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Frequently Asked Questions (FAQs) for corporates As At 10 March 2019

Context and introduction

Financial services are a vital component of businesses' supply chain. Financial institutions have put in place plans to make changes to their business and operations to maintain the continuity of financial services as the UK exits the EU. We have found that other businesses are perhaps less aware of the potential implications of these changes to how they will continue to access financial services.

Most businesses are currently focusing on the commercial considerations and the direct impacts of Brexit, including movement of goods across borders. It is important that they are aware of changes that may take place in the financial services sector, so that they understand what this means for how they access financial services in the United Kingdom (UK) and the European Union (EU), and if necessary, can take action to avoid disruption that may arise.

While the Withdrawal Agreement (WA) has been ratified by the EU with the clause of the transition period running from 29 March 2019 to the end of December 2020, this is yet to be ratified by the UK parliament, and so these FAQs will focus on a "no deal" outcome, where there is no transition period and the terms of access for financial services between the UK and the EU will fall back on World Trade Organisation (WTO) rules.

In the absence of agreement on a formal transition period, HM Treasury (HMT), the Bank of England (BoE) and Financial Conduct Authority (FCA) have set out plans for a temporary permissions and recognition scheme, which will allow EU-authorised firms currently passporting into the UK who wish to continue serving business clients in the UK, to operate in the UK for a limited period after withdrawal while they seek authorisation or recognition from UK regulators. The UK Government has also indicated it may lay additional legislation, if necessary, to ensure contractual obligations not covered by the temporary permissions regime can continue to be met.

As the UK becomes a 3rd country as far as the EU is concerned, many existing agreements with non-EU countries may need to be renegotiated or ratified.

The Confederation of British Industries (CBI), working closely with Association of Corporate Treasurers (ACT), have developed a set of key issues and questions that corporate treasurers and those with risk management responsibilities may find helpful to consider in the context of Brexit. We are compiling responses to these questions having consulted members from the FS sector, UK regulators and other stakeholder groups with the aim of providing a set of FAQs to inform businesses. This will provide general advice to firms and will not constitute legal advice. For specific queries, please consult your legal advisors.

BELOW WE HAVE PROVIDED SOME ANSWERS AS AT 10 MARCH 2019 TO AN INITIAL SET OF QUESTIONS FOR CONSIDERATION. PLEASE SEND ANY FEEDBACK, COMMENTS OR ADDITIONAL QUESTIONS YOU WANT ANSWERED TO technical@treasurers.org

The Q&A schedule will be updated as negotiations continue.

GENERAL NOTES

a. **FCA/PRA Temporary Permissions Regime (TPR)**: see https://www.fca.org.uk/markets/eu-withdrawal/temporary-permissions-regime (https://www.bankofengland.co.uk/news/2018/july/temporary-permissions-and-recognition-regimes). This is intended to enable European Economic Area (EEA) firms which currently operate in the UK (using the EEA passport) to continue to do so if a Transition Period cannot be agreed (that is a no deal Brexit). Firms must apply for their Temporary Permission. A fuller description of the regime appears below.

b. **Withdrawal Act (WA):** see http://www.legislation.gov.uk/ukpga/2018/16/section/13/enacted. The UK complies with EU law through a mixture of directives, regulations and other means. A **directive** is a legal act of the EU which requires member states to pass their own legislation to achieve a result defined in the directive. A regulation is deemed to be implemented in the member state. The WA is intended to bring current EU law into UK law with appropriate adjustment.

c. **Transition Period (TP):** a nearly two-year period, yet to be agreed, from 29 March 2019 during which the detail of Brexit can be agreed. Many current arrangements, such as free movement of goods would continue throughout the TP and the UK would remain subject to EU law and its trade deals but is able to start negotiating trade deals independently of the EU. It is assumed that EEA state passporting rights will enable EEA financial services businesses to continue operating in other EEA states throughout the TP. The TPR described in (a) above is intended to offer a means of continuing business by way of contract if a no deal Brexit occurs. In the case of WA being agreed and ratified there will be a TP until December 2020 during which all current passporting arrangements will continue. However, there is a risk of failure to agree arrangements after the end of TP, hence there could be another cliff-edge post 2020.

d. **Technical Notes for No Deal Brexit**: the UK government has issued Technical notes on the outcomes of a no deal Brexit for a broad range of circumstances. These are being added to as at the date of writing. Those relevant published notes are quoted in the text below and others will be added in updates as relevant. The Technical notes can be accessed through this link: https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal

