Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

(1) section 1E (The Competition objective);
(2) section 139A (FCA’s power to give guidance);
(3) section 290 (Recognition orders);
(4) section 292 (Overseas investment exchanges);
(5) section 293 (Notification requirements);
(6) section 295 (Notification: overseas investment exchanges); and
(7) section 300B (Duty to notify proposal to make regulatory provision).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. (1) Part 2 of the Annex to this instrument comes into force on 2 June 2014.
(2) The remainder of this instrument comes into force on 2 May 2014.

Amendments to the FCA Handbook

D. The Recognised Investment Exchanges sourcebook (REC) is amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Recognised Investment Exchanges Sourcebook (Competition) Instrument 2014.

By order of the Board of the Financial Conduct Authority
1 May 2014
Annex

Amendments to the Recognised Investment Exchanges sourcebook (REC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 2 May 2014

2.2 Method of satisfying the recognition requirements

... Relevant circumstances

2.2.2 G The FCA will usually expect:

... (4) the nature and status of the types of investor who use the UK recognised body’s or applicant’s facilities or have an interest in the market supported by the UK recognised body’s or applicant’s facilities; and

(4A) competition in the markets for services provided, or proposed to be provided, by the UK recognised body or applicant in its capacity as such; and

(5) the nature and scale of the risks to the statutory objectives associated with the matters described in (1) to (4A);

to be among the relevant circumstances which it will take into account in considering whether a UK recognised body or applicant satisfied the recognition requirements.

...

6.7 Notification rules for overseas recognised bodies

... Reports under section 295

...

6.7.4 R An ROIE must include in its report submitted in compliance with section 295(1) of the Act:

...
(2) particulars of any disciplinary action (or any similar or analogous action) taken against it by any supervisory authority in its home territory, whether or not that action has been made public in that territory; and

(3) a copy of its annual report and accounts; and

(4) a statement as to whether any events have occurred which are likely to have any material effect on competition;

where those events occurred, or the period covered by that annual report and accounts ended, in the period covered by that report.

Part 2: Comes into force on 2 June 2014

3.26 Proposals to make regulatory provision

... Disapplication of duty to notify proposal to make regulatory provision

3.26.4 R The duty in section 300B(1) of the Act does not apply to any of the following:

... (5) any other regulatory provision which has not been excluded under (1), (2), (3) or (4) other than any such provision which (taken together with any other regulatory provision not otherwise the subject of a notice under section 300B(1) of the Act):

... (c) materially limits access to, or use by, any person (whether directly or indirectly including, without limitation, through an amendment to fees or charges) of the facilities operated by the UK recognised body proposing to make the regulatory provision; or

(d) materially limits or restricts the ability of any person to supply services (including, without limitation, trading, clearing, settlement or information services) to persons who are users of the facilities operated by the UK RIE proposing to make the regulatory provision (whether directly or indirectly, including by the imposition of an obligation or burden on the supplier or on a user of the UK RIE); or

(e) materially adds to the circumstances in which any person (whether directly or indirectly) may be liable to penalties or
other sanctions or have liability in damages.

...