

Chapter 1

Commission Delegated Regulation (EU) 2016/2251

Article 35A Application of Articles 4(1), 6,
7, 8, point (e) of Article 19(1), Articles 22,
23, 28, 29, 30, 39 and Annexes I, II and III

1. Article 4(1)(c) shall, for the specified period, be read as if the reference to “the central government of the United Kingdom or the Bank of England” included a reference to “Member States’ central governments or central banks”.

2. Article 4(1)(d) shall, for the specified period, be read as if the reference to “United Kingdom regional governments or local authorities” included a reference to “Member States’ regional governments or local authorities” and as if the reference to “the United Kingdom” included a reference to “that Member State”.

3. Article 4(1)(e) shall, for the specified period, be read as if the reference to “United Kingdom public sector entities” included a reference to “Member States’ public sector entities” and as if the reference to “the United Kingdom” included a reference to “that Member State”.

4. Article 4(1)(f) shall, for the specified period, be read as if the reference to “United Kingdom regional governments or local authorities” included a reference to “Member States’ regional governments or local authorities”.

5. Article 4(1)(g) shall, for the specified period, be read as if the reference to “United Kingdom public sector entities” included a reference to “Member States’ public sector entities”.

6. For the purposes of Article 6(1)(b) a posting counterparty either:- is, for the specified period, deemed to be established in the United Kingdom.

(a) established in the EEA; or

(b) established in a third country other than a country in the EEA where the posting counterparty is subject to consolidated supervision which, prior to exit day, has been assessed by an EEA competent authority other than the Prudential Regulation Authority or the Financial Conduct Authority as equivalent to that governed by Union law in accordance with Article 127 of Directive 2013/36/EU,

is, for the specified period, deemed to be established in the United Kingdom.

7. Article 6(1)(c) shall, for a period of one year beginning on exit day, be read as if the reference to “a credit quality assessment issued by a recognised External Credit Assessment Institution (ECAI) as defined in Article 4(98) of Regulation (EU) 575/2013” included a reference to “a credit quality assessment that was issued or endorsed and not withdrawn immediately before exit day by a recognised External Credit Assessment Institution (ECAI) as defined in Article 4(98) of Regulation (EU) 575/2013 (as it had effect immediately before exit day)” and, unless the context otherwise requires, related references in this Regulation to Regulation (EU) 575/2013, “ECAI”, “credit quality assessments”, “credit assessment” and “credit quality steps” shall be read accordingly.

8. Article 8(3) shall, for the specified period, be read as if, in addition to (a) to (c), it included institutions identified as G-SIIs or O-SIIs by EU competent authorities in accordance with Article 131 of Directive 2013/36/EU.

9. A credit institution authorised in accordance with Directive 2013/36/EU is, for the specified period, deemed to fall within Article 19(1)(e)(i).

10. For the specified period, the derogation provided for in Article 23 may also be applied by counterparties to EEA CCPs that are authorised as credit institutions in accordance with Directive 2013/36/EU.

11. For the specified period-that begins on IP completion date and ends on 31 March 2023FCA 2022/45: references to UK UCITS in this Regulation shall be read as if they included references to EEA UCITS (and in relation to EEA UCITS, the reference to Article 132(3) of Regulation (EU) No 575/2013 in Article 5(1)(c) of this Regulation shall be read as a reference to Article 132(3) of Regulation (EU) No 575/2013 as it had effect immediately before IP completion day).FCA 2021/21

11A. For the specified period, references to AIFs managed by AIFMs authorised or registered in accordance with the Alternative Investment Fund Managers Regulations 2013 in Articles 28(3), 29(3) and 39(2) shall be read as if they included references to alternative investment funds managed by alternative investment fund managers authorised or registered in accordance with Directive 2011/61/EU.FCA 2021/21

12. In Article 30, the reference to Article 129 of Regulation (EU) 575/2013 shall, for the specified period, be read as a reference to that Article as it had effect immediately before exit day.

13. The specified period is the period that begins on exit day and ends on 31 March 2022.

14. In this Article –
"EEA UCITS" has the meaning it has in section 237(3) of the Financial Services and Markets Act 2000.

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