



STATUTORY INSTRUMENTS.

S.I. No. 614 of 2017



EUROPEAN UNION (MARKETS IN FINANCIAL INSTRUMENTS)
(AMENDMENT) REGULATIONS 2017

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I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No.27 of 1972), and for the purpose of giving effect to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 and Commission Delegated Directive (EU) 2017/593 of 7 April 2016 and giving full effect to Regulation (EU) No 600/2014 of the European Parliament and the Council of 15 May 2014, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Markets in Financial Instruments) (Amendment) Regulations 2017.

(2) These Regulations, other than Regulation 26, shall come into operation on 3 January 2018.

(3) Regulation 26 shall come into operation on 31 December 2017.

Definition

2. In these Regulations “Principal Regulations” means the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No.375 of 2017).

Amendment of Regulation 2 of Principal Regulations

3. Regulation 2 of the Principal Regulations is amended—

(a) in paragraph (2)—

(i) by the substitution of the following for subparagraph (b):

“(b) Part 4 (other than Regulation 37(4)),”; and

(ii) by the substitution of the following for subparagraph (c):

“(c) Part 5 (other than Regulations 42(3) to (5), 43(4) to (6) and (13) and 44(1) to (4) and (7)(a)), and”;

(b) in paragraph (3)(c), by the substitution of “and 126 to 129.” for “126 to 129, 133, 138 and 139.”; and

(c) by the insertion of the following after paragraph (6):

“(7) An investment firm that deals on its own account when executing client orders outside a regulated market, an MTF or an OTF on

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th January, 2018.*

an organised, frequent, systematic and substantial basis shall operate in accordance with Title III of Regulation (EU) No 600/2014.

(8) Without prejudice to Articles 23 and 28 of Regulation (EU) No 600/2014, all transactions in financial instruments referred to in paragraphs (6) and (7) which are not concluded on multilateral systems or systematic internalisers shall comply with the relevant provisions of Title III of Regulation (EU) No 600/2014.”.

Amendment of Regulation 3 of Principal Regulations

4. Regulation 3(1) of the Principal Regulations is amended—

(a) by the insertion of the following after the definition of “host Member State”:

“‘insurance undertaking’ means a person who has received authorisation to carry on non-life insurance or life insurance and references to ‘non-life insurance undertaking’ and ‘life insurance undertaking’ shall be construed accordingly;”

(b) in the definition of “regulated market”, by the substitution of “the Directive” for “Part 7”;

(c) in the definition of “securities financing transaction”, by the insertion of “and amending Regulation (EU) No 648/2012 after “reuse”; and

(d) in the definition of “structured deposit”, by the substitution of “point (c) of Article 2(1)” for “point (3) of Article 2(1)”.

Amendment of Regulation 4 of Principal Regulations

5. Regulation 4(1) of the Principal Regulations is amended, in subparagraph (p), by the insertion of “of such undertakings” after “depositories and managers”.

Amendment of Regulation 5 of Principal Regulations

6. Regulation 5 of the Principal Regulations is amended—

(a) in paragraph (4), by the insertion of “paragraph (2) of” before “Schedule 2”; and

(b) in paragraph (6), by the substitution of “Article 49” for Article 48”.

Amendment of Regulation 18 of Principal Regulations

7. Regulation 18(4) of the Principal Regulations is amended by the deletion of “or market operator” in each place where it occurs in subparagraphs (a) to (c).

Amendment of Regulation 23 of Principal Regulations

8. Regulation 23(1) of the Principal Regulations is amended, in subparagraph (a)(ii), by the substitution of “2017/565” for “2017/535”.

Amendment of Regulation 24 of Principal Regulations

9. Regulation 24 of the Principal Regulations is amended—

- (a) in paragraph (9)(a), by the substitution of “predictable” for “predictable”; and
- (b) in paragraph (12)(b)(i), by the insertion of “or the rules of the trading venue” after “these Regulations”.

Amendment of Regulation 27 of Principal Regulations

10. Regulation 27 of the Principal Regulations is amended—

- (a) in paragraph (4), by the substitution of “trading interests” for “trading interest”; and
- (b) by the deletion of paragraph (10).

