

**2019 No. 394**

**EXITING THE EUROPEAN UNION**  
**FINANCIAL SERVICES**

**The Money Market Funds (Amendment) (EU Exit) Regulations  
2019**

*Made* - - - - - *26th February 2019*

*Coming into force in accordance with regulation 1*

The Treasury make these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

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**

**General**

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Money Market Funds (Amendment) (EU Exit) Regulations 2019.

(2) Parts 1 and 2 come into force on the day after the day on which these Regulations are made.

(3) The remaining provisions come into force on exit day.

**PART 2**

**Amendment of secondary legislation**

**Amendment of the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018**

**2.** In Part 1 of the Schedule to the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018(b), after paragraph 63 insert—

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(a) 2018 c. 16.  
(b) S.I. 2018/1115.

“Money Market Funds Regulation

**63A.** Commission Implementing Regulation (EU) 2018/708 of 17 April 2018 laying down implementing technical standards with regard to the template to be used by managers of money market funds when reporting to competent authorities as stipulated by Article 37 of Regulation (EU) 2017/1131 of the European Parliament and of the Council(a).”.

**PART 3**

Amendment of EU legislation

**CHAPTER 1**

Amendment of Regulation (EU) 2017/1131

**Amendment of Regulation (EU) 2017/1131**

**3.** Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds is amended as follows.

**Subject matter and scope**

**4.** In Article 1—

(a) in paragraph 1—

(i) for “Union” substitute “United Kingdom”; and

(ii) for point (a) substitute—

“(a) require authorisation as UCITS or are authorised as UCITS under section 243 or 261D of FSMA(b) or regulation 14 of the OEIC Regulations(c); or are AIFs;”;

(b) omit paragraph 2.

**Definitions**

**5.—(1)** In Article 2—

(a) for point (2), substitute—

“(2) ‘money market instruments’ means instruments normally dealt in on the money market which—

(a) are liquid;

(b) have a value which can be accurately determined at any time; and

(c) satisfy the conditions set out in Article 2a(1);”;

(b) for point (3), substitute—

“(3) ‘transferable securities’ means instruments in the following categories which satisfy the conditions set out in Article 2a(4)—

(a) shares in companies and other securities equivalent to shares in companies;

(b) bonds and other forms of securitised debt; or

(c) any other negotiable securities which carry the right to acquire securities referred to in subparagraph (a) or (b) by subscription or exchange;”;

(c) in point (17)—

(i) in point (a), for “UCITS” both times it occurs, substitute “EEA UCITS”;

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(a) OJ L119, 15.5.2018, p. 5.

(b) 2000 c. 8.

(c) S.I. 2001/1228.

- (ii) in point (b), for “EU AIF” substitute “EEA AIF”;
- (iii) in point (c), for “non-EU AIF”, each time it occurs, substitute “non-EEA AIF”;
- (d) for point (23) substitute—
  - “(23) ‘manager of an MMF’ means—
    - (a) in the case of an MMF that is a UK UCITS—
      - (i) if the UCITS is an investment company that has not designated a management company, the investment company; or
      - (ii) in all other cases, the management company (as defined in section 237(2) of FSMA, as amended from time to time) for that UCITS;
    - (b) in the case of an MMF that is an EEA UCITS treated as a recognised scheme under regulation 60 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019<sup>(a)</sup>—
      - (i) if the EEA UCITS has not designated an operator (as defined in section 237(2) of FSMA), the UCITS;
      - (ii) in all other cases, the operator of the EEA UCITS;
    - (c) in the case of an MMF that is an AIF, an AIFM or an internally managed AIF;”;
  - (e) after point (23) insert—
    - “(24) ‘AIF’ has the meaning given in regulation 3 of the AIFM Regulations<sup>(b)</sup>, as amended from time to time;
    - (25) ‘AIFM’, in relation to an AIF, has the meaning given in regulation 4(1) of the AIFM Regulations, as amended from time to time;
    - (26) ‘UK AIF’ and ‘EEA AIF’ have the meanings given in regulation 2(1) of the AIFM Regulations, as amended from time to time;
    - (27) ‘UCITS’ has the meaning given in section 236A of FSMA<sup>(c)</sup>, as amended from time to time;
    - (28) ‘UK UCITS’ has the meaning given in section 237(3) of FSMA, as amended from time to time;
    - (29) ‘EEA UCITS’ means a UCITS which is authorised pursuant to Article 5 of Directive 2009/65/EC in an EEA State;
    - (30) ‘EU MMF’ means an AIF or UCITS which was authorised as an MMF under the EU MMF Regulation (as it had effect immediately before exit day) by the competent authority of a Member State other than the United Kingdom, and that authorisation has not been withdrawn or cancelled;
    - (31) ‘temporary marketing permission’ means—
      - (a) for an EEA AIF, permission to market in the United Kingdom under regulation 78A(1) of the AIFM Regulations<sup>(d)</sup>;
      - (b) for an EEA UCITS, permission to market in the United Kingdom by virtue of Part 6 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 (temporary authorisation in connection with temporary recognition);
    - (32) ‘Regulation (EU) 600/2014’ means Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012;

