relates to information contained in the notification received by the competent authority pursuant to Articles 5, 7 and 8 of Regulation (EU) No 236/2012, that information shall be provided in accordance with the requirements established in Article 2 of Commission Delegated Regulation (EU) No 826/2012.~~
3. ~~Information requested shall be sent by the competent authority in electronic format, using a system established by ESMA for exchanging information that ensures that the completeness, integrity and confidentiality of the information are maintained during its transmission.~~

### CHAPTER IV

#### **AGREEMENTS, ARRANGEMENTS AND MEASURES TO ADEQUATELY ENSURE AVAILABILITY FOR SETTLEMENT**

#### **[ARTICLES 12 AND 13 OF REGULATION (EU) No 236/2012]**

...

#### Article 6

#### **Arrangements and measures to be taken in relation to short sales of a share admitted to trading on a trading venue**

#### **[Article 12(1)(c) of Regulation (EU) No 236/2012]**

1. Paragraphs 2, 3 and 4 shall determine the arrangements and measures to be taken in relation to short sales of a share admitted to trading on a trading venue pursuant to Article 12(1)(c) of Regulation (EU) No 236/2012.
2. Standard locate arrangements and measures shall mean arrangements, confirmations and measures that include each of the following elements:
  - (a) for locate confirmations: a confirmation provided by the third party, prior to the short sale being entered into by a natural or legal person, that it considers

- that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions and which indicates the period for which the share is located;
- (b) for put on hold confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that it has at least put on hold the requested number of shares for that person.
3. Standard same day locate arrangements and measures shall mean arrangements, confirmations and measures that include each of the following elements:
- (a) for requests for confirmation: a request for confirmation from the natural or legal person to the third party which states that the short sale will be covered by purchases during the day on which the short sale takes place;
- (b) for locate confirmations: a confirmation provided by the third party prior to the short sale being entered into that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions, and which indicates the period for which the shares are located;
- (c) for easy to borrow or purchase confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that the share is easy to borrow or purchase in the relevant quantity taking into account the market conditions and other information available to that third party on the supply of the shares or, in the absence of this confirmation by the third party, that it has at least put on hold the requested number of shares for the natural or legal person;
- (d) for monitoring: an undertaking by the natural or legal person to monitor the amount of the short sale not covered by purchases;
- (e) for instructions in the event of failure to cover: an undertaking from the natural or legal person that in the event that executed short sales are not covered by purchases in the same day, the natural or legal person will promptly send an instruction to the third party to procure the shares to cover the short sale to ensure settlement in due time.
4. Easy to borrow or purchase arrangements and measures shall mean arrangements, confirmations and measures when the natural or legal person enters into a short sale of shares that meet the liquidity requirements established in ~~Article 22 of Commission Regulation (EC) No 1287/2006~~ Article 1 of Commission Delegated Regulation (EU) 2017/567 of 18 May 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions, or other shares that are included in the main national equity index as identified by the ~~relevant competent authority of each Member State~~ FCA and are the underlying financial instrument for a derivative contract admitted to trading on a trading venue, that include the following elements:
- (a) for locate confirmations: a confirmation provided by the third party prior to the short sale being entered into that it considers that it can make the shares available for settlement in due time taking into account the amount of the possible sale and market conditions and indicating the period for which the share is located;

- (b) for easy to borrow or purchase confirmations: a confirmation by the third party, provided prior to the short sale being entered into, that the share is easy to borrow or purchase in the relevant quantity taking into account the market conditions and other information available to that third party on the supply of the shares, or in the absence of this confirmation by the third party, that it has at least put on hold the requested number of shares for the natural or legal person; and
  - (c) for instructions to cover: when executed short sales will not be covered by purchases or borrowing, a undertaking that a prompt instruction will be sent by the natural or legal person instructing the third party to procure the shares to cover the short sale to ensure settlement in due time.
5. The arrangements, confirmations and instructions referred to in paragraphs 2, 3 and 4 shall be provided in a durable medium by the third party to the natural or legal person as evidence of the existence of the arrangements, confirmations and instructions.

...

## Article 8

### **Third parties with whom arrangements are made**

1. Where an arrangement referred to in Articles 6 and 7 is made with a third party, the third party shall be one of the following types:
  - (a) in the case of an investment firm: an investment firm which meets the requirements set out in paragraph 2;
  - (b) in the case of a central counterparty: a central counterparty which clears the relevant shares or sovereign debt;
  - (c) in the case of a securities settlement system: a securities settlement system as defined under ~~Directive 98/26/EC of the European Parliament and of the Council~~ the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 which settles payments in respect of the relevant shares or sovereign debt;
  - (d) in the case of a central bank: a central bank that accepts the relevant shares or sovereign debt as collateral or conducts open market or repo transactions in relation to the relevant shares or sovereign debt;
  - (e) in the case of a national debt management entity: the national debt management entity of the relevant sovereign debt issuer;
  - (f) any other person who is subject to authorisation or registration requirements in accordance with ~~Union law by a member of the European System of Financial Supervision~~ the Financial Services and Markets Act 2000 and meets the requirements set out in paragraph 2;
  - (g) a person established in a third country who is authorised or registered, and is subject to supervision by an authority in that third country and who meets the requirements set out in paragraph 2, provided that the third country authority

is a party to an appropriate cooperation arrangement concerning exchange of information with the ~~relevant competent authority~~ FCA.

...

## CHAPTER V

### DETERMINATION OF THE PRINCIPAL TRADING VENUE FOR THE EXEMPTION

#### [ARTICLE 16 OF REGULATION (EU) No 236/2012]

##### Article 9

#### Date and period for principal trading venue calculations

1. ~~Relevant competent authorities~~ The FCA shall make any calculations determining the principal trading venue for a share by ~~at least 35 calendar days before the date of application of Regulation (EU) No 236/2012 exit day~~ in respect of the ~~period between 1 January 2010 and 31 December 2014~~ two-year period preceding that date.
2. Subsequent calculations shall be made ~~before 22 February 2014 in respect of the period between 1 January 2012 and 31 December 2013, and every two years thereafter in respect of the subsequent two year period.~~
3. Where the share concerned was not admitted to trading during the whole two-year period on the trading venue in the ~~Union~~ UK and the third country trading venue, the period for calculation shall be the period during which the share was admitted to trading on both venues concurrently.

##### Article 10

#### Date of notification to ESMA

~~Relevant competent authorities shall notify ESMA of those shares for which the principal trading venue is outside the Union at least 35 calendar days before the date of application of the Regulation (EU) No 236/2012 and thereafter on the day before the first trading day in March every second year commencing from March 2014.~~

##### Article 11

#### Effectiveness of the list of exempted shares

The list of shares for which the principal trading venue is located outside the ~~Union~~ UK shall be effective as of 1 April following its publication by ~~ESMA~~ the FCA, except that the first list published by ~~ESMA~~ the FCA shall be effective from ~~the date of entry into application of Regulation (EU) No 236/2012 exit day~~.

## Article 12

**Specific cases of review of exempted shares**

1. ~~A relevant competent authority which determines~~ The FCA, in determining whether the principal trading venue for a share is located outside ~~the Union~~ the UK following one of the circumstances set out in paragraph 2 shall ensure that:
- (a) any calculations determining the principal trading venue are made as soon as possible after the relevant circumstances arise and in respect of the two year period preceding the date of calculation;
  - (b) ~~it notifies ESMA of its determination as soon as possible and, where relevant, before the date of admission to trading on a trading venue in the Union.~~

~~Any revised list shall be effective from the day following that of its publication by ESMA.~~

2. The provisions of paragraph 1 apply when:
- (a) the shares of a company are removed from trading on a permanent basis on the principal venue located outside the ~~Union~~ UK;
  - (b) the shares of a company are removed from trading on a permanent basis on a trading venue in the ~~Union~~ UK;
  - (c) the shares of a company that was previously admitted to trading in a trading venue outside the ~~Union~~ UK are admitted to trading on a trading venue in the ~~Union~~ UK.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX II

**Format of the information to be provided to ESMA on quarterly basis (Article 3)**

<b>Information</b>	<b>Format</b>
1. Issuer identification	<p>For shares: full name of the company that has shares admitted to trading on a trading venue</p> <p>For sovereign debt: full name of the issuer</p> <p>For uncovered sovereign credit default swaps: full name of the underlying sovereign issuer</p>
2. ISIN	For shares only: ISIN of the main class of ordinary shares of the issuer. If there are no ordinary shares admitted to trading, the ISIN of the class of preference shares (or of the main class of preference shares admitted to trading if there are several classes of such shares)
3. Country code	Two letter code for the sovereign issuer country in accordance with ISO standard 3166-1
4. Position date	Date for which the position is reported. Format in accordance with ISO standard 8601:2004 (yyyy-mm-dd)
5. Daily aggregated net short position on main national index shares	Percentage figure rounded to 2 decimal places
6. End of quarter aggregated net short position on other shares	Percentage figure rounded to 2 decimal places
7. Daily aggregated net short positions in sovereign debt	Figure of equivalent nominal amount in Euros
8. Daily aggregated uncovered positions on credit default swaps of a sovereign issuer	Figure of equivalent nominal amount in Euros

**Annex C****COMMISSION DELEGATED REGULATION (EU) No 919/2012 of 5 July 2012 supplementing Regulation (EU) No 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps with regard to regulatory technical standards for the method of calculation of the fall in value for liquid shares and other financial instruments**

~~(Text with EEA relevance)~~

...