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1. TEMPORARY PERMISSIONS REGIME (TPR)	
What is the TPR and how does this work?	EEA firms that enter into the TPR will be able to continue operating in the UK within the scope of their current permissions for a limited period after exit day, while seeking full UK authorisation. It will also allow funds with a passport to continue marketing in the UK while seeking UK recognition. Firms need to notify the FCA that they wish to use the TPR. This is an online process through the FCA's Connect System. The notification window is open and closes on 28 March 2019. EEA credit institutions and insurers should contact the Prudential Regulation Authority (PRA). Further details of the scheme and open consultations are available here: https://www.fca.org.uk/markets/eu-withdrawal/temporary-permissions-regime UK firms operating within the EU are not able to rely on the TPR. They will be required to rely on Member States' versions of the TPR. Across the EU, Member States have taken different approaches.
How will this impact my relationships with financial services providers?	On 17 December 2018 the Government published the Financial Services Contracts Regime (FSCR) Statutory Instrument (SI). This legislation, subject to the final draft being approved by both Houses of Parliament, will establish the Supervised Run-Off (SRO) and Contractual Run-off (CRO) mechanisms. These will serve as a back-stop to the TPR by allowing firms that do not enter the TPR, or leave it without the necessary permissions, to service their pre-existing contracts for a limited period after exit.
How long will the TPR remain in place?	We expect the regime will be in place for a maximum of three years within which time firms and funds will be required to obtain authorisation or recognition in the UK. The SI provides HMT with the powers to extend the length of the regime by no more than 12 months at a time under certain circumstances. The SI also extends the deadlines for PRA or FCA to make a determination on applications for authorisation for EU firms operating in the UK via a passport to up to three years mirroring the length of the TPR. Once a firm is authorised, it will leave the TPR and become regulated in the UK.
Which firms/funds will be eligible to use the TPR?	The following firms will be able to use the regime: • Firms which have passports in place before exit day, including firms with top-up permission. • Treaty firms which qualify for authorisation before exit day, including firms with top-up permission. • Electronic money and payment institutions who are exercising their passporting rights under the Electronic Money Directive (EMD) or the Payment Services Directive (PSD2) before exit day. • Credit institutions and insurers. The following EEA-domiciled funds will also be able to use the regime, if the FCA has received notification of their intention to market in the UK under the relevant passport prior to exit day: • Undertakings for Collective Investment in Transferable Securities (UCITS) schemes • Alternative Investment Funds (AIFs) Further transitional arrangements are being put in place for other types of firm, and details on this will be provided in due course. Further information: https://www.fca.org.uk/publications/consultation-papers/cp18-29-temporary-permissions-regime-inbound-firms-and-funds.
What if the firm does not enter the TPR or, if it does, has its application declined?	Firms that have not submitted a notification will not be able to use the TPR and thus EU and EEA firms will no longer be able to passport into the UK. As noted above, the SRO and CRO mechanisms will take effect. Most financial services providers will be able to use this regime for five years after entry into the FSCR (whether they enter on exit day, or whether they enter after having been in the TPR for a period of time). This will allow the majority of contracts with UK customers to come to a natural conclusion, meaning there will be no significant impact for UK customers. Where providers have long-term contracts, five years is considered sufficient time to allow them to take mitigating action by, for example, transferring their contracts to a UK entity, to ensure that any impact on UK customers is minimised. The exception to this five-year time limit is for contracts of insurance. Many long-term policies, such as life insurance, may take more than five years to come to a natural end. There will therefore be a longer time limit, of 15 years, for contracts of insurance, safeguarding UK customers who purchased their policies in good faith. The SI provides HM Treasury the power to extend the length of the FSCR by up to 5 years at a time in certain circumstances.

