



# The FCA consults on its approach ahead of the UK's exit from the EU

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The Financial Conduct Authority (FCA) today published two consultation papers, setting out its proposals in the event the UK leaves the European Union on 29 March 2019 without an implementation period. It also set out its approach to the regulation of Credit Rating Agencies, Trade Repositories and Data Reporting Services Providers.

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The two consultation papers focus on:

- Amendments to the FCA Handbook and Binding Technical Standards (detailed EU rules which the FCA will have responsibility for after exit) resulting from leaving the EU, and the FCA's approach after Brexit to EU non-legislative material; and
- the Temporary Permissions Regime, which will allow EEA firms and funds passporting into the UK to continue operating here for a limited period after Brexit while seeking full UK authorisation.

The FCA is working to ensure as smooth a transition as possible as the UK prepares to leave the European Union and these consultations are an important part of this work.

Nausicaa Delfas, Executive Director of International at the FCA said:

"The FCA is planning to be ready for a range of scenarios. Today we are publishing two consultation papers to ensure that in the event the UK leaves the EU in March 2019 without an implementation period, we have a robust regulatory regime from day one, and to ensure a smooth transition for EEA firms and funds currently passporting into the UK.

"This is consistent with our aim to provide certainty and confidence for firms operating in the UK. We welcome engagement from across the sector, as we continue with our preparations for Brexit."

## Amendments to Handbook and Binding Technical Standards (BTS)

Parliament has passed the European Union (Withdrawal) Act 2018 to prepare the UK's legal framework for exiting the EU. It will convert existing directly applicable EU law at the point of exit into UK law, preserve existing UK laws which implement EU obligations, and give the Government powers to amend that law so it functions effectively when the UK leaves the EU. As part of these preparations, the Treasury intends to give financial services regulators, including the FCA, responsibility for amending EU binding technical standards (BTS), which are detailed EU rules, for exit day.

This consultation paper proposes changes that may need to be made to the FCA Handbook and BTS, whilst setting out the FCA's approach after Brexit to EU non-legislative material. The majority of the changes are consequential to those proposed by the Government under the European Union (Withdrawal) Act 2018. For example, changes include removing references to EU institutions, such as the European Commission or the European Supervisory Authorities, which will be replaced with the

relevant UK equivalent. In a small number of cases, the FCA is proposing other types of changes that reflect the UK's new position outside of the EU. Feedback is invited on the approach taken to all of the amendments. The FCA is not proposing policy changes unrelated to Brexit.

The FCA particularly welcomes feedback on whether compliance with changes to regulatory requirements by exit day would be a particular challenge for firms. The FCA does not however expect firms and others subject to our proposals to prepare now to implement any new requirements.

## Temporary Permissions Regime

The FCA is also consulting on its proposals for the Temporary Permissions Regime. At present, certain European Economic Area (EEA) firms can provide financial services in or into the UK, and EEA investment funds can be marketed in the UK, through a passport. The paper sets out how EEA firms and investment funds can continue to carry on regulated business in or into the UK for a limited period after Brexit while seeking full authorisation in the UK. The regime will only be available from 29 March 2019 if the UK leaves the EU without an implementation period.

The consultation paper sets out details of how the FCA expects the regime to work in practice, how firms and investment funds can enter into it, how long it will operate for, and the rules it proposes that should apply to firms and investment funds while they are part of it.

The FCA has taken a proportionate approach to enable firms to comply with its requirements from day one. Overall, the FCA's aim is to preserve existing arrangements as far as possible for both firms and consumers. In some cases, firms may be required to join additional schemes run by UK institutions to protect UK consumers, for example the Financial Services Compensation Scheme (FSCS).

This consultation paper is relevant to those EEA firms and investment funds currently doing business in or into the UK, or being marketed in the UK, through a passport. The FCA would like to hear from these firms and funds managers passporting into the UK who intend to use the Temporary Permissions Regime.

Both consultations are open until 7 December 2018. Responses can be submitted via the FCA's online form, by email or in writing. The FCA is keen to hear from the widest possible range of stakeholders across sectors, including industry bodies and consumer groups.

## Notes to editors

1. [CP18/28: Brexit: proposed changes to the Handbook and Binding Technical Standards](#)
2. [CP18/29: Temporary permissions regime for inbound firms and funds](#)
3. The [European Union \(Withdrawal\) Act 2018](#)
4. On 16 July 2018, the Government published [draft legislation](#) setting out proposals to delegate powers to regulators to address deficiencies arising from the UK's withdrawal from the EU.
5. On 24 July 2018, the Government published [draft legislation](#) setting out the temporary permissions regime for passporting firms under Schedules 3 and treaty firms under schedule 4 to FSMA. This [legislation was laid](#) before Parliament on 5 September 2018. The Treasury has also set out legislation providing similar schemes for institutions passporting under the Electronic money Directive or Payment Services Directive 2. Under the legislation relevant firms which notify before UK withdrawal of their wish to continue to do business in the UK, will be deemed to have temporary UK authorisation. A similar regime will apply to the UK recognition of investment funds.
6. Firms can find out if they use a passport by checking the [Financial Services Register](#).
7. We have set out our approach to transition regimes, alongside the temporary permissions regime:
  - a. [Registering as a credit rating agency](#).
  - b. [Registering as a trade repository](#).
  - c. [Temporary authorisation regime for data reporting services providers \(DRSPs\)](#).
8. On 1 April 2013, the FCA became responsible for the conduct supervision of all regulated financial firms and the prudential supervision of those not supervised by the Prudential Regulation Authority (PRA).
9. The FCA has an overarching strategic objective of ensuring the relevant markets function well. To support this, it has three operational objectives: to secure an appropriate degree of protection for consumers; to protect and enhance the integrity of the UK financial system; and to promote effective competition in the interests of consumers.
10. Find out more information [about the FCA](#).

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