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(a) S.I. 2019/325.

(b) S.I. 2013/1773.

(c) Inserted by S.I. 2019/325.

(d) Regulation 78A was inserted by S.I. 2019/328.

(33) ‘EU MMF Regulation’ means Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds<sup>(a)</sup> as it has effect in EU law;

(34) ‘Directive 2011/61/EU’ means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010<sup>(b)</sup>;

(35) ‘Directive 2009/65/EC’ means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (“UCITS”)<sup>(c)</sup>;

(36) ‘FSMA’ means the Financial Services and Markets Act 2000;

(37) ‘AIFM Regulations’ means the Alternative Investment Fund Managers Regulations 2013;

(38) ‘OEIC Regulations’ means the Open-Ended Investment Companies Regulations 2001;

(39) ‘FCA’ means the Financial Conduct Authority;

(40) ‘PRA’ means the Prudential Regulation Authority.

Any reference in this Regulation to a sourcebook is a reference to a sourcebook in the Handbook of Rules and Guidance published by the FCA under the FSMA as in force on exit day<sup>(d)</sup>.”

(2) After Article 2, insert—

*“Article 2a*

**Conditions for money market instruments and transferable securities**

1. An instrument satisfies the conditions in this paragraph if it—
  - (a) is a financial instrument within paragraph 2, and
  - (b) satisfies one of the criteria in paragraph 3.
2. A financial instrument comes within this paragraph if it is—
  - (a) admitted to trading or dealt in on—
    - (i) a UK regulated market (within the meaning of Article 2(1)(13A) of Regulation (EU) 600/2014);
    - (ii) an EU regulated market (within the meaning of Article 2(1)(13B) of Regulation (EU) 600/2014 which operates regularly and is recognised and open to the public;or
  - (b) admitted to official listing on a stock exchange in a country other than the United Kingdom or a Member State;
  - (c) dealt in on a regulated market (within the meaning of Article 2(1)(13) of Regulation (EU) 600/2014) in a country other than the United Kingdom or a Member State which operates regularly and is recognised and open to the public provided that the choice of stock exchange or market has been approved by the FCA or is provided for in law or the fund rules or the instruments of incorporation of the investment company; or
  - (d) not admitted to trading.

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(a) OJ L169, 30.6.2017, p.8.

(b) OJ L174, 1.7.2011, p.1.

(c) OJ L302, 17.11.2009, p.32.

(d) Sourcebooks made by the Financial Conduct Authority are available on <https://www.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

