



# Preparing your firm for Brexit

First published: 12/07/2018 | Last updated: 26/02/2019

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As the UK prepares to leave the EU, regulated firms should have considered if or how they will be affected and what action they may need to take. As more information about what Brexit will mean for financial services emerges, firms need to make sure they understand the implications and plan accordingly.

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## Considerations for UK firms

UK-based firms that only do business in the UK may be affected less directly than others or not affected at all. However, firms which carry out business between the UK and the European Economic Area (EEA) – whether through a passport or directly under EU legislation - will be affected. You should have plans in place now to address any risks for your firm.

[Find out how Brexit may affect UK firms](#) and review the information below about [issues for all firms](#) to be aware of.

We have also published specific information for these sectors:

- [General insurers and intermediaries in the UK](#)
- [Life insurers in the UK about pensions and retirement income](#)
- [Participants in the wholesale markets operating in the UK \(including wholesale banks, wholesale markets and asset managers\)](#)
- [Retail investments firms in the UK](#)
- [Banking and payment sectors in the UK](#)

## Considerations for EEA firms conducting business in the UK

### Temporary permissions regime

The temporary permissions regime will allow EEA-based firms passporting into the UK to continue new and existing regulated business within the scope of their current permissions in the UK for a limited period, while they seek full FCA authorisation, if the UK leaves the EU on exit day without an implementation period in place. It will also allow EEA-domiciled investment funds that market in the UK under a passport to continue temporarily marketing in the UK.

Firms and funds need to notify us that they want to enter the regime and obtain a temporary permission. The notification window opened on 7 January 2019 and closes at the end of 28 March 2019.

We consulted on what rules should apply to temporary permission firms in [CP18/29](#) and [CP18/36](#).

[Find out more about the regime](#)

## Financial services contracts regime (FSCR)

The Government has brought forward [draft legislation](#) implementing the financial services contracts regime (FSCR). If the UK leaves the EU without a withdrawal agreement, this will enable firms who do not enter the temporary permissions regime to wind down their UK business in an orderly fashion.

We consulted on what rules should apply to FSCR (supervised run-off firms) firms in [CP19/2](#).

[Find out more about the FSCR](#)

## Issues to be aware of

All firms should consider these issues and understand the impact they have on their firm.

### Passporting

Passporting allows firms authorised in an EEA state to conduct business within other EEA states based on their 'home' member state authorisation. After the UK's withdrawal from the EU, and any implementation period, passporting in its current form will end. The position following exit will depend on, for example, any future agreement with the EU.

This will affect:

- firms and funds based in the UK that conduct business in the EEA
- firms and funds based in the EEA that carry out certain types of business in the UK

## Changes to legislation in the UK

We continue to prepare for a range of scenarios. This includes if the UK leaves the EU on 29 March 2019 without a withdrawal agreement or implementation period.

The European Union (Withdrawal) Act 2018 will convert existing direct EU legislation into UK law on exit day, and preserve existing UK laws which implement EU obligations. The Government has also been given powers to amend this retained EU legislation so that it works effectively when the UK leaves the EU. It has used this power to make numerous statutory instruments which amend retained EU financial services legislation. The Government's intention is that the same rules and laws will apply after exit as before, as far as possible, but with the necessary amendments to reflect the UK's new position outside the EU, and to smooth the transition to this situation.

As part of this, we will amend and maintain EU binding technical standards, which are detailed EU rules. These rules sit underneath EU regulations and directives and give the technical detail of how firms should meet these requirements. We will also be amending our Handbook to ensure it is consistent with changes the Government is making to retained EU law and so it still works effectively when the UK leaves the EU.

We issued our [first consultation](#) on this on 10 October 2018 and our [second consultation](#) on this on 23 November 2018.

Read our statement on [changes to UK legislation](#).

## Temporary transitional power

The Treasury has [brought forward measures](#) that will give us some flexibility in applying post-Brexit requirements, allowing firms to transition to a new UK regulatory framework. This means we do not expect firms and other regulated entities providing services within the UK's regulatory remit to have to prepare now to implement these post-Brexit requirements.

We have set out [how we intend to use the power](#), and 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.

The following firms or persons should begin to prepare now to comply with changes from exit day:

- firms subject to the MiFID II transaction reporting regime, and connected persons (for example approved reporting mechanisms)
- firms subject to reporting obligations under European Market Infrastructure Regulations (EMIR)
- EEA Issuers that have securities traded or admitted to trading on UK markets
- investment firms subject to the Bank Recovery and Resolution Directive (BRRD) and that have liabilities governed by the law of an EEA State
- EEA firms intending to use the market-making exemption under the Short Selling Regulation
- firms intending to use credit ratings issued or endorsed by FCA-registered credit ratings agencies after exit day
- 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

## Data sharing

You need to consider whether your firm transfers personal data between the UK and the EEA.

