Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No.

EXITING THE EUROPEAN UNION

FINANCIAL SERVICES

The Financial Regulators' Powers (Technical Standards etc.) and Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2019

Made - - - -	***
Coming into force - -	***

The Treasury, in exercise of the powers conferred by section 8 of the European Union (Withdrawal) Act 2018(**a**), make the following Regulations.

A draft of these Regulations has been approved by a resolution of each House of Parliament in accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Financial Regulators' Powers (Technical Standards etc.) and Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2019.

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

(**a**) 2018 c. 16.

PART 2

Financial Regulators' Powers (Technical Standards etc.) (Amendments etc.) (EU Exit) Regulations 2018

Amendments

2.—(1) The Schedule to the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018(**a**) is amended as follows.

(2) After paragraph 1, insert—

"Benchmarks Regulation

1A. Commission Implementing Regulation (EU) 2018/1105 of 8 August 2018 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(**b**).

1B. 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(**c**).

1C. 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(**d**).

1D. 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(**e**).

1E. 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(**f**).

1F. 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(**g**).

1G. 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

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(**a**) S.I. 2018/1115.
(**b**) OJ L202, 9.8.2018, p.1.
(**c**) OJ L202, 9.8.2018, p.9.
(**d**) OJ L274, 5.11.2018, p.1.
(**e**) OJ L274, 5.11.2018, p.6.
(**f**) OJ L274, 5.11.2018, p.11.
(**g**) OJ L274, 5.11.2018, p.16.

the benchmark, the internal review and approval of the methodology and on the procedures for making material changes in the methodology(**a**).

1H. 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(**b**).

1I. 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(**c**).

1J. 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(**d**).

1K. 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)(**e**).

1L. 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(**f**).”

(3) After paragraph 6, insert—

“European Long-term Investment Funds Regulation

6A. 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(**g**).
”

(4) After paragraph 24, insert—

“**24A.** 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(**h**).”

(5) Omit paragraph 105.

(6) After paragraph 113, insert—

(**a**) OJ L274, 5.11.2018, p.21.
(**b**) OJ L274, 5.11.2018, p.25.
(**c**) OJ L274, 5.11.2018, p.29.
(**d**) OJ L274, 5.11.2018, p.33.
(**e**) OJ L274. 5.11.2018, p.36.
(**f**) OJ L274, 5.11.2018, p.43.
(**g**) OJ L81, 23.3.2018, p.1.
(**h**) OJ L55, 27.2.2018, p.34.

"**113A.** Commission Implementing Regulation (EU) 2018/1624 of 23 October 2018 laying down implementing technical standards with regard to procedures and standard forms and templates for the provision of information for the purposes of resolution plans for credit institutions and investment firms pursuant to Directive 2014/59/EU of the European Parliament and of the Council, and repealing Commission Implementing Regulation (EU) 2016/1066(**a**)."

(7) After paragraph 168, insert—

"**168A.** Commission Delegated Regulation (EU) 2018/959 of 14 March 2018 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards of the specification of the assessment methodology under which competent authorities permit institutions to use Advanced Measurement Approaches for operational risk(**b**)."

PART 3

The Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

Amendments to the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

3. In regulation 37 of the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018(**c**), in the new Schedule 3—

(a) in paragraph 8(1), for "396/2014" substitute "596/2014";

(b) omit paragraph 18;

(c) in paragraph 19(1), for "paragraph 1(l)" substitute "paragraph 1(k)";

(d) in paragraph 27, for "paragraphs 7A(2) and (3)(a), and", substitute "paragraph";

(e) in paragraph 40(c)—

(i) for "notifications" substitute "applications";

(ii) omit "and rule 10A.13.10R";

(f) in paragraph 44(a), for ", 33 and 46" substitute "and 33".

Name
Name
Two of the Lords Commissioners of Her Majesty's Treasury

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8 of, and paragraph 1 of Schedule 4 to, the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. Part 2 of the Regulations amend the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (the 2018 Regulations) to add additional binding technical standards to the Schedule to the 2018 Regulations, so that the

(**a**) OJ L277, 7.11.2018, p.1.
(**b**) OJ L169, 6.7.2018, p.1.
(**c**) S.I. 2018/1403.

Financial Conduct Authority, the Prudential Regulation Authority and the Bank of England are able to remove deficiencies in those additional technical standards using the powers in the 2018 Regulations. Part 3 of the Regulations makes minor corrections in relation to the powers transferred to the Treasury and the Financial Conduct Authority in the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.

An impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector will be available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and published alongside this instrument at www.legislation.gov.uk.

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