3. An instrument satisfies one of the criteria in this paragraph if—
  - (a) it has a maturity at issuance of up to and including 397 days;
  - (b) it has a residual maturity of up to and including 397 days;
  - (c) it undergoes regular yield adjustments in line with money market conditions at least every 397 days; or
  - (d) its risk profile, including credit and interest rate risks, corresponds to that of financial instruments which have a maturity referred to in point (a) or (b), or are subject to a yield adjustment referred to in point (c).
4. Instruments satisfy the conditions in this paragraph if—
  - (a) the potential loss which a UCITS may incur with respect to holding those instruments is limited to the amount paid for them;
  - (b) their liquidity does not compromise the ability of a UCITS to comply with rule 6.2.16(3) of the Collective Investment Schemes sourcebook;
  - (c) reliable valuation is available for them—
    - (i) in the case of securities admitted to or dealt in on a regulated market as referred to in paragraph 2(a) or recently issued securities which satisfy the conditions in paragraph 5, in the form of accurate, reliable and regular prices which are either market prices or prices made available by valuation systems independent from issuers;
    - (ii) in the case of other securities as referred to in paragraph 6 in the form of regular and accurate information to the UCITS on the security or, where relevant, on the portfolio of the security;
  - (d) appropriate information is available for them as follows—
    - (i) in the case of securities admitted to or dealt in on a regulated market as referred to in paragraph 2(a) or recently issued securities which satisfy the conditions in paragraph 5, in the form of regular, accurate and comprehensive information to the market on the security or, where relevant, on the portfolio of the security;
    - (ii) in the case of other securities as referred to in paragraph 6, in the form of regular and accurate information to the UCITS on the security or, where relevant, on the portfolio of the security;
  - (e) they are negotiable;
  - (f) their acquisition is consistent with the investment objectives or the investment policy, or both, of the UCITS pursuant to the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement Directive 2009/65/EC;
  - (g) their risks are adequately captured by the risk management process of the UCITS.
5. A recently issued security satisfies the conditions in this paragraph if—
  - (a) the terms of issue include an undertaking that an application will be made for admission to official listing on a stock exchange or to another regulated market (within the meaning of Article 2(1)(13) of Regulation (EU) 600/2014) which operates regularly and is recognised and open to the public, provided that the choice of stock exchange or market has been approved by the FCA or is provided for in law or the fund rules or the instruments of incorporation of the investment company; and
  - (b) the admission referred to in point (a) is secured within a year of issue.
6. The securities referred to in this paragraph are—
  - (a) transferable securities or money market instruments which are not admitted to or dealt in on a regulated market as referred to in paragraph 2(a) or recently issued securities which satisfy the conditions in paragraph 5;
  - (b) precious metals or certificates representing them;

- (c) ancillary liquid assets.”

## Authorisation of MMFs

### 6. In Article 4—

- (a) in paragraph 1—

(i) in the first subparagraph, for the words from “in the Union” to the end, substitute—

“in the United Kingdom as an MMF unless—

- (a) it has been authorised by the FCA in accordance with this Regulation;
- (b) it is an EU MMF with temporary marketing permission; or
- (c) it is an EU MMF which satisfies the condition in paragraph 1A and—
  - (i) which is a recognised scheme under section 272 of FSMA; or
  - (ii) in relation to which the FCA has received written notification under regulation 57 (subject to paragraph 1C), 58 or 59 of the AIFM Regulations.”;
- (ii) omit the second subparagraph;
- (iii) after paragraph 1, insert—

“1A. An EU MMF satisfies the condition in this paragraph if, immediately before the relevant date, it was—

- (a) a recognised scheme under Part 6 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019; or
- (b) marketed in the United Kingdom under Part 9A of the Alternative Investment Fund Managers Regulations 2013<sup>(a)</sup>.

1B. For the purposes of paragraph 1B, the “relevant date” is the date on which—

- (a) the EU MMF was declared to be a recognised scheme under section 272 of FSMA, or
- (b) the FCA received the written notification referred to in paragraph 1(c)(ii).

1C. If an EU MMF was marketed in the United Kingdom by an EEA AIFM before exit day under regulation 57 of the AIFM Regulations, the AIFM must give notice to the FCA for the purposes of paragraph 1(c) under regulation 58 or 59 of those Regulations.”

- (b) for paragraph 2, substitute—

“2. The following requirements apply to unit trust schemes (within the meaning of section 237(1) of FSMA)—

- (a) a unit trust scheme that applies for authorisation under section 243 of FSMA and under this Regulation for the first time must be authorised as a money market fund under section 243A of FSMA<sup>(b)</sup>;
- (b) a unit trust scheme that has already been authorised under section 243 of FSMA may apply to be authorised as a money market fund under section 243A of FSMA and in accordance with the procedure set out in paragraph 5 of this Article.

2A. The following rules apply to contractual schemes (within the meaning of section 235A(1) of FSMA<sup>(c)</sup>) —

- (a) a contractual scheme that applies for authorisation under section 261D of FSMA and under this Regulation for the first time must be authorised as a money market fund under section 261EA of FSMA<sup>(d)</sup>;

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(a) Part 9A was inserted by S.I. 2019/328.

(b) Section 243A was inserted by S.I. 2018/698.

(c) Section 235A was inserted by S.I. 2013/1388.

(d) Section 261D was inserted by S.I. 2013/1388. Section 261EA was inserted by S.I. 2018/698.

