

STATUTORY INSTRUMENTS

2019 No. 325

The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019

PART 2

Amendments of the Financial Services and Markets Act 2000

Introductory provision

3. The 2000 Act is amended in accordance with this Part.

Commencement Information

- I1** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Persons authorised as a result of Schedule 5

4. For section 36 substitute—

“36 Authorised open-ended investment companies

- 36.** Schedule 5 makes provision about authorised open-ended investment companies.”

Commencement Information

- I2** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Open-ended investment companies

5. In section 236 (open-ended investment companies), in subsection (4)—
- (a) omit paragraph (c) (but not the “or” at the end);
 - (b) in paragraph (d), omit “other than an EEA state”.

Commencement Information

- I3** Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Meaning of “UCITS”

6. After section 236 insert—

“236A Meaning of “UCITS”

(1) For the purposes of this Act, and subject to subsection (4), “UCITS” means an undertaking established in the United Kingdom or an EEA State—

- (a) with the sole object of collective investment, operating on the principle of risk-spreading, in transferable securities or other liquid financial assets mentioned in subsection (3), of capital raised from the public; and
- (b) with units which are, at the request of holders, repurchased or redeemed, directly or indirectly, out of the undertaking's assets.

(2) A UCITS may consist of several sub-funds (see section 237(4)).

(3) The transferable securities or other liquid financial assets referred to in subsection (1) are—

- (a) in the case of an undertaking established in the United Kingdom, those permitted by section 2 of chapter 5 of the Collective Investment Schemes sourcebook ^{M1}; or
- (b) in the case of an undertaking established in an EEA State, those referred to in Article 50(1) of the UCITS directive ^{M2}.

(4) For the purposes of subsection (1)(b), action taken by the undertaking to ensure that the price of its units on an investment exchange does not significantly vary from their net asset value is to be regarded as equivalent to the repurchase or redemption of units at the request of holders.

(5) An undertaking is not a UCITS if it is any of the following—

- (a) a collective investment undertaking of the closed-ended type;
- (b) a collective investment undertaking which raises capital without promoting the sale of its units to the public within the relevant area or any part of it;
- (c) an open-ended investment company, or other collective investment undertaking, the units of which may, under its fund rules or instruments of incorporation, be sold only to the public in countries or territories outside the relevant area.

(6) In subsection (5) “the relevant area” means—

- (a) in the case of an undertaking established in the United Kingdom, the United Kingdom;
- (b) in the case of an undertaking established in an EEA State, the EEA States.”.

Commencement Information

I4 Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Marginal Citations

M1 Sourcebooks made by the Financial Conduct Authority are available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

M2 OJ L 174, 1.7.2011, p.1.

Other definitions for Part 17

- 7.—(1) Section 237 (other definitions for Part 17) is amended as follows.
- (2) In subsection (2)—
- (a) for the definition of “management company” substitute—
- ““management company” means an undertaking, as defined in section 1161 of the Companies Act 2006^{M3}, whose regular business is the management of UK UCITS;”;
- (b) in the definition of “the operator”^{M4}—
- (i) at the end of paragraph (ab), insert “ and ”;
- (ii) omit the “and” at the end of paragraph (b);
- (iii) omit paragraph (c).
- (3) In subsection (3)—
- (a) after the definition of “an authorised open-ended investment company”^{M5} insert—
- ““the Collective Investment Schemes sourcebook” means the Collective Investment Schemes sourcebook made under this Act by the FCA, as it has effect on [F¹IP completion day];
- “EEA UCITS” means a UCITS which is authorised pursuant to Article 5 of the UCITS directive in an EEA State;”;
- (b) for the definition of “feeder UCITS”^{M6} substitute—
- ““feeder UCITS” means—
- (a) a UK UCITS which has been approved by the FCA to invest 85% or more of the total property which is subject to the collective investment scheme constituted by the UK UCITS in units of—
- (i) another UK UCITS,
- (ii) a sub-fund of another UK UCITS,
- (iii) an EEA UCITS, or
- (iv) a sub-fund of an EEA UCITS, or
- (b) a sub-fund of a UK UCITS which has been approved by the FCA to invest 85% or more of the sub-fund's separate pool of the property of the UK UCITS in units of—
- (i) another UK UCITS,
- (ii) another sub-fund of a UK UCITS,
- (iii) an EEA UCITS, or
- (iv) a sub-fund of an EEA UCITS;
- “master UCITS”, in relation to a feeder UCITS, means (as the case may be)—
- (a) the other UK UCITS mentioned in paragraph (a)(i) or (b)(i) of the definition of “feeder UCITS”,
- (b) the EEA UCITS mentioned in paragraph (a)(iii) or (b)(iii) of that definition, or
- (c) the sub-fund mentioned in paragraph (a)(ii) or (iv) or (b)(ii) or (iv) of that definition;”;
- (c) in the definition of “a recognised scheme”^{M7}, omit “264 or”;
- (d) before the definition of “UK UCITS” insert—

