Brexit: Existing Third Country Regimes and applicable EU/UK equivalence decisions or relief under the UK Temporary Transitional Powers

24 March 2021

The table below summarises existing third country provisions within EU financial services legislation and outlines whether the European Commission has taken an equivalence decision for each provision in relation to both the UK and other third countries. We also highlight whether relief is available under the UK regulators' temporary transitional powers (**TTP**) or because of a UK equivalence decision.

Provision	Coverage	Equivalence/adequacy decision already taken by European Commission in respect of third countries		Relief available under UK TTP or because of a UK equivalence decision?
		Third countries (excl. UK)[1]	UK[2]	
Market access – investment services				
Article 47(1) – MiFIR	Third country regime for cross-border provision of investment services without establishment of a branch (non-retail).	No	No. The European Commission has indicated that it will not make a corresponding equivalence assessment in respect of the UK in the short to medium term.	No. UK temporary permission regime (**TPR**) provides alternative mechanism.

[1] Based on the EU Commission's equivalence decisions overview table: https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/recognition-non-eu-financial-frameworks-equivalence-decisions_en

[2] See Footnote 21, Commission Communication on readiness at the end of the transition period between the European Union and the United Kingdom published on 9 July 2020 for a full list of where the Commission has stated that it will not adopt an equivalence decision in the short or medium term.

Provision	Coverage	Equivalence/adequacy decision already taken by European Commission in respect of third countries		Relief available under UK TTP or because of a UK equivalence decision?
		Third countries (excl. UK)[1]	UK[2]	
Market infrastructure access				
Article 38(3) – MiFIR	Access rights for third-country CCPs and MTFs/OTFs. A trading venue established in an equivalent third country may request access to an EU CCP and a recognised CCP established in an equivalent third country may request access to a trading venue in the EU. Requires CCP recognition as well as jurisdiction-level equivalence.	No	No. The European Commission has indicated that it will not make a corresponding equivalence assessment in respect of the UK in the short to medium term.	No.
Article 25(6) – EMIR	Provision provides for access to EU markets if the Third Country CCP satisfies a number of requirements, including a positive equivalence determination by the Commission vis-à-vis the regulatory and prudential framework. A Third Country CCP whose jurisdiction has been granted equivalence in this way will obtain access across the EU by virtue of it subsequently being "recognised" under Article 25(2) of EMIR by ESMA. (It will also attain the status of "qualifying central counterparty" for the purposes of favourable treatment of its clearing participants' own funds requirements for CCP exposures under the CRR.)	Yes	Yes, temporarily. EU temporary equivalence and recognition of UK CCPs until 30 June 2022 pursuant to this decision	The Central Counterparties (Equivalence) Regulations 2020 will grant equivalence to CCPs established in EEA States. Therefore, subject to entry into an appropriate cooperation arrangement between the Bank of England and the relevant national competent authority in that EEA state, and a CCP-specific recognition determination by the Bank of England, after the end of the transition period UK firms will be able to continue using EEA CCPs. This equivalence decision does not exclude EEA CCPs from the Temporary Recognition Regime (**TRR**). Until recognition decisions are made, EEA CCPs who meet the relevant eligibility criteria will remain in the TRR, which is due to last until December 2023 and may be extended by HMT. In the UK, HM Treasury and the Bank of England have also put in place a temporary recognition regime for non-UK/EU CCPs under the Central Counterparties (Amendment etc., and Transitional Provision (EU Exit) Regulations 2018 (subject to prior notification requirement).
Article 2a – EMIR	OTC derivatives definition/ equivalence of third country markets to regulated markets.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The European Market Infrastructure Regulation (Article 2A) Equivalence Directions 2020 will grant equivalence to the EEA States for the purposes of Article 2A of EMIR. This will enable UK firms to continue to treat derivatives traded on EEA regulated

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		Third countries (excl. UK)[1]	UK[2]	
				markets as exchange-traded derivatives rather than OTC derivatives.
Article 75(1) – EMIR	EMIR provides that a third country repository can provide services in the EU if it is recognised by ESMA. To be recognised, a third country trade repository needs to apply for recognition and must show that it is authorised and subject to effective supervision in a third country which has: (i) been recognised by the Commission as having an equivalent and enforceable regulatory and supervisory framework; (ii) entered into an international agreement with the EU regarding mutual access to, and exchange of information on, derivative contracts; and (iii) entered into cooperation arrangements to ensure that EU authorities, including ESMA, have immediate and continuous access to all necessary information.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing (but recognition requires an international agreement).	No.
Article 19(1) – SFTR	Third Country trade repository recognition regime. The SFTR provides that third country repositories will only be able to provide services to EU firms for the disclosure of transactions where the third country repository has been recognised by ESMA. In order to be recognised by ESMA, certain conditions have to be satisfied including an equivalence	No	No. The Commission has indicated that corresponding EU equivalence assessment is ongoing.	No.

