This Statutory Instrument has been made in consequence of a defect in S.I. 2019/325 and is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Regulations laid before Parliament under sections 3(10) and 84(5) of the Financial Services and Markets Act 2023, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No.

FINANCIAL SERVICES

The Collective Investment Schemes (Temporary Recognition) and Central Counterparties (Transitional Provision) (Amendment) Regulations 2024

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Treasury, in exercise of the powers conferred by sections 3(1) and 83 of the Financial Services and Markets Act 2023 ("the Act")(**a**) and regulation 67(1) of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019(**b**) make these Regulations.

The Treasury have consulted the Financial Conduct Authority and Prudential Regulation Authority in accordance with section 3(6) of the Act.

In accordance with sections 3(10) and 84(5) of the Act, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Collective Investment Schemes (Temporary Recognition) and Central Counterparties (Transitional Provision) (Amendment) Regulations 2024.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

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

2.—(1) The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 are amended as follows.

(2) In regulation 61 (interpretation), after paragraph (6) insert—

(**a**) 2023 c. 29.
(**b**) S.I. 2019/325, as amended by the Financial Services Act 2021 (c. 22) and S.I. 2020/56.

"(6A) "MMF" means a sub-fund of an EEA UCITS that is authorised in an EEA state for the purpose of being a money market fund that—

(a) invests in financial assets with a residual maturity not exceeding 2 years, and

(b) has distinct or cumulative objectives offering returns in line with money market rates or preserving the value of the investment.".

(3) Regulation 62(3) (temporary recognition for EEA UCITS or sub-funds of EEA UCITS) is amended as follows—

(a) in sub-paragraph (c), for "paragraph 68(2)" substitute "regulation 67A(2) or 68(2) (as applicable)";

(b) in sub-paragraph (d), for "5" substitute "6".

(4) Regulation 63 (the appropriate conditions) is amended as follows—

(a) in paragraph (3), for sub-paragraph (d) substitute—

"(d) if—

(i) the new sub-fund is not an MMF (subject to paragraph (4)), that the notification is given before the start of the period specified by the FCA with regards to sub-funds that are not MMFs, under regulation 67A or 68 (as applicable), in relation to the new sub-fund's umbrella scheme, or

(ii) the new sub-fund is an MMF (subject to paragraph (5)), that the notification is given before the start of the period specified by the FCA with regards to sub-funds that are MMFs, under regulation 67A or 68 (as applicable), in relation to the new sub-fund's umbrella scheme.";

(b) after paragraph (3) insert—

"(4) Where the existing sub-funds of an umbrella scheme are all MMFs, then the condition in paragraph (3)(d)(i) is incapable of being satisfied in any event.

(5) Where the sub-funds of an umbrella scheme are all not MMFs at the start of the period specified by the FCA under regulation 67A or 68 (as applicable), in relation to that umbrella scheme, then the condition in paragraph (3)(d)(ii) is incapable of being satisfied in any event.".

Amendment of the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018

3.—(1) The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018(**a**) are amended as follows.

(2) In regulation 19(**b**) (cessation of temporary deemed recognition)—

(a) omit paragraphs (2) and (3),

(b) in paragraph (4), for "second" substitute "first",

(c) in paragraph (5), for "third" substitute "second", and

(d) in paragraph (6), for "fourth" substitute "third".

(3) In regulation 19A(2)(a)(**c**) (eligibility for run-off regime), omit "19(2),".

(**a**) S.I. 2018/1184.
(**b**) S.I. 2018/1184; amended by S.I. 2020/56 and 2020/1385.
(**c**) S.I. 2018/1184; regulation 19A was inserted by S.I. 2019/405.

Name
Name
Date Two of the Lords Commissioners of His Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 ("CIS EU Exit Regulations") (S.I. 2019/325), regarding temporary recognition for the purpose of Part 17 of the Financial Services and Markets Act ("FSMA") 2000 (c. 8). These Regulations also amend the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (the "CCP Regulations").

Regulation 2(2) inserts a definition for a money market fund ("MMF") into regulation 61 of the CIS EU Exit Regulations, which is relevant for the other amendments made by these regulations.

Regulation 2(3)(a) amends regulation 62(3)(c) of the CIS EU Exit Regulations. Prior to these regulations, regulation 62(3)(c) of the CIS EU Exit Regulations provided that when the FCA directed temporarily recognised funds to apply for recognition under section 272 of FSMA 2000 within a specified time period, a failure to make such an application within that time period would mean that the funds ceased being temporarily recognised. The amendment made by regulation 2(3)(a) ensures that, where applicable, the same effect occurs where the FCA directs temporarily recognised funds to apply for recognition under section 271A of FSMA 2000 within a specified time period. Regulation 2(3)(a) also corrects a defect in regulation 62(3)(c) of the CIS EU Exit Regulations.

Regulation 2(3)(b) amends regulation 62(3)(d) of the CIS EU Exit Regulations, to extend the regime of temporary recognition of funds for the purpose of Part 17 of FSMA 2000, from five to six years.

Regulation 2(4)(a) amends regulation 63(3)(d) of the CIS EU Exit Regulations. Prior to these regulations, regulation 63(3)(d) of the CIS EU Exit Regulations provided that one of the conditions of a new sub-fund being temporarily recognised was that the operator had notified the FCA that it wished the new sub-fund to be so recognised, before the start of the period specified by the FCA for the new sub-fund's umbrella scheme to apply for recognition under section 272 of FSMA 2000. The effect of the amendment made by regulation 2(4)(a) is to change this condition, by distinguishing between new sub-funds that are MMFs and those that are not. It also ensures that, where applicable, the condition additionally applies where the FCA makes a direction for the purpose of recognition under section 271A of FSMA 2000. The effects of this amendment are subject to the new paragraphs inserted by regulation 2(4)(b) into regulation 63 of the CIS EU Exit Regulations.

Regulation 2(4)(b) inserts two new paragraphs into regulation 63 of the CIS EU Exit Regulations. These new paragraphs qualify the conditions in regulation 63(3)(d) of the CIS EU Exit Regulations, as amended by regulation 2(4)(a). These new paragraphs qualify these amended conditions in circumstances where an umbrella scheme has sub-funds that are all MMFs or that are all not MMFs, at particular points in time.

Regulation 3 removes the first condition under which a central counterparty could cease to be taken to be recognised pursuant to Article 25 of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories in accordance with regulation 17 of the CCP Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. A de minimis impact assessment is available

from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.

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