

## VARIATION OF FCA TRANSITIONAL DIRECTION FOR THE DERIVATIVES TRADING OBLIGATION

### 1. Part 1: Direction

- 1.1 D This direction is made by the *FCA* under Part 7 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (the 2019 Regulations), having consulted HM Treasury and other regulators as required by regulation 202 of those regulations, and being satisfied within the terms of regulation 200(3) and (4) of those regulations.
- 1.2 D The direction shall come into force on 29 August 2023.

### 2. Part 2: Direction to vary FCA transitional direction for the derivatives trading obligation

- 2.1 D The *FCA* directs that the guidance in paragraph 4.1 of Part 4 of the FCA transitional direction for the derivatives trading obligation dated 30 December 2022 is varied in the following way:

*(underline indicates new text and striking through indicates deleted text)*

- 4.1 G The UK derivatives trading obligation in article 28 *MiFIR* requires certain *persons* to trade in scope derivatives on UK trading venues and equivalent third country venues when concluding relevant transactions. The relevant *persons*, for these purposes, are *TP firms* to which article 1(2A) *MiFIR* applies; “relevant financial counterparties” and “relevant non-financial counterparties” as defined by article 28(1A) *MiFIR* ~~“financial counterparties as defined by article 2(8) *EMIR*; non-financial counterparties meeting the conditions in article 10(1)(b) *EMIR*;~~ and third country entities to which article 28(2) *MiFIR* refers. The relevant transactions are those to which article 28 *MiFIR* refers.
- 2.2 D Italicised words and phrases have the meanings contained in the Glossary of the FCA Handbook.

### 3. Part 3: Guidance

- 3.1 G This direction to vary gives effect to paragraph 16 of Part 1 of Schedule 2 of the Financial Services and Markets Act 2023 which amends article 28 *MiFIR* (the UK derivatives trading obligation) and which comes into force on 29 August 2023 under regulation 4 paragraphs (a) and (zz) of The Financial Services and Markets Act 2023 (Commencement No. 1) Regulations 2023 (S.I. 2023/779).
- 3.2 G This transitional direction may be varied or revoked (without prejudice to any continuing effect in relation to earlier times).

Sarah Pritchard  
Executive Director of Markets and Executive Director International  
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