- (b) a contractual scheme that has already been authorised under section 261D of FSMA may apply to be authorised as a money market fund under section 261EA of FSMA and in accordance with the procedure set out in paragraph 5 of this Article.

2B. The following rules apply to open-ended investment companies (within the meaning of section 236(1) of FSMA—

- (a) an open-ended investment company that applies for authorisation under regulation 14 of the OEIC Regulations and under this Regulation for the first time must be authorised as a money market fund under regulation 14(1A) of the OEIC Regulations;
- (b) an open-ended investment company that has already been authorised under regulation 14 of the OEIC Regulations may apply to be authorised as a money market fund under regulation 14(1A) of the OEIC Regulations and in accordance with the procedure set out in paragraph 5 of this Article.”;
- (c) in paragraph 4, for “competent authority of the MMF” substitute “FCA”;
- (d) in paragraph 5—
  - (i) in the opening words, for “its competent authority” substitute “the FCA”;
  - (ii) in point (f), for “competent authority of the MMF” substitute “FCA”;
- (e) omit paragraph 6; and
- (f) in paragraph 7, for “ESMA” substitute “the FCA”.

### **Procedure for authorising AIFS as MMFs**

7. In Article 5—

- (a) in paragraphs 1, 2, 3, 4 and 7, for “competent authority of the MMF” each time it occurs, substitute “FCA”;
- (b) in paragraph 1, for “authorised under Directive 2011/61/EU” substitute “given permission under Part 4A of FSMA”;
- (c) in paragraph 2, omit the second subparagraph;
- (d) in paragraph 4—
  - (i) in the first subparagraph—
    - (aa) in point (b), for “Directive 2011/61/EU” substitute “UK law on alternative investment fund managers”;
    - (bb) in point (c), for “its competent authority” substitute “the FCA”;
  - (ii) omit the second subparagraph;
- (e) omit paragraph 5;
- (f) in paragraph 7, for “its home Member State” substitute “the United Kingdom”;
- (g) after paragraph 7, insert—

“8. For the purposes of this Article, “UK law on alternative investment fund managers” means—

- (a) the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement Directive 2011/61/EU—
  - (i) in the case of rules made by the FCA under FSMA, as they have effect on exit day; and
  - (ii) as amended from time to time, in all other cases;
- (b) EU Regulations, made under Directive 2011/61/EU, which form part of retained direct EU legislation, as amended from time to time; and
- (c) subordinate legislation (within the meaning of the Interpretation Act 1978) made under the Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019 on or after exit day, as amended from time to time.”.

## Use of designation as MMF

### 8. In Article 6—

#### (a) in paragraph 1—

(i) in the first subparagraph, for the words from “where” to the end substitute—

“where—

(a) for a UK UCITS or a UK AIF, the UCITS or AIF has been authorised in accordance with this Regulation; or

(b) the UCITS or AIF is an EEA UCITS or EEA AIF which—

(i) is authorised as an EU MMF; and

(ii) is marketed in the United Kingdom under a temporary marketing permission.”;

(ii) in the second subparagraph, for the words from “unless” to the end substitute—

“unless—

(a) for a UK UCITS or a UK AIF, the UCITS or AIF has been authorised as an MMF in accordance with this Regulation; or

(b) the UCITS or AIF is an EEA UCITS or EEA AIF which is marketed in the United Kingdom under a temporary marketing permission.”;

(iii) in the third subparagraph, for the words from “unless” to the end substitute—

“unless—

(a) for a UK UCITS or a UK AIF, the UCITS or AIF has been authorised as an MMF in accordance with this Regulation; or

(b) the UCITS or AIF is an EEA UCITS or EEA AIF which is—

(i) authorised as an EU MMF; and

(ii) marketed in the United Kingdom under a temporary marketing permission.”;

(b) in paragraph 2, for “competent authorities” substitute “the FCA”.

## Applicable rules

### 9. In Article 7—

#### (a) for paragraphs 1 to 3 substitute—

“1. An MMF authorised under this Regulation and the manager of the MMF must comply at all times with this Regulation.

1A. An EU MMF marketed in the United Kingdom under a temporary marketing permission must comply at all times with the EU MMF Regulation.

2. Unless otherwise specified in this Regulation, an MMF which is a UK UCITS and the manager of the MMF must comply at all times with the requirements of UK law on undertakings for collective investment in transferable securities.

