

Annex C

COMMISSION DELEGATED REGULATION (EU) 2017/568 of 24 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the admission of financial instruments to trading on regulated markets

~~(Text with EEA relevance)~~

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Article -3

Definitions

In this Regulation, 'Exit Day' has the meaning given in the European Union (Withdrawal) Act 2018.

Article -2

Application

This Regulation applies to a 'UK RIE' as defined in the Glossary of the Handbook of Rules and Guidance published by the Financial Conduct Authority immediately after Exit Day.

Article -1

Interpretation

1. Where a term is defined in Directive 2014/65/EU that definition shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before Exit Day to give effect to that EU legislation.
4. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

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Article 2

Transferable securities — fair, orderly and efficient trading

1. When assessing whether a transferable security is capable of being traded in a fair, orderly and efficient manner, a regulated market shall take into account the information required to be prepared under UK law corresponding to Directive 2003/71/EC or information that is otherwise publicly available such as:
 - (a) historical financial information;
 - (b) information about the issuer;
 - (c) information providing a business overview.
2. In addition to paragraph 1, when assessing whether a share is capable of being traded in a fair, orderly and efficient manner a regulated market shall take into account the distribution of those shares to the public.
3. When assessing whether a transferable security referred to in ~~Article 4(1)(44) of Directive 2014/65/EU~~ Article 2(1)(24) of Regulation 600/2014/EU is capable of being traded in a fair, orderly and efficient manner, the regulated market shall take into account, depending on the nature of the security being admitted, whether the following criteria are satisfied:
 - (a) the terms of the security are clear and unambiguous and allow for a correlation between the price of the security and the price or other value measure of the underlying;
 - (b) the price or other value measure of the underlying is reliable and publicly available;
 - (c) there is sufficient information publicly available of a kind needed to value the security;
 - (d) the arrangements for determining the settlement price of the security ensure that this price properly reflects the price or other value measures of the underlying;
 - (e) where the settlement of the security requires or provides for the possibility of the delivery of an underlying security or asset rather than cash settlement, there are adequate settlement and delivery procedures for that underlying as well as adequate arrangements to obtain relevant information about it.

Article 3

Transferable securities — official listing

A transferable security that is officially listed in accordance with UK law corresponding to Directive 2001/34/EC, and the listing of which is not suspended, shall be deemed to be freely negotiable and capable of being traded in a fair, orderly and efficient manner.

Article 4

Units and shares in collective investment undertakings

1. A regulated market shall, when admitting units or shares of a collective investment undertaking to trading, ensure that those units or shares are permitted to be marketed ~~in the Member State of the regulated market~~ the United Kingdom.

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Article 5

Derivatives

1. When assessing whether a financial instrument referred to in ~~points 4 to 10 of Section C of Annex I to Directive 2014/65/EU~~ paragraphs 4 to 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 are capable of being traded in a fair, orderly and efficient manner, a regulated market shall verify that the following conditions are satisfied:
 - (a) the terms of the contract establishing the financial instrument are clear and unambiguous, and enable a correlation between the price of the financial instrument and the price or other value measure of the underlying;
 - (b) the price or other value measure of the underlying is reliable and publicly available;
 - (c) sufficient information of a kind needed to value the derivative is publicly available;
 - (d) the arrangements for determining the settlement price of the contract is such that the price properly reflects the price or other value measures of the underlying;
 - (e) where the settlement of the derivative requires or provides for the possibility of the delivery of an underlying security or asset rather than cash settlement, there are adequate arrangements to enable market participants to obtain relevant information about that underlying as well as adequate settlement and delivery procedures for the underlying.
2. Point (b) of paragraph 1 of this Article shall not apply to financial instruments referred to in ~~points 5, 6, 7 and 10 of Section C of Annex I to Directive 2014/65/EU~~ paragraphs 5, 6, 7 and 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, where the following conditions are fulfilled:
 - (a) the contract establishing that instrument is likely to provide a means of disclosing to the market, or enabling the market to assess, the price or other value measure of the underlying, where the price or value measure is not otherwise publicly available;
 - (b) the regulated market ensures that appropriate supervisory arrangements are in place to monitor trading and settlement in such financial instruments;

- (c) the regulated market ensures that settlement and delivery, whether physical delivery or by cash settlement, can be effected in accordance with the contract terms and conditions of those financial instruments.

Article 6

Emission allowances

Any emission allowance referred to in ~~point 11 of Section C of Annex I to Directive 2014/65/EU~~ paragraph 11 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 recognised for compliance with the requirements of Directive 2003/87/EC, is eligible for admission to trading on a regulated market with no further requirements.

Article 7

Verification of issuer obligations

1. Regulated markets shall adopt and publish on their website procedures for verifying compliance by an issuer of a transferable security with its obligations under ~~Union~~ UK law.
2. Regulated markets shall ensure that compliance with the obligations referred to in paragraph 1 is checked effectively in accordance with the nature of the obligation under review taking into account the supervisory tasks performed by ~~relevant competent authorities~~ the competent authority.

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Article 8

Facilitation of access to information

Regulated markets shall have arrangements which are easily accessible, free of charge and published on their website to facilitate access of their members or participants to information which has been made public in accordance with ~~Union~~ UK law.

Article 9

Entry into force and application

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It shall apply from the date that appears in the second subparagraph of Article 93(1) of Directive 2014/65/EU.

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

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