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“UCITS-related direct EU legislation” means—

- (a) Commission Regulation (EU) 2010/583 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website, or
- (b) Commission Delegated Regulation (EU) 2016/438 of 17 December 2015 supplementing Directive 2009/65/EC of the European Parliament and of the Council with regard to obligations of depositaries;”.

Textual Amendments

- F1** Words in reg. 7(3)(a) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, **Sch. para. 18(a)**

Commencement Information

- I5** Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

- M3** [2006 c. 46](#).
- M4** The definition of “the operator” was inserted by [S.I. 2013/1388](#).
- M5** A previous definition of “EEA UCITS” was inserted by [S.I. 2013/1388](#) and omitted by [S.I. 2018/698](#).
- M6** The definition of “feeder UCITS” was inserted by [S.I. 2011/1613](#) and amended by paragraph 9 of Schedule 18 to the [Financial Services Act 2012 \(c. 21\)](#).
- M7** In subsection (3), the definition of “recognised scheme” was amended by [S.I. 2013/1773](#).

Authorisation orders: unit trust schemes

- 8.—**(1) Section 243 (authorisation orders) is amended as follows.
- (2) In subsection (5) ^{M8}—
 - (a) omit “or another EEA State”;
 - (b) for “country in which it is incorporated” substitute “United Kingdom”.
 - (3) For subsection (5A) substitute—

“(5A) The manager and the trustee must each have a place of business in the United Kingdom.”.
 - (4) Omit subsection (6).

Commencement Information

- I6** Reg. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

- M8** Subsections (5) and (5A) were substituted for subsection (5) by [S.I. 2011/1613](#).

Certificates: unit trust schemes

9. In section 246 (certificates), in subsection (1) ^{M9}, for the words from “enjoy” to “instrument” substitute “ be a UK UCITS ”.

Commencement Information

I7 Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M9 Section 246(1) was amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

Proposal to convert to a non-feeder UCITS: unit trust schemes

10.—(1) Section 252A ^{M10} (proposal to convert to a non-feeder UCITS) is amended as follows.

(2) In subsection (1)(b), after “convert into a” insert “ UK ”.

(3) In subsection (7)(a), after “convert into a” insert “ UK ”.

(4) In subsection (9), for paragraphs (a) and (b) substitute—

- “(a) specified in rule 11.6.3(2) of the Collective Investment Schemes sourcebook, or
(b) specified in UCITS-related direct EU legislation.”

Commencement Information

I8 Reg. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M10 Section 252A was inserted by [S.I. 2011/1613](#) and amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

Requests for revocation of authorisation order: unit trust schemes

11. In section 256 ^{M11} (requests for revocation of authorisation order), in subsection (3)(b), omit “or would be incompatible with an EU obligation”.

Commencement Information

I9 Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M11 Section 256 was amended by [S.I. 2011/1043](#) and by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

Directions: unit trust schemes

12. In section 257 ^{M12} (directions), in subsection (1)(b)—

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- (a) in sub-paragraph (ii), for the words from “any” to “UCITS directive” substitute “ UCITS-related direct EU legislation; ”;
- (b) in sub-paragraph (iii), after “that Regulation” insert “ which constitutes retained direct EU legislation ”.

Commencement Information

I10 Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M12 Section 257 was amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012. Subsection (1)(b) was substituted by [S.I. 2011/1613](#) and amended by [S.I. 2018/698](#).

Winding up or merger of master UCITS: unit trust schemes

- 13.**—(1) Section 258A ^{M13} (winding up or merger of master UCITS) is amended as follows.
- (2) In subsection (2)(b), after “convert into a” insert “ UK ”.
 - (3) In subsection (4)(b), after “convert into a” insert “ UK ”.

