

Annex L

COMMISSION DELEGATED REGULATION (EU) 2017/584 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying organisational requirements of trading venues

~~(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 operators of UK trading venues, as defined by article 2(1)(16A) of Regulation 600/2014/EU.

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:
 - (i) where it is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, in which case that definition shall apply for the purposes of this Regulation;
 - (ii) in the case of ‘algorithmic trading’ and ‘direct electronic access’ or ‘DEA’ which are as defined in regulation 2(1) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017;
 - (iii) in the case of the definition of ‘senior management’, where the definition in the Handbook of Rules and Guidance published by the Financial Conduct Authority immediately after Exit Day shall apply.

2. 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.
3. Article 2(1)(62) of Regulation 600/2014/EU shall apply for the purposes of this Regulation.

CHAPTER I

GENERAL ORGANISATIONAL REQUIREMENTS FOR TRADING VENUES ENABLING OR ALLOWING ALGORITHMIC TRADING THROUGH THEIR SYSTEMS

Article 1

Subject matter and scope

(Article 48 of Directive 2014/65/EU)

1. This Regulation lays down detailed rules for the organisational requirements of the systems of the trading venues allowing or enabling algorithmic trading, in relation to their resilience and capacity, requirements on trading venues to ensure appropriate testing of algorithms and requirements in relation to the controls concerning DEA pursuant to the UK law corresponding to Article 48(12)(a), (b) and (g) of Directive 2014/65/EU.
2. For the purposes of this Regulation, it is considered that a trading venue allows or enables algorithmic trading where order submission and order matching is facilitated by electronic means.
3. For the purposes of this Regulation, any arrangements or systems that allow or enable algorithmic trading shall be considered 'algorithmic trading systems'.

Article 2

Self-assessments of compliance with Article 48 of Directive 2014/65/EU

(Article 48 of Directive 2014/65/EU)

1. Before the deployment of a trading system and at least once a year, trading venues shall carry out a self-assessment of their compliance with the UK law corresponding to Article 48 of Directive 2014/65/EU, taking into account the nature, scale and complexity of their business. The self-assessment shall include an analysis of all parameters set out in the Annex to this Regulation.
2. Trading venues shall keep a record of their self-assessment for at least five years.

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Article 6

Outsourcing and procurement

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues outsourcing all or part of their operational functions in relation to the systems allowing or enabling algorithmic trading shall ensure that:
 - (a) the outsourcing agreement exclusively relates to operational functions and does not alter the responsibilities of the senior management and the management body;
 - (b) the relationship and obligations of the trading venue towards its members, competent authorities, or any third parties, such as clients of data feed services are not altered;
 - (c) they meet the requirements that they must comply with in order to be authorised in accordance with the UK law corresponding to Title III of Directive 2014/65/EU.

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5. Trading venues shall report to the competent ~~authorities~~ authority their intention to outsource operational functions in the following cases:
 - (a) where the service provider provides the same service to other trading venues;
 - (b) where critical operational functions necessary for business continuation would be outsourced, in which case the trading venues shall request a prior authorisation from the competent authority.
6. For the purposes of point (b) in paragraph 5, critical operational functions shall include those functions necessary to comply with the obligations referred to in the UK law corresponding to Article 47(1)(b), (c) and (e) of Directive 2014/65/EU.
7. Trading venues shall inform the competent authority ~~authorities~~ of any outsourcing agreements not subject to prior authorisation requirement immediately after the signature of the agreement.

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Article 21

Pre-determination of the conditions to provide direct electronic access

(Article 48(7) of Directive 2014/65/EU)

Trading venues permitting DEA through their systems shall set out and publish the rules and conditions pursuant to which their members may provide DEA to their own clients. Those rules and conditions shall at least cover the specific requirements set out in Article 22 of Commission Delegated Regulation (EU) 2017/589.

Article 22

Specific requirements for trading venues permitting sponsored access

(Article 48(7) of Directive 2014/65/EU)

1. Trading venues shall make the provision of sponsored access subject to their authorisation and shall require that firms having sponsored access are subject to at least the same controls as those referred to in Article 18(3)(b).
2. Trading venues shall ensure that sponsored access providers are at all times exclusively entitled to set or modify the parameters that apply to the controls referred to in paragraph 1 over the order flow of their sponsored access clients.
3. Trading venues shall be able to suspend or withdraw the provision of sponsored access to clients having infringed the UK law corresponding to Directive 2014/65/EU, Regulations of the European Parliament and of the Council (EU) No 600/2014 and (EU) No 596/2014 or the trading venue's internal rules.

Article 23

Security and limits to access

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall have in place procedures and arrangements for physical and electronic security designed to protect their systems from misuse or unauthorised access and to ensure the integrity of the data that is part of or passes through their systems, including arrangements that allow the prevention or minimisation of the risks of attacks against the information systems as defined in the UK law corresponding to Article 2(a) of Directive 2013/40/EU of the European Parliament and of the Council.

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

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