Provision	Coverage	Equivalence/adequacy decision already taken by European Commission in respect of third countries		Relief available under UK TTP or because of a UK equivalence decision?
		Third countries (excl. UK)[1]	UK[2]	
	determination by the Commission in relation to the third country.			
Article 25(9) – CSDR	Third country regime for CSDs – in order to be able to provide CSD services to EU issuers and market participants, Third Country CSD must apply to ESMA for recognition which is subject to conditions: • the third country must have an equivalent regulatory system; • the third country firm must be subject to effective authorisation, supervision and oversight by home state; • there must be a cooperation arrangement in place; and • the CSD must allow users to comply with applicable national law.	No	Yes, temporarily. EU temporary equivalence and recognition of UK CSDs until 30 June 2021 pursuant to this decision	The Central Securities Depositories (Amendment) (EU Exit) Regulations 2018 facilitate EU authorised CSDs registering in the UK, but the temporary regime is linked to making an equivalence determination under Article 25 UK CSDR – see below. The Central Securities Depositories Regulation Equivalence Directions 2020 will determine that CSDs in each EEA State are equivalent to Article 25 of UK CSDR. With equivalence granted, the BoE can then assess CSDs in the EEA for recognition (subject to establishing co-operation arrangements with the relevant EU authorities), allowing those CSDs, once recognised, to continue to service UK securities and to exit the transitional regime contained in onshored Article 69 CSDR and Part 5 of The Central Securities Depositories (Amendment) (EU Exit) Regulations 2018. On 1 December 2020, the BoE published a *letter* sent to EEA CSDs notifying them of the actions they need to take. Among other things, the letter refers to *guidance* that sets out the manner in which recognition applications may be made and the information that must accompany them.
Article 5(6) – CRA Regulation	Third country regime for credit rating agencies. EU financial services providers cannot use credit ratings originating from a third country CRA unless one of two situations applies: **Endorsement**: EU registered CRAs may endorse a credit rating issued by a third country CRA. The EU CRA will be responsible for the production of the credit ratings. The EU CRA may only endorse the credit rating from the third country CRA if certain conditions are fulfilled; or	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The Credit Rating Agencies Regulation Equivalence Directions 2020 will determine that, for the purposes of Article 5 of the CRA Regulation, the legal and supervisory framework of each EEA state ensures that credit rating agencies authorised or registered in that EEA state comply with legally binding requirements which are equivalent to the requirements resulting from CRA Regulation and are subject to effective supervision and enforcement. EEA credit rating agencies registered with ESMA and whose credit rating activities are not of systemic importance to the financial stability or integrity of UK financial markets may apply for certification with the FCA. Firms using ratings for regulatory purposes will be able to use credit ratings issued by an EEA CRA that is certified with the FCA and has no presence or affiliation in the UK.

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		Third countries (excl. UK)[1]	UK[2]	
	Certification: Credit ratings that are related to entities established or financial instruments issued in third countries and that are issued by a CRA established in a third country may be used in the EU without being "endorsed" by an EU CRA where certain conditions are satisfied. Instead, the third country CRA has to directly apply to ESMA for certification that it meets the conditions.			Firms can already make use of the separate transitional regimes provided by UK CRAR, notably the temporary registration regime available to EEA CRAs wishing to issue ratings in the UK after the end of the transition period: The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019
Article 30(2) – BMR	Benchmark Regulation third country equivalence regime (general). Once conditions are satisfied and benchmark administrators registered with ESMA, EU financial institutions will be able to use the benchmarks provided by those registered.	No	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The Benchmarks Regulation Equivalence Directions 2020 will determine that benchmark administrators in each EEA State comply with legal requirements which are equivalent to the Benchmarks Regulation and are appropriately supervised in the relevant EEA Member State. This equivalence decision acts as a mechanism to enable such administrators to be added to the FCA's benchmarks register, and to enable them to provide benchmarks to supervised entities in the UK. The UK Government intends to extend the transitional period for all overseas benchmarks from end-2022 to end-2025 in the Financial Services Bill which has recently been introduced in Parliament. During the transitional period for third country benchmarks, UK supervised entities are permitted to use all third country benchmarks.
Article 30(3) – BMR	Benchmark Regulation third country equivalence (for specific administrators or specific benchmarks / families of benchmarks.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	See above.
Markets – Trading obligations				
Article 28(4) – MiFIR	Use of Third Country trading venues to meet the mandatory trading obligations for derivatives under MiFIR (DTO).	Yes	No. On 25 November 2020, ESMA confirmed that in the absence of an equivalence decision by the European	On 31 December 2020, the FCA confirmed that it will use the TTP to modify the application of the UK DTO as follows: "Where firms that are subject to the UK DTO trade with, or on behalf of, EU clients that are subject to the EU DTO, they will be

