STATUTORY INSTRUMENTS

2022 No. 406

FINANCIAL SERVICES

The European Market Infrastructure Regulation (United States of America Regulated Market Equivalence) Regulations 2022

Made - - - -	*28th March 2022*
Laid before Parliament	*30th March 2022*
Coming into force - -	*20th April 2022*

The Treasury, in exercise of the powers conferred by Article 2a (2) and (4) 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(**a**), makes the following Regulation:

Citation, commencement, and extent

1.—(1) These Regulations may be cited as the European Market Infrastructure Regulation (United States of America Regulated Market Equivalence) Regulations 2022.

(2) These Regulations come into force on 20th April 2022.

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

Equivalence

2.—(1) The Treasury determine that, for the purposes of Article 2a (1) of Regulation (EU) No 648/2012 of the European Parliament and Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, the third-country markets listed in paragraph (2) are—

(a) compliant with legally binding requirements which are equivalent to the requirements resulting from provisions of the law of the United Kingdom which was relied on before IP completion day to implement Title 3 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU(**b**), as the requirements resulting from the provisions of the law of the United Kingdom apply on the day on which these Regulations are made; and

(b) subject to effective supervision and enforcement in the United States of America on an ongoing basis.

(2) The third-country markets are—

(a) Bitnomial Exchange, LLC;

(b) Cantor Futures Exchange, L.P.;

(**a**) Article 2a was amended by S.I. 2019/335.
(**b**) OJ No. L 173, 12.6.2014, p. 349.

(c) Cboe Futures Exchange, LLC;

(d) Chicago Board of Trade (Board of Trade of the City of Chicago, Inc.);

(e) Chicago Mercantile Exchange, Inc.;

(f) Commodity Exchange, Inc.;

(g) Eris Exchange, LLC;

(h) ICE Futures U.S., Inc.;

(i) KalshiEX LLC;

(j) LedgerX LLC;

(k) LMX Labs, LLC;

(l) Minneapolis Grain Exchange, Inc.;

(m) New York Mercantile Exchange, Inc.;

(n) Nodal Exchange, LLC;

(o) North American Derivatives Exchange, Inc.; and

(p) Small Exchange, Inc.

Revocation of Commission Implementing Decision (EU) 2016/1073

3. Commission Implementing Decision (EU) 2016/1073 of 1 July 2016 on the equivalence of designated contract markets in the United States of America in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council(**a**) is revoked.

Michael Tomlinson
Rebecca Harris

28th March 2022 — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations are made in exercise of the powers conferred by Articles 2a (2) and (4) 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 (as it has effect in the UK) ("EMIR") as amended by the relevant EU exit instrument, S.I. 2019/335.

Commission Implementing Decision (EU) 2016/1073 ("the retained 2016 decision") (as it has effect in the UK) sets out in its Annex a list of US markets. The retained 2016 decision provides that the listed US markets shall be equivalent to UK regulated markets as defined in Article 2(1) (13A) of Regulation (EU) 600/2014 of 15 May 2014 on markets in financial instruments (as it has effect in the UK). The effect of this is that derivative contracts executed on the listed US markets do not fall within the definition of "OTC derivative" or "OTC derivative contract" given in Article 2(7) of EMIR.

Article 2a (1) of EMIR provides that where a third-country market is determined HM Treasury to comply with equivalent requirements and to be subject to effective supervision and enforcement, that third-country market shall be equivalent to a UK regulated market.

Regulation 3 revokes the retained 2016 decision.

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

(**a**) Article 1 was amended by S.I. 2019/541.

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