**Article 1****Subject matter**

1. This Regulation specifies the method of calculation of the 10% fall in value for liquid shares traded on a trading venue as set out in Article 23(5) of Regulation (EU) No 236/2012.
2. That method of calculation shall exclude any downward movement of a price resulting exclusively from a split or any corporate action or similar measures adopted by the issuer on its issued share capital which can result in an adjustment of the price by the relevant trading venue.

...

**Article 3****Method of calculation of a significant fall in value for other non-derivative financial instruments**

1. A significant fall in value for financial instruments other than shares and not falling into the categories of derivatives listed in ~~points (4) to (10) of Section C of Annex I to Directive 2004/39/EC~~ Part 1 of Schedule 2 to the Regulated Activities Order 2001 shall be calculated according to the method in paragraphs 2, 3 and 4.

...

Article 4

**Method of calculation of a significant fall in value for derivatives**

A significant fall in value for financial instruments falling under the categories of derivatives listed in ~~points (4) to (10) of Section C of Annex I to Directive 2004/39/EC~~ Part 1 of Schedule 2 to the Regulated Activities Order 2001 and which have a sole underlying financial instrument that is traded on a trading venue and for which a significant fall in value has been specified in accordance with Article 2 or Article 3, shall be calculated by reference to the significant fall in value of the underlying financial instrument.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (TRANSPARENCY DIRECTIVE) (EU EXIT)  
INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The FCA thereafter amends the following EU Regulation in accordance with Annex A of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 2015/761 of 17 December 2014 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to certain regulatory technical standards on major holdings	Annex A

## Revocations

G. The FCA revokes the following EU Regulation.

Commission Delegated Regulation (EU) 2016/1437 of 19 May 2016 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on access to regulated information at Union level
---

## Commencement

H. This instrument comes into force on [29 March 2019 at 11 p.m.].

## Citation

I. This instrument may be cited as the Technical Standards (Transparency Directive) (EU Exit) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

### Commission Delegated Regulation (EU) 2015/761 of 17 December 2014 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to certain regulatory technical standards on major holdings

~~(Text with EEA relevance)~~

...

#### Article -1

#### **Definitions**

1. For the purposes of this Regulation the following definitions apply:
  - (a) ‘the Disclosure Guidance and Transparency Rules sourcebook’ means the Disclosure Guidance and Transparency Rules sourcebook made by the Financial Conduct Authority under the Financial Services and Markets Act 2000, as it has effect on exit day;
  - (b) ‘issuer’ means a natural person, or a legal entity governed by private or public law, including a State, whose securities are admitted to trading on a UK regulated market. In the case of depository receipts admitted to trading on a UK regulated market, the issuer means the issuer of the securities represented, whether or not those securities are admitted to trading on a UK regulated market;
  - (c) ‘securities’ means transferable securities as defined in Article 2(1)(24) of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, with the exception of money market instruments as defined in Article 2(1)(25A) of that Regulation having a maturity of less than 12 months;
  - (d) ‘UK regulated market’ has the meaning given in Article 2(1)(13A) of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018;
  - (e) ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018.

## Article 1

**Subject matter**

This Regulation lays down detailed rules ~~for the implementation of Article 9(6b), Article 13(1a)(a) and (b) and Article 13(4) of Directive 2004/109/EC~~ to specify:

- (a) the method of calculating any percentage threshold applying for the purposes of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook;
- (b) the method for calculating the number of voting rights in the case of financial instruments referenced to a basket of shares or an index;
- (c) the methods for determining delta for the purposes of calculating voting rights relating to financial instruments which provide exclusively for a cash settlement;
- (d) the cases in which the exemptions laid down in rules 5.1.3, 5.4.1, 5.4.2 and 5.8.6 of the Disclosure Guidance and Transparency Rules sourcebook apply to financial instruments held by a person fulfilling orders received from clients or responding to a client's requests to trade otherwise than on a proprietary basis, or hedging positions arising out of such dealings.

## Article 2

**Aggregation of holdings**

For the purpose of calculation of the 5% thresholds referred to in ~~Article 9(5) and (6) of Directive 2004/109/EC~~ paragraphs (3) and (4) of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook, holdings under UK law corresponding to Articles 9, 10 and 13 of that Directive 2004/109/EC shall be aggregated.

## Article 3

**Aggregation of holdings in the case of a group**

For the purpose of calculation of the 5% thresholds referred to in ~~Article 9(5) and (6) of Directive 2004/109/EC~~ paragraphs (3) and (4) of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook in the case of a group of companies, holdings shall be aggregated at group level according to the principle laid down in ~~Article 10(e) of that Directive~~ paragraph (e) of rule 5.2.1 of the Disclosure Guidance and Transparency Rules sourcebook.

## Article 4

**Financial instruments referenced to a basket of shares or an index**

1. Voting rights referred to in Article 13(1a)(a) of Directive 2004/109/EC rule 5.3.3A of the Disclosure Guidance and Transparency Rules sourcebook in the case of a financial instrument referenced to a basket of shares or an index shall be calculated on the basis

of the weight of the share in the basket of shares or index where any of the following conditions apply:

...

...

#### Article 5

##### **Financial instruments providing exclusively for a cash settlement**

1. The number of voting rights referred to in ~~Article 13(1a)(b) of Directive 2004/109/EC~~ rule 5.3.3A of the Disclosure Guidance and Transparency Rules sourcebook relating to financial instruments which provide exclusively for a cash settlement, with a linear, symmetric pay-off profile with the underlying share shall be calculated on a delta-adjusted basis with cash position being equal to 1.

...

6. The number of voting rights shall be calculated daily, taking into account the last closing price of the underlying share. The holder of the financial instrument shall notify the issuer when that holder reaches, exceeds or falls below the applicable thresholds provided for in ~~Article 9(1) of Directive 2004/109/EC~~ rule 5.1.2 of the Disclosure Guidance and Transparency Rules sourcebook.

#### Article 6

##### **Client-serving transactions**

The exemption referred to in ~~Article 9(6) of Directive 2004/109/EC~~ paragraph (4) of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook shall apply to financial instruments held by a natural person or legal entity fulfilling orders received from clients, responding to a client's request to trade otherwise than on a proprietary basis, or hedging positions arising out of such dealings.

#### Article 7

##### **Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## TECHNICAL STANDARDS (UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES DIRECTIVE) (EU EXIT) INSTRUMENT 2019

### Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

### Pre-conditions to making

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

### Interpretation

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

### Revocations

- F. The FCA revokes the EU Regulations listed in column (1) below.

(1)
Commission Regulation (EU) 584/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities.

Commission Implementing Regulation (EU) 2016/1212 of 25 July 2016 laying down implementing technical standards with regard to standard procedures and forms for submitting information in accordance with Directive 2009/65/EC of the European Parliament and of the Council.

**Commencement**

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

H. This instrument may be cited as the Technical Standards (Undertakings for Collective Investment in Transferable Securities Directive) (EU Exit) Instrument 2019.

