



HM Treasury

Markets in Financial Instruments Organisational Regulation

Policy Note

March 2025

Markets in Financial
Instruments Organisational
Regulation

Policy Note



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Chapter 1

Context

1.1 The government is committed to reinvigorating capital markets to ensure they deliver for investors, for firms, and support growth across the UK. The Treasury are already taking forward an ambitious programme of reforms to boost competitiveness.

1.2 At Mansion House 2024¹, the Chancellor announced her intention to make further technical changes to the wholesale markets framework. This included a commitment to commence the revocation of the detailed firm-facing regulations within the Markets in Financial Instruments (MiFID) Organisational Regulation (Org Reg) so they can be replaced in the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) rulebooks.

1.3 To deliver on this commitment, the Treasury will (1) restate regulation that defines regulatory activity in legislation and (2) commence the revocation of firm-facing regulation which can benefit from delegation to the expert regulators' who have day-to-day experience of supervising financial services firms. The Treasury will do this to align with the FCA and PRA implementing their replacement rules in H2 2025.

1.4 The government is publishing a near-final version of an SI that will restate the sections of the Org Reg that are being maintained in legislation. The government invites any technical comments on the draft SI by **14 April 2024**.

¹ [Next steps for reforming the UK Markets in Financial Instruments Directive](#)

Chapter 2

Purpose

2.1 This note sets out the policy background for the draft SI, a summary of the policy intent and how the draft SI seeks to achieve this, stakeholders likely to be impacted and how to provide comments. This note is intended to be read alongside the draft instrument.

2.2 This publication is the near-final version of this SI. The instrument is being published for technical checks, such as any significant errors or oversights in the legal drafting that would mean that the SI would not achieve the desired outcomes explained in this note, or that would lead to significant unintended consequences.

2.3 Whilst the policy approach in this area as set out in these published provisions is settled, the drafting approach, and other technical aspects of the proposal, may change before the final instrument is laid before Parliament.

2.4 This draft SI restates key definitions of the Org Reg in domestic legislation. It does not intend to materially change the policy effect of these definitions. Therefore, the government is particularly interested in stakeholder feedback related to the provisions contained in this draft SI.

Chapter 3

Policy Background

3.1 The Commission Delegated Regulation (EU) 2017/565², otherwise known as the MiFID Org Reg, was introduced in 2017 supplementing the regulatory framework established by Directive 2014/65/EU of the European Parliament and of the Council (MiFID II). Both texts were incorporated into UK law by the European Union (Withdrawal) Act 2018 (EUWA 2018). The Org Reg specifies the organisational requirements and operating conditions for investment firms, and introduces related definitions.

3.2 The key definitions in the Org Reg provide clarity when interpreting the regulatory perimeter. Most of the definitions from the Org Reg are already encompassed within the Regulated Activities Order (RAO).

3.3 Additionally, the Org Reg provides detailed regulatory requirements and contains key conduct, systems and controls obligations for investment firms. The regulation is broad in scope, covering various requirements including: client categorisation, best execution, research, conflicts of interest, outsourcing, compliance and internal audit functions.

3.4 The Org Reg affects a wide range of firms authorised, regulated and recognised by the FCA, as well as certain persons not requiring authorisation but who are subject to obligations under MiFID II. Some of the firms affected by the Org Reg are dual-regulated, with the PRA serving as their primary regulator.

Why are we making legislative change?

3.5 At Mansion House 2024, the government committed to revoke the firm-facing regulations within the Org Reg so they can be replaced in the FCA and PRA rulebooks.

3.6 Delegating responsibility for setting these direct regulatory requirements to the UK regulators will ensure our expert regulators' real-world, day-to-day experience of supervising financial services firms to be central to the regulatory policymaking process. It also provides flexibility for the regulators to update regulations efficiently in response to emerging market trends and risks.

3.7 To achieve this, the Treasury will commence the revocation of the firm-facing requirements in the Org Reg through secondary legislation.

² [MiFID Organisational Regulation](#)

Additionally, the Treasury will restate the definitions which set out the regulatory perimeter in domestic legislation through this draft SI.