Commencement Information

I11 Reg. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M13 Section 258A was inserted by [S.I. 2011/1613](#). Subsections (2)(b) and (4)(b) were amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

Information for home state regulator: unit trust schemes

- 14.** Omit section 261A ^{M14} (information for home state regulator).

Commencement Information

I12 Reg. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M14 Section 261A was inserted by [S.I. 2011/1613](#) and amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

Information for feeder UCITS: unit trust schemes

- 15.**—(1) Section 261B ^{M15} (information for feeder UCITS) is amended as follows.
- (2) In subsection (1)(a), after “made” insert “ by or under any enactment ”.
 - (3) Omit subsections (2) and (3).

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Commencement Information

I13 Reg. 15 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Marginal Citations

M15 Section 261B was inserted by S.I. 2011/1613 and amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012. There are other amendments but none is relevant.

Authorisation orders: contractual schemes

- 16.—(1) Section 261D^{M16} (authorisation orders) is amended as follows.
- (2) In subsection (5)—
- (a) omit “or another EEA State”;
 - (b) for “country in which it is incorporated” substitute “ United Kingdom ”.
- (3) For subsection (6) substitute—
- “(6) The operator and the depositary must each have a place of business in the United Kingdom.”.
- (4) Omit subsection (7).

Commencement Information

I14 Reg. 16 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Marginal Citations

M16 Section 261D was inserted by S.I. 2013/1388. There are amendments but none is relevant.

Authorisation orders: holding of units

17. In section 261E^{M17} (authorisation orders: holding of units), in the definition of “professional investor” in subsection (4), for “(1) to (4) of Section I of Annex II to the markets in financial instruments directive (professional clients for the purpose of that directive)” substitute “ (a) to (d) of paragraph 3 of Schedule 1 to the markets in financial instruments regulation ”^{M18}.

Commencement Information

I15 Reg. 17 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Marginal Citations

M17 Section 261E was inserted by S.I. 2013/1388.

M18 Schedule 1 to Regulation (EU) No. 600/2014 is inserted by S.I. 2018/.

Certificates: contractual schemes

18. In section 261H^{M19} (certificates), in subsection (1), for “enjoy the rights conferred by any relevant EU instrument” substitute “ be a UK UCITS ”.

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Commencement Information

I16 Reg. 18 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M19 Section 261H was inserted by [S.I. 2013/1388](#).

Proposal to convert to a non-feeder UCITS: contractual schemes

- 19.**—(1) Section 261S^{M20} (proposal to convert to a non-feeder UCITS) is amended as follows.
- (2) In subsection (1)(b), after “convert into a” insert “ UK ”.
- (3) In subsection (7)(a), after “convert into a” insert “ UK ”.
- (4) In subsection (9), for paragraphs (a) and (b) substitute—
- “ (a) specified in rule 11.6.3(2) of the Collective Investment Schemes sourcebook, or
- (b) specified in UCITS-related direct EU legislation.”.

Commencement Information

I17 Reg. 19 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M20 Section 261S was inserted by [S.I. 2013/1388](#).

Requests for revocation of authorisation order: contractual schemes

20. In section 261W^{M21} (requests for revocation of authorisation order), in subsection (3)(b), omit “or would be incompatible with an EU obligation”.

Commencement Information

I18 Reg. 20 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M21 Section 261W was inserted by [S.I. 2013/1388](#).

Directions: contractual schemes

- 21.** In section 261X^{M22}(directions), in subsection (1)(b)—
- (a) in sub-paragraph (ii), for the words from “any” to “UCITS directive” substitute “ UCITS-related direct EU legislation; ”;
- (b) in sub-paragraph (iii), after “that Regulation” insert “ which constitutes retained direct EU legislation ”.

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Commencement Information

I19 Reg. 21 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Marginal Citations

M22 Section 261X was inserted by [S.I. 2013/1388](#) and amended by [S.I. 2018/698](#).

Winding up or merger of master UCITS: contractual schemes

- 22.**—(1) Section 261Z^{M23} (winding up or merger of master UCITS) is amended as follows.
- (2) In subsection (2)(b), after “convert into a” insert “ UK ”.
- (3) In subsection (4)(b), after “convert into a” insert “ UK ”.

