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## Brexit – what we expect firms and other regulated persons to do now

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The Treasury has published draft legislation that would temporarily empower the FCA and the Bank of England/Prudential Regulation Authority (PRA) to make transitional provisions if the UK leaves the EU without an agreement in place. We intend to use this power to ensure that firms and other regulated entities do not generally need to prepare now to meet the changes to their UK regulatory obligations that are connected to Brexit.

We also set out the areas where we would not make transitional provision and consequently expect firms and other regulated persons to start preparing now to comply with these post-exit regulatory obligations.

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In June 2018, we set out our role in – and approach to – [preparing for Brexit](#), including in a scenario in which no withdrawal agreement is concluded and there is no implementation period. We advised that we do not expect firms and other regulated entities providing services within the UK's regulatory remit to have to prepare now to implement changes to their regulatory obligations made under the EU (Withdrawal) Act 2018 (the Act) from exit day.

The Treasury has already introduced various transitional regimes and arrangements within financial services legislation made under the Act. These address some of the most significant changes to regulatory obligations while providing for maximum continuity and minimal disruption to regulated persons and consumers.

The Treasury has published [legislation](#) to give the UK financial regulators a power to make transitional provisions connected to changes to financial services legislation. If the UK leaves the EU without an agreement, we intend to use this power broadly to ensure that firms and other regulated entities can generally continue to comply with their regulatory obligations as they did before exit day for a temporary period.

There are some areas where it would not be consistent with our statutory objectives to grant transitional relief. In these areas only, we expect firms and other regulated persons to begin preparing to comply with changed obligations now. The following persons should refer to the [Annex](#) of this statement for more information:

1. Firms subject to the MiFID II transaction reporting regime, and connected persons (for example approved reporting mechanisms).
2. Firms subject to reporting obligations under EMIR.
3. EEA Issuers that have securities traded or admitted to trading on UK markets.

4. Investment firms subject to the BRRD and that have liabilities governed by the law of an EEA State.
5. EEA firms intending to use the market-making exemption under the Short Selling Regulation.
6. Firms intending to use credit ratings issued or endorsed by FCA-registered credit ratings agencies after exit day.
7. UK originators, sponsors, or securitisation special purpose entities (SSPEs) of securitisations they wish to be considered simple, transparent, and standardised (STS) under the Securitisation Regulation.

In addition, existing transitional arrangements such as, for example, the [temporary permissions regime](#) (TPR) will operate from exit day. Firms and other regulated persons wishing to use these regimes should ensure they have completed the necessary steps by exit day to enter the relevant regime. This may include submitting a notification to us.

For some provisions, the effect of the temporary transitional power may interact with [proposed powers](#) conferred on the Treasury to make equivalence decisions. Once the Treasury has set out how it intends to use these powers, we expect to confirm our approach, outlining whether we will use the temporary transitional power for these provisions.

## Next steps

We will publish more information on how firms should comply with post-exit rules before exit day. We are coordinating our approach closely with the Bank of England and Prudential Regulation Authority.

## Annex

In the following areas, we expect firms and other regulated entities to begin preparing to comply with Brexit-related changes to their UK regulatory obligations:

- **MiFID II transaction reporting** – the UK’s transaction reporting regime under MiFID II will change as a result of Brexit, including connected obligations such as the requirement to submit financial reference data. Find out more on our webpage [FCA FIRDS and transaction reporting](#). These changes will apply from exit day. This includes EEA firms entering the temporary permissions regime, as well as UK-approved reporting mechanisms (ARMs) that submit reports on behalf of firms. Receiving complete and accurate transaction reports is crucial to our ability to ensure market oversight and integrity.
- **EMIR reporting obligations** – from exit day, all firms and central counterparties (CCPs) who enter into derivatives transactions in scope of EMIR will be required to report into a UK-registered trade repository (TR). This is crucial to enable TRs to fulfil their reporting obligations to the FCA (or the Bank of England in the case of CCPs), enabling oversight of derivative markets and effective monitoring of systemic risk.
- **Issuer rules** – EEA entities that have securities admitted to trading or traded on UK markets will be required to submit information to the FCA and disclose certain information to the market from exit. This is integral to our ability to ensure the effective functioning of markets, protect consumers, and enhancing market integrity.
- **Contractual recognition of bail-in** – to safeguard resolvability, firms will need to include contractual recognition of bail-in in terms in all new or materially-amended liabilities governed by the law of an EEA State, with the exception of unsecured liabilities that are not debt instruments.
- **Short selling notifications** – any firm wishing to use the exemption for market-making activities under the Short Selling Regulation will be required to join a UK trading venue and notify us of their intention to use the market maker exemption 30 days ahead of their intended use. Any notifications already made to the FCA will remain valid post-exit. This is essential to our ability to monitor short selling activity and ensure market integrity.
- **Use of credit ratings for regulatory purposes** – after exit, all ratings will need to be issued or endorsed by a credit ratings agency (CRA) established in the UK and registered with the FCA for them to be eligible for regulatory use. Users of credit ratings should therefore take steps to ensure they are operationally ready to use credit ratings issued or endorsed by FCA-registered CRAs after exit day. To help provide some continuity to users of credit ratings, ratings issued or endorsed in the EU before exit by a CRA with an affiliate registered or currently applying for registration with the FCA, may be used for regulatory purposes in the UK for up to one year after exit.
- **Securitisation** – UK originators or sponsors will need to direct notifications to the FCA from exit day for UK securitisations they wish to be considered simple, transparent, and standardised (STS) under the Securitisation Regulation. UK originators, sponsors, or securitisation special purpose entities (SSPEs) choosing to make use of a third-party verifier (TPV) to assess compliance with the STS criteria, may only use a TPV established in the UK and authorised by the FCA.

In these areas, we expect firms and other regulated entities to undertake reasonable steps to comply with the changes to their regulatory obligations by exit day. We are conscious of the scale, complexity, and magnitude of some of these changes and consequently intend to act proportionately.

This means that, in the event that the UK leaves the EU without an implementation period, we will not take a strict liability approach and do not intend to take enforcement action against firms and other regulated entities for not meeting all requirements straight away, where there is evidence they have taken reasonable steps to prepare to meet the new obligations by exit day.

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