What powers are we using to make this change?

3.8 The Financial Services and Markets Act 2023 (FSMA 2023) repeals EU legislation relating to financial services that was transferred to the UK statute book by EUWA 2018. This allows the government to transfer firm-facing requirements to the regulators.

Chapter 4

Summary of Statutory Instrument

4.1 This draft SI seeks to replace and restate key definitions from the Org Reg in UK financial services legislation.

What does the statutory instrument do?

4.2 This instrument restates definitions from the Org Reg in domestic legislation under the framework established by FSMA 2023³. While the draft SI seeks to consolidate and clarify terminology, the intention is not to change the meaning or scope of definitions. However, the Treasury may consider making amendments to definitions as part of future policy work.

Changes to Part 18A of FSMA 2000

4.3 Regulation 2 restates Article 80 of the Org Reg into Part 18A of the Financial Services and Markets Act 2000 (FSMA 2000). This sets out the meaning of “significant damage to investors’ interests or orderly functioning of market” for the purposes of sections 313CA and 313CB of FSMA 2000.

4.4 In paragraph 1 of regulation 2, the prior reference to section 313CC of FSMA 2000 (which was repealed by SI 2019/662⁴) has been replaced by a reference to section 313CB. This change has been made to ensure the cross-reference captures the applicable provisions for the purposes of the phrase “significant damage to investors’ interests or the orderly functioning of the market”. Additionally, the provision has been divided into paragraphs and the wording has been amended to make the intent of the law clearer.

4.5 The purpose of paragraph 3(a) of regulation 2 is to factor market liquidity into the determination of the impact of suspension or removal of a financial instrument from trading. The draft SI rewords the inherited wording from Article 80 to make this policy intent clearer.

4.6 This SI does not restate Article 80(3) of the Org Reg at Part 18A of FSMA 2000. The FCA is required to consider all relevant factors in determining the significance of suspension or removal of a financial

³ [Section 4 of FSMA 2023](#)

⁴ [The Investment Exchanges, Clearing Houses and Central Securities Depositories \(Amendment\) \(EU Exit\) Regulations 2019 \(revoked\)](#)

instrument from trading pursuant to the general requirements of public law, and so this provision is redundant.

Changes to the Body of the Regulated Activities Order

4.7 Regulation 3 inserts the definition of commodity into Article 3 of the RAO with no amendments. Additionally, regulations 3 to 6 make updates to cross-references in Articles 3, 83 to 85 and Schedule 2 to the RAO to ensure such cross-references are accurate.

Replacement of Part 2 of Schedule 2 to the Regulated Activities Order

4.8 Regulation 7 amends schedule 2 to the RAO, replacing Part 2 of Schedule 2 in full as follows:

New paragraph 1 – Interpretation

4.8.1 Paragraph 1 of the Part 2 of Schedule 2 is an interpretative provision which identifies the definition of “money-market instruments” and provides a full definition of “transmission system operator”. The latter definition is the same as that included in Regulation (EU) 1227/2011⁵.

New paragraph 2 – Paragraph 2 of Part 1: money-market instruments

4.8.2 Paragraph 2 of the Part 2 of Schedule 2 restates in full the definition of “money-market instruments” from Article 11 of the Org Reg for the purposes of paragraph 2 of Part 1 of that Schedule. The definition has been simplified for the purposes of identifying those classes of instruments which fall inside or outside of the definition, and consolidates common characteristics of money-market instruments.

New paragraph 3 – Paragraph 4 of Part 1: exclusion of certain derivative contracts relating to currencies

4.8.3 Paragraph 3 of Part 2 of Schedule 2 restates Article 10 of the Org Reg, changing the structure to include a breakdown of text into separate sub-paragraphs to make the law clearer and more accessible. It also sets out the perimeter of the exclusion of derivative contracts relating to currencies for the purposes of paragraph 4 of Part 1 of Schedule 2.