2. CONTRACTUAL ISSUES	
a. What is, or will be, the legal basis for cross border documents to remain legally enforceable? • Will parties be able to rely on contract-agreed English Law if one party is not in the UK, or the contract is performed outside of the UK? • Will Rome I and Rome II be enacted in the UK under the Withdrawal Act?	• **English Law contracts**: If you are an English or Welsh company, it is most likely that your contracts (extending to loan and derivative agreements for finance) are under English Law. Scottish and Northern Ireland companies may use local law or English law. English Law is often used for agreements between UK and EU27 businesses. **REGULATION (EC) No 864/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)** enables an EU entity, which the UK remains until either the withdrawal date or the end of the TP, to choose the jurisdiction for its contracts including use of non-EU jurisdictions. Rome II continues to apply to the EU27 following Brexit Rome II is included in the Withdrawal Act (WA). Less certain is how post Brexit judgements by UK courts will remain enforceable in EU27 member states. The UK Government has indicated that the UK will accede in its turn to the 2005 Hague Convention. This will give a similar result in many cases. The UK Government may also sign up to the Lugarno Convention which would align the position further with the present position. See: https://hsfnotes.com/litigation/2018/09/13/brexit-no-deal-note-on-jurisdiction-and-enforcement-of-judgments/ • **No Deal Brexit**: The government published on 13 September 2018 a technical note on "Handling civil legal cases that involve EU countries if there's no Brexit deal" (https://www.gov.uk/government/publications/handling-civil-legal-cases-that-involve-eu-countries-if-theres-no-brexit-deal/handling-civil-legal-cases-that-involve-eu-countries-if-theres-no-brexit-deal). This contains the following advice: "All parts of the UK would retain the Rome I and Rome II rules on applicable law in contractual and non-contractual matters, which generally do not rely on reciprocity to operate. This would ensure that businesses and individuals could generally continue to use the same rules as at present to determine which law would apply in cross-border disputes."
b. How will existing contracts continue post Brexit? • What are financial services providers doing to mitigate risks on contracts?	Financial services providers can take a number of steps to mitigate the risk of being unable to service cross-border contracts. Those actions may involve setting up entities in other jurisdictions and transferring contracts to those entities or selling books of business to providers who are based in the jurisdiction where the customers are based. See specific notes below on ISDA Agreement, Loan Agreements, and Insurance In the event of a No Deal Brexit the TPR will enable an EU27 financial services supplier to continue to service its UK contracts, if the service provider applies for permission under the TPR. In the event the WA is ratified, it contains provision of transition period (TP) during which EU law, and rights and obligations derived from EU law, continue to apply. This includes new EU laws that are agreed and implemented during that period. This means that financial services providers will be able to continue business as usual during the transition period. If you are concerned about your provider's ability to continue servicing your contract, in the first instance you should contact your provider. Performance of certain life-cycle events such as roll-over, novation and portfolio compression, imply, as a rule, the creation of new rights and obligations, for which an authorisation under EU or national law may be required. The use of the term "life-cycle events" hides that in many cases these events lead to the creation of new rights and obligations, to new contracts. More information on the ISDA contracts can be found at https://www.isda.org/2019/01/22/brexit-faq/#_ftnref4. It should be noted that where a contract has a lifecycle event that could be construed as a new contract, then rules regarding MiFID II passporting or authorisation in the relevant EU member state could result in illegal activity being undertaken.
• What are regulators doing to mitigate the potential impacts on contract validity?	The FCA and PRA will offer the Temporary Permissions facility for EU27 suppliers of financial services. An EU27 non-financial services provider will need to ensure it is enabled to export from the EU27 and import into the UK. See Technical Notices for industry specific advice. Some EU member states are taking steps at national level to enable continuation of contracts. For example, the French government has passed the French Brexit Act that contains provisions on settlement and contract continuity (details - https://www.lexology.com/library/detail.aspx?g=eb1cc8d9-1513-4993-80a0-856fddeee7b0). In addition, Belgium, Luxembourg, Germany, Portugal, Netherlands, Sweden and Spain were working through legislation in February 2019.
• Under what circumstances will I need to renew or renegotiate contracts?	In the case of contracts between UK and EU firms, service providers may seek to repaper contracts, where the servicing of the contract under its current terms would be impacted by the loss of passporting. The repapering may be, for example where they are transitioning the contract from one legal entity to another. UK firms with EEA clients may seek to transfer contracts to an EEA entity. We would expect corporates to be contacted by their service provider about this. Your EU27 contract counterparty will need to inform you if it is unable to continue to supply in the UK after the Brexit date, or after the end of the TPR.
c. Can intra-group transactions between UK and EU entities (FX trades, loans/deposits, interest rate and cross currency swaps etc.) continue to be carried out?	Brexit may impact intragroup transactions in a number of ways:

