



STATUTORY INSTRUMENTS.

S.I. No. 258 of 2021

EUROPEAN UNION (MARKETS IN FINANCIAL INSTRUMENTS)
(AMENDMENT) (NO. 2) REGULATIONS 2021

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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 further effect to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014¹ as amended by Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019², hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Markets in Financial Instruments) (Amendment) (No. 2) Regulations 2021.
- (2) These Regulations shall come into operation on 1 January 2022.

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, in paragraph (1) –
 - (a) by the substitution of “markets, and” for “markets,” in subparagraph (c), and
 - (b) by the deletion of subparagraph (d).

Amendment of Regulation 3 of Principal Regulations

4. Regulation 3(1) of the Principal Regulations is amended –
 - (a) in the definition of “management body”, by the substitution of “a market operator, or a data reporting services provider as defined in point (36a) of Article 2(1) of Regulation (EU) No 600/2014³,” for “market operator or data report services provider,”,
 - (b) in the definition of “senior management”, by the substitution of “a market operator, or a data reporting services provider as defined in point (36a) of Article 2(1) of Regulation (EU) No 600/2014³,” for “a market operator or a data report services provider”,

¹ OJ L 173, 12.6.2014, p. 349

² OJ L 334, 27.12.2019, p. 155

³ OJ L 173, 12.6.2014, p. 84

- (c) by the deletion of the definitions of “approved publication arrangement”, “approved reporting mechanism”, “consolidated tape provider” and “data reporting services provider”, and
- (d) in the definition of “home Member State”, by the deletion of paragraph (c).

Amendment of Regulation 29 of Principal Regulations

5. Regulation 29 of the Principal Regulations is amended, in paragraph (1)

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- (a) in subparagraph (a), by the deletion of “and”,
- (b) in subparagraph (b), by the substitution of “Bank, and” for “Bank.”, and
- (c) by the insertion of the following paragraph after subparagraph (b):
 - “(c) shall monitor the activities of an approved publication arrangement (APA), as defined in point (34) of Article 2(1) of Regulation (EU) No 600/2014³ (referred to subsequently in this subparagraph as the ‘Regulation’) that is the subject of a derogation provided in accordance with Article 2(3) of the Regulation, or an approved reporting mechanism (ARM), as defined in point (36) of Article 2(1) of the Regulation that is the subject of a derogation provided in accordance with Article 2(3) of the Regulation so as to assess compliance with the operating conditions provided for in the Regulation, and shall ensure that the appropriate measures are in place to enable it to obtain the information needed to assess the compliance of APAs and ARMs with those obligations.”.

Revocation of Parts 9 and 10 of Principal Regulations

6. Parts 9 and 10 of the Principal Regulations are revoked.

Amendment of Regulation 119 of Principal Regulations

7. Regulation 119 of the Principal Regulations is amended –

- (a) in paragraph (3), by the substitution of the following subparagraph for subparagraph (c):
 - “(c) in the case of an investment firm, a market operator authorised to operate an MTF or OTF, or a regulated market, withdrawal or suspension of its authorisation under these Regulations, and, where an APA or ARM is the subject of a derogation provided in accordance with Article 2(3) of Regulation (EU) No 600/2014³, withdrawal or

suspension of the authorisation in accordance with Article 27e of that Regulation,”

- (b) in paragraph (5) –
 - (i) in subparagraph (a), by the deletion of clauses (xxxvi) to (xxxix), and
 - (ii) in subparagraph (b), by the insertion of the following clause after clause (xx):
 - “(xxa) Article 27f(1), (2) and (3), Article 27g(1) to (5) and Article 27i(1) to (4), where an APA or ARM is the subject of a derogation provided in accordance with Article 2(3);”, and
- (c) in paragraph (6) –
 - (i) by the substitution of the following subparagraphs for subparagraphs (a) and (b):
 - “(a) Regulation 5, 6, 7, 12(2), 42, 43, 44(1) to (4), 48, 53, 54, 60, 61 or 62;
 - (b) the third sentence of Article 7(1) of Regulation (EU) No 600/2014³ or Article 11(1) of that Regulation, and, where an APA or ARM is the subject of a derogation provided in accordance with Article 2(3) of that Regulation, Article 27b of that Regulation.”.

Amendment of Regulation 130 of Principal Regulations

8. Regulation 130 of the Principal Regulations is amended, in paragraph (1), by the deletion of all the words beginning with “The auditor of an investment firm” down to and including “liable to” and the substitution of the following:

“The auditor of an investment firm, a regulated market, or an APA or ARM authorised in accordance with Regulation (EU) No 600/2014³ which is the subject of a derogation provided in accordance with Article 2(3) of that Regulation, approved within the meaning of Directive 2006/43/EC⁴ and performing the task described in Article 34 of Directive 2013/34/EU⁵ or Article 73 of Directive 2009/65/EC⁶ or any other task prescribed by the law of the State, shall report promptly to the Bank any fact or decision concerning the investment firm, regulated market, APA or ARM of which the auditor has become aware while carrying out an audit of it or an undertaking having close links with it and which is liable to”.

Amendment of Schedule 1 to Principal Regulations

9. Part 4 of Schedule 1 to the Principal Regulations is revoked.

⁴ OJ L 157, 9.6.2006, p. 87

⁵ OJ L 182, 29.6.2013, p. 19

⁶ OJ L 302, 17.11.2009, p. 32



GIVEN under my Official Seal,
24 May, 2021.

PASCHAL DONOHOE,
Minister for Finance.

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