New paragraph 4 – Paragraphs 6 and 7 of Part 1: wholesale energy products that must be physically settled

4.8.4 Paragraph 4 of Part 2 of Schedule 2 restates (with amendments) the definition of “wholesale energy products that must be physically settled” (Article 5 of the Org Reg) for the purposes of paragraphs 6 and 7

⁵ [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council.](#)

of Part 1 of that Schedule. For clarity and readability, the definition has been split across the conditions listed at sub-paragraphs (2)(a) to (d). The parameters of the aforementioned conditions are set out in sub-paragraphs (3) to (5), including by way of including an EU-derived definition of operational netting.

4.8.5 Article 6 of the Org Reg has not been restated as we consider the provisions to be obsolete in setting the scope of certain energy-based financial products.

New paragraph 5 – Paragraph 7 of Part 1: treatment of certain derivative financial instruments

4.8.6 Article 7 (other derivative instruments) from the Org Reg has been restated as paragraphs 5 to 8 of Part 2 of Schedule 2.

4.8.7 Paragraph 5 of Part 2 of Schedule 2 restates the definition of a spot contract (other than spot contracts relating to currency) from Article 7(1)-(3) of the Org Reg. This definition has been included for the purposes of paragraph 7 of Part 1 of Schedule 2 to the RAO. Minor amendments have also been made to the wording of Article 7(1)-(3) as reflected in new paragraph 5 to improve readability.

New paragraph 6 – Paragraphs 7 and 10 of Part 1: exclusion of certain energy contracts

4.8.8 Paragraph 6 of Part 2 of Schedule 2 restates Article 7(4) of the Org Reg, which explains when certain contracts are to be treated as being for commercial purposes. This provision is relevant for the purposes of paragraphs 7 and 10 of Part 1 of Schedule 2 to the RAO.

New paragraph 7 – Paragraph 10 of Part 1: further derivative contracts included

4.8.9 Paragraph 7 of Part 2 of Schedule 2 restates Article 8 of the Org Reg, amending the wording to clarify that, in addition to those contracts referred to in paragraph 10 of Part 1 of that Schedule, a derivative will constitute a “financial instrument” where it meets (i) the criteria in paragraph 10 of Part 1, and (ii) relates to any of the categories of fungible asset listed at paragraph 7(5)(a)-(f) of Part 2.

New paragraph 8 – Paragraph 10 of Part 1: treatment of certain derivative contracts

4.8.10 Paragraph 8 of Part 2 of Schedule 2 restates the remainder of Article 7(3) of the Org Reg. This sets out the scope of the characteristics of other derivative financial instruments for the purposes of paragraph 10 of Part 1 of that Schedule.

Changes to Schedule 3 to the Regulated Activities Order

4.9 Regulation 8 of the draft SI restates Articles 18 (algorithmic trading), 19 (high-frequency algorithmic trading technique) and 20 (direct electronic access) from the Org Reg into Schedule 3 to the RAO, subject to minor changes to structure (such as the addition of headings) to improve readability. The provisions are intended to be read alongside the exemptions to the definition of “investment firm” at paragraphs 1(e), (f) and (k) of Part 1 of Schedule 3.

New paragraph 7 – Direct electronic access

4.9.1 Paragraph 7 of Part 3 of Schedule 3 combines Article 20(1) and (2) (direct electronic access) and has been included for the purposes of the exemption at paragraph 1(e) of Part 1 of that Schedule. The text has been broken into subsections to improve readability.

4.9.2 Paragraph 7 goes beyond Article 20 of the Org Reg by inserting in full the definition of “direct electronic access” from the Markets in Financial Instruments Regulation (MiFIR)⁶ to improve readability.

New paragraph 8 – High-frequency algorithmic trading

4.9.3 Paragraph 8 of Part 3 of Schedule 3 restates the definition of algorithmic trading (Article 18 of the Org Reg) into the RAO. This definition is referenced in exemptions that are already set out in the RAO in paragraphs 1(e), (f) and (k) of Part 1 of that Schedule. Paragraph 8 also inserts a more detailed definition of algorithmic trading and the definition of high-frequency algorithmic trading technique from MiFIR to improve readability.

