

# Chapter 1

## Commission Delegated Regulation (EU) 2016/2251

## Article 32 Procedures for counterparties and the Financial Conduct Authority

(1) The application or notification from a counterparty to the Financial Conduct Authority pursuant to paragraphs 8 to 9 of Article 11 of Regulation (EU) No 648/2012 shall be deemed to have been received when the Financial Conduct Authority receives all of the following information:

- (a) all the information necessary to assess whether the conditions specified in paragraphs 8 or 9, respectively, of Article 11 of Regulation (EU) No 648/2012 have been fulfilled;
- (b) the information and documents referred to in Article 18(2) of Commission Delegated Regulation (EU) No 149/2013.

(2) Where the Financial Conduct Authority determines that further information is required in order to assess whether the conditions referred to in paragraph 1(a) are fulfilled, it shall submit a written request for information to the counterparty.

(4) Where the Financial Conduct Authority reaches a positive decision under paragraph 8 of Article 11 of Regulation (EU) No 648/2012, it shall communicate that positive decision to the counterparty in writing, specifying at least the following:

- (a) whether the exemption is a full exemption or a partial exemption;
- (b) in the case of a partial exemption, a clear identification of the limitations of the exemption.

(5) Where the Financial Conduct Authority reaches a negative decision under paragraph 8 of Article 11 of Regulation (EU) No 648/2012 or objects to a notification under paragraph 9 of Article 11 of that Regulation, it shall communicate that negative decision or objection to the counterparty in writing, specifying at least the following:

- (a) the conditions of paragraphs 8 or 9, respectively, of Article 11 of Regulation (EU) No 648/2012 that are not fulfilled;
- (b) a summary of the reasons for considering that such conditions are not fulfilled.

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(7) The competent authorities shall notify the non-financial counterparties of the objection referred to in paragraph 5 within 3 months of receipt of the notification.

(8) A decision by the Financial Conduct Authority under Article 11(8) of Regulation (EU) No 648/2012 shall be communicated to the counterparty established in the United Kingdom within 3 months of receipt of all the information referred to in paragraph 1.

(10) Counterparties that have submitted a notification or received a positive decision according to paragraphs 8 or 9, respectively, of Article 11 of Regulation (EU) No 648/2012 shall immediately notify the Financial Conduct Authority of any change that may affect the fulfilment of the conditions set out in those paragraphs, as applicable. The Financial Conduct Authority may object to the application for the exemption or withdraw its positive decision following any change in circumstances that could affect the fulfilment of those conditions.

(11) Where a negative decision or objection is communicated by the Financial Conduct Authority, the relevant counterparty may only submit another application or notification where there has been a material change in the circumstances that formed the basis of the Financial Conduct Authority decision or objection.