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			Commission, ESMA does not see room for providing different guidance.	able to transact or execute those trades on EU venues providing that: • firms take reasonable steps to be satisfied the client does not have arrangements in place to execute the trade on a trading venue to which both the UK and EU have granted equivalence; and • the EU venue has the necessary regulatory status to do business in the UK – such venues include those that are a Recognised Overseas Investment Exchange, have been granted the relevant temporary permission, or are certain that they benefit from the Overseas Person Exclusion. This modification of the application of the UK DTO applies to UK firms, EU firms using the UK's TPR and branches of overseas firms in the UK. Transactions concluded by an EEA UCITS fund or an EEA AIF are currently outside the scope of the UK DTO. This relief under the TTP does not apply to trades with non-EU clients, proprietary trading conducted, for example, to hedge a firm's own risk exposure, and trades between UK branches of EU firms. These trades remain subject to the UK DTO." The standstill direction can be accessed here. On 24 March 2021, the FCA confirmed that it would not be revising the way in which the TTP applies to the DTO.
Article 25(4)(a) – MiFID	MiFIR trading venue equivalence for share trading obligation (STO)	Yes.	No. On 26 October 2020 and in the absence of an equivalence decision by the European Commission, ESMA released a public statement that clarifies the application of the STO post end of transition.	On 4 November 2020, the FCA confirmed that it will use the TTP to allow firms to continue trading all shares on EU trading venues and systematic internalisers, providing the venue has ensured it has the relevant regulatory permissions. The standstill direction can be accessed here. From 3 February 2021, UK firms able to use BX Swiss AG and SIX Swiss Exchange AG to fulfil the STO as a result of the UK's equivalence decision regarding Swiss trading venues.
Markets				

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		Third countries (excl. UK)[1]	UK[2]	
Article 33(2) – MiFIR	Substituted compliance mechanism for DTO and clearing obligation for ETDs.	No	No. The European Commission has indicated that it will not make a corresponding equivalence assessment in respect of the UK in the short to medium term.	No.
Article 1(9) – MiFIR	Central bank exemption. Transactions with central banks from third-countries can be exempted from the scope of the regulation (in the same way as transactions with the European System of Central Banks)	Yes	Yes. The European Commission has granted a corresponding exemption with respect to EU MiFIR under Commission Delegated Regulation (EU) 2019/462	The Markets in Financial Instruments Exemption Directions 2019
Article 13(2) – EMIR	EMIR substituted compliance mechanism re clearing, reporting and risk mitigation requirements	Yes	Yes, temporarily. Immediate impact on clearing requirements mitigated by EU temporary equivalence and recognition of UK CCPs until 30 June 2022 pursuant to this decision.	**The European Market Infrastructure Regulation (Article 13) Equivalence Directions 2020** will grant equivalence to the EEA States for the intragroup exemption in Article 13 EMIR. HMT are granting a **partial** Article 13 decision in relation to the intragroup exemption in regard to activities subject to the clearing obligation (Article 4) and OTC derivative margin requirements (Article 11). This decision paves the way for UK firms to seek or apply an exemption from the requirement to clear through a CCP or meet margin requirements for transactions with an EEA State entity in the same group. Granting this decision means these exposures can qualify as intragroup exposures in the CVA calculation, ensuring that UK firms will in many cases not have to capitalise CVA on OTC exposures to EEA State affiliates.
Article 76a(2) – EMIR	Mutual direct access to data – enables regulators in a third country (in which one or more trade repositories are established), to have direct access to information in EEA trade repositories.	No	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	No.
Article 1(6) – EMIR	Transactions with central banks from third-countries can be exempted from the scope of the regulation (in the same way as transactions with	No	Yes. The European Commission has granted a corresponding exemption with respect to EU EMIR under Commission Delegated Regulation (EU) 2019/460	The OTC Derivatives, Central Counterparties and Trade Repositories Exemption Directions 2019