New paragraph 9 – High message intraday rate

4.9.4 Paragraph 9 of Part 3 of Schedule 3 restates Article 19 of the Org Reg, which defines high message intraday rate and market-making strategy for the purposes of further explaining paragraph 8 4(c).

Changes to Recognition Requirements Regulations (RRR)

4.10 To ensure that relevant definitions are included in other relevant domestic legislation, such as where that legislation contains operative provisions employing those definitions, the draft SI amends the RRR.

4.11 Specifically, regulation 9 amends regulation 3 of the RRR by inserting the same definitions of algorithmic trading and direct electronic access (Article 18 and 20 of the Org Reg, respectively) that regulation 8 adds into the RAO. Equivalent amendments have been made to the structure of these definitions for the purposes of readability (see paragraphs 4.9.1 to 4.9.2 above).

⁶ [Regulation \(EU\) No 600/2014 of the European Parliament and of the Council.](#)

4.12 Regulation 10 inserts the definition of “high-frequency algorithmic trading technique” (Article 19 of the Org Reg) as a new regulation 3A of the RRR. Again, equivalent amendments have been made to the structure of the definition for the purposes of readability (see para 4.9.3 above).

4.13 Regulation 11 restates Article 80 of the Org Reg in relation to circumstances constituting “significant damage to investors' interests and the orderly functioning of the market” as a new paragraph 7F Part 1 of the Schedule to the RRR. Equivalent changes to Article 80 have been made here as in the restatement of that provision at Part 18A of FSMA 2000 (see paras 4.3 – 4.6 above). New paragraph 7F(3) of Part 1 of Schedule 1 to the RRR inserts further defining terms: “clearing member”, “financial counterparty” and “issuer”.

Changes to FSMA 2000 (Financial Promotion) Order 2005 (FPO)

4.14 Regulation 12 amends references in the FPO to ensure that cross references are accurate.

Changes to Markets in Financial Instruments Regulation 2017

4.15 Similar to the changes in the RRR, to ensure that relevant definitions are included in other relevant domestic legislation (where such legislation employs those definitions), regulation 13 amends MiFIR.

4.16 Specifically, regulation 13 restates the definitions of “algorithmic trading” and “direct electronic access” from Article 18 and 20 of the Org Reg (respectively). Equivalent amendments have been made to the structure of such definitions for the purposes of readability (see paragraphs 4.9.1 to 4.9.3 above).

Consequential Amendments

4.17 The SI also contains a non-exhaustive list of consequential changes.

Chapter 5

Stakeholders and contact

Comment on this draft SI

5.1 As set out in chapter 3 above, the Treasury is seeking technical comments on this draft SI. Comments should be focused on any changes that need to be made to this draft instrument to achieve the policy intent set out in section four of this note.

5.2 Any comments should be provided to Capital.Markets@hmtreasury.gov.uk by 14 April 2025.

Chapter 6

Next steps

6.1 The FCA has consulted on new rules to replace the firm-facing provisions of the Org Reg⁷. The FCA's consultation on new rules to replace the firm-facing provisions of the Org Reg closed in February, but they are still accepting feedback on how to simplify or improve rules until 28 March. The PRA will publish their consultation paper in H1 2025.

6.2 Subject to feedback on the draft SI and Parliamentary time allowing, the Treasury then plans to lay this instrument before Parliament in Summer 2025.

6.3 The Treasury intends to commence this SI as well as the revocation of the Org Reg and other related legislation following publication of final FCA and PRA replacement rules in H2 2025, in line with the regulators' replacement rules.

⁷ [CP24/24: The MiFID Organisational Regulation](#)

Chapter 7

Further information

7.1 Read the Treasury's [Policy statement – Building a smarter financial services framework for the UK](#)

7.2 Read the Treasury's [Next steps for reforming the UK Markets in Financial Instruments Directive](#)

7.3 Read the FCA's [CP24/24: The MiFID Organisational Regulation](#)

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This document can be downloaded from www.gov.uk

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