By order of the Board  
[date]

**FINANCIAL CONDUCT AUTHORITY TECHNICAL STANDARDS (BANK RECOVERY AND RESOLUTION DIRECTIVE) (EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), having carried out the consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. In the Technical Standards (Bank Resolution and Recovery Directive) (EU Exit) (No. 2) Instrument [Year], the Prudential Regulation Authority (“the PRA”) exercises the power in regulation 3 of the Regulations to modify the Bank Recovery and Resolution EU Regulations using the mechanism provided for in regulation 4 of the Regulations.
- C. The FCA is accordingly the appropriate regulator for Part 1 (FCA) of each of the Bank Recovery and Resolution EU Regulations modified in the Technical Standards (Bank Resolution and Recovery Directive (EU Exit) (No. 2) Instrument [2019].
- D. The FCA has consulted the PRA and the Bank of England on the modifications referred to in paragraph G of this instrument in accordance with regulation 5 of the Regulations.
- E. This instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- F. In this instrument –
- (1) “the Bank Recovery and Resolution EU Regulations” means the EU Regulations specified in Part 4 of the Schedule to the Regulations under the heading “Bank Recovery and Resolution Directive”, which are modified by the Technical Standards (Bank Resolution and Recovery Directive) (EU Exit) (No. 2) Instrument [2019].

**Modifications to Part 1 (FCA)**

- G. The FCA makes the same modifications to Part 1 (FCA) of each Bank Recovery and Resolution EU Regulation as the PRA has made to Part 2 (PRA) of that Bank

Recovery and Resolution EU Regulation under the Technical Standards (Bank Recovery and Resolution Directive) (EU Exit) (No. 2) Instrument [2019].

**Commencement**

H. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

I. This instrument may be cited as the Financial Conduct Authority Technical Standards (Bank Recovery and Resolution Directive) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

**FINANCIAL CONDUCT AUTHORITY TECHNICAL STANDARDS (CAPITAL REQUIREMENTS DIRECTIVE AND REGULATION) (EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. In the Technical Standards (Capital Requirements) (EU Exit) (No. 3) Instrument 2019, the Prudential Regulation Authority (“the PRA”) exercises the power in regulation 3 of the Regulations to modify the Capital Requirements EU Regulations using the mechanism provided for in regulation 4 of the Regulations.
- C. The FCA is accordingly the appropriate regulator for Part 1 (FCA) of each Capital Requirements EU Regulation modified in the Technical Standards (Capital Requirements) (EU Exit) (No. 3) Instrument 2019.
- D. The FCA has consulted the PRA on the modifications referred to in paragraph G of this instrument in accordance with regulation 5 of the Regulations.
- E. This instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- F. In this instrument –
- (1) “the Capital Requirements EU Regulations” means the EU Regulations specified in Part 4 of the Schedule to the Regulations under the headings “Capital Requirements Directive” and “Capital Requirements Regulation”, which are modified by the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019.

**Modifications to Part 1 (FCA)**

- G. The FCA makes the same modifications to Part 1 (FCA) of each Capital Requirements EU Regulation as the PRA has made to Part 2 (PRA) of that Capital

Requirements EU Regulation under the Technical Standards (Capital Requirements)  
(EU Exit) (No. 3) Instrument 2019.

**Commencement**

H. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

I. This instrument may be cited as the Financial Conduct Authority Technical Standards  
(Capital Requirements Directive and Regulation) (EU Exit) Instrument 2019.

By order of the Board  
[*date*]

**FINANCIAL CONDUCT AUTHORITY TECHNICAL STANDARDS (FINANCIAL CONGLOMERATES DIRECTIVE) (EU EXIT) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. In the Technical Standards (Financial Conglomerates) (EU Exit) Instrument 2019, the Prudential Regulation Authority (“the PRA”) exercises the power in regulation 3 of the Regulations to modify the FiCOD EU Regulations using the mechanism provided for in regulation 4 of the Regulations.
- C. The FCA is accordingly the appropriate regulator for Part 1 (FCA) of each FiCOD EU Regulation modified in the Technical Standards (Financial Conglomerates) (EU Exit) Instrument 2019.
- D. The FCA has consulted the PRA on the modifications referred to in paragraph G of this instrument in accordance with regulation 5 of the Regulations.
- E. This instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- F. In this instrument –
- (1) “the FiCOD EU Regulations” means the EU Regulations specified in Part 4 of the Schedule to the Regulations under the heading “Financial Conglomerates Directive”, which are modified by the Technical Standards (Financial Conglomerates) (EU Exit) Instrument 2019.

**Modifications to Part 1 (FCA)**

- G. The FCA makes the same modifications to Part 1 (FCA) of each FiCOD EU Regulation as the PRA has made to Part 2 (PRA) of that FiCOD EU Regulation under the Technical Standards (Financial Conglomerates) (EU Exit) Instrument 2019.

**Commencement**

H. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

I. This instrument may be cited as the Financial Conduct Authority Technical Standards (Financial Conglomerates Directive) (EU Exit) Instrument 2019.

By order of the Board

[*date*]

**TECHNICAL STANDARDS (MARKETS IN FINANCIAL INSTRUMENTS  
DIRECTIVE) (EU EXIT) (No 2) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA and the Prudential Regulation Authority (“the PRA”) are the appropriate regulators for the Markets in Financial Instruments Directive EU Regulations specified in Part 4 of the Schedule to the Regulations (“the specified MiFID regulations”).
- C. The FCA proposes to exercise the power in regulation 3 of the Regulations to modify the specified MiFID regulations and proposes that the specified MiFID regulations make separate provision for persons described as follows:
- firms with Part 4A permission within the meaning of Part 4A of the Financial Services and Markets Act 2000, except PRA-authorized firms, being firms within the meaning of section 2B (5) of the Financial Services and Markets Act 2000, in the case of Commission Implementing Regulation (EU) 2017/1945 and Commission Delegated Regulation (EU) 2017/1946; and
  - firms with Part 4A permission within the meaning of Part 4A of the Financial Services and Markets Act 2000 and persons subject to regulation 30 and 32(2) of The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017, in the case of Commission Delegated Regulation (EU) 2017/589.
- D. The FCA has consulted the PRA on a division of responsibility and on the modifications contained in Annexes A to C to this instrument in accordance with regulations 4 and 5 of the Regulations.
- E. The FCA has prepared the instrument in accordance with regulation 6 of the Regulations.
- F. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

## Interpretation

- G. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

## Division

- H. The following EU regulations, as they have effect in domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, are each divided into two identical versions of the same, headed “Part 1 (FCA)” and “Part 2 (PRA)” respectively:

Commission Implementing Regulation (EU) 2017/1945

Commission Delegated Regulation (EU) 2017/1946

- I. Immediately before Article 1 in Part 1 (FCA) in those regulations is inserted:

*“Article A1*

This Part of the Regulation applies to persons that are firms with Part 4A permissions within the meaning of Part 4A of the Financial Services and Markets Act 2000, except PRA-authorized firms, being firms within the meaning of section 2B (5) of the Financial Services and Markets Act 2000.”

- J. Immediately before Article 1 in Part 2 (PRA) is inserted:

*“Article A1*

This Part of the Regulation applies to PRA-authorized firms.”

- K. The following EU regulation, as it has effect in domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, is divided into two identical versions of the same, headed “Part 1 (FCA)” and “Part 2 (PRA)” respectively:

Commission Delegated Regulation (EU) 2017/589.

- L. Immediately before Article 1 in Part 1 (FCA) is inserted:

*“Article A1*

This Part of the Regulation applies to persons that are firms with Part 4A permission within the meaning of Part 4A of the Financial Services and Markets Act 2000 or persons subject to regulation 30 and 32(2) of The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.”

- M. Immediately before Article 1 in Part 2 (PRA) is inserted:

*“Article A1*

This Part of the Regulation applies to PRA-authorised persons, within the meaning of section 2B (5) of the Financial Services and Markets Act 2000.”

**Modifications**

- N. The FCA thereafter amends the following EU Regulations in accordance with Annexes A–C of this instrument.

(1)	(2)
Part 1 (FCA) Commission Delegated Regulation (EU) 2017/589 of 19 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading.	Annex A
Part 1 (FCA) Commission Implementing Regulation (EU) 2017/1945 of 19 June 2017 laying down implementing technical standards with regard to notifications by and to applicant and authorised investment firms according to Directive 2014/65/EU of the European Parliament and of the Council.	Annex B
Part 1 (FCA) Commission Delegated Regulation (EU) 2017/1946 of 11 July 2017 supplementing Directives 2004/39/EC and 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for an exhaustive list of information to be included by proposed acquirers in the notification of a proposed acquisition of a qualifying holding in an investment firm.	Annex C

**Commencement**

- O. This instrument comes into force on [29 March 2019 at 11 p.m.].