Amendment of Regulation 32 of Principal Regulations

11. Regulation 32 of the Principal Regulations is amended—

- (a) in paragraph (5), by the insertion of “before it provides investment advice” after “in good time”;
- (b) in paragraph (11), by the substitution of “paragraphs (4) to (8) or paragraph (17)” for “paragraphs (4), (8) or (17)”;
- (c) in paragraph (13), by the substitution of “and” for “or” where it appears immediately before subparagraph (b); and
- (d) in paragraph (20), by the substitution of “or package” for “of package”.

Amendment of Regulation 33 of Principal Regulations

12. Regulation 33 of the Principal Regulations is amended—

- (a) in paragraph (9)(c), by the substitution of “may be provided” for “may, be provided”; and
- (b) in paragraph (10)(a), by the substitution of “jurisdiction” for “market”.

Amendment of Regulation 35 of Principal Regulations

13. Regulation 35 of the Principal Regulations is amended—

- (a) in paragraph (2), by the substitution of the following for subparagraph (b):
 - “(b) the costs related to execution, including all expenses incurred by the client which are directly related to the execution of the order such as execution venue fees, clearing and settlement fees and any other fees paid to third parties involved in the execution of the order.”; and

- (b) in paragraph (5), by the substitution of “Each trading venue and systematic internaliser in relation to financial instruments subject to the trading obligations in Articles 23 and 28 of Regulation (EU) No 600/2014, and each execution venue, in relation to other financial instruments, shall” for “Each execution venue shall, in relation to —” and subparagraphs (a) and (b).

Amendment of Regulation 40 of Principal Regulations

14. Regulation 40 of the Principal Regulations is amended—

- (a) in paragraph (5)(a)—
- (i) by the insertion of “or derivatives referred to in paragraphs 4 to 10 of Part 3 of Schedule 1 that relate or are referenced to that financial instrument” after “financial instrument”; and
 - (ii) by the insertion of “MTFs, OTFs or systematic internalisers” after “one or more regulated markets”; and
- (b) by the insertion of the following after paragraph (6):

“(6A) (a) Where, under paragraph (6), the Bank directs the suspension or removal of a financial instrument or derivatives referred to in paragraphs 4 to 10 of Part 3 of Schedule 1 that relate or are referenced to that financial instrument from trading on one or more regulated markets MTFs, OTFs or systematic internalisers, the Bank shall without delay make public its decision and communicate this decision to ESMA and the competent authorities of the other Member States.

(b) Where, under paragraph (6), the Bank makes a decision not to direct the suspension or removal from trading the financial instrument or derivatives referred to in paragraphs 4 to 10 of Part 3 of Schedule 1 that relate or are referenced to that financial instrument it shall communicate its decision to the competent authorities of the other Member States and ESMA and provide an explanation for this decision.”.

Amendment of Regulation 46 of Principal Regulations

15. Regulation 46 of the Principal Regulations is amended by the insertion of the following after paragraph (3):

“(4) The assessment of a regulated market to be conducted by the Bank in order to provide the agreement required by paragraph (3)(b) shall take into account the oversight and supervision that may already be exercised by national central banks as overseers of settlement systems or other supervisory authorities with competence in relation to such systems in order to avoid duplication of control.”.

Amendment of Regulation 48 of Principal Regulations

16. Regulation 48(2) of the Principal Regulations is amended, in subparagraph (f), by the substitution of “the third-country firm” for “the firm”.

Amendment of Regulation 49 of Principal Regulations

17. Regulation 49 of the Principal Regulations is amended, in paragraph (b), by the substitution of “the third-country firm” for “the firm” where it firstly occurs.

Amendment of Regulation 72 of Principal Regulations

18. Regulation 72(10) of the Principal Regulations is amended, in subparagraph (a), by the substitution of “members or participants” for “members and participants”.