If the UK leaves the EU without a withdrawal agreement the Government has stated that the UK will continue to allow the free flow of data from the UK to the EEA after 29 March 2019. However, the position for transfers of personal data from the EEA to the UK has not been made clear.

Timely action by UK and EU authorities is needed fully to mitigate the risks associated with transfers of personal data. If the UK leaves the EU without a withdrawal agreement the Government has stated that the UK will continue to allow the free flow of data from the UK to the EEA after exit day. However, the EU Commission has stated on 13 November 2018 that an adequacy decision of the UK data protection regime is not part of its contingency planning.

When contingency planning, you should consider:

- the extent to which your business is reliant on transfers of personal data (for example because of where your data centres are located)
- what risks you may be exposed to if there is no complete central solution to allow transfer of personal data between the EEA and the UK to continue, and what steps you can take to mitigate any risks you may face

We want you to plan appropriately for data protection risks, as it can affect your regulated business. However, the Information Commissioner's Office (ICO) is the regulator for data protection issues in the UK. Read the ICO's information on [data protection and Brexit](#). You should also consider taking legal advice if you believe that you might be affected.

## How customers may be affected

We expect you to contact your customers who are affected by Brexit. We have made this clear in information we published for consumers on [how Brexit might affect them](#).

## How to communicate with customers

Firms regulated by us must pay attention to their customers' information needs and communicate with them in a way which is clear, fair and not misleading ([FCA principles \(Principle 7\)](#) and our Handbook rules).

You should be able to show you have considered how Brexit, and your plans in relation to Brexit, may affect your customers. You should keep in mind that different categories of customers might be affected in different ways, as is set out in our guidance in PRIN 1.2. You should contact each group of customers affected by Brexit to explain clearly how they are or will be affected.

As well as offering information directly to your customers, you should consider what information is made available more widely, such as on your website. This also includes preparing for the possibility that you may start to receive a significant increase in consumer queries.

## When to contact customers

You must communicate with your customers in good time, and ordinarily the earlier the better. You must also ensure you communicate clearly to your customers, taking care to avoid confusion with multiple messages which could change over time. The continued uncertainty around Brexit may cause tension between the timeliness and clarity of your communications.

You should start with considering what information consumers need to know and when, and work back from there. If customers need to act then you must provide the information required in a realistic time for them to make these decisions. If you have a credible plan to maintain continuity in any situation then you may have more time to inform your customers of

your plans.

Nevertheless, it is important to have reactive lines prepared to reassure customers and ensure you are able to address customer queries accurately, fairly, clearly and promptly.

## Next steps

In preparing for Brexit, we expect that you should complete your assessment of the extent to which Brexit affects you. If you conclude that you are affected you should:

- Work out and plan for implementation of the changes you might have to make to your business.
- Think about any information you will need to give to customers who might be affected by your plans and how you will provide it in a way which is clear, fair and not misleading.
- Continue to consider the implications of a range of possible scenarios including the potential absence of any implementation period.

You may also want to discuss the implications with the [relevant EEA regulator](#) in the countries in which you do business, your trade association or get independent legal advice for further clarification. The European Commission has published notices to financial firms highlighting these implications in more detail.

[Read the European Commission's notices.](#)

## Further information

We have [agreed MoUs with ESMA and EU regulators](#) to allow cooperation and exchange of information. These MoUs should help to minimise the potential for disruption in areas where they are relevant, which we know is particularly important for the investment management sector, [credit rating agencies](#) and [trade repositories](#).

The Brexit negotiations are a matter for Government but we follow them closely and will provide further information when we can. We also encourage firms to check our website regularly for further information.

Keep up to date with our latest information by signing up to our monthly [Regulation Round Up](#) and [reading the latest issues](#), or signing up to our [weekly news and publications alerts](#).

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### Preparing your firm for Brexit

Brexit: considerations for UK firms

Brexit: information for general insurers and intermediaries in the UK

Brexit: information for life insurers in the UK about pensions and retirement income

Brexit: information for participants in the wholesale markets operating in the UK (including wholesale banks, wholesale markets and asset managers)

Brexit: information for retail investments firms in the UK

Brexit: information for the banking and payment sectors in the UK

### More on Brexit

Brexit

The temporary permissions regime for inbound passporting EEA firms and funds – our approach

Registering as a credit rating agency

Registering as a trade repository