**Citation**

- P. This instrument may be cited as the Technical Standards (Markets in Financial Instruments Directive) (EU Exit) (No 2) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

**COMMISSION DELEGATED REGULATION (EU) 2017/589 of 19 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading**

~~(Text with EEA relevance)~~

...

### Article -3

#### **Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

### Article -2

#### **Application**

- (1) This Regulation applies to:
  - (a) a MiFID investment firm; and
  - (b) a person to whom regulation 30 or 32(2) of the MiFI Regulations applies.

### Article -1

#### **Interpretation**

- (1) Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) or (3) applies.
- (2) Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
- (3) ‘Algorithmic trading’ and ‘direct electronic access’ or ‘DEA’ are defined in regulation 2(1) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.

- (4) References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.
- (5) References to 'investment firm' are to the persons referred to in Article -2(1) above unless the context indicates otherwise.
- (6) 'MiFID investment firm' and the 'MiFI Regulations' are defined in accordance with the Glossary to the Handbook of rules and guidance published by the FCA immediately after Exit Day.

...

## SECTION 2

### Post-deployment management

#### Article 9

#### **Annual self-assessment and validation**

(Article 17(1) of Directive 2014/65/EU)

1. An investment firm shall annually perform a self-assessment and validation process and on the basis of that process issue a validation report. In the course of that process the investment firm shall review, evaluate and validate the following:
  - (a) its algorithmic trading systems, trading algorithms and algorithmic trading strategies;
  - (b) its governance, accountability and approval framework;
  - (c) its business continuity arrangement;
  - (d) its overall compliance with UK law corresponding to Article 17 of Directive 2014/65/EU, having regard to the nature, scale and complexity of its business.

The self-assessment shall also include at least an analysis of compliance with the criteria set out in Annex I to this Regulation.

2. The risk management function of the investment firm, referred to in Article 23(2) of Commission Delegated Regulation (EU) 2017/565, shall draw up the validation report and, for that purpose, involve staff with the necessary technical knowledge. The risk management function shall inform the compliance function of any deficiencies identified in the validation report.
3. The validation report shall be audited by the firm's internal audit function, where such function exists, and be subject to approval by the investment firm's senior management.
4. An investment firm shall remedy any deficiencies identified in the validation report.
5. Where an investment firm has not established a risk management function referred to in Article 23(2) of Delegated Regulation (EU) 2017/565, the requirements set out in relation to the risk management function in this Regulation shall apply to any

other function established by the investment firm in accordance with Article 23(2) of ~~Delegated Regulation (EU) 2017/565~~ that Regulation.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

#### ANNEX I

#### **Criteria to be considered in the investment firm's self-assessment as referred to in Article 9(1)**

1. When considering the nature of its business, an investment firm shall consider the following, where applicable:
  - (a) the regulatory status of the firm and, where applicable, of its DEA clients, including the regulatory requirements to which it is subject as an investment firm as a result of UK law corresponding to ~~under~~ Directive 2014/65/EU, and other relevant regulatory requirements;

## ANNEX II

...

Table 3  
**Information relating to outgoing and executed orders**

N.	Field/Content	Description	Format
1	Buy-Sell indicator	Indicates whether the order is to buy or to sell, as determined in the description of field 8 of table 2.	‘BUYI’ — buy ‘SELL’ — sell
2	The trading capacity	<p>Indicates whether the order submission results from the member, participant or client of the trading venue is carrying out matched principal trading under <u>UK law corresponding to Article 4(38) of Directive 2014/65/EU</u>, or is dealing on its own account <del>under Article 4(6) of Directive 2014/65/EU</del> <u>as defined by article 2(1)(5) of Regulation 600/2014/EU</u>.</p> <p>Where the order submission does not result from the member, participant or client of the trading venue carrying out matched principal trading or dealing on its own account, the field shall indicate that the transaction was carried out under any other capacity.</p>	‘DEAL’ — Dealing on own account ‘MTCH’ — Matched principal ‘AOTC’ — Any other capacity
3	Liquidity provision activity	Indicates whether an order is submitted to a trading venue as part of a market making strategy pursuant to <u>UK law corresponding to Articles 17 and 48 of Directive 2014/65/EU</u> , or is submitted as part of another activity in accordance with Article 3 of Commission Delegated Regulation (EU) 2017/575.	‘true’ ‘false’

4	...		
...			
26	New order, order modification, order cancellation, order rejections, partial or full execution	New order: receipt of a new order by the operator of the trading venue.	'NEWO' — New order
		Triggered: an order which becomes executable or, as the case may be, non-executable upon the realisation of a pre-determined condition.	'TRIG' — Triggered
		Replaced by the member, participant or client of the trading venue: where a member, participant or client of the trading venue decides upon its own initiative to change any characteristic of the order it has previously entered into the order book.	'REME' — Replaced by the member or participant or client of the trading venue.
		Replaced by market operations (automatic): where any characteristic of an order is changed by the trading venue operator's IT systems. This includes where a peg order's or a trailing stop order's current characteristics are changed to reflect how the order is located within the order book.	'REMA' — Replaced by market operations (automatic).
		Replaced by market operations (human intervention): where any characteristic of an order is changed by a trading venue operator's staff. This includes the situation where a member, participant or client of the trading venue has IT issues and needs its orders to be cancelled urgently.	'REMH' — Replaced by market operations (human intervention).
		Change of status at the initiative of the member, participant or client of the trading venue. This includes activation and deactivation.	'CHME' — Change of status at the initiative of the member/participant/client of the trading venue.
		Change of status due to market operations.	'CHMO' — Change of status due to market operations.

	Cancelled at the initiative of the member, participant or client of the trading venue.	‘CAME’ — Cancelled at the initiative of the member or participant or client of the trading venue.
	Cancelled by market operations. This includes a protection mechanism provided for investment firms engaging in algorithmic trading to pursue a market making strategy as laid down in <u>UK law corresponding to</u> Articles 17 and 48 of Directive 2014/65/EU.	‘CAMO’ -Cancelled by market operations.
	Rejected order: an order received but rejected by the operator of the trading venue.	‘REMO’ — Rejected order
	...	

...

**Annex B****COMMISSION IMPLEMENTING REGULATION (EU) 2017/1945 of 19 June 2017 laying down implementing technical standards with regard to notifications by and to applicant and authorised investment firms according to Directive 2014/65/EU of the European Parliament and of the Council**

~~(Text with EEA relevance)~~

...

Article -2**Definitions**

In this Regulation, ‘Exit Day’ has the meaning given in the European Union (Withdrawal) Act 2018.

Article -1**Interpretation**

1. Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators’ requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.

**Article 1****Designation of a contact point**

Competent authorities shall designate a contact point for handling all information received from applicants seeking authorisation as an investment firm in accordance with the United Kingdom’s legislation corresponding to Title II of Directive 2014/65/EU. The contact details on the designated contact point shall be made public and regularly updated on the competent authorities' websites.

**Article 2**

### **Submission of the application**

1. An applicant seeking authorisation as an investment firm in accordance with the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall submit to the competent authority its application by filling in the template set out in Annex I.
2. The applicant shall notify the competent authority of the information on all members of its management body by filling in the template set out in Annex II.

...

### Article 6

#### **Communication of the decision**

1. The competent authority shall inform the applicant of its decision to grant or not the authorisation in paper form, by electronic means or both, within the 6-month period referred to in the United Kingdom's legislation corresponding to Article 7(3) of Directive 2014/65/EU.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex C

**COMMISSION DELEGATED REGULATION (EU) 2017/1946 of 11 July 2017 supplementing Directives 2004/39/EC and 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for an exhaustive list of information to be included by proposed acquirers in the notification of a proposed acquisition of a qualifying holding in an investment firm**

~~(Text with EEA relevance)~~

...

Article -2

**Application**

This Regulation applies to persons.

Article -1

**Interpretation**

1. Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. References to the ‘Regulated Activities Order’ are to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

...

