



# Transitioning to post-exit rules and standards

This webpage sets out the legal and regulatory framework which would be expected to operate following the UK withdrawal from the EU without an implementation period in place.



## Introduction

In preparation for the UK's withdrawal from the EU, we published consultations in October and December 2018 on our approach to financial services legislation under the European Union (Withdrawal) Act 2018 (the Act).

Our amendments to financial services legislation under the Act are set out in the Bank of England and PRA [Policy Statement 5/19 'The Bank of England's amendments to financial services legislation under the European Union \(Withdrawal\) Act 2018'](#) published on 28 February 2019. These are being made to ensure an operable legal framework after the UK leaves the EU, and to reflect onshoring changes made by HM Treasury in the relevant Statutory Instruments (SIs).

The instruments and statements published alongside the policy statement are 'near-final'. We do not intend to change the policy or significantly alter the text of the published materials between now and when they are made final. We have published these materials to give firms and other industry participants early sight to assist their planning in the event of the UK leaving the EU with no implementation period in place.

We strongly encourage readers to take time to read this whole page to ensure a full understanding of what we have published, and what it means.

## What 'near-final' means

The draft EU Exit Instruments, statements of policy, supervisory statements and the directions that give effect to the transitional power, published alongside the policy statement on 28 February 2019, are 'near final'. This means that the instruments and directions have not been formally 'made' but we do not intend to make any significant changes to the text of the instruments and directions we have published. Therefore firms and FMs can plan on the basis of the published instruments, statements and directions.

The instruments and directions have been approved for publication by the Bank's governance committees. There are also additional technical processes which must be completed before the instruments and directions can be formally made:

- ◊ The EU Exit Instruments can be made only when consent from HM Treasury has been obtained.
- ◊ In areas shared with the Financial Conduct Authority (FCA) some instruments cannot be made until the FCA has made their relevant instrument or provided their consent to changes proposed by the Bank or PRA.
- ◊ The directions which give effect to the transitional power can be made in the event that the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 Statutory Instrument (the FSMA SI) which will give the temporary transitional power to the Bank and PRA has been made law and HM Treasury has been formally consulted on the use of the transitional power.

The making of the final instruments and directions is also subject to external dependencies such as further clarity on whether the Implementation Period will be put in place.

We will communicate when instruments and directions are formally made and the final policy is confirmed to enter into force on, and apply from, exit day.

## Use of the Transitional Power

EU Exit instruments fix deficiencies created by the UK's exit from the EU. The [Bank](#) and [PRA](#) will exercise the transitional power to make directions that will delay until Tuesday 30 June 2020 the operation of these amendments where they apply to relevant obligations<sup>1</sup>. This is to avoid or mitigate disruption that might otherwise result from applying these amendments before firms have had sufficient time to adjust their arrangements.



This approach is subject to limited exceptions, where the use of the transitional power could adversely affect the Bank and PRA's statutory objectives. In addition, the transitional power will not apply to any area where there is already a specific transitional or saving provision. This notably includes the temporary recognition and permission regimes. For firms in the Temporary Permission Regime (TPR) and the Supervised Run-Off Regime (SRO), a specific set of transitional provisions will apply. On this matter, please refer to the policy statement and related information on the EU Withdrawal website.

Please read the [Bank's](#) and the [PRA's](#) general guidance on transitional direction for more information on the effect of the transitional power.

In addition to the general guidance, the Bank and PRA have published specific guidance documents on the use of the transitional power in connection with particular areas of the legal framework.

The Bank's specific guidance documents include:

Bank Recovery and Resolution Guidance on the Bank's use of the transitional direction (PDF)

Interpretive guidance in relation to Commission Implementing Regulation (EU) 2018/1624 on information for resolution planning (PDF)

Guidance on the Bank's use of the transitional direction as FMI competent authority (PDF)

The PRA's specific guidance documents include:

PRA Rulebook Guidance on the PRA's use of the transitional direction (PDF)

Capital Requirements Regulation Guidance on the PRA's use of the transitional direction (PDF): Firms obligations under the onshored Capital Requirements Regulation and related banking and investment firm legislation, including that transposing the Capital Requirements Directive

The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018 Guidance on the PRA's use of the transitional direction (PDF)

: Firms' obligations under insurance solvency legislation, including that transposing the Solvency 2 Directive

The Securitisation Regulation Guidance on the PRA's transitional direction (PDF): Firms' obligations under the onshored Securitisation Regulation

<sup>1</sup> 'Relevant obligations' are all those obligations for which the Bank or PRA has responsibility for supervising or has other functions relating to a person's compliance with the obligations.

## Post-exit rules and standards

On 28 February 2019, the Bank and PRA published 'near final' instruments and statements.

The near-final instruments and statements are relevant to all firms authorised and regulated by the PRA, financial market infrastructure providers (FMIs) that are currently supervised by the Bank and firms subject to the Bank's powers as resolution authority. Some of the changes are also relevant to firms authorised and regulated by the Financial Conduct Authority (FCA), and to the Financial Services Compensation Scheme (FSCS). The near-final instruments and statements may also be relevant to firms that might seek to apply to the PRA or FCA for authorisation, and to FMIs that might apply to the Bank for recognition.

### Bank of England – relevant to all firms

Bank of England Policy Statement (PS), PRA PS05/19 'The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018'

Bank of England Statement of Policy 'Interpretation of EU Guidelines and Recommendations: Bank of England and PRA approach after the UK's withdrawal from the EU'



## PRA

PRA RULEBOOK: (EU EXIT) INSTRUMENT 2019 (PDF)

PRA Supervisory Statement (SS) 1/19 'Non-binding PRA materials: The Prudential Regulation Authority's approach after exit from the EU'

PRA SS2/19 'Approach to interpreting reporting and disclosure requirements and regulatory transactions forms after the UK's exit from the EU'

PRA SS18/15 update 'Depositor and dormant account protection'

## FMI

EU EXIT INSTRUMENT: RECOGNISED CLEARING HOUSE RULES (AMENDMENT ETC.) (EU EXIT) INSTRUMENT 2019 (PDF)

FMI Supervisory Statement 'Non-binding Bank materials relating to Financial Market Infrastructure Supervision: The Bank's approach after the UK's withdrawal from the EU'

## Binding Technical Standards (EU Exit) instruments

### PRA

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 1) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No 2) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 3) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CENTRAL SECURITIES DEPOSITORIES OFFERING ANCILLARY BANKING SERVICES) (EU EXIT) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (BANK RECOVERY AND RESOLUTION DIRECTIVE) (EU EXIT) (No.2) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE) (EU EXIT) (No.3) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (SOLVENCY II DIRECTIVE & INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION DIRECTIVE) (EU EXIT) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (FINANCIAL CONGLOMERATES) (EU EXIT) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (MARKETS IN FINANCIAL INSTRUMENTS DIRECTIVE) (EU EXIT) (PRA) INSTRUMENT 2019 (PDF)

### FMI

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE) (AMENDMENT ETC.) (EU EXIT) (No. 1) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE) (AMENDMENT ETC.) (EU EXIT) (No. 2) INSTRUMENT 2019 (PDF)

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CENTRAL SECURITIES DEPOSITORIES) (AMENDMENT ETC.) (EU EXIT) INSTRUMENT 2019 (PDF)

## Resolution

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (BANK RECOVERY AND RESOLUTION) (AMENDMENT ETC.) (EU EXIT) (No. 1) INSTRUMENT 2019 (PDF)



## Next steps

As set out in 'What 'near-final' means' above, we will communicate when instruments and directions are formally made and the final policy is confirmed to enter into force on, and apply from, exit day.



BANK OF ENGLAND