
STATUTORY INSTRUMENTS

2013 No. 504

**The Financial Services and Markets Act 2000 (Over
the Counter Derivatives, Central Counterparties
and Trade Repositories) Regulations 2013**

PART 9

Transitional and saving provisions

Interpretation of Part 10

50. In this Part—

“CCP RCH” means a person, wherever established, which immediately before 15th March 2013 was a recognised clearing house or recognised investment exchange providing clearing services as a central counterparty in the United Kingdom;

“commencement” means the coming into force of these Regulations;

“FSA” means the Financial Services Authority.

Commencement Information

11 Reg. 50 in force at 1.4.2013 in accordance with reg. 1(2)

Information provided to or requested by FSA

51. On and after commencement—

(a) information requested by the FSA under—

(i) Article 31 of the EMIR regulation, or

(ii) Article 17, 83 or 84 of that Regulation from or in relation to a central counterparty, is to be treated as if it had been requested by the Bank; and

(b) information provided to the FSA in accordance with—

(i) Article 31 of the EMIR regulation, or

(ii) Article 17, 83 or 84 of that Regulation from or in relation to a central counterparty, is to be treated as if it had been provided to the Bank.

Commencement Information

12 Reg. 51 in force at 1.4.2013 in accordance with reg. 1(2)

Transitional and saving provisions: central counterparties

- 52.**—(1) The transition period for a CCP RCH begins with commencement.
- (2) The transition period for a CCP RCH established in the United Kingdom ends immediately after—
- (a) the Bank determines its application under section 288(1) of the Act in accordance with Article 17 of the EMIR regulation, or
 - (b) the end of the six month period specified in the first sub-paragraph of Article 89(3) of the EMIR regulation, if the CCP RCH has not made an application under section 288(1) of the Act before the end of that period.
- (3) The transition period for a CCP RCH established in an EEA State other than the United Kingdom ends immediately after—
- (a) the competent authority of that State determines its application in accordance with Article 17 of the EMIR regulation, or
 - (b) the end of the six month period specified in the first sub-paragraph of Article 89(3) of the EMIR regulation, if the CCP RCH has not made an application under Article 14 before the end of that period.
- (4) The transition period for a CCP RCH established in a State which is not an EEA State ends immediately after—
- (a) ESMA determines its application in accordance with Article 25 of the EMIR regulation, or
 - (b) the end of the six month period specified in the second sub-paragraph of Article 89(3) of the EMIR regulation, if the CCP RCH has not made an application under Article 25 before the end of that period.
- (5) During its transition period, the following legislation applies in relation to a CCP RCH as if it had not been amended or disapplied by these Regulations—
- (a) section 285(3) of the Act⁽¹⁾ (exemption from general prohibition for recognised clearing house);
 - (b) section 297 of the Act⁽²⁾ (revoking recognition);
 - (c) sections 300A to 300E of the Act⁽³⁾ (power to disallow excessive regulatory provision);
 - (d) [^{F1}subject to paragraph (5A),] the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001⁽⁴⁾.
 - [^{F2}(e) Part 1 of the Banking Act 2009 (special resolution regime).]
- [^{F3}(5A) During its transition period, the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 apply in relation to a CCP RCH which is established outside the United Kingdom as if—
- (a) they had not been amended or disapplied by these Regulations; and
 - (b) paragraph 23A of the Schedule were omitted.]
- (6) But [^{F4}paragraphs (5)(d) and (5A)(a) do not apply] in relation to the assessment and determination of any application by the CCP RCH under Article 14 of the EMIR regulation.

(1) Section 285(3) was amended by section 28 of the Financial Services Act 2012.

(2) Section 297 was amended by S.I. 2007/126 and 2012/916 and Schedule 8 to the Financial Services Act 2012.

(3) Sections 300A to 300E were inserted by section 2 of the Investment Exchanges and Clearing Houses Act 2006 (c.55).

(4) S.I. 2001/995.