Article 13

**Reduced information requirements**

1. By way of derogation from Article 2, where the proposed acquirer is an entity authorised and supervised within the ~~Union~~ United Kingdom and the target entity meets the criteria set out in paragraph 2, the proposed acquirer shall submit the following information to the competent authority of the target entity:

- (a) where the proposed acquirer is a natural person:
  - (1) the information set out in Article 3(1);
  - (2) the information set out in points (c) to (g) of Article 4;
  - (3) the information set out in Articles 6, 7 and 9;
  - (4) the information set out in Article 8(1);
  - (5) where the proposed acquisition would result in the proposed acquirer holding a qualifying holding in the target entity of up to 20 %, a document on strategy as set out in Article 10;
  - (6) where the proposed acquisition would result in the proposed acquirer holding a qualifying holding in the target entity between 20% and 50%, a document on strategy as set out in Article 11;
- (b) where the proposed acquirer is a legal person:
  - (1) the information set out in Article 3(2)
  - (2) the information set out in points (c) to (j) of Article 5(1) and, where relevant, the information set out in Article 5(3);
  - (3) the information set out in Articles 6, 7 and 9;
  - (4) the information set out in Article 8(1);
  - (5) where the proposed acquisition would result in the proposed acquirer holding a qualifying holding in the target entity of up to 20 %, a document on strategy as set out in Article 10;
  - (6) where the proposed acquisition would result in the proposed acquirer holding a qualifying holding in the target entity between 20% and 50%, a document on strategy as set out in Article 11;
- (c) where the proposed acquirer is a trust:

...

2. The target entity referred to in paragraph 1 shall meet the following criteria:

- (a) it does not hold assets of its clients;
- (b) it is not authorised for the investment services and activities ‘Dealing on own account’ or ‘Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis’ referred to in ~~points (3) and (6) of Section A of Annex I of Directive 2004/39/EC~~ Part 3 of Schedule 2 to the Regulated Activities Order;
- (c) where it is authorised for the investment service of ‘Portfolio management’ as referred to in ~~point (4) of Section A of Annex I of Directive 2004/39/EC~~ Part 3 of Schedule 2 to the Regulated Activities Order, the assets under management by the firm are below [EUR 500 million].

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (MARKETS IN FINANCIAL INSTRUMENTS  
REGULATION) (EU EXIT) (No 2) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3.

**Pre-conditions to making**

- B. The FCA and the Bank of England are the appropriate regulators for the Markets in Financial Instruments Regulation EU Regulations specified in Part 5 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations and regulations 28 and 29 of Regulation 600/2014/EU as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- F. The following EU Regulations are amended in accordance with Annexes A–C of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 2017/581 of 24 June 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on clearing access in respect of trading venues and central counterparties.	Annex A

Commission Delegated Regulation (EU) 2017/582 of 29 June 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards specifying the obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing.	Annex B
Commission Delegated Regulation (EU) 2017/2154 of 22 September 2017 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements.	Annex C

### Commencement

G. This instrument comes into force on [29 March 2019 at 11 p.m.].

### Citation

H. This instrument may be cited as the Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 2) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

**Commission Delegated Regulation (EU) 2017/581 of 24 June 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on clearing access in respect of trading venues and central counterparties**

~~(Text with EEA relevance)~~

...

### Article -1

#### **Interpretation**

1. Where a term is defined in article 2 of Regulation 600/2014/EU, that definition shall apply for the purposes of this Regulation save where the context requires otherwise.
2. References to ‘trading venue’ are to the defined term in article 2(1)(16) of Regulation 600/2014/EU
3. References in this Regulation to Regulation 600/2014/EU shall mean Regulation 600/2014/EU as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.

...

### Article 7

#### **Denial of access by a trading venue based on other factors creating significant undue risks**

A trading venue may deny an access request on grounds of significant undue risks in any of the following cases:

- (a) threat to the economic viability of the trading venue or its ability to meet minimum capital requirements under ~~Article 47(1)(f) of Directive 2014/65/EU of the European Parliament and of the Council~~ paragraph 1 of the Schedule to the Financial Services and Markets Act (Recognition Requirements Regulations) 2001;
- (b) incompatibility of trading venue rules and CCP rules that the trading venue cannot remedy in cooperation with the CCP.

...

CHAPTER II  
**CONDITIONS UNDER WHICH ACCESS MUST BE PERMITTED**

Article 9

**Conditions under which access must be permitted**

1. The parties shall agree on their respective rights and obligations arising from the access granted, including the applicable law governing their relationships. The terms of the access agreement shall:
  - (a) be clearly defined, transparent, valid and enforceable;
  - (b) where two or more CCPs have access to the trading venue specify the way in which transactions on the trading venue will be allocated to the CCP that is party to the agreement;
  - (c) contain clear rules concerning the moment of entry of transfer orders, construed pursuant to ~~Directive 98/26/EC of the European Parliament and of the Council~~ the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, into relevant systems and the moment of irrevocability;

...

Article 13

**Netting of economically equivalent contracts**

A CCP shall apply to economically equivalent contracts referred to in Article 12(1) of this Regulation the same netting procedures irrespective of where the contracts were traded, provided that any netting procedure it applies is valid and enforceable in accordance with ~~Directive 98/26/EC~~ the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 and applicable insolvency law.

...

Article 16

~~**Notification procedure from the competent authority to ESMA and the CCP college**~~

~~Relevant competent authorities shall notify ESMA and the CCP college of every decision to approve a transitional arrangement in accordance with Article 35(5) of Regulation (EU) No 600/2014 in writing without undue delay and no later than one month from the decision, using Form 2 set out in the Annex to this Regulation.~~

## Article 17

**~~Notification procedure from the trading venue to its competent authority regarding the initial transitional period~~**

~~Where a trading venue does not wish to be bound by Article 36 of Regulation (EU) No 600/2014, it shall submit a notification to its competent authority and ESMA in written form, using Forms 3.1 and 3.2 set out in the Annex to this Regulation.~~

## Article 18

**Notification procedure from the trading venue to its competent authority regarding an extension of the transitional period**

Where a trading venue wishes to continue not to be bound by Article 36 of Regulation (EU) No 600/2014 for a further thirty months, it shall submit a notification to ~~its competent authority and ESMA~~ the FCA in written form, using Forms 4.1 and 4.2 set out in the Annex to this Regulation.

...

## Article 20

**Approval and verification method by ~~ESMA~~ the competent authority**

- ~~1. For the purposes of verification in accordance with Article 36(6)(d) of Regulation (EU) No 600/2014, the trading venue shall submit to ESMA on request all facts and figures on which the calculation is based.~~
2. For the purposes of verification in accordance with Article 36(6)(d) of Regulation 600/2014/EU, when ~~When~~ verifying the submitted annual notional amount figures, ~~ESMA the competent authority~~ shall also consider relevant post-trade data and annual statistics.
- ~~3. ESMA shall approve or reject the opt-out within three months of the reception of all relevant information for the notification in accordance with either Article 16 or 17, including the information specified in Article 19.~~

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX

...

Form 2

**Notification referred to in Article 16**

<b>Name of the CCP</b>	<b>Relevant contact details</b>	<b>Date of approval decision</b>	<b>Dates of beginning and end of transitional period</b>	<b>Name(s) of trading venue(s) connected by close links</b>	<b>Jurisdiction(s) of trading venue(s) connected by close links</b>
			Beginning: End:	1. 2. 3. ...	1. 2. 3. ...

Form 3.1

**General notification referred to in Article 17**

<b>Name of the trading venue</b>	<b>Relevant contact details</b>	<b>Name(s) and jurisdiction(s) of trading venues in the same group based in the Union</b>	<b>Name(s) and jurisdiction(s) of CCP(s) connected by close links</b>
		1. 2. 3. ...	1. 2. 3. ...

Form 4.1

**General notification referred to in Article 18**

Name of the trading venue	Relevant contact details	Name(s) and jurisdiction(s) of trading venues in the same group based in the <del>Union</del> <u>UK</u>	Name(s) and jurisdiction(s) of CCP(s) connected by close links
		1. 2. 3. ...	1. 2. 3. ...

...

**Annex B**

**COMMISSION DELEGATED REGULATION (EU) 2017/582 of 29 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards specifying the obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing**

~~(Text with EEA relevance)~~

...

Article -1

**Interpretation**

1. References in this Regulation to Regulation 600/2014/EU shall mean Regulation 600/2014/EU as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.
2. For the purposes of this Regulation, where a term is defined in Article 2 of Regulation 600/2014/EU that definition applies.
3. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation.

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## Annex C

### COMMISSION DELEGATED REGULATION (EU) 2017/2154 of 22 September 2017 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements

~~(Text with EEA relevance)~~

...

#### Article – 2

#### **Application**

This Regulation applies in accordance with Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.

