

SCHEDULES

SCHEDULE 8

Section 35

SECTIONS 28 TO 34: MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 FSMA 2000 is amended as follows.
- 2 (1) Section 286 (qualification for recognition) is amended as follows.
 - (2) In subsection (1)(a), for “the Authority” substitute “the appropriate regulator”.
 - (3) In subsections (4A), (4C) and (6), for “the Authority” substitute “the FCA”.
- 3 (1) Section 287 (application by an investment exchange) is amended as follows.
 - (2) In subsections (1) and (2) for “the Authority”, in each place, substitute “the FCA”.
 - (3) In subsection (3)—
 - (a) in paragraph (a), after “provision” insert “by another person”,
 - (b) in paragraph (b), for “clearing services” substitute “services falling within section 285(2)(b)”, and
 - (c) in paragraphs (d) and (e), for “the Authority” substitute “the FCA”.
- 4 (1) Section 288 (application by a clearing house) is amended as follows.
 - (2) In subsection (1), for “the Authority” substitute “the Bank of England”.
 - (3) In subsection (2)—
 - (a) in the opening words, for “the Authority” substitute “the Bank of England”, and
 - (b) in paragraph (d), for “the Authority” substitute “the Bank”.
 - (4) In subsection (3)(b), after “clearing services” insert “or services falling within section 285(3)(b)”.
- 5 In section 289 (applications: supplementary), in subsections (1), (2) (in both places) and (3), for “the Authority” substitute “the appropriate regulator”.
- 6 (1) Section 290 (recognition orders) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “the Authority”, in the first place, substitute “the appropriate regulator”, and
 - (b) for “the Authority”, in the second place, substitute “the regulator concerned”.
 - (3) In subsection (1B), for “the Authority” substitute “the FCA”.
 - (4) Omit subsection (2).
 - (5) In subsection (3), for “the Authority” substitute “the appropriate regulator”.
 - (6) Omit subsection (6).

Status: This is the original version (as it was originally enacted).

- 7 (1) Section 290A (refusal of recognition on ground of excessive regulatory provision) is amended as follows.
- (2) In subsection (1)—
- (a) for “The Authority must” substitute “The appropriate regulator must”,
 - (b) for “the Authority that” substitute “it that”,
 - (c) omit the “or” following paragraph (a), and
 - (d) at the end of paragraph (b) insert “or
 - (c) the provision by the applicant of services falling within section 285(2)(b) or (3)(b),”.
- (3) In subsection (3), for “Authority” substitute “appropriate regulator”.
- 8 In section 292 (overseas investment exchanges and overseas clearing house), in subsections (2), (3)(c) and (d), (4) and (5)(c), for “the Authority” substitute “the appropriate regulator”.
- 9 In section 292A (publication of information by recognised investment exchange), in subsections (1), (3), (5) and (6), for “Authority” substitute “FCA”.
- 10 (1) Section 293 (notification requirements) is amended as follows.
- (2) In subsections (1) to (3) and (5), for “Authority” substitute “appropriate regulator”.
- (3) In subsection (6)—
- (a) in paragraph (a), after “provision” insert “by another person”,
 - (b) in paragraph (b), for “clearing services” substitute “services falling within section 285(2)(b)”, and
 - (c) for “the Authority” substitute “the FCA and the Bank of England”.
- (4) In subsection (7)—
- (a) in paragraph (a), after “clearing services” insert “or services falling within section 285(3)(b)”,
 - (b) in paragraph (b), after “clearing services” insert “or services falling within section 285(3)(b)”, and
 - (c) for “the Authority” substitute “the Bank of England and the FCA”.
- (5) In subsection (9), for “the Authority’s” substitute “the appropriate regulator’s”.
- 11 For section 293A substitute—

“293A Information: compliance with EU requirements

The appropriate regulator may require a recognised body to give the appropriate regulator such information as the appropriate regulator reasonably requires in order to satisfy itself that the body is complying with any qualifying EU provision that is specified, or of a description specified, for the purposes of this section by the Treasury by order.”

