Draft Regulations laid before Parliament under sections 3(10) and 84(3) of the Financial Service and Markets Act 2023 (c. 29), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No.

FINANCIAL SERVICES AND MARKETS

The Over the Counter Derivatives (Intragroup Transactions) Regulations 2026

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Treasury make these Regulations in exercise of the powers conferred by sections 3 and 84(2) of the Financial Services and Markets Act 2023(**a**).

The Treasury have consulted the Financial Conduct Authority and the Prudential Regulation Authority as required by section 3(6) of that Act.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with sections 3(10) and 84(3) of the Financial Services and Markets Act 2023.

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Over the Counter Derivatives (Intragroup Transactions) Regulations 2026.

(2) These Regulations come into force on the day on which the revocation of Part 5 of the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019(**b**) by section 1(1) of, and Schedule 1 to, the Financial Services and Markets Act 2023 comes into force.

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

(4) In these Regulations, "the EMIR Regulation" means 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(**c**).

(**a**) 2023 c. 29.
(**b**) S.I. 2019/335, as amended by S.I. 2020/1385; there are other amending instruments but none are relevant.
(**c**) EUR 2012/648, as amended by S.I. 2019/335, 2019/685, 2021/1376; there are other amending instruments but none are relevant.

Amendments to the definitions in Article 2 of the EMIR Regulation

2.—(1) Article 2 of the EMIR Regulation (definitions) is amended as follows.

(2) In point (39), for "." substitute ";";

(3) After point (39), insert—

"(40) 'Regulation 149/2013' means Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP(**a**);

(41) 'Regulation 2016/2251' means Commission Delegated Regulation (EU) 2016/2251 of 4 October 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty(**b**).".

Amendments to the definition of an intragroup transaction in Article 3 of the EMIR Regulation

3.—(1) Article 3 of the EMIR Regulation (intragroup transactions) is amended as follows.

(2) For paragraph 1, substitute—

"1. In relation to a counterparty, an intragroup transaction is an OTC derivative contract entered into with another counterparty which is part of the same group provided that both counterparties are included in the same consolidation on a full basis and they are subject to appropriate centralised risk evaluation, measurement and control procedures.".

(3) Omit paragraph 2.

(**a**) EUR 2013/149, as amended by the following Financial Conduct Authority instruments: the Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 2) Instrument 2019, the FCA Standards Instrument: The Technical Standards (EMIR Reporting and Data Quality and Miscellaneous Amendments) Instrument 2023, the Technical Standards (European Markets Infrastructure Regulation) (Clearing Thresholds) (Amendment) Instrument 2026. Copies of these instruments are available at https://api-handbook.fca.org.uk/files/instrument/2019/FCA_2019_62.pdf, https://api-handbook.fca.org.uk/files/instrument/2023/FCA_2023_4.pdf and https://api-handbook.fca.org.uk/files/instrument/TECHNICAL%20STANDARD/FCA%202026/28-2026-05-29.pdf. It is also amended by the following Bank of England instrument: the Bank Standards Instrument: The Technical Standards (EMIR Reporting and Data Quality and Miscellaneous Amendments) Instrument 2023. A copy of this instrument is available at https://www.bankofengland.co.uk/-/media/boe/files/financial-stability/financial-market-infrastructure-supervision/standards-instrument.pdf.

(**b**) EUR 2016/2251, as amended by S.I. 2025/1023. It is also amended by the following Financial Conduct Authority instruments: the FCA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2021, the FCA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2022, the FCA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2023, the Technical Standards (Bilateral Margining) (Amendment) Instrument 2024 and the Technical Standards (European Markets Infrastructure Regulation) (Bilateral Margining) Instrument 2025. Copies of these instruments are available at https://api-handbook.fca.org.uk/files/instrument/2021/FCA_2021_21.pdf, https://api-handbook.fca.org.uk/files/instrument/2022/FCA_2022_45.pdf, https://api-handbook.fca.org.uk/files/instrument/2023/FCA_2023_44.pdf, https://api-handbook.fca.org.uk/files/instrument/2024/FCA_2024_36.pdf and https://api-handbook.fca.org.uk/files/instrument/Technical%20Standards/FCA%202025/50-2025-11-27.pdf. It is also amended by the following Prudential Regulation Authority instruments: the EU Exit Instrument: The Technical Standards (Capital Requirements) (EU Exit) (No. 3) Instrument 2019, the EU Exit Instrument: The Technical Standards (European Market Infrastructure) (EU Exit) (No. 3) Instrument 2019, the PRA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2021, the PRA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2022, the PRA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2023 and the PRA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2025. Copies of these instruments are available at https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/ps519-section-b-app3-crr3-april-2019, https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/ps519-section-b-app3-emir-april-2019, https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/june/ps1421app1, https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2022/december/ps1122app1, https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2023/december/ps1823app1 and https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2025/november/ps2325app2.