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		Third countries (excl. UK)[1]	UK[2]	
	the European System of Central Banks)			
Article 2(2) – SFTR	Exemption from Article 4 reporting and safeguarding obligation, and Article 15 transparency requirements on reuse of financial instruments received under a collateral arrangement. Applies to: – The European System of Central Banks , other Member States' bodies performing similar functions, and other Union public bodies charged with, or intervening in, the management of the public debt. – The Bank for International Settlements.	No	Yes. The European Commission has granted a corresponding exemption with respect to EU SFTR under Commission Delegated Regulation (EU) 2019/463	**The Transparency of Securities Financing Transactions and of Reuse Exemption Directions 2019** provides exemption from Articles 4 and 15 for (a) the European Central Bank; (b) the central bank of a member State; (c) a body in a member State which performs similar functions to members of the European System of Central Banks; or (d) a body in a member State charged with, or intervening in, the management of the public debt. **The Transparency of Securities Financing Transactions and ofReuse Exemption (No.2) Directions 2019** extends this exemption to (a) the central bank of Iceland or of Norway; (b) a body in Iceland, Norway or Liechtenstein, which performs similar functions to members of the European System of Central Banks; or (c) a body in Iceland, Norway or Liechtenstein charged with, or intervening in, the management of the public debt.
Article 21 – SFTR	Transaction requirements being deemed to have been fulfilled under SFTR where equivalence decision of legal, supervisory and enforcement arrangements of a third country taken.	No	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	No.
Article 6(5) – MAR	Exemption for monetary and public debt management activities: This Regulation may not apply to certain equivalent public bodies and central banks of third countries.	Yes	Yes. The European Commission has granted a corresponding exemption with respect to EU MAR under Commission Delegated Regulation (EU) 2019/461	**The Market Abuse Exemption Directions 2019** will determine that (a) a member State; (b) the European Central Bank; (c) the central bank of a member State; (d) a ministry, agency or special purpose vehicle of one or more member States, or a person acting on their behalf; or (e) in the case of a member State that is a federal state, a member making up the federation - are exempt in so far as transactions, orders or behaviour are carried out in pursuit of monetary, exchange rate or public debt management policy.

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		Third countries (excl. UK)[1]	UK[2]	
				Exemption in relation to transactions, orders or behaviour which are carried out in pursuit of public debt management policy is also given to (a) The Commission or any other officially designated body, or any person acting on their behalf; (b) the Union; (c) a special purpose vehicle of one or more member States; (d) the European Investment Bank; (e) the European Financial Stability Facility; (f) the European Stability Mechanism; or (g) an international financial institution established by two or more member States which has the purpose of mobilising funding and providing financial assistance for the benefit of its members that are experiencing or threatened by severe financial problems. **The Market Abuse Exemption (No.2) Directions 2019** exempt the (a) the central bank of Iceland or of Norway; (b) the Ministry of Finance and Economic Affairs of Iceland; (c) the Ministry of Finance of Norway; or (d) the Ministry of General Government Affairs and Finance of Liechtenstein from MAR in relation to transactions, orders or behaviour which are carried out in pursuit of monetary, exchange rate or public debt management policy.
Article 17(2) – SSR	Market making exemption (and applicability to firms that are members of a trading venue/market in an 'equivalent' third country)	No	No. The European Commission has indicated that it will not make a corresponding equivalence assessment in respect of the UK in the short to medium term.	**The Short Selling Regulation Equivalence Directions 2020** will determine that EEA States markets are equivalent for the purposes of Article 17 SSR. This means that EEA market makers will be eligible to make use of the exemption in Article 17 of SSR (which disapplies certain short selling restrictions and reporting requirements) subject to complying with certain regulatory requirements.
Article 16 – SSR	Exemption from the requirements below for shares of a company admitted to trading where the principle venue is located in a third country: *Article 5* – Notification to competent authorities of significant net short positions in shares *Article 6* – Public disclosure of significant net short positions in shares	No	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The most recent version of the ESMA list of shares for which the principal trading venue is located in a third country will be recognised in the UK for two years from 31 December 2020.

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		Third countries (excl. UK)[1]	UK[2]	
	Article 12 – Restrictions on uncovered short sales in shares *Article 15* – Buy-in procedures			
Prudential				
Article 13(3) – CRR	Pillar 3 disclosures: Exemption from application of disclosure requirements on a consolidated basis (Part Eight CRR) where they are included in equivalent disclosures on a consolidated basis provided by a parent undertaking established in a third country.	Not applicable	Not applicable	Yes. During the TTP period, UK groups that sit below an EU parent institution should continue to disclose at the same levels as they did before immediately before the end of the transition period under Article 13.
Article 127(1) – CRD	Consolidated supervision. NCAs to determine whether third counties consolidated supervision is equivalent where the head office of a parent undertaking or holding company is located in a third country. NCAs may require the establishment of a holding company with a head office within the EU.	Decision for NCAs to take	Decision for NCAs to take	Yes. The UK regulators have confirmed that consolidated requirements for EEA headquartered groups can continue to meet consolidated capital and liquidity requirements at EEA top parent company level.
Article 107(3) - CRR	Article 107 of the CRR provides that exposures to third country investment firms, credit institutions or clearing houses and exchanges shall be treated as exposures to an EU credit institution/investment firm only if the third country applies prudential and supervisory requirements to that entity that are at least equivalent to those applied in the EU. If the third country is not regarded as equivalent, the exposure to the third	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	**The Capital Requirements Regulation Equivalence Directions 2020** will grant equivalence to the EEA for Article 107 (3) of the