Commencement Information

I20 Reg. 22 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Marginal Citations

M23 Section 261Z was inserted by [S.I. 2013/1388](#).

Information for home state regulator: contractual schemes

- 23.** Omit section 261Z4^{M24} (information for home state regulator).

Commencement Information

I21 Reg. 23 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Marginal Citations

M24 Section 261Z4 was inserted by [S.I. 2013/1388](#).

Information for feeder UCITS: contractual schemes

- 24.**—(1) Section 261Z5^{M25} (information for feeder UCITS) is amended as follows.
- (2) In subsection (1)(a), after “made” insert “ by or under any enactment ”.
- (3) Omit subsections (2) and (3).

Commencement Information

I22 Reg. 24 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(2\)](#)

Marginal Citations

M25 Section 261Z5 was inserted by [S.I. 2013/1388](#).

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Schemes constituted in other EEA States

25. Omit sections 264 to 269 (schemes constituted in other EEA States).

Commencement Information

I23 Reg. 25 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Individually recognised overseas schemes

26. In section 272 (individually recognised overseas schemes), in subsection (1)—

- (a) at the end of paragraph (a) insert “ and ”;
- (b) omit paragraph (b) and the “and” immediately following it.

Commencement Information

I24 Reg. 26 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Master-feeder structures

27.—(1) Section 283A ^{M26} (master-feeder structures) is amended as follows.

(2) In subsection (1), for the words from “rules made” to “directive” substitute “ rule 5.2.11(9) of the Collective Investment Schemes sourcebook ”.

(3) In subsection (3)(a)—

- (a) for “that the UCITS” substitute “ that the UK UCITS ”;
- (b) in sub-paragraph (i) for “Chapter VIII of the UCITS directive,” substitute “ the Chapter 8 provisions, ”.

(4) After subsection (3) insert—

“(3A) In subsection (3)(a)(i) “the Chapter 8 provisions” means—

- (a) in relation to a UK UCITS or its operator, trustee or depositary, or auditor, any provision made by or under an enactment in implementation of Chapter 8 of the UCITS directive, and
- (b) in relation to an EEA UCITS or its operator, Chapter 8 of the UCITS directive.”

Commencement Information

I25 Reg. 27 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M26 Section 283A was inserted by [S.I. 2011/1613](#); amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012 and by [S.I. 2013/1388](#).

Reports on derivative instruments

28.—(1) Section 283B ^{M27} (reports on derivative instruments) is amended as follows.

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- (2) In subsection (1), after “in relation to a” insert “ UK ”.
- (3) In subsection (4), for paragraphs (a) and (b) substitute—
- “(a) in rules 6.12.3 and 6.12.3A, and annex 2R to chapter 6, of the Collective Investment Schemes sourcebook, or
- (b) in UCITS-related direct EU legislation.”.

Commencement Information

I26 Reg. 28 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M27 Section 283B was inserted by [S.I. 2011/1613](#) and amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

FCA's and PRA's procedures

- 29.** In section 395 (procedures of the FCA and PRA), omit subsection (13)(e).

Commencement Information

I27 Reg. 29 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Definitions

- 30.** In section 417 (definitions), in subsection (1), in the definition of “UCITS”^{M28}, for “Article 1.2 of the UCITS directive” substitute “ section 236A ”.

Commencement Information

I28 Reg. 30 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M28 The definition of “UCITS” was inserted by [S.I. 2018/698](#).

Expressions relating to authorisation elsewhere in the single market

- 31.** In section 425 (expressions relating to authorisation elsewhere in the single market), in subsection (1), omit paragraph (aa) (but not the “and” at the end).

Commencement Information

I29 Reg. 31 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

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Persons concerned in collective investment schemes

32.—(1) Schedule 5 (persons concerned in collective investment schemes) is amended as follows.

(2) In paragraph 1 ^{M29}—

(a) omit sub-paragraphs (1) and (2), and

(b) in sub-paragraph (4), for paragraph (b) substitute—

“(b) which is a UCITS as defined in section 236A,”.

(3) In paragraph 2, omit sub-paragraph (1).

Commencement Information

I30 Reg. 32 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

Marginal Citations

M29 Paragraphs 1(4) and (5) were inserted by [S.I. 2003/2066](#).

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)