(4) In paragraph 3—

(a) omit "are both either";

(b) in point (a)—

(i) at the beginning, insert "are both";

(ii) for point (i), substitute—

"(i) the Companies Act 2006(**a**);";

(iii) in point (iii), for point (aa), substitute—

"(aa) UK-adopted international accounting standards, recognised as equivalent for the purposes of Commission Decision of 12 December 2008 on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements (2008/961/EC)(**b**); or";

(c) in point (b), at the beginning, insert "are both";

(d) in point (c), at the beginning, insert "both".

Amendments to the intragroup transaction exemption in Article 4 of the EMIR Regulation

4.—(1) Article 4 of the EMIR Regulation (clearing obligation) is amended as follows.

(2) In paragraph 2—

(a) for point (a), substitute—

"(a) to OTC derivative contracts between two counterparties established in the United Kingdom, where the transactions between the counterparties meet the conditions in Article 3.";

(b) for point (b), substitute—

"(b) to OTC derivative contracts between a counterparty established in the United Kingdom and a counterparty established in a third country, where—

(i) the transactions between the counterparties meet the conditions in Article 3,

(ii) the counterparty established in the United Kingdom notifies the FCA that the counterparties intend to use the exemption for those OTC derivative contracts, and

(iii) the FCA does not object to the counterparties' use of the exemption;

(c) to OTC derivative contracts between two counterparties established in one or more third countries, where—

(i) the transactions between the counterparties meet the conditions in Article 3,

(ii) one of the counterparties notifies the FCA that the counterparties intend to use the exemption for those OTC derivative contracts, and

(iii) the FCA does not object to the counterparties' use of the exemption.".

(3) After paragraph 2, insert—

(**a**) 2006 c. 46.
(**b**) EUDN 2008/961, as amended by S.I. 2019/707.

"2A. In the cases referred to in points (b) and (c) of paragraph 2, the counterparties may use the exemption upon—

(a) the expiry of the 30 calendar day period beginning with the day after the day on which the FCA receives a notification which is complete in accordance with Article 20A of Regulation 149/2013, or

(b) if the FCA confirms before the expiry of this period that it does not object to the counterparties' use of the exemption, the day on which the notifying counterparty receives the FCA's confirmation.".

(4) After paragraph 6, insert—

"7. The FCA may make technical standards specifying the procedures for the counterparties and the relevant competent authorities to be followed when using exemptions under paragraphs 2 and 2A.".

Amendments to the intragroup transaction exemption in Article 11 of the EMIR Regulation

5.—(1) Article 11 of the EMIR Regulation (risk-mitigation techniques for OTC derivative contracts not cleared by a CCP) is amended as follows.

(2) In paragraph 5, before "practical" insert "material".

(3) After paragraph 5, insert—

"5A. An intragroup transaction falling within Article 3(1), which is entered into by a counterparty established in the United Kingdom and a counterparty established in a third country, is exempt from the requirement in paragraph 3 of this Article where the counterparty established in the United Kingdom notifies the FCA that the counterparties intend to use the exemption for the intragroup transaction, provided that the following conditions are fulfilled—

(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties, and

(b) the FCA does not object to the counterparties' use of the exemption.

5B. An intragroup transaction falling within Article 3(1), which is entered into between two counterparties established in one or more third countries, is exempt from the requirement in paragraph 3 of this Article where one of the counterparties notifies the FCA that the counterparties intend to use the exemption for the intragroup transaction, provided that the following conditions are fulfilled—

(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties, and

(b) the FCA does not object to the counterparties' use of the exemption.

5C. In the cases referred to in paragraphs 5A and 5B, the counterparties may use the exemption upon—

(a) the expiry of the 30 calendar day period beginning with the day after the day on which the FCA receives a notification which is complete in accordance with Article 32 of Regulation 2016/2251, or

(b) if the FCA confirms before the expiry of this period that it does not object to the counterparties' use of the exemption, the day on which the notifying counterparty receives the FCA's confirmation.".

(4) Omit paragraphs 8, 9 and 11.

(5) In paragraph 14—

(a) in point (c), for "paragraph 9;" substitute "paragraphs 5A and 5B";

(b) omit point (d).