- 12 In section 294 (modification or waiver of rules), in subsections (1), (2), (4) and (6), for “Authority” substitute “appropriate regulator”.
- 13 (1) Section 295 (notification: overseas investment exchanges and overseas clearing houses) is amended as follows.
- (2) In subsection (1), for “the Authority” substitute “the appropriate regulator”.

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- (3) In subsection (2), for the words from “likely” to the end substitute “likely to affect the appropriate regulator's assessment of whether it is satisfied as to the requirements set out in section 292(3)”.
- (4) In subsection (3), for “the Authority” substitute “the appropriate regulator”.
- (5) Omit subsection (4).
- 14 (1) Section 296 (power to give directions) is amended as follows.
- (2) In subsection (1), for “the Authority” substitute “the appropriate regulator”.
- (3) In subsection (1A)—
- (a) for the words from “in the case of a recognised body which is a recognised investment” to “the body” substitute “if it appears to the appropriate regulator that a recognised body”, and
 - (b) for the words from “directly applicable” to the end substitute “directly applicable EU regulation specified (or of a description specified) in an order made by the Treasury”.
- (4) In subsection (2), for “The Authority” substitute “The regulator concerned”.
- (5) In subsection (2A)—
- (a) in the opening words, for “a recognised investment exchange other than an overseas investment exchange” substitute “a recognised body other than an overseas investment exchange or overseas clearing house”,
 - (b) in paragraph (a)—
 - (i) for “the Authority”, in both places, substitute “the regulator concerned”, and
 - (ii) for “the exchange” substitute “the body”, and
 - (c) in paragraph (b), for “the exchange” substitute “the body”.
- (6) In subsection (3), for “the Authority” substitute “the regulator concerned”.
- (7) In subsection (4), for “the Authority” substitute “an appropriate regulator”.
- (8) In the heading, for “Authority's” substitute “Appropriate regulator's”.
- 15 (1) Section 297 (revoking recognition) is amended as follows.
- (2) In subsections (1) and (2), for “the Authority” substitute “the appropriate regulator”.
- (3) In subsection (2A)—
- (a) in the opening words—
 - (i) for “the Authority” substitute “the appropriate regulator”, and
 - (ii) omit “which is a recognised investment exchange”,
 - (b) in paragraphs (a) and (b), after “exchange” insert “or (as the case may be) of a clearing house”, and
 - (c) in paragraph (c), for the words from “directly applicable” to the end substitute “directly applicable EU regulation specified (or of a description specified) in an order made by the Treasury”.
- (4) In subsection (2C), at the end insert “or overseas clearing house”.
- (5) In subsections (5) and (6), for “the Authority” substitute “the appropriate regulator”.

Status: This is the original version (as it was originally enacted).

- 16 In section 298 (directions and revocation: procedure)—
- (a) in subsections (1), (6) and (7), after “section 296” insert “or 296A”, and
 - (b) in subsections (1), (2)(a), (3), (5), (6), (7) (in both places) and (8), for “the Authority” substitute “the appropriate regulator”.
- 17 In section 299 (complaints about recognised bodies), in subsections (1) and (2), for “Authority” substitute “appropriate regulator”.
- 18 In section 300A (power to disallow excessive regulatory provision)—
- (a) in subsection (1), for the words from “with” to the end substitute “with—
 - (a) its business as an investment exchange,
 - (b) the provision by it of clearing services, or
 - (c) the provision by it of services falling within section 285(2) (b) or (3)(b).”, and
 - (b) in subsections (2) (in both places) and (4), and in the heading, for “Authority” substitute “appropriate regulator”.
- 19 In section 300B (duty to notify proposal to make regulatory provision) for “Authority” (in each place) substitute “appropriate regulator”.
- 20 In section 300C (restriction on making provision before Authority decides whether to act), in subsections (1), (2)(a), (3) (in both places), (4)(a) and (b), and in the heading, for “Authority” substitute “appropriate regulator”.
- 21 (1) Section 300D (consideration by Authority whether to disallow proposed provision) is amended as follows.
- (2) In subsections (1) to (4) and (5)(a) and (b), for “Authority” substitute “appropriate regulator”.
- (3) In subsection (6)—
- (a) in the opening words, for “the Authority” substitute “the appropriate regulator”,
 - (b) in paragraph (b)—
 - (i) for “the Authority's” substitute “the appropriate regulator's”, and
 - (ii) for “the Authority” substitute “the regulator concerned”, and
 - (c) in paragraph (c)(i) and (ii), for “the Authority” substitute “the appropriate regulator”.
- (4) In the heading, for “Authority” substitute “appropriate regulator”.
- 22 (1) Section 301 (supervision of certain contracts) is amended as follows.
- (2) In subsection (2), for “the Authority” substitute “the Bank of England”.
- (3) In subsection (3)—
- (a) for “the Authority”, in the first place, substitute “the FCA or the Bank of England”, and
 - (b) for “the Authority”, in the second place, substitute “the Bank”.
- (4) In subsections (4)(a), (6)(a), (7) and (9), for “Authority” substitute “Bank of England”.
- 23 In section 301A (obligation to notify the Authority: acquisitions of control), in subsections (1) and (2), and in the heading, for “the Authority” substitute “the FCA”.