2A. Unless otherwise specified in this Regulation, an MMF which is an EEA UCITS and the manager of the MMF must comply at all times with—

(a) the requirements of the EU MMF Regulation; and

(b) the requirements of Directive 2009/65/EC and any EU Regulations made under it, as the Directive and Regulations have effect in EU law.

3. Unless otherwise specified in this Regulation, an MMF which is a UK AIF and the manager of the MMF must comply at all times with the requirements of UK law on alternative investment fund managers (within the meaning of Article 5(8)).



3A. Unless otherwise specified in this Regulation, an MMF which is an EEA AIF and the manager of the MMF must comply at all times with—

- (a) the requirements of the EU MMF Regulation; and
  - (b) the requirements of Directive 2011/61/EU, as it has effect in EU law.”;
- (b) after paragraph 5, insert—

“6. For the purposes of paragraph 2, “UK law on undertakings for collective investment in transferable securities” means—

- (a) the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement Directive 2009/65/EC—
  - (i) in the case of rules made by the FCA or by the PRA under FSMA, as they have effect on exit day; and
  - (ii) as amended from time to time, in all other cases;
- (b) EU regulations, made under Directive 2009/65/EC, which form part of retained direct EU legislation, as amended from time to time; and
- (c) subordinate legislation (within the meaning of the Interpretation Act 1978) made under the Undertakings for Collective Investment in Transferable Securities Regulations 2011(a) on or after exit day, as amended from time to time.”.

#### **Investment policies: general rules and eligible assets**

**10.**—(1) In Article 8, in paragraph 2—

- (a) for “UCITS”, the first time it occurs, substitute “UK UCITS”;
- (b) before “obligations” insert “following”;
- (c) after “laid down in” insert “UK law implementing”;
- (d) after paragraph 2 insert—

“3. The reference in paragraph 2 to UK law is a reference to the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement the provisions of Directive 2009/65/EC referred to in paragraph 2—

- (a) in the case of rules made by the FCA or by the PRA under FSMA, as they have effect on exit day; and
- (b) as amended from time to time, in all other cases.”.

(2) In Article 9—

- (a) in paragraph 1—
  - (i) in point (a)—
    - (aa) before “Union” insert “European”;
    - (bb) before “the Member States” insert “the United Kingdom or”;
    - (cc) for “third country” substitute “country other than the United Kingdom or a Member State”;
    - (dd) before “one or more Member States” insert “the United Kingdom or”.
  - (ii) in point (g), after “MMFs” insert “or EU MMFs”;
- (b) in paragraph 3, omit the words after “assets”.

(3) In Article 10—

- (a) in paragraph 1(a), for the words from “point” to the end substitute “rule 5.2.8 of the Collective Investment Schemes sourcebook”;

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(a) S.I. 2011/1613.

- (b) in paragraph 3—
  - (i) before “Union” insert “European”;
  - (ii) before “a Member State” insert “the United Kingdom or”.
- (4) In Article 11, omit paragraph 4.
- (5) In Article 12 for point (c), substitute—
  - “(c) the credit institution has its registered office in the United Kingdom or in a Member State or, where the credit institution has its registered office in a country other than the United Kingdom or a Member State, it is subject to prudential rules considered equivalent to those laid down—
    - (i) in European Union law in accordance with a decision adopted before exit day by the Commission under the procedure laid down in Article 107(4) of Regulation (EU) No 575/2013; or
    - (ii) in the law of the United Kingdom, in accordance with regulations made on or after exit day by the Treasury under Article 107(4) of that Regulation as it forms part of domestic law under section 3 of the European Union (Withdrawal) Act 2018.”.
- (6) In Article 13—
  - (a) in the opening words, for the words from “is dealt in” to “Directive 2009/65/EC” substitute “satisfies the conditions in Article 2a(2)(a), (b) or (c) of this Regulation”;
  - (b) in point (c), for “competent authority of the MMF” substitute “FCA”.
- (7) In Article 14, for point (c)(i), substitute—
  - “(i) placed on deposits with credit institutions which are repayable on demand or have the right to be withdrawn, and maturing in no more than 12 months, provided that the credit institution has its registered office in the United Kingdom or in a Member State or, if the credit institution has its registered office in a country other than the United Kingdom or a Member State, provided that it is subject to prudential rules considered by the FCA as equivalent to those laid down in the law of the United Kingdom; or”.
- (8) In Article 15—
  - (a) in paragraph 6—
    - (i) in the first subparagraph, in point (a)—
      - (aa) before “Union” insert “European”;
      - (bb) before “a Member State” insert “the United Kingdom or”;
    - (ii) in the first subparagraph, in point (b), for “third country” substitute “country other than the United Kingdom or a Member State”;
    - (iii) in the second subparagraph, for the words from “in accordance with”, the second time they occur, to the end substitute—
      - “—
  - (a) for UCITS, in the half-yearly and annual reports referred to in Section 4.5 of the Collective Investment Schemes sourcebook; and
  - (b) for AIFs, the annual report referred to in Section 3.3 of the Investment Fund sourcebook.”;
- (b) in paragraph 7—
  - (i) in the first subparagraph, for the words from “Commission” to “specifying” substitute “Treasury may by Regulations specify”;
  - (ii) omit the second and third subparagraphs.
- (9) In Article 16—
  - (a) in paragraph 1—
    - (i) in the first subparagraph, after “other MMF” insert “(including an EU MMF)”;

