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Share Trading Obligation and Derivatives Trading Obligation

Of particular interest to: Firms subject to the Share Trading Obligation (STO) and/or to the Derivatives Trading Obligation (DTO)

In brief

The FCA has confirmed that with effect from **29th August 2023** the **STO** has been **revoked** and the **DTO** has been **amended** to align with the clearing obligation of UK EMIR. These changes derive from the Financial Services and Markets Act 2023 (FSMA 2023).

Summary

The **STO** stems from **Article 23** of UK MiFIR ('Trading obligation for investment firms') which imposed an obligation on investment firms when trading in shares that are admitted to trading on a regulated market or that are traded on a trading venue to the effect that such trades should take place on a regulated market, MTF or UK systematic internaliser or a third-country trading venue assessed as equivalent (although FCA Transitional Provisions permitted trading on any EU trading venue that met certain conditions).

Under Schedule 2 of FSMA 2023 (Part 1, paragraph 13) the share trading obligation is revoked with only paragraph (2) remaining (which concerns firms operating internal matching systems) and as such the surviving Article 23 is renamed 'Investment firms operating internal matching systems' to reflect this change.

Article 28 of UK MiFIR ('Obligation to trade on regulated markets, MTFs or OTFs') is the source of the **DTO**. Note that unlike the above STO which applies to 'investment firms' the DTO applies to non-financial counterparties that are subject to the clearing obligation (NCF+) and to financial counterparties (FC) as defined under UK EMIR as amended by UK EMIR REFIT.

Under Schedule 2 of FSMA 2023 (Part 1, paragraph 16) Article 28 is amended to the effect that the DTO will now apply to '**relevant financial counterparties and relevant non-financial counterparties**'. For this purpose, a 'relevant financial counterparty' is a financial counterparty subject to the clearing obligation (FC+) and a 'relevant non-financial counterparty' is a non-financial counterparty subject to the clearing obligation for that particular derivative asset class (NFC+). The effect of these changes is that the DTO is now aligned with the clearing obligation under UK EMIR.

Useful Links

[FCA Statement on STO](#)

[FCA Background Note on STO](#)

[FCA Statement on DTO](#)

[FCA Background Note on DTO](#)

[Financial Services and Markets Act 2023](#)

[UK MiFIR](#)

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