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- 24 In section 301B (requirements for s.301A notices), in subsections (1) to (3), for “Authority” substitute “FCA”.
- 25 In section 301C (acknowledgement of receipt), in subsections (1) and (2), for “Authority” substitute “FCA”.
- 26 In section 301F (assessment: general), in subsections (1) to (3), for “Authority” substitute “FCA”.
- 27 (1) Section 301G (assessment: procedure) is amended as follows.
(2) In subsections (1) (in both places) and (2) to (5), for “Authority” substitute “FCA”.
(3) In subsection (6), for “the Authority’s” substitute “the FCA’s”.
- 28 In section 301H (duration of approval), in subsections (1), (2) and (3) (in both places), for “the Authority” substitute “the FCA”.
- 29 In section 301I (objections by the Authority), in subsections (1) to (5), and in the heading, for “Authority” substitute “FCA”.
- 30 In section 301J (restriction notices), in subsections (1), (2)(b), (3) and (7), for “Authority” substitute “FCA”.
- 31 In section 301K (order for sale of shares), in subsection (1), for “the Authority” substitute “the FCA”.
- 32 (1) Section 301L (offences under Chapter) is amended as follows.
(2) In subsections (1) and (2) (in both places), for “the Authority” substitute “the FCA”.
(3) In subsection (4), for “the Authority’s” substitute “the FCA’s”.
(4) In subsections (5) and (9), for “the Authority” substitute “the FCA”.
- 33 In section 312A (exercise of passport rights by EEA market operator), in subsection (1)(b), for “the Authority” substitute “the FCA”.
- 34 In section 312B (removal of passport rights from EEA market operator), in subsections (1) (in each place), (3), (4)(b), (5), (6), (7)(a) and (b), (8)(b), (9) to (11), (12) (in both places) and (13) (in the first place), for “Authority” substitute “FCA”.
- 35 In section 312C (exercise of passport rights by recognised investment exchange), in subsections (2) to (6), for “Authority” substitute “FCA”.
- 36 (1) Section 313 (interpretation) is amended as follows.
(2) In subsection (1)—
(a) after the definition of “applicant” insert—
““central counterparty clearing services” has the same meaning as in section 155 of the Companies Act 1989 (see subsection (3A) of that section);”, and
(b) at the end insert—
““UK clearing house” means a clearing house—
(a) which has its head office or its registered office (or both) in the United Kingdom,
(b) which provides central counterparty clearing services, and
(c) in relation to which a recognition order is in force.”

Status: This is the original version (as it was originally enacted).

- (3) In subsection (4), after “clearing services” insert “or services falling within section 285(3)(b)”.
- 37 In section 392 (warning and decisions notices: application of provisions relating to third party rights and access to evidence)—
- (a) in paragraph (a), after “section 280(1),” insert “section 312G(1),” and
 - (b) in paragraph (b), after “section 280(2),” insert “section 312H(1),”.
- 38 In section 412A (approval and monitoring of trade-matching and reporting systems), in subsections (1), (2), (4), (5) (in both places), (6) (in both places) and (7), for “Authority” substitute “FCA”.
- 39 In section 412B (procedure for approval and suspension or withdrawal of approval), in subsections (1) to (6), (7) (in both places), (8) and (9), for “Authority” substitute “FCA”.