

In this instrument, underlining indicates new text and striking through indicates deleted text.

Annex A

Commission Delegated Regulation (EU) 2017/581 of 24 June 2016 supplementing Regulation (EU) 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on clearing access in respect of trading venues and central counterparties

~~(Text with EEA relevance)~~

...

Article -1

Interpretation

1. Where a term is defined in article 2 of Regulation 600/2014/EU, that definition shall apply for the purposes of this Regulation save where the context requires otherwise.
2. References to ‘trading venue’ are to the defined term in article 2(1)(16) of Regulation 600/2014/EU
3. References in this Regulation to Regulation 600/2014/EU shall mean Regulation 600/2014/EU as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018.

...

Article 7

Denial of access by a trading venue based on other factors creating significant undue risks

A trading venue may deny an access request on grounds of significant undue risks in any of the following cases:

- (a) threat to the economic viability of the trading venue or its ability to meet minimum capital requirements under ~~Article 47(1)(f) of Directive 2014/65/EU of the European Parliament and of the Council~~ paragraph 1 of the Schedule to the Financial Services and Markets Act (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001;
- (b) incompatibility of trading venue rules and CCP rules that the trading venue cannot remedy in cooperation with the CCP.

...

CHAPTER II
CONDITIONS UNDER WHICH ACCESS MUST BE PERMITTED

Article 9

Conditions under which access must be permitted

1. The parties shall agree on their respective rights and obligations arising from the access granted, including the applicable law governing their relationships. The terms of the access agreement shall:
 - (a) be clearly defined, transparent, valid and enforceable;
 - (b) where two or more CCPs have access to the trading venue specify the way in which transactions on the trading venue will be allocated to the CCP that is party to the agreement;
 - (c) contain clear rules concerning the moment of entry of transfer orders, construed pursuant to Directive 98/26/EC of the European Parliament and of the Council the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, into relevant systems and the moment of irrevocability;

...

Article 13

Netting of economically equivalent contracts

A CCP shall apply to economically equivalent contracts referred to in Article 12(1) of this Regulation the same netting procedures irrespective of where the contracts were traded, provided that any netting procedure it applies is valid and enforceable in accordance with Directive 98/26/EC the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 and applicable insolvency law.

...

Article 16

~~Notification procedure from the competent authority to ESMA and the CCP college~~

~~Relevant competent authorities shall notify ESMA and the CCP college of every decision to approve a transitional arrangement in accordance with Article 35(5) of Regulation (EU) No 600/2014 in writing without undue delay and no later than one month from the decision, using Form 2 set out in the Annex to this Regulation.~~

Article 17

Notification procedure from the trading venue to its competent authority regarding the initial transitional period

~~Where a trading venue does not wish to be bound by Article 36 of Regulation (EU) No 600/2014, it shall submit a notification to its competent authority and ESMA in written form, using Forms 3.1 and 3.2 set out in the Annex to this Regulation.~~

Article 18

Notification procedure from the trading venue to its competent authority regarding an extension of the transitional period

~~Where a trading venue wishes to continue not to be bound by Article 36 of Regulation (EU) No 600/2014 for a further thirty months, it shall submit a notification to its competent authority and ESMA the FCA in written form, using Forms 4.1 and 4.2 set out in the Annex to this Regulation.~~

...

Article 20

Approval and verification method by ~~ESMA~~ the competent authority

- ~~1. For the purposes of verification in accordance with Article 36(6)(d) of Regulation (EU) No 600/2014, the trading venue shall submit to ESMA on request all facts and figures on which the calculation is based.~~
- ~~2. For the purposes of verification in accordance with Article 36(6)(d) of Regulation 600/2014/EU, when ~~When~~ verifying the submitted annual notional amount figures, ESMA the competent authority shall also consider relevant post-trade data and annual statistics.~~
- ~~3. ESMA shall approve or reject the opt out within three months of the reception of all relevant information for the notification in accordance with either Article 16 or 17, including the information specified in Article 19.~~

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX

...

Form 2

Notification referred to in Article 16

Name of the CCP	Relevant contact details	Date of approval decision	Dates of beginning and end of transitional period	Name(s) of trading venue(s) connected by close links	Jurisdiction(s) of trading venue(s) connected by close links
			Beginning: End:	1. 2. 3. ...	1. 2. 3. ...

Form 3.1

General notification referred to in Article 17

Name of the trading venue	Relevant contact details	Name(s) and jurisdiction(s) of trading venues in the same group based in the Union	Name(s) and jurisdiction(s) of CCP(s) connected by close links
		1. 2. 3. ...	1. 2. 3. ...

Form 4.1

General notification referred to in Article 18

Name of the trading venue	Relevant contact details	Name(s) and jurisdiction(s) of trading venues in the same group based in the Union <u>UK</u>	Name(s) and jurisdiction(s) of CCP(s) connected by close links
		1. 2. 3. ...	1. 2. 3. ...

...