#### Article -1

#### **Interpretation**

1. For the purposes of this Regulation, where a term is defined in Article 2 of Regulation 600/2014/EU that definition applies.
2. Article 2(1)(62) of Regulation 600/2014/EU applies for the purposes of this Regulation.

...

#### Article 2

#### **Requirements for the provision of indirect clearing services by clients**

1. A client may only provide indirect clearing services to indirect clients provided that all of the following conditions are fulfilled:
  - (a) the client is an authorised credit institution or investment firm or an entity established in a third country that would be considered to be a credit institution or investment firm if that entity were established in the ~~Union~~ United Kingdom;
  - (b) the client provides indirect clearing services on reasonable commercial terms and publicly discloses the general terms and conditions under which it provides those services;

- (c) the clearing member has agreed to the general terms and conditions referred to in point (b) of this paragraph.

...

#### Article 7

#### **Requirements for the provision of indirect clearing services by second indirect clients**

- 1. A second indirect client may only provide indirect clearing services to third indirect clients provided that all of the following conditions are met:
  - (a) the indirect client and the second indirect client are authorised credit institutions or investment firms or entities established in a third country that would be considered to be a credit institution or an investment firm if those entities were established in the ~~Union~~ United Kingdom;

...

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

**TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE  
REGULATION) (EU EXIT) (No 2) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

**Pre-conditions to making**

- B. The FCA and the Bank of England are the appropriate regulators for the EU Regulations under European Market Infrastructure Regulations that are specified in Part 5 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. In accordance with regulation 3(2)(b), the Bank of England has given consent to the modifications in Annexes A - C of this instrument.
- E. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

**Interpretation**

- F. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

**Modifications**

- G. The FCA thereafter amends the following EU Regulation in accordance with Annexes A - C of this instrument.

(1)	(2)
Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade	Annex A

repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories	
Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories	Annex B
Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP	Annex C

### Commencement

H. This instrument comes into force on [29 March 2019 at 11 p.m.].

### Citation

I. This instrument may be cited as the Technical Standards (European Market Infrastructure Regulations) (EU Exit) (No 2) Instrument 2019.

By order of the Board  
[date]

In this instrument, underlining indicates new text and striking through indicates deleted text.

## Annex A

### **COMMISSION IMPLEMENTING REGULATION (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories**

~~(Text with EEA relevance)~~

#### Article -1

#### **Definitions**

In this Regulation, ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018.

#### Article 1

#### **Format of derivative contract reports**

The information contained in a report under Article 9 of Regulation (EU) No 648/2012 shall be provided in the format specified in the Annex to this Regulation.

#### Article 2

#### **Frequency of derivative contract reports**

Where provided for in Article 11(2) of Regulation (EU) No 648/2012, mark to market or mark to model valuations of contracts reported to a trade repository shall be done on a daily basis. Any other reporting elements as provided for in the Annex to this Regulation and the Annex to ~~the delegated act with regard to regulatory technical standards specifying the minimum details of the data to be reported to trade repositories pursuant to Article 9(5) of Regulation (EU) No 648/2012~~ Regulation (EU) No 148/2013 shall be reported as they occur and taking into account the time limit foreseen under Article 9 of Regulation (EU) No 648/2012, notably as regards the conclusion, modification or termination of a contract.

...

## Article 4

**Specification, identification, and classification of derivatives**

...

5. The derivative shall be identified in Field 6 of Table 2 of the Annex using the following, where available:
- (a) an ISO 6166 International Securities Identification Number (ISIN) code or an Alternative Instrument Identifier code (AII), as applicable, until 3 January 2018 ~~the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014 of the European Parliament and of the Council;~~
  - (b) an ISIN from ~~the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014~~ 3 January 2018.

Where an AII code is used, the complete AII code shall be used.

...

9. Until the code referred to in paragraph 8 is endorsed by ~~the FCA ESMA~~, derivatives for which an ISO 6166 ISIN code or an AII code are not available shall be classified using an ISO 10692 CFI code.

## Article 4a

**Unique Trade Identifier**

1. A report shall be identified through either a global unique trade identifier endorsed by ~~the FCA ESMA~~ or, in the absence thereof, a unique trade identifier agreed by the counterparties.

...

## Article 4b

**Venue of execution**

The venue of execution of the derivative contract shall be identified in Field 15 of Table 2 of the Annex ~~as follows:~~ using the ISO 10383 Market Identifier Code (MIC).

- (a) ~~until the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014:~~
  - (i) ~~for a venue of execution inside the Union, the ISO 10383 Market Identifier Code (MIC) published on ESMA's website in the register set up on the basis of information provided by competent authorities pursuant to Article 13(2) of Commission Regulation (EC) No 1287/2006;~~
  - (ii) ~~for a venue of execution outside the Union, the ISO 10383 MIC included in the list of MIC codes maintained and updated by ISO and published at ISO web site;~~
- (b) ~~from the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014, the ISO 10383 MIC.~~

## Article 5

### Reporting start date

1. Credit derivative and interest rate derivative contracts shall be reported:
  - (a) by 1 July 2013, where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before 1 April 2013;
  - (b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on 1 April 2013;
  - (c) by 1 July 2015, where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 by 1 July 2015. ~~The reporting obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.~~
2. Derivative contracts not referred to in paragraph 1 shall be reported:
  - (a) by 1 January 2014, where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before 1 October 2013;
  - (b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on 1 October 2013;
  - (c) by 1 July 2015, where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 by 1 July 2015. ~~The reporting obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.~~

3. Those derivative contracts which were outstanding on 16 August 2012 and are still outstanding on the reporting start date shall be reported to a trade repository within 90 days of the reporting start date for a particular derivative class.
4. The following derivative contracts which are not outstanding on the commencement date for reporting for a particular derivative class shall be reported to a trade repository within five years of that date:
  - (a) derivative contracts that were entered into before 16 August 2012 and were still outstanding on 16 August 2012;
  - (b) derivative contracts that were entered into on or after 16 August 2012.
5. The reporting start date shall be extended by 180 days for the reporting of information referred to in Article 3 of Regulation (EU) No 148/2013 ~~the delegated act with regard to regulatory technical standards specifying the minimum details of the data to be reported to trade repositories pursuant to Article 9(5) of Regulation (EU) No 648/2012.~~

#### Article 6

#### **Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

Table 1

**Counterparty Data**

	<b>Field</b>	<b>Format</b>
	Parties to the contract	
...		
6	Corporate sector of the reporting counterparty	<p>Taxonomy for Financial Counterparties:</p> <p><del>A = Assurance undertaking authorised in accordance with Directive 2009/138/EC of the European Parliament and of the Council</del></p> <p>C = Credit institution <u>which is a CRR firm (within the definition in Article 4(1)(2A) of the Capital Requirements Regulation) authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council</u></p> <p>F = Investment firm <u>within the meaning given in Article 2(1A) of the MIFIR which:</u></p> <ul style="list-style-type: none"> <li>(i) <u>has its registered office or head office in the United Kingdom;</u></li> <li>(ii) <u>has permission under Part 4A of the FSMA to carry on regulated activities relating to investment services and activities (as defined in Article 2(1)(2) of the MIFIR) in the United Kingdom;</u></li> <li>(iii) <u>would require authorisation under Directive 2014/65/EU (as it had effect immediately before exit day) if it had its registered office (or if it does not have a registered office, its head offices) in an EEA state; and</u></li> <li>(iv) <u>is not a firm which has permission under Part 4A of the 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; authorised in accordance with Directive 2004/39/EC of the European Parliament and of the Council</u></li> </ul> <p>I = Insurance undertaking <del>authorised in accordance with Directive 2009/138/EC as defined in section 417 of the FSMA</del></p>