Amendment of Regulation 76 of Principal Regulations

19. Regulation 76 of the Principal Regulations is amended—

(a) in paragraph (6)(a)—

- (i) by the insertion of “or derivatives referred to in paragraphs 4 to 10 of Part 3 of Schedule 1 that relate or are referenced to that financial instrument” after “financial instrument; and
- (ii) by the insertion of “MTFs, OTFs or systematic internalisers” after “one or more regulated markets”; and

(b) by the insertion of the following after paragraph (7):

“(7A) (a) Where, under paragraph (7), the Bank directs the suspension or removal of a financial instrument or derivatives referred to in paragraphs 4 to 10 of Part 3 of Schedule 1 that relate or are referenced to that financial instrument from trading on one or more regulated markets MTFs, OTFs or systematic internalisers, the Bank shall without delay make public its decision and communicate this decision to ESMA and the competent authorities of the other Member States.

(b) Where, under paragraph (7), the Bank makes a decision not to direct the suspension or removal from trading the financial instrument or derivatives referred to in paragraphs 4 to 10 of Part 3 of Schedule 1 that relate or are referenced to that financial instrument it shall communicate its decision to the competent authorities of the other Member States and ESMA and provide an explanation for this decision.”.

Amendment of Regulation 78 of Principal Regulations

20. Regulation 78(2) of the Principal Regulations is amended, in subparagraph (a), by the substitution of “any orders (including any cancellations of them) or transactions” for “any transactions”.

Amendment of Regulation 79 of Principal Regulations

21. Regulation 79(1) of the Principal Regulations is amended by the substitution of the following for subparagraphs (a) and (b):

“(a) a central counterparty or clearing system, and

(b) a settlement system.”.

Amendment of Regulation 82 of Principal Regulations

22. Regulation 82 of the Principal Regulations is amended by the substitution of the following for paragraph (4):

“(4) In order to enable the monitoring of compliance with Regulation 81(1), members or participants of regulated markets, MTFs and clients of OTFs shall report on a daily basis to the investment firm or market operator operating the trading venue the details of their own positions held through contracts traded on the trading venue, as well as those of their clients and the clients of those clients until the end client is reached.”.

Amendment of Regulation 92 of Principal Regulations

23. Regulation 92(4) of the Principal Regulations is amended by the substitution of the following for paragraph (m):

“(m) require the suspension of trading in a financial instrument on the regulated market or other trading arrangements.”.

Amendment of Regulation 98 of Principal Regulations

24. Regulation 98 of the Principal Regulations is amended by the substitution of the following for paragraph (i):

“(i) the other investment firm, market operator or data reporting service provider.”.

Amendment of Regulation 104 of Principal Regulations

25. Regulation 104(1) of the Principal Regulations is amended, in subparagraph (a), by the insertion of “or data reporting service provider” after “regulated market”.

Revocation of certain provisions of Regulation 131 of Principal Regulations

26. Paragraphs (a) and (f) of Regulation 131 of the Principal Regulations are revoked.

Amendment of Regulation 134 of Principal Regulations

27. Regulation 134(6) of the Principal Regulations is amended by the substitution of “Neither this Regulation, Regulation 141 nor Article 76 of the Directive” for “Neither this Regulation nor Regulation 141”.

Amendment of Regulation 147 of Principal Regulations

28. Regulation 147(2) of the Principal Regulations is amended, in subparagraph (a), by the insertion of “or with a relevant party” after “Schedule 3”.

Amendment of Schedule 3 to Principal Regulations

29. Schedule 3 to the Principal Regulations is amended—

- (a) in paragraph 3(2), by the substitution of “that Directive” for “these Regulations”; and
- (b) in paragraph 4(5), by the insertion of “financial” after “client”, where it lastly occurs.

Amendment of Schedule 4 to Principal Regulations

30. Schedule 4 to the Principal Regulations is amended—

- (a) in paragraph 1(7), by the substitution of “the Bank” for “their competent authority”; and
- (b) in paragraph 2(13), by the substitution of “Bank” for “competent authorities”.

Amendment of Schedule 5 to Principal Regulations

31. Schedule 5 to the Principal Regulations is amended—

- (a) in paragraph 1(5)(a), by the substitution of “Regulation 32(17)(b) and (c)” for “the second paragraph of Regulation 32(17)”;
- (b) in paragraph 3(4), by the substitution of “subparagraphs (1)(b) and (2)” for “subparagraph (1)(b) and (c)”; and
- (c) in paragraph 3(7), by the substitution, in the last sentence, of “shall not use” for “shall use”.