• For example, a UK corporate Holdco can currently transact a swap with an EU bank and back-to-back the transaction to an EU27 subsidiary as the UK Holdco holds the banking relationship. Would the EU27 subsidiary be required to have the EU27 bank relationship, and a new ISDA agreement, to undertake such a swap on its own behalf?	• When assessing whether transactions can be carried out after exit, firms should consider relevant requirements in the jurisdictions where the parties to the transactions are based, including those relating to MiFID and EMIR. In the UK, there is an exclusion from the requirement to be authorised for firms doing intra group business, subject to their also being able also to rely on a MiFID exemption. • It may impact the regulatory treatment of intragroup transactions. For example, without regulatory action, intragroup trades would no longer be exempt from EMIR requirements on clearing and margining (subject to any further amendment to EMIR). • UK legislation will reflect planned and agreed changes to EU legislation during any TP. This will include EMIR Refit. In addition, subject to the timing of the legislation in the EU and the UK, the requirement to report intra-group transactions for EMIR purposes will be dropped.
d. Can I continue to access loan facilities under contracts agreed pre-Brexit?	1. As a UK entity, loan documentation will often be based on the forms published by the Loan Markets Association (LMA). These forms of document are used for loans written between UK borrowers and banks' lending in the London markets. Your lawyers will be able to advise if this is correct. The following notes reflect a position where a UK corporate is the borrower, and banks currently lending in the London money markets are the lenders. 2. Some groups may have loan agreements where the lenders are group entities within the EU27. These are likely to be subject to local loan agreement standards. In the event the lenders include UK financial institutions, the No Deal effect of loss of passporting rights for UK lenders in EU27 domiciled loan agreements depends on the specific banks and the approach taken by relevant country (for example the UK, Ireland Netherlands do not regulate lenders) . There is a patchwork of regulation across the EU member states with regards to lending. The groups will have to check the rules that apply in each member state that they operate in to understand if they will be able to continue to access loan facilities. 3. English Law: There is no Brexit reason to change the governing law of contract. The ability for EU commercial parties to select the law of commercial contracts is written into Rome II which is set out in more detail in section 2.a. above. 4. EU Law references: Your loan agreements may contain some minor references to EU law and you may need to consider with your lenders how these remain applicable post Brexit. Clauses to Watch: a. Illegality: what is the consequence of a Lender's participation becoming illegal due to Brexit? b. Facility Agent: what is the consequence of the Agent's role ceasing to be legal or operational due to Brexit? c. Transfer and Accession of New Lenders: How do they function? Must they be triggered pre-Brexit or post? 5. Passporting: Lenders may be non-UK and rely on passporting to lend into the UK market. Passporting rights will cease on 29 March 2019 unless there is a negotiated withdrawal and TP during which to resolve the loss of passporting. The UK's Temporary Permissions Regime is expected to help EU27 lenders to continue to operate in the UK for up to three years. At present there is no planned similar regime in the EU27. Potential Outcomes: a. Ratified WA: Transition period allows passporting to continue till 31 December 2020 b. No Deal Brexit: i. No change takes effect until the withdrawal date; ii. An EU27 lender may be able to apply for Temporary Permission to continue for up to three years so that it can continue to act as though it is passported under pre-Brexit practice providing its domestic and EU regulations enable it to continue to do so. iii. Your lender is expected to use the three-year period to seek authorisation as a lender in the UK. Otherwise you may be required to agree to transfer of the loan obligation, drawn and undrawn to another lender. LMA documentation can contain terms to enable and describe the process to do so.
e. What is the impact on ISDA derivative contracts?	ESMA has stated that it will recognise the following as equivalent on a temporary basis, in the event of a No Deal Brexit: • UK Central Securities Depositary (CSD) • UK Central Counterparties (CCPs): o LCH Ltd o ICE Clear Europe Ltd o LME Clear Ltd Trade Associations are still concerned about the lack of recognition of UK derivatives trading venues under EMIR and MIFIR and the impact on EU27 market participants and European derivatives markets, in the event of a No Deal. **Uncleared OTC Derivatives** The draft Regulatory Technical Standards (RTS) (November 2018) allows UK counterparties to be replaced with EU ones without triggering the clearing obligation. This limited exemption would enable the preservation of the regulatory and economic conditions under which the contracts where originally entered into.

The window for the novation of non-centrally cleared OTC derivative contracts which fall under the scope of this amending regulation would be open for twelve months following the withdrawal of the UK from the EU. Counterparties can however start repapering their contracts ahead of the application date, making the novation conditional upon a no deal Brexit, given the conditional application date of this amending regulation

- **Available 3rd Party Advice:**
  ISDA have provided a helpful Brexit Q&A at https://www.isda.org/2019/01/22/brexit-faq/.
  ISDA and other EU27 organisations have identified certain disruptions that might occur in a no deal Brexit: see https://www.isda.org/2018/10/09/cliff-edge-effects-under-eu-law-in-a-no-deal-brexit-scenario/ .

- **No Deal Brexit:**

  The FCA has stated that the performance of many contractual obligations agreed before exit date is unaffected by the UK's withdrawal from Europe. However, the performance of certain activities that are linked to these contracts may be subject to authorisation in member states. There are also potential risks to financial stability and consumer protection, in particular in the EU, if firms cannot service these contracts.

The EC is not planning on taking any further action for OTC uncleared derivatives. Instead it calls for firms to prepare for this situation by transferring and seeking relevant authorisations from individual member states.

Cleared Derivatives

Market participants can be assured of the continuity of derivatives trading and clearing activities between the UK and US, after the UK's withdrawal from the EU, following this joint statement by the Bank of England including the Prudential Regulation Authority (BoE), Financial Conduct Authority (FCA), and the US Commodity Futures Trading Commission (CFTC)
https://www.fca.org.uk/news/press-releases/joint-statement-uk-and-us-authorities-continuity-derivatives-trading-and-clearing-post-brexit

- **Other considerations:**

  a. **UK Subsidiaries and branches of EU27 Entities**: There has been a process of "domestication" since 2008. Banks, UK and EU27, dependent on their home government for financial support have gradually withdrawn into their national borders. Brexit may enhance this process with the potential for your counterparty to ask for termination, particularly if you are out of the money, or transfer of the transaction to an EU27 entity. Care: the change of residence of the counterparty may trigger gross up clauses for WHT (see following).

  b. **Withholding Tax (WHT)**: generally, the nature of the parties to derivatives contract are such that WHT is not required to be deducted from interest payments with each party often making a representation to this effect when the derivatives contract is finalised. This cannot be assumed to continue post Brexit because local jurisdictions, EU27 member states or the UK could withdraw the exemptions which enable WHT free payments. Negotiations will be monitored to understand if this is going to occur. We recommend you make your tax advisers aware of the parties with which you have derivatives contracts, so they can keep you informed of the potential to require gross up. You should check the gross up clauses of your derivatives contracts and transactions to understand the consequence of gross up which may include termination.

  c. **Collateralisation**: It is expected that cash collateralisation would be no different in treatment to periodic payments under the transaction. Settlement with non-cash collateral may require that the provider possesses certain authorisations to be able to do so and these may change as the Brexit process develops.

  d. **Derivatives contracts:** On derivatives contracts, firms will have to consider the relevant margin requirement in the relevant jurisdictions. Note that the UK intends to onshore the current EMIR margin rules broadly as they are, but there might be consequential changes to following the government's onshoring approach, which may require parties to change their collateral requirements.

- **Requirement to Novate:**

  ESMA recently signalled that firms wishing to novate their contracts will not have to use a clearing house (and the associated costs that would come with this) if there is No Deal Brexit. This waiver would be valid for 12 months. Therefore, firms risk waiting to novate to avoid the additional costs of using a clearing house.

  It is not clear yet how this interacts with Non-Financial Counterparty (NFC-) exemptions and Credit Valuation Adjustment (CVA), nor with hedge accounting rules and we will continue to monitor the process.

  The European Supervisory Authorities (ESAs) have recently published an additional waiver to facilitate novation, waiving the margin requirement which would also add costs to firms wishing to novate. The waiver only applies in case of No Deal and just for 12 months.

  https://www.esma.europa.eu/press-news/esma-news/esma-proposes-regulatory-change-support-brexit-preparations-counterparties

  https://www.esma.europa.eu/press-news/esma-news/esas-propose-amend-bilateral-margin-requirements-assist-brexit-preparations-otc

f. How will insurance contracts be affected? Will my existing insurance contract with an EU27 Financial Institution continue without intervention from me? Will my insurance policy issued by a UK insurer to cover my EU27 activities remain valid? If my insurer does not receive permission to operate in the UK, will my policy become null and void?	**No Deal Brexit:** *UK customers of EEA firms* The UK government is legislating to ensure that 16 million insurance policies that UK households and businesses have with EEA insurance companies can continue to be serviced by EEA companies after Brexit. The UK government has announced the TPR, which will allow inbound EEA firms to continue to operate as before exit, including carrying on new business, while applying for the UK authorisation. The Government has also committed, alongside TPR, if necessary, to introduce an additional solution to contract continuity. *EEA customers for UK firms* EC does not consider that contingency measures are necessary for insurance contract continuity. EU member states are legislating separately. You should seek legal advice if you have any specific queries. https://ec.europa.eu/info/sites/info/files/brexit_files/info_site/communication-preparing-withdrawal-brexit-preparedness-13-11-2018.pdf EIOPA has issued recommendations for all Member States to foster convergence and consistent supervisory approaches in the treatment of UK insurance undertakings and distributors: https://eiopa.europa.eu/Publications/Standards/EIOPA-BoS-19-040_Recommendation_Brexit_final.pdf#search=brexit The recommendations cover the following: 1. General objective that in their treatment of cross-border business of UK insurance undertakings, competent authorities should aim to minimise the detriment to policyholders and beneficiaries, based on the applicable EU and national laws. 2. Orderly run-off 3. Authorisation of third country branches 4. Lapse of authorisation 5. Portfolio transfers 6. Change in the habitual residence or establishment of the policyholder 7. Cooperation between competent authorities 8. Communication to policyholders and beneficiaries 9. Distribution activities National competent authorities will need to confirm whether they comply or intend to comply with the recommendations. **If an insurer is not authorised or permitted to operate in the UK, it will need to follow the SRO or CRO regimes for run-off.**
3. CASH AND LIQUIDITY MANAGEMENT	
Will existing cross-border cash pooling arrangements with: (a) EU27 corporate entities and UK banks and (b) UK corporate entities and EU27 banks be impacted in any way?	Many UK and EU27 banks manage their liquidity by holding accounts with an EU Central Bank. Under current rules, the ability to access the Eurosystem standing facility in order to make deposits at a Eurosystem National Central Bank (NCB) requires the relevant financial institution either to be an EU authorised credit institution or to have a local banking license from one of the national competent authorities (NCAs). Post-Brexit, many UK banks will be able to utilise their EU27 licensed presence to manage their liquidity and access NCB accounts. This would allow for continued access to EU systems, routed via the EU27 branch. UK institutions without an existing EU subsidiary or relationship with an EU based third party can continue to manage euro transactional payments and settlement flows through correspondent banking relationships with EU-domiciled banks and investment firms. Both of the above scenarios do not require additional "equivalence" or "permissions" to be granted. The TPR will allow EU27 corporate entities to continue to utilise cross-border liquidity arrangements within the UK.
Will UK and EU27 SMEs be able to continue to access trade finance credit and support for cross border transactions? For example: EU27 domiciled suppliers to UK businesses can currently source domestic trade finance (e.g. invoice discounting) to fund working capital. Will EU27 banks be able to continue to do so during Transition and thereafter? Otherwise will businesses need to accelerate payment to their SME suppliers?	In the event of a ratified WA, there will be a transition period allowing firms to operate under current rules of business as usual for just under two years. In a No Deal Brexit in order to operate in the EU relevant financial institutions will be required to have an EU authorised license. Many of the current institutions already have a license or have applied for it. Post-Brexit UK institutions will be able to utilise their licensed presence in the EU to continue to serve their EU clients for trade finance access. The TPR will allow EU27 corporate entities to continue to utilise cross-border trade finance arrangements within the UK in a No Deal Brexit. Firms are advised to contact their trade finance providers to understand how they are managing the process.

4. PAYMENTS	
Can a UK business continue to make and receive euro payments between the UK and the EU? • Will the UK remain part of SEPA? • Will new bank accounts be required in country of each supplier to enable payment, or will say, a UK business be able to continue to access SEPA through a UK bank portal? • Where EU 27 corporates have UK bank accounts (or UK corporates EU27 bank accounts), should they consider opening new "local" bank accounts (in sufficient time to allow it to notify its customers of the new arrangements and for it to reconfigure its own systems and processes for the new banking, payments and receipts arrangements)?	Payments between the UK and EU will still be able to take place after the UK has left the EU. The UK Government wishes to remain in the Single Euro Payments Area (SEPA) in order to benefit from lower costs and faster transaction times. To this end, the Government intends to retain relevant EU payments law in such a way that it maximises the prospects of the UK remaining in SEPA. As the geographical scope of SEPA already extends beyond the EU and EEA, including several third countries and territories, it is possible for the UK to continue in the scope of the SEPA schemes, provided it fulfils the eligibility criteria. The UK financial community submitted an application to remain in the geographic scope of SEPA which was approved on March 7 2019. The European Payments Council (EPC), which manages SEPA, is not part of the EU institutional framework and already admits non-EEA "third countries", providing they meet certain legislative and economic criteria. As the UK remains in SEPA, businesses will not need to make any material changes to their financial arrangements in order to continue to use SEPA. As the application is to "remain", and not "join", the payments routing will not change.
5. CAPITAL MARKETS	
Will existing debt programmes (for example, Euro Medium Term Note programmes) approved either in the UK or in the EU27 remain fully operative? Will there be new "frictional costs" of operation? Will securities issued thereunder continue to be eligible for any index or receive the same regulatory treatment as they do now?	**Prior to 29 March 2019**Prior to 29 March 2019, existing rules should be followed. **Between 30 March and 21 July 2019, if there is No Deal** The UK government has committed to continue to treat prospectuses that are valid in the UK before exit (including those approved by a competent authority in a different EU member state) as valid for the remainder of the 12 months from their date of approval, including where that includes a period after the UK exits the EU. See HM Treasury's guidance on the impact of a no deal Brexit https://www.gov.uk/government/publications/banking-insurance-and-other-financial-services-if-theres-no-brexit-deal/banking-insurance-and-other-financial-services-if-theres-no-brexit-deal. ISDA and other EU27 organisations have raised concerns over EU27 trading in UK bonds (see: https://www.isda.org/2018/10/09/cliff-edge-effects-under-eu-law-in-a-no-deal-brexit-scenario/) which essentially requires EU27 to grant equivalence, and vice versa, or passes something similar to the UK TPR as a temporary measure to remove points of friction. For example, an EU27 financial firm can pre-Brexit buy UK bonds through a UK trading venue but would not be able to do so post Brexit unless equivalence is agreed, or a temporary permission is used. Issuers with prospectuses which meet these conditions would be able to use their existing prospectuses for the period described. After that issuers will need to have a fresh prospectus approved by the FCA if they are intending to make an offer to the public of transferable securities in the UK, or it they are seeking admission of transferable securities to a UK regulated market. **After 21 July 2019** A new Prospectus Directive (PR) comes into force on 21 July 2019. The outcomes will differ depending on whether the debt issue is exempt or non-exempt: exempt being bonds issued in denominations of €100,000 or greater. Smaller denomination bonds are colloquially known as Retail Bonds marketed to retail investors. • We would expect that most members are engaged in the issue of exempt bonds and that their outstanding issues are exempt bonds. • Issuers will continue to be able to make *exempt* offers of bonds in EEA Member States without needing to publish an approved prospectus in accordance with the PR, so issuers with prospectuses approved by the FCA in the UK will be able to make *exempt* offers of bonds in EEA Member States after Brexit. • In the event of a No Deal Brexit and no other transitional or other arrangement, issuers would need to have a prospectus approved by an EU27 national competent authority and published in accordance with the PR in order to make a *non-exempt* offer of bonds to the public in one or more EEA Member States after 29 March 2019. The PR also prohibits the admission to trading on a regulated market situated or operating within the EEA unless a prospectus has been published in accordance with the PR. • So, absent any transitional or other arrangement, an issuer's non-exempt securities could not be admitted to trading on a regulated market situated or operating within the EEA after 29 March 2019 unless the issuer has published an approved prospectus in accordance with the PR. **Frictional costs** Indices are a matter for index operators. Otherwise, FCA would expect that these securities would generally continue to receive the same regulatory treatment as they do now – FCA are not making policy changes to their rules beyond what is necessary to ensure rules are functional as a result of Brexit. The treatment of existing debt programs in the EU27 is a matter for EU27 governments and regulators. The government and regulators are seeking to ensure as much continuity in the UK as possible after exit. Any frictional costs in the EU are a matter for EU27 governments and regulators. The onshoring process under the WA seeks to remove or minimise 'frictional' matters by 'onshoring' EU-derived domestic legislation and directly applicable EU legislation.

6. CREDIT RATINGS	
Can my company continue to use credit ratings issued in the UK or the EU?	**Use of ratings in the UK** Firms that are using credit ratings, but not for regulatory purposes may continue to use credit ratings issued in the UK and EU27 (regulatory purposes covers banks and insurers calculating capital requirements under the EU capital requirements regulation and Solvency II rules). Firms using credit ratings for regulatory purposes will only be able to do so where they are issued or endorsed by credit rating agencies (CRAs) registered or certified with the FCA. Following draft legislation from HM Treasury, the FCA is providing conversion and TPR for CRAs to facilitate continuity of ratings availability in the UK. A transitional period will also allow ratings issued before exit day in the EU by firms who register with the FCA or apply for registration with the FCA to be used in the UK for regulatory purposes for up to one year. After this time, all ratings will need to be issued or endorsed into the UK for them to continue to be eligible for regulatory use. UK firms are encouraged to contact their CRAs to understand their intentions to offer ratings in the UK after Brexit. See here for further information from HM Treasury and the FCA. **Use of ratings in the EU** Firms using credit ratings for regulatory purposes in the EU will only be able to do so where they are issued or endorsed by CRAs registered or certified with ESMA. https://www.esma.europa.eu/sites/default/files/library/esma80-187-149_public_statement_brexit_cras_trs.pdf
7. RELATIONSHIPS WITH PROVIDERS	
How will the pricing and availability of products be impacted post-Brexit? When will I be informed by providers of these changes? Will providers be required by a certain date to clarify what they are doing regarding their various client facing activities and what this means for corporates? E.g. where will DCM support for a Euro bond issue be provided from and who is the bank's contracting party? – e.g. London or Paris, will FX sales teams move from London to an EU27 country etc.?	We recommend a pro-active relationship with service providers. Define the services you use and seek confirmation from your service providers that they will continue to offer those services or the alternative arrangements they can offer within their group. Providers are generally seeking to ensure continuity for their clients. In the FCA's Dear CEO letter, FCA have said that when providers are designing structures they should assess whether the proposed changes are in the best interests of their clients and where providers intend to make changes to existing contractual agreements with clients, they should make clients aware in good time, in line with the relevant regulatory obligations. No date has been set other than the withdrawal date of 29 March 2019. Corporates should seek advice from their financial services providers as to how they expect to service extant issues: for example, for periodic settlements
8. PENSIONS	
My company has a cross-border pension fund arrangement, for example, a pension fund manager in the Netherlands currently manages UK-based pension funds. Will this be allowed to continue post-Brexit?	We would expect defined benefit pension schemes or defined contribution occupational pension schemes to be affected by Brexit where the manager is based in the EU and passports into the UK. In the event of no agreement being reached between the UK and the EU, the TPR (referred to above) would allow a pension fund manager in the EU to continue to manage UK-based funds (where it presently passports into the UK and it notifies the relevant regulator of its wish to use the Temporary Permissions scheme). For UK firms with customers in EEA member states, if the firm does not take any contingency actions, it may need to make arrangements to continue servicing contracts with customers resident in EEA member states (e.g. making annuity payments). Whether or not the UK insurer can continue to make payments to EEA residents depends on the local laws and regulations in member states. EEA customers of UK based pension funds may wish to contact their providers in the first instance.
9. TAXATION	
What effect will any changes in payment and timing of payment of VAT will have on my business and cash flow?	Government has issued Technical Note VAT for businesses if there's no Brexit deal: see https://www.gov.uk/government/publications/vat-for-businesses-if-theres-no-brexit-deal/vat-for-businesses-if-theres-no-brexit-deal in which it states: "If the UK leaves the EU without an agreement, the government will introduce postponed accounting for import VAT on goods brought into the UK. This means that UK VAT registered businesses importing goods to the UK will be able to account for import VAT on their VAT return, rather than paying import VAT on or soon after the time that the goods arrive at the UK border. This will apply both to imports from the EU and non-EU countries." You should maintain contact with your tax advisers and HMRC/ Government to be aware when these changes are made, if required. This is intended to ensure there is no adverse cash flow effect due to a Hard Brexit.
10. REGULATION	

What EU legislation is brought into UK law under the Withdrawal Act and what changes will there be to the role of UK regulators?	The UK currently complies with EU law through Directives, Regulations and other means. The Withdrawal Act is intended to bring current EU law into UK law with appropriate adjustment, for example substituting the FCA for ESMA as the regulating authority in EMIR. The Treasury has laid legislation in Parliament which would give the FCA, the PRA, the Bank of England and the Payment Systems Regulator (PSR) responsibility for amending and maintaining existing on-shored EU binding technical standards so that they can operate after Brexit. The Treasury has also stated that it intends to provide the FCA with functions and powers for UK and non-UK credit-rating agencies and trade repositories. In the event that the UK leaves the EU with no agreement, the UK Government has laid before Parliament the Financial Services (Implementation of Legislation) Bill – all relevant documentation can be found at https://services.parliament.uk/Bills/2017-19/financialservicesimplementationoflegislation.html. This Bill, should it pass through the Parliament, would provide HM Treasury with a power to implement specific 'in-flight' EU legislation (or parts/subsets thereof) for a non-extendable period of two years post-exit. The power would also allow HM Treasury to amend said legislation in implementation beyond deficiency fixes, within specified parameters. However, it should be noted that the power provided by this Bill would give HM Treasury the option to implement legislation in a No Deal scenario, the Bill does not necessitate its implementation.
If I have a complaint about an EEA firm, who can I speak to?	We would advise checking with the relevant regulator of the firm in question.

11. MISCELLANEOUS

Item	Description	Summary	Reference
MAR	Market Abuse Regulation		

GLOSSARY

ACT	Association of Corporate Treasurers
AIFs	Alternative Investment Funds
BoE	Bank of England
CBI	Confederation of British Industries
CCP	Central Counterparty
CRO	Contractual Run-off
CSD	Central Securities Depositary
CVA	Credit Valuation Adjustment
EC	European Commission
EEA	European Economic Area
EMD	Electronic Money Directive
EMIR	European Market Infrastructure Regulation
EPC	European Payments Council
ESMA	European Securities and Markets Authority
EU	European Union
FCA	Financial Conduct Authority
FSCR	Financial Services Contracts Regime
HMT	HM Treasury
LMA	Loan Markets Association
NCA	National Competent Authorities
NCB	National Central Bank
NFC	Non-Financial Counterparty
PD	Prospectus Directive
PRA	Prudential Regulation Authority
PSD	Payment Services Directive
RTS	Regulatory Technical Standards
SEPA	Single Euro Payments Area
SI	Statutory Instrument
SRO	Supervised Run-Off
TP	Transition Period
TPR	FCA/PRA Temporary Permissions Regime
UCITS	Undertakings for Collective Investment in Transferable Securities
UK	United Kingdom
WA	Withdrawal Agreement
WHT	Withholding Tax
WTO	World Trade Organisation