		<p>L = <u>AIF (within the definition in regulation 3 of the Alternative Investment Fund Managers Regulations 2013) Alternative investment fund managed by Alternative Investment Fund Managers (AIFMs) (within the definition in regulation 4 of those Regulations) authorised or registered in accordance with those Regulations authorised or registered in accordance with Directive 2011/61/EU of the European Parliament and of the Council</u></p> <p>O = Institution for occupational retirement provision <u>within the meaning of section 1(1) of the Pension Schemes Act 1993 within the meaning of Article 6(a) of Directive 2003/41/EC of the European Parliament and of the Council</u></p> <p>R = Reinsurance undertaking <u>as defined in section 417 of the FSMA authorised in accordance with Directive 2009/138/EC</u></p> <p>U = <u>Undertakings for the Collective Investment in Transferable Securities (UCITS) UK UCITS (within the definition in section 237(3) of the FSMA) and its management company (within the definition in section 237(2) of the FSMA), authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council</u></p> <p>Taxonomy for Non-Financial Counterparties. The following categories correspond to the main sections of Statistical classification of economic activities in the European Community (NACE) as defined in Regulation (EC) No 1893/2006 of the European Parliament and of the Council <u>(as it had effect immediately before exit day)</u></p> <ul style="list-style-type: none"> <li>1 = Agriculture, forestry and fishing</li> <li>2 = Mining and quarrying</li> <li>3 = Manufacturing</li> <li>4 = Electricity, gas, steam and air conditioning supply</li> <li>5 = Water supply, sewerage, waste management and remediation activities</li> <li>6 = Construction</li> <li>7 = Wholesale and retail trade, repair of motor vehicles and motorcycles</li> <li>8 = Transportation and storage</li> <li>9 = Accommodation and food service activities</li> <li>10 = Information and communication</li> <li>11 = Financial and insurance activities</li> <li>12 = Real estate activities</li> <li>13 = Professional, scientific and technical activities</li> <li>14 = Administrative and support service activities</li> </ul>
--	--	--

		<p>15 = Public administration and defence; compulsory social security</p> <p>16 = Education</p> <p>17 = Human health and social work activities</p> <p>18 = Arts, entertainment and recreation</p> <p>19 = Other service activities</p> <p>20 = Activities of households as employers; undifferentiated goods — and services — producing activities of households for own use</p> <p>21 = Activities of extraterritorial organisations and bodies</p> <p>Where more than one activity is reported, list the codes in order of the relative importance of the corresponding activities, separating them with a “-”.</p> <p>Leave blank in the case of CCPs and other type of counterparties in accordance with Article 1(5) of Regulation (EU) No 648/2012.</p>
...		

Table 2  
Common Data

	Field	Format	Applicable types of derivative contracts
	<b>Section 2a — Contract type</b>		<b>All contracts</b>
...			
6	Product identification	For product identifier type I: ISO 6166 ISIN 12 character alphanumerical code For product identifier type A: Complete AII code in accordance with Article 4(86)	
7	Underlying identification type	I = ISIN A = AII U = UPI B = Basket X = Index	
8	Underlying identification	For underlying identification type I: ISO 6166 ISIN 12 character alphanumerical code For underlying identification type A: complete AII code in accordance with Article 4(86) For underlying identification type U: UPI For underlying identification type B: all individual components identification through ISO 6166 ISIN or complete AII code in accordance with Article 4(86). Identifiers of individual components shall be separated with a dash “-”. For underlying identification type X: ISO 6166 ISIN if available, otherwise full name of the index as assigned by the index provider	
...			
15	Venue of execution	ISO 10383 Market Identifier Code (MIC), 4 alphanumerical characters, in accordance with Article 4(b).	

## Annex B

### COMMISSION DELEGATED REGULATION (EU) No 148/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories

~~(Text with EEA relevance)~~

...

#### Article -1

#### **Definitions**

In this Regulation:

‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018;

‘UK-adopted IFRS’ means UK-adopted international accounting standards; and

‘UK-adopted international accounting standards’ means (in accordance with section 474(1) of the Companies Act 2006) international accounting standards which are adopted for use within the United Kingdom by virtue of Chapter 2 or 3 of Part 2 of the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019.

...

#### Article 3

#### **Reporting of exposures**

...

6. For contracts not cleared by a CCP, the counterparty shall report, in accordance with fields 17 to 20 in Table 1 of the Annex to this Regulation, the valuation of the contract performed in accordance with the methodology defined in International Financial Reporting Standard 13 Fair Value Measurement as contained in UK-adopted IFRS adopted by the Union and referred to in the Annex to Commission Regulation (EC) No 1126/2008.

Article 5  
**Entry into force**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

## ANNEX

## Details to be reported to trade repositories

...

Table 2

## Common Data

	Field	Details to be reported	Applicable types of derivative contracts
...			
	<b>Section 2b — Contract information</b>		<b>All contracts</b>
...			
6	Product identification	<p>The product shall be identified through ISIN or AII. AII shall be used if a product is traded in a trading venue classified as AII in the register published on ESMA's website and set up on the basis of information provided by competent authorities pursuant to Article 13(2) of Commission Regulation (EC) No 1287/2006 <u>as it had effect in EU law before exit day.</u></p> <p><del>AII shall only be used until 3 January 2018 the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014 of the European Parliament and of the Council.</del></p>	
7	Underlying identification type	The type of relevant underlying identifier.	
8	Underlying identification	<p>The direct underlying shall be identified by using a unique identification for this underlying based on its type.</p> <p><del>AII shall only be used until 3 January 2018 the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014.</del></p> <p>For Credit Default Swaps, the ISIN of the reference obligation should be provided.</p>	

		In case of baskets composed, among others, of financial instruments traded in a trading venue, only financial instruments traded in a trading venue shall be specified.	
...			

## Annex C

**COMMISSION DELEGATED REGULATION (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP**

~~(Text with EEA relevance)~~

...

## Article 1

**Definitions**

For the purposes of this Regulation the following definitions apply:

...

- (e) 'third indirect client' means a client of a second indirect client;
- (f) 'authorised credit institution' means a credit institution which is a CRR firm (within the definition in Article 4(1)(2A) of the Capital Requirements Regulation);
- (g) 'authorised investment firm' means an investment firm within the meaning given in Article 2(1A) of the MIFIR which:
  - (i) has its registered office or head office in the United Kingdom;
  - (ii) has permission under Part 4A of the FSMA to carry on regulated activities relating to investment services and activities (as defined in Article 2(1)(2) of the MIFIR) in the United Kingdom;
  - (iii) would require authorisation under Directive 2014/65/EU (as it had effect immediately before exit day) if it had its registered office (or if it does not have a registered office, its head offices) in an EEA state; and
  - (iv) is not a firm which has permission under Part 4A of the 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.
- (h) 'exit day' has the meaning given in the European Union (Withdrawal) Act 2018.

## Article 2

**Requirements for the provision of indirect clearing services by clients**

1. A client may only provide indirect clearing services to indirect clients provided that all of the following conditions are fulfilled:
  - (a) the client is an authorised credit institution or investment firm or an entity established in a third country that would be considered to be a credit institution or investment firm if that entity were established in the ~~Union~~ United Kingdom;

...

...

## Article 5a

**Requirements for the provision of indirect clearing services by indirect clients**

1. An indirect client may only provide indirect clearing services to second indirect clients provided that the parties to the indirect clearing arrangements fulfil one of the requirements set out in paragraph 2 and that all of the following conditions are met:
  - (a) the indirect client is an authorised credit institution or investment firm or an entity established in a third country that would be considered to be a credit institution or investment firm if that entity were established in the ~~Union~~ United Kingdom;

...

## Article 5b

**Requirements for the provision of indirect clearing services by second indirect clients**

1. A second indirect client may only provide indirect clearing services to third indirect clients provided that all of the following conditions are met:
  - (a) the indirect client and the second indirect client are authorised credit institutions or an investment firms or entities established in a third country that would be considered to be a credit institution or an investment firm if that entity were established in the ~~Union~~ United Kingdom;

...

## Article 6

**Details to be included in the notification**

1. The notification for the purpose of the clearing obligation shall include the following information:
  - (a) the identification of the class of OTC derivative contracts;
  - (b) the identification of the OTC derivative contracts within the class of OTC derivative contracts;
  - (c) other information to be included in the public register in accordance with Article 8;
  - (d) any further characteristics necessary to distinguish OTC derivative contracts within the class of OTC derivative contracts from OTC derivative contracts outside that class;
  - (e) evidence of the degree of standardisation of the contractual terms and operational processes for the relevant class of OTC derivative contracts;
  - (f) data on the volume of the class of OTC derivative contracts;
  - (g) data on the liquidity of the class of OTC derivative contracts;
  - (h) evidence of availability to market participants of fair, reliable and generally accepted pricing information for contracts in the class of OTC derivative contracts;
  - (i) evidence of the impact of the clearing obligation on availability to market participants of pricing information.
  