Amendment of Central Bank Act 1942

32. The Central Bank Act 1942 (No.22 of 1942) is amended—

- (a) in section 2(2A), by the insertion of the following paragraph:

“(am) each of the acts adopted by an institution of the European Union specified in Schedule 9 (inserted by the European Union (Markets in Financial Instruments) (Amendment) Regulations 2017);”;

- (b) in section 33AN—

- (i) in the definition of “prescribed contravention” in subsection (1), by the insertion of “or as otherwise provided by this section” after “other than in respect of the CSD Regulation”; and

- (ii) by the insertion of the following subsection:

“(3) In this Part ‘prescribed contravention’ means, in respect of the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017), a contravention of any

of the provisions listed in Regulation 119(5), (6) and (7) of those Regulations.”; and

(c) by the insertion of the following after Schedule 8:

“Schedule 9

Acts adopted by an Institution of the European Union Referred to in Section 2(2A)(am)

(1) Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014;

(2) Regulation (EU) 2016/1033 of the European Parliament and of the Council of 23 June 2016;

(3) Commission Delegated Directive (EU) 2017/593;

(4) Commission Delegated Regulation (EU) 2017/565;

(5) Commission Delegated Regulation (EU) 2017/567;

(6) Commission Delegated Regulation (EU) 2017/587;

(7) Commission Delegated Regulation (EU) 2017/583;

(8) Commission Delegated Regulation (EU) 2017/577;

(9) Commission Delegated Regulation (EU) 2017/579;

(10) Commission Delegated Regulation (EU) 2017/589;

(11) Commission Delegated Regulation (EU) 2017/584;

(12) Commission Delegated Regulation (EU) 2017/578;

(13) Commission Delegated Regulation (EU) 2017/566;

(14) Commission Delegated Regulation (EU) 2017/573;

(15) Commission Delegated Regulation (EU) 2017/588;

(16) Commission Delegated Regulation (EU) 2017/571;

(17) Commission Delegated Regulation (EU) 2017/572;

(18) Commission Delegated Regulation (EU) 2017/581;

(19) Commission Delegated Regulation (EU) 2016/2021;

(20) Commission Delegated Regulation (EU) 2017/568;

(21) Commission Delegated Regulation (EU) 2017/569;

- (22) Commission Delegated Regulation (EU) 2017/592;
- (23) Commission Delegated Regulation (EU) 2017/591;
- (24) Commission Delegated Regulation (EU) 2017/590;
- (25) Commission Delegated Regulation (EU) 2017/585;
- (26) Commission Delegated Regulation (EU) 2017/580;
- (27) Commission Delegated Regulation (EU) 2017/574;
- (28) Commission Delegated Regulation (EU) 2017/582;
- (29) Commission Delegated Regulation (EU) 2017/575;
- (30) Commission Delegated Regulation (EU) 2017/576;
- (31) Commission Delegated Regulation (EU) 2016/2022;
- (32) Commission Delegated Regulation (EU) 2017/1943;
- (33) Commission Delegated Regulation (EU) 2017/1018;
- (34) Commission Delegated Regulation (EU) 2017/570;
- (35) Commission Delegated Regulation (EU) 2017/586;
- (36) Commission Delegated Regulation (EU) 2016/2020;
- (37) Commission Delegated Regulation (EU) 2017/1946;
- (38) Commission Implementing Regulation (EU) 2016/824;
- (39) Commission Implementing Regulation (EU) 2017/1005;
- (40) Commission Implementing Regulation (EU) 2017/1110;
- (41) Commission Implementing Regulation (EU) 2017/1093;
- (42) Commission Implementing Regulation (EU) 2017/953;
- (43) Commission Implementing Regulation (EU) 2017/1111;
- (44) Commission Implementing Regulation (EU) 2017/981;
- (45) Commission Implementing Regulation (EU) 2017/980;
- (46) Commission Implementing Regulation (EU) 2017/988;

(47) Commission Implementing Regulation (EU) 2017/1945;

(48) Commission Implementing Regulation (EU) 2017/1944.”.



GIVEN under my Official Seal,
22 December 2017.

PASCHAL DONOHOE,
Minister for Finance.

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