

**EXITING THE EUROPEAN UNION: IMPLEMENTATION PERIOD (GUIDANCE)
INSTRUMENT 2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of:
- (1) section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000;
 - (2) regulation 120 (Guidance) of the Payment Services Regulations 2017; and
 - (3) regulation 60 (Guidance) of the Electronic Money Regulations 2011.

Commencement

- B. This instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018.
- C. For the avoidance of doubt, paragraph 1 of Schedule 5 of the European Union (Withdrawal Agreement) Act 2020 does not apply to this instrument.

[**Editor’s note:** Exit day is 11pm on 31 January 2020.]

Amendments to the Handbook

- D. The General Provisions (GEN) are amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Exiting the European Union: Implementation Period (Guidance) Instrument 2020.

By order of the Board
30 January 2020

Annex

Amendments to the General Provisions (GEN)

Insert the following new chapter GEN 2A (Interpreting the Handbook and other documents during the implementation period) after GEN 2 (Interpreting the Handbook). The text is not underlined.

2A Interpreting the Handbook and other documents during the implementation period

2A.1 Introduction

Application

2A.1.1 G This chapter applies to the *FCA Handbook* in full and is of relevance to any reader of the *Handbook*.

2A.1.2 G This chapter also applies to instruments or documents issued by the *FCA* under an enactment that do not form part of the *FCA Handbook*. Accordingly, it is of relevance to any reader of any such instrument or document.

Purpose

2A.1.3 G Section 1B of the EUWA makes cross-cutting provision to ensure that *UK* legislation gives effect to the implementation period at Part 4 of the withdrawal agreement. For example, it makes sure, where relevant, that the definition of “Member State” used in EU-derived legislation is treated as if it includes “the UK” and that references to “EU law” (however expressed) are read as a reference to such law so far as it is applicable to and in the *UK* by virtue of Part 4 of the withdrawal agreement. The effect of the EUWA is that these provisions also apply to *FCA Handbook rules* and other legislation (within the meaning of the EUWA) made by the *FCA*.

2A.1.4 G The purpose of this chapter is to confirm and explain that, during the implementation period, the entire *FCA Handbook* and other documents issued by the *FCA* should be read in light of section 1B of the EUWA.

Interpretation

2A.1.5 G In this chapter, the expression “EUWA” means the European Union (Withdrawal) Act 2018.

2A.1.6 G In this chapter the expressions “implementation period”, “EU-derived domestic legislation” and “enactment” have the same meaning as in the EUWA and the expressions “withdrawal agreement” and “IP completion

day” have the same meaning as in the European Union (Withdrawal Agreement) Act 2020.

2A.2 Interpreting the Handbook and other documents during the implementation period

- 2A.2.1 G (1) During the implementation period *rules*, directions (including *waivers*), guidance, statements of policy and/or procedure, and any other instrument or document made or issued by the *FCA* under an enactment should be read in light of section 1B of the EUWA.
- (2) This means that, until IP completion day, those things should be read as far as the context permits or requires as if:
- (a) any reference to the “Treaties” or the “EU Treaties” as defined in section 1(2) to (4) (Interpretation) of the European Communities Act 1972, includes Part 4 of the withdrawal agreement (implementation period), other than that Part so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy;
 - (b) the *United Kingdom* were a member State of the *EU*;
 - (c) any reference to:
 - (i) *EU* law;
 - (ii) any particular *EU* Treaty or part of it;
 - (iii) any *EU* instrument, or other document of an *EU* entity or of the *EU*, or any part of any such instrument or document;
 - (iv) any part of *EU* law not falling within the (b) or (c);
 - (v) any tax, duty, levy or interests of the *EU*; or
 - (vi) any arrangement involving, or otherwise relating to, the *EU* of a kind not mentioned above,

were a reference to any such thing so far as it is applicable to and in the *United Kingdom* by virtue of Part 4 of the withdrawal agreement;
 - (d) any reference (however expressed and subject to paragraph (a) of section 1B(3)(a) of the EUWA) to the European Communities Act 1972 were, or (as the case may be) included, a reference to that act as it continues to have effect by virtue of section 1A(2) to (4) of the EUWA;
 - (e) any reference (however expressed) to the area of the *EU* or of the *EEA* included the *United Kingdom*; and

- (f) any reference (however expressed) to a citizen of the *EU* or a national of the *EEA* included a *United Kingdom* national (within the meaning given by article 2(d) of the withdrawal agreement).
- (3) Such things should also be read in light of any additional modifications referred to in section 1B(3)(f) of the EUWA.