

Chapter 6A

EEA market operators in the United Kingdom



6A.1 **Exercise of passport rights by EEA market operator**

- 6A.1.1** **G** Under section 312A of the *Act*, an *EEA market operator* may make arrangements in the *United Kingdom* to facilitate access to, or use of, a *regulated market* or *multilateral trading facility* operated by it if:
- (1) the operator has given its *Home State regulator* notice of its intention to make such arrangements; and
 - (2) the *Home State regulator* has given the *FCA* notice of the operator's intention.
- 6A.1.2** **G** In making these arrangements, the operator has *exempt person* status as respects any *regulated activity*, which is carried on as a part of its business of operating the market or facility in question, or in connection with, or for the purposes of that business.
- 6A.1.3** **G** An *EEA market operator* has *exempt person* status as respects any *regulated activity* which is carried on as a part of its business of operating a *regulated market* or *multilateral trading facility* if the operator made arrangements in the *United Kingdom* on or before 31 October 2007 to facilitate access to, or use of, that *regulated market* or *multilateral trading facility*.
- 6A.1.4** **G** In accordance with the *RAP regulations*, references in section 312A of the *Act* to specified *regulated market* and market are to be read as including reference to a specified *auction platform* and an *auction platform* as applicable.



6A.2 Removal of passport rights from EEA market operator

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- 6A.2.1** **G** Under section 312B of the *Act*, the *FCA* may prohibit an *EEA market operator* from making or, as the case may be, continuing arrangements in the *United Kingdom*, to facilitate access to, or use of, a *regulated market, multilateral trading facility or organised trading facility* operated by the operator if:
- (1) the *FCA* has clear and demonstrable grounds for believing that the operator has contravened a relevant requirement; and
 - (2) the *FCA* has first complied with sections 312B(3) to (9) of the *Act*.
- 6A.2.2** **G** A requirement is relevant if it is imposed:
- (1) by the operator's *Home State regulator* in the implementation of *MiFID* or any *EU* legislation made under *MiFID*;
 - (2) by provision implementing *MiFID*, or any *EU* legislation made under it, in the operator's *Home State*; or
 - (3) by any directly applicable *EU* regulation made under *MiFID*.
- 6A.2.3** **G** The procedure the *FCA* will follow if it is to exercise this prohibition power is set out in sections 313B(3) to (9) of the *Act*.
- 6A.2.4** **G** If the *FCA* exercises this prohibition power it must at the earliest opportunity notify the Commission and *ESMA* of the action taken in relation to the operator.
- 6A.2.5** **G** The operator's *exempt person* status ceases to apply if the *FCA* exercises this prohibition power.
- 6A.2.6** **G** The operator's right to make arrangements in the *United Kingdom*, to facilitate access to, or use of, a *regulated market, multilateral trading facility or organised trading facility*, operated by the operator may be reinstated (together with its *exempt person* status) if the *FCA* is satisfied that the contravention which led the *FCA* to exercise its prohibition power has been remedied.

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In accordance with the *RAP regulations*, references in section 312B of the *Act to regulated market* are to be read as including reference to an *auction platform* and references to *MiFID* are to be read as including reference to the *auction regulation*.

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