- (ii) in the second subparagraph, for “An MMF whose units or shares have been acquired” substitute “A targeted MMF”;
- (b) in paragraph 2, after “other MMFs” insert “(including EU MMFs)”;
- (c) in paragraph 3, after “other MMFs” insert “(including EU MMFs)”;
- (d) in paragraph 4—
  - (i) in the opening words, after “other MMFs” insert “(including EU MMFs)”;
  - (ii) in point (a), at the end insert “or under the EU MMF Regulation”;
  - (iii) in point (c), in the opening words, after “other MMFs” insert “(including EU MMFs)”;
  - (iv) in point (c), in points (i) and (ii), for “other MMFs” substitute “targeted MMFs”;
- (e) in paragraph 5, in the second subparagraph—
  - (i) for “UCITS” substitute “UK UCITS”;
  - (ii) after “4(2)” insert “, (2A) or (2B)”;
  - (iii) for “Article 55 or 58 of Directive 2009/65/EC” substitute “the Schedule or rules 5.8.2, 5.8.3 and 5.8.4 of the Collective Investment Schemes sourcebook”.

### **Provisions on investment policies**

#### **11.—(1) In Article 17—**

- (a) in paragraphs 1(b) and 6—
  - (i) for “Member State in which the MMF is domiciled” substitute “United Kingdom”;
  - and
  - (ii) for “another Member State” substitute “a Member State”;
- (b) in paragraph 7, in the first subparagraph—
  - (i) for “competent authority of the MMF” substitute “FCA”;
  - (ii) before “Union” insert “European”;
  - (iii) before “the Member States” insert “the United Kingdom or”;
  - (iv) for “third country” substitute “country other than the United Kingdom or a Member State”; and
  - (v) before “one or more Member States” insert “the United Kingdom or”;
- (c) in paragraph 8, before “a Member State” insert “the United Kingdom or”; and
- (d) in paragraph 10, for the words from “Directive” to “Council” substitute “the Companies Partnerships and Groups (Accounts and Reports) Regulations 2015(a)”.

#### **(2) In Article 18, in paragraph 2—**

- (a) before “Union” insert “European”;
- (b) before “the Member States” insert “the United Kingdom or”;
- (c) for “third country” substitute “country other than the United Kingdom or a Member State”; and
- (d) before “one or more Member States” insert “the United Kingdom or”.

### **Credit quality of money market instruments, securitisations and ABCPs**

**12.—(1)** In Article 19(4)(e), for “competent authority of the manager of the MMF” substitute “FCA”.

#### **(2) In Article 21—**

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(a) S.I. 2015/980.

- (a) in paragraph 1(a), for “competent authorities” substitute “the FCA”;
  - (b) in paragraph 3, for the words from “competent authorities of the MMF” to the end of the paragraph, substitute “FCA”.
- (3) In Article 22, for the words from “Commission” to “specifying” substitute “Treasury may by Regulations specify”.

#### **Obligations concerning risk management**

**13.**—(1) In Article 27, in paragraph 1, for the words from “Directive” to “Council” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(a)”.

- (2) In Article 28—
  - (a) in paragraphs 4 and 5, for “competent authority of the MMF” substitute “FCA”;
  - (b) omit paragraph 6; and
  - (c) in paragraph 7, for “ESMA” substitute “The FCA”.