(6) In paragraph 16, for "paragraphs 8 and 9" substitute "paragraphs 5A and 5B".

(7) In paragraph 17—

(a) for "paragraphs 5, 8 and 9" substitute "paragraphs 5, 5A and 5B;

(b) before "practical" insert "material".

Consequential amendments to the Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013

6.—(1) The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013(**a**) are amended as follows.

(2) For regulation 6(3)(d) (designation of competent authorities), substitute—

"(d) considering notifications under Article 11(5) to (5B) (risk mitigation techniques for OTC derivative contracts not cleared by a central counterparty: exemptions).".

(3) In regulation 8(3) (applications, notifications and reports to the FCA), for "11(8) or (9)" substitute "11(5A) or (5B)".

Transitional provision

7.—(1) An exemption in respect of an intragroup transaction which applied immediately before commencement of these Regulations is to continue to have effect for the purposes of Article 4(2) or Article 11(5A) or (5B) of the EMIR Regulation (as applicable), where—

(a) the exemption resulted from an application or notification made by a counterparty to the FCA which fulfils one of the conditions specified in paragraph (2), and

(b) the FCA had, before the exemption took effect—

(i) approved the application; or

(ii) not objected to the notification.

(2) The conditions referred to in paragraph (1) are that the application or notification was made—

(a) before IP completion day in the circumstances described in regulation 80(1) or (2) of the 2019 Regulations as they applied at the time of the application or notification;

(b) in the circumstances described in regulation 82(5) of the 2019 Regulations as it applied at the time of the application or notification;

(c) in accordance with Article 4(2) or Article 11(5A) or (5B) of the EMIR Regulation (including when read together with regulation 82(2) of the 2019 Regulations) as they applied at the time of the application or notification.

(3) In this Regulation, "the 2019 Regulations" means the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019(**b**).

(**a**) S.I. 2013/504, amended by S.I. 2013/1908 and S.I. 2019/335; there are other amending instruments but none are relevant.
(**b**) S.I. 2019/335, as amended by S.I. 2020/1385; there are other amending instruments but none are relevant.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

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 (EUR 2012/648) ("the EMIR Regulation") sets out obligations for over-the-counter (OTC) derivatives contracts to be cleared through central counterparties, establishes risk management requirements for uncleared derivatives contracts and provides for exemptions in relation to certain intragroup transactions. Further temporary provisions were made in relation to these exemptions in Part 5 of the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335) ("the 2019 Regulations").

The EMIR Regulation is revoked by section 1(1) of, and Schedule 1 to, the Financial Services and Markets Act 2023 (2023 c. 29), but that revocation has not yet been brought into force and the EMIR Regulation therefore continues to have effect. These Regulations use powers in sections 3 and 84(2) of the Financial Services and Markets Act 2023 to amend the provisions setting out the intragroup exemptions from the clearing and risk management obligations in the EMIR Regulation and to replace the temporary provisions made in relation to these exemptions in the 2019 Regulations. It is proposed that the revocation of provisions of the EMIR Regulation will be brought into force alongside regulations restating elements of the revoked legislation to be made under section 4 of that Act (power to restate and modify saved legislation).

Regulation 3 amends the definition of an intragroup transaction in Article 3 of the EMIR Regulation so that any transaction between entities within the same consolidated group qualifies as intragroup regardless of the jurisdiction in which those entities are established. It also simplifies the references used to determine whether entities form part of a consolidated group, including by replacing the previous framework for recognising third country accounting standards with a reference to the Commission Decision of 12 December 2008 on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements (2008/961/EC).

Regulation 4 amends the processes applicable to the intragroup exemptions in Article 4 of the EMIR Regulation and provides for a notification process for transactions between a UK entity and an overseas entity in the same group or between two overseas entities in the same group, subject to a 30-day period within which the FCA is able to object.

Regulation 5 amends the processes applicable to the intragroup exemptions in Article 11 of the EMIR Regulation and provides for a notification process for transactions between a UK entity and an overseas entity in the same group or between two overseas entities in the same group, subject to a 30-day period within which the FCA is able to object, whilst removing the requirement for public disclosure of margin exemptions.

Regulation 6 makes consequential amendments to the Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504).

Regulation 7 makes transitional provision in respect of the current temporary intragroup exemptions in Part 5 of the 2019 Regulations, so that exemptions which applied immediately before the coming into force of these Regulations continue to have effect under the new regime, without requiring counterparties to re-apply or re-notify.

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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