2. For the purpose of assessing the date or dates from which the clearing obligation takes effect, including any phasing in and the categories of counterparties to which the clearing obligation applies, the notification for the purpose of the clearing obligation shall include:
  - (a) data relevant for assessing the expected volume of the class of OTC derivative contracts if it becomes subject to the clearing obligation;
  - (b) evidence of the ability of the CCP to handle the expected volume of the class of OTC derivative contracts if it becomes subject to the clearing obligation and to manage the risk arising from the clearing of the relevant class of OTC derivative contracts, including through client or indirect client clearing arrangements;
  - (c) the type and number of counterparties active and expected to be active within the market for the class of OTC derivative contracts if it becomes subject to the clearing obligation;
  - (d) an outline of the different tasks to be completed in order to start clearing with the CCP, together with the determination of the time required to fulfil each task;

- (e) information on the risk management, legal and operational capacity of the range of counterparties active in the market for the class of OTC derivative contracts if it becomes subject to the clearing obligation.
3. ~~The data pertaining to the volume and the liquidity shall contain for the class of OTC derivative contracts and for each derivative contract within the class, the relevant market information, including historical data, current data as well as any change that is expected to arise if the class of OTC derivative contracts becomes subject to the clearing obligation, including:~~
- (a) ~~the number of transactions;~~
  - (b) ~~the total volume;~~
  - (c) ~~the total open interest;~~
  - (d) ~~the depth of orders including the average number of orders and of requests for quotes;~~
  - (e) ~~the tightness of spreads;~~
  - (f) ~~the measures of liquidity under stressed market conditions;~~
  - (g) ~~the measures of liquidity for the execution of default procedures.~~
4. ~~The information related to the degree of standardisation of the contractual terms and operational processes for the relevant class of OTC derivative contracts provided in point (e) of paragraph 1 shall include, for the class of OTC derivative contracts and for each derivative contract within the class, data on the daily reference price as well as the number of days per year with a reference price it considers reliable over at least the previous 12 months.~~

#### CHAPTER IV

### CRITERIA FOR THE DETERMINATION OF THE CLASSES OF OTC DERIVATIVE CONTRACTS SUBJECT TO THE CLEARING OBLIGATION

(Article 5(4) of Regulation (EU) No 648/2012)

#### Article 7

#### **Criteria to be assessed by ~~ESMA~~ Bank of England**

1. In relation to the degree of standardisation of the contractual terms and operational processes of the relevant class of OTC derivative contracts, the ~~European Securities and Markets Authority (ESMA)~~ Bank of England shall take into consideration:
- ...
2. In relation to the volume and liquidity of the relevant class of OTC derivative contracts, ~~ESMA~~ the Bank of England shall take into consideration:
- ...

3. In relation to the availability of fair, reliable and generally accepted pricing information in the relevant class of OTC derivative contracts, ~~ESMA~~ the Bank of England shall take into consideration whether the information needed to accurately price the contracts within the relevant class of OTC derivative contracts is easily accessible to market participants on a reasonable commercial basis and whether it would continue to be easily accessible if the relevant class of OTC derivative contracts became subject to the clearing obligation.

## CHAPTER V

## PUBLIC REGISTER

(Article 6(4) of Regulation (EU) No 648/2012)

## Article 8

**Details to be included in ~~ESMA~~ the Bank of England's Register**

1. The ~~ESMA~~ Bank of England's public register shall include for each class of OTC derivative contracts subject to the clearing obligation:
- ...
2. In relation to CCPs that are authorised or recognised for the purpose of the clearing obligation, the ~~ESMA~~ Bank of England's public register shall include for each CCP:
- ...
- (c) the country of establishment;
- (d) ~~the competent authority designated in accordance with Article 22 of Regulation (EU) No 648/2012.~~
3. In relation to the dates from which the clearing obligation takes effect, including any phased-in implementation, the ~~ESMA~~ Bank of England's public register shall include:
- ...
- (b) any other condition required pursuant to the ~~regulatory~~ technical standards made, or adopted (and forming part of domestic law), under Article 5(2) of Regulation (EU) No 648/2012, in order for the phase-in period to apply.
- ...

4. The ~~ESMA~~ Bank of England's public register shall include the reference of the ~~regulatory~~ technical standards ~~made, or adopted (and forming part of domestic law),~~ under Article 5(2) of Regulation (EU) No 648/2012, according to which each clearing obligation was established.
5. ~~In relation to the CCP that has been notified to ESMA by the competent authority, the ESMA public register shall include at least:~~
  - (a) ~~the identification of the CCP;~~
  - (b) ~~the asset class of OTC derivative contracts that are notified;~~
  - (c) ~~the type of OTC derivative contracts;~~
  - (d) ~~the date of the notification;~~
  - (e) ~~the identification of the notifying competent authority.~~

## CHAPTER VI

### LIQUIDITY FRAGMENTATION

(Article 8(5) of Regulation (EU) No 648/2012)

#### Article 9

#### **Specification of the notion of liquidity fragmentation**

...

5. Clearing arrangements referred to in point (b) of paragraph 2 may foresee the transfer of transactions executed by such market participants to clearing members of other CCPs. Although access by a CCP to a trading venue should not require interoperability, an interoperability arrangement which has been agreed by the relevant CCPs and approved by the ~~relevant competent authorities~~ Bank of England may be used to fulfil the requirement for access to common clearing arrangements.

#### Article 10

#### **Criteria for establishing which OTC derivative contracts are objectively reducing risks**

1. An OTC derivative contract shall be objectively measurable as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty or of that group, when, by itself or in combination with other derivative contracts, directly or through closely correlated instruments, it meets one of the following criteria:

...

- (c) it qualifies as a hedging contract pursuant to ~~International Financial Reporting Standards (IFRS) adopted in accordance with Article 3 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council~~ international accounting standards which are adopted for use within the United Kingdom by virtue of Chapter 2 or 3 of Part 2 of the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019.

...

## Article 12

(Article 11(14)(a) of Regulation (EU) No 648/2012)

### **Timely confirmation**

...

4. Financial counterparties shall have the necessary procedure to report on a monthly basis to the FCA ~~competent authority designated in accordance with Article 48 of Directive 2004/39/EC of the European Parliament and of the Council~~ the number of unconfirmed OTC derivative transactions referred to in paragraphs 1 and 2 that have been outstanding for more than five business days.

...

## Article 15

(Article 11(14)(a) of Regulation (EU) No 648/2012)

### **Dispute resolution**

...

2. Financial counterparties shall report to the FCA ~~competent authority designated in accordance with Article 48 of Directive 2004/39/EC of the European Parliament and of the Council~~ any disputes between counterparties relating to an OTC derivative contract, its valuation or the exchange of collateral for an amount or a value higher than EUR 15 million and outstanding for at least 15 business days.

...

## Article 18

(Article 11(14)(c) of Regulation (EU) No 648/2012)

**Details of the intragroup transaction notification to the competent authority**

...

2. As part of its application or notification to the relevant competent authority, a counterparty shall also submit supporting information evidencing that the conditions of Article 11(6 ~~8~~) ~~to~~ and (10 ~~9~~) of Regulation (EU) No 648/2012 are fulfilled. The supporting documents shall include copies of documented risk management procedures, historical transaction information, copies of the relevant contracts between the parties and may include a legal opinion upon request from the competent authority.

## Article 19

(Article 11(14)(d) of Regulation (EU) No 648/2012)

**Details of the intragroup transaction notification to ESMA**

1. The notification by a competent authority of the details of the intragroup transaction shall be submitted to ESMA in writing:
- (a) within one month of the receipt of the notification with respect to a notification under Article 11(7) or (9) of Regulation (EU) No 648/2012;
  - (b) within one month from the decision being submitted to the counterparty with respect to a decision of the competent authority under Article 11(6), (8) or (10) of Regulation (EU) No 648/2012.
2. The notification to ESMA shall include:
- (a) the information listed in Article 18;
  - (b) whether there is a positive or a negative decision;
  - (c) in the case of a positive decision:
    - (i) a summary of the reason for considering that the conditions set in Article 11(6), (7), (8), (9) or (10) of Regulation (EU) No 648/2012 as applicable are fulfilled;
    - (ii) whether the exemption is a full exemption or a partial exemption with respect to of a notification related to Article 11(6), (8) or (10) of Regulation (EU) No 648/2012;
  - (d) in the case of a negative decision:
    - (i) the identification of the conditions of Article 11(6), (7), (8), (9) or (10) of Regulation (EU) No 648/2012 as applicable that are not fulfilled;
    - (ii) a summary of the reason for considering that such conditions are not fulfilled.

...

Article 21

**Entry into force and application**

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...