#### **Valuation rules**

**14.** In Article 29(5), for “competent authorities” substitute “FCA”.

#### **Specific requirements for public debt CNAV and LVNAV MMFs**

**15.** In Article 34(3), for “competent authority of that MMF” substitute “FCA”.

#### **Transparency requirements**

- 16.** In Article 37—
- (a) in the heading, for “competent authorities” substitute “the FCA”;
  - (b) in paragraph 1—
    - (i) for “competent authority of the MMF” each time it occurs, substitute “FCA”; and
    - (ii) omit the third subparagraph;
  - (c) in paragraph 2, in the second subparagraph, for “competent authorities” substitute “the FCA”;
  - (d) in paragraph 4—
    - (i) in the first subparagraph, for “ESMA shall develop draft implementing” substitute “The FCA may make”; and
    - (ii) omit the second and third subparagraphs; and
  - (e) omit paragraph 5.

#### **Supervision**

- 17.**—(1) In Article 38—
- (a) in the heading, and in paragraph 1, for “competent authorities” substitute “FCA”;
  - (b) in paragraph 2, for “competent authority of the MMF or, where relevant, the competent authority of the manager of an MMF” substitute “FCA”;
  - (c) in paragraph 3, for “competent authority of the MMF” substitute “FCA”;
  - (d) in paragraph 4, for “competent authority of the manager of an MMF”, substitute “FCA”;

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(a) S.I. 2017/692.

(e) in paragraph 5, for the words from “Competent” to “territories” substitute “Subject to paragraph 6, the FCA must monitor UCITS and AIFs established or marketed in the United Kingdom”; and

(f) after paragraph 5, insert—

“6. The FCA must monitor EEA UCITS and EEA AIFs marketed in the United Kingdom to verify that they do not use the MMF designation or suggest that they are an MMF unless they comply with the EU MMF Regulation.”.

(2) In Article 39, for the words before point (a)—

“Without prejudice to powers vested in the FCA under FSMA, the OEIC Regulations, and the AIFM Regulations, the FCA has all supervisory and investigatory powers that are necessary for the exercise of its functions with respect to this Regulation. In particular, it has the power to do all of the following:”.

(3) Article 40 is omitted.

(4) In Article 41—

(a) in paragraph 1, in the opening words—

(i) for the words from “competent authorities” to “2011/61/EU” substitute “the FCA under FSMA, the OEIC Regulations or the AIFM Regulations”;

(ii) for “the competent authority of an MMF or the manager of an MMF” substitute “the FCA”;

(b) in paragraph 2, for “competent authority of the MMF” substitute “FCA”.

(5) Articles 42 and 43 are omitted.

## **Final provisions**

**18.**—(1) Omit Article 44.

(2) For Article 45 substitute—

*“Article 45*

### **Regulations**

1. Any power to make regulations conferred on the Treasury by this Regulation is exercisable by statutory instrument.

2. Such regulations may—

(a) contain incidental, supplemental, consequential and transitional provision; and

(b) make different provision for different purposes.

3. A statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.”.

(3) Article 46 is omitted.

(4) In the words following Article 47, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

(5) After Article 47, insert—

## **“SCHEDULE 1**

Article 16

### **Eligible units or shares**

1. An MMF which is a UCITS may acquire the units of UCITS or other collective investment undertakings referred to in paragraph 4, provided that no more than 20% of its assets are invested in units of a single UCITS or other collective investment undertaking.

2.—(1) Investments made in units of collective investment undertakings other than UCITS shall not exceed, in aggregate, 30% of the assets of the UCITS.

(2) The assets of the respective UCITS or other collective investment undertakings are not required to be combined for the purposes of the limits laid down in rule 5.2.11 of the Collective Investment Schemes sourcebook.

3.—(1) Where a UCITS invests in the units of other UCITS or collective investment undertakings that are managed, directly or by delegation, by the same management company or by any other company with which the management company is linked by common management or control, or by a substantial direct or indirect holding, that management company or other company shall not charge subscription or redemption fees on account of the UCITS' investment in the units of such other UCITS or collective investment undertakings.