(7) Section 296A of the Act⁽⁵⁾ (additional power to direct recognised central counterparties) applies during the transition period for a CCP RCH as if a reference to a “recognised central counterparty” were a reference to a “CCP RCH”.

(8) Nothing in these Regulations affects the validity of a CCP RCH’s recognition order during its transition period.

Textual Amendments

- F1** Words in reg. 52(5)(d) inserted (1.5.2014) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(Amendment\) Regulations 2014 \(S.I. 2014/905\)](#), regs. 1(2), **2(2)**
- F2** Reg. 52(5)(e) inserted (18.3.2015) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(Amendment\) Regulations 2015 \(S.I. 2015/348\)](#), regs. 1, **2(3)**
- F3** Reg. 52(5A) inserted (1.5.2014) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(Amendment\) Regulations 2014 \(S.I. 2014/905\)](#), regs. 1(2), **2(3)**
- F4** Words in reg. 52(6) substituted (1.5.2014) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(Amendment\) Regulations 2014 \(S.I. 2014/905\)](#), regs. 1(2), **2(4)**

Commencement Information

- I3** Reg. 52 in force at 1.4.2013 in accordance with reg. 1(2)

Further transitional provisions: EEA and third country central counterparties

53.—(1) Where the competent authority of an EEA State other than the United Kingdom has made a decision to authorise or not to authorise a CCP RCH in accordance with Article 17 of the EMIR regulation—

- (a) its recognition order under section 292(2)(b) of the Act ceases to be valid; and
- (b) the CCP RCH is no longer a recognised clearing house.

(2) Where ESMA has made a decision to recognise or not to recognise a CCP RCH established in a State which is not an EEA State in accordance with Article 25 of the EMIR regulation—

- (a) its recognition order under section 292(2)(b) of the Act ceases to be valid; and
- (b) the CCP RCH is no longer a recognised clearing house.

Commencement Information

- I4** Reg. 53 in force at 1.4.2013 in accordance with reg. 1(2)

Transitional and saving provisions: overseas persons

54.—(1) The transition period for an overseas person begins with commencement.

(2) The transition period for an overseas person ends immediately after—

- (a) the determination of its application in accordance with Article 17 or 25 of the EMIR regulation, or

(5) Section 296A was inserted by section 31 of the Financial Services Act 2012.

Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 9. (See end of Document for details)

(b) the end of the six month period specified in the second sub-paragraph of Article 89(3) of the EMIR regulation, if the overseas person has not made an application under Article 17 or 25 of the EMIR regulation before the end of that period.

(3) During the transition period for an overseas person, article 72 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 applies in relation to that overseas person as if it had not been amended by these Regulations.

(4) In this regulation, “overseas person” means an overseas person (within the meaning of article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽⁶⁾) which provided clearing services as a central counterparty immediately before commencement.

Commencement Information

I5 Reg. 54 in force at 1.4.2013 in accordance with reg. 1(2)

Transitional and saving provisions: designation orders under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999

55. Nothing in these Regulations affects any designation order in force under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999⁽⁷⁾ in relation to a designated system, and no system operator shall be required to apply for an amended designation order in consequence only of these Regulations.

Commencement Information

I6 Reg. 55 in force at 1.4.2013 in accordance with reg. 1(2)

Transitional provisions: markets in financial instruments provisions

^{F5}**55A.**

Textual Amendments

F5 Reg. 55A omitted (31.12.2020) by virtue of [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **8** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[^{F6}Transitional provision: EMIR regulation

55B. The FCA may grant an exemption in accordance with Article 89a of the EMIR regulation.]

Textual Amendments

F6 Reg. 55B inserted (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **8** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

(6) [S.I. 2001/544](#); the definition of “overseas person” in article 3(1) was amended by [S.I. 2003/1475](#), [2006/2383](#) and [3384](#) and [2009/1342](#).

(7) [S.I.1999/2979](#).

Changes to legislation: *There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 9. (See end of Document for details)*

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013, PART 9.