(2) A UCITS that invests a substantial proportion of its assets in other UCITS or collective investment undertakings shall disclose in its prospectus the maximum level of the management fees that may be charged both to the UCITS itself and to the other UCITS or collective investment undertakings in which it intends to invest. It shall indicate in its annual report the maximum proportion of management fees charged both to the UCITS itself and to the other UCITS or collective investment undertaking in which it invests.

4. Investments made by a UCITS may include units of UCITS or other collective investment schemes, whether or not established in the United Kingdom, provided that—

- (a) such other collective investment undertakings are authorised under laws which provide that they are subject to supervision considered by the FCA to be equivalent to that provided for by the law of the United Kingdom, and that cooperation between authorities is sufficiently ensured;
- (b) the level of protection for unit-holders in the other collective investment undertakings is equivalent to that provided for unit-holders in a UCITS, and in particular that the rules on asset segregation, borrowing, lending, and uncovered sales of transferable securities and money market instruments are equivalent to the requirements of the law of the United Kingdom relating to UCITS;
- (c) the business of the other collective investment undertakings is reported in half-yearly and annual reports to enable an assessment to be made of the assets and liabilities, income and operations over the reporting period; and
- (d) no more than 10% of the assets of the UCITS or of the other collective investment undertakings, whose acquisition is contemplated, can, according to their fund rules or instruments of incorporation, be invested in aggregate in units of other UCITS or other collective investment undertakings.”

## CHAPTER 2

### Amendment of Commission Delegated Regulation (EU) 2018/990

#### **Amendment of Commission Delegated Regulation (EU) 2018/990**

**19.**—(1) Commission Delegated Regulation (EU) 2018/990 of 10 April 2018 amending and supplementing Regulation (EU) 2017/1131 of the European Parliament and of the Council with regard to simple, transparent and standardised (STS) securitisations and asset-backed commercial papers (ABCPs), requirements for assets received as part of reverse repurchase agreements and credit quality assessment methodologies is amended as follows.

(2) In Article 2—

(a) in paragraph 6—

(i) in point (a)—

(aa) for the words from “supervised” to “Council” substitute “that is a CRR firm as defined in Article 4(1)(2A) of Regulation (EU) 575/2013”;

- (bb) for “Union” substitute “United Kingdom”;
- (ii) in point (b)—
  - (aa) for the words from “Directive” to “Council” substitute “United Kingdom law on markets in financial instruments”;
  - (bb) for “Union” substitute “United Kingdom”;
- (iii) in point (c)—
  - (aa) for the words from “Directive” to “Council” substitute “the Solvency 2 Regulations 2015(a);
  - (bb) for “Union” substitute “United Kingdom”;
- (iv) for point (f) substitute—
- “(f) the Bank of England;”;
- (v) in point (g), for “Union” substitute “United Kingdom”; and
- (b) after paragraph 6, insert—

“7. For the purposes of paragraph 6, “United Kingdom law on markets in financial instruments” means the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement Directive 2014/65/EU and its implementing measures—

- (a) in the case of rules made by the FCA or by the PRA under FSMA, as they have effect on exit day;
- (b) as amended from time to time, in all other cases.”

(3) In Article 5(1)(g), for “ESMA” substitute “FCA”.

(4) In the words after Article 10, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

*Mike Freer*  
*Craig Whittaker*

26th February 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) 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 (and in particular the deficiencies referred to in paragraphs (a), (c), (d), (f) and (g) of section 8(2)).

These Regulations make amendments to legislation in the field of financial services. Part 2 amends the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115) to specify an additional EU Regulation for the purposes of Part 2 of S.I. 2018/1115. Part 3 amends EU legislation. Chapter 1 amends Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds. Chapter 2 amends Commission Delegated Regulation (EU) 2018/990 of 10 April 2018 amending and supplementing Regulation (EU) 2017/1131 of the European Parliament and of the Council with regard to simple, transparent and standardised (STS) securitisations and asset-backed commercial papers (ABCPs), requirements for assets received as part of reverse repurchase agreements and credit quality assessment methodologies.

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(a) S.I. 2015/575.

These Regulations refer to sourcebooks made by the Financial Conduct Authority under the Financial Services and Markets Act 2000 (c. 16). Sourcebooks made by the Financial Conduct Authority are available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

An impact assessment of the effect that this instrument, and other instruments made by HM Treasury under the European Union (Withdrawal) Act 2018 at or about the same time, will have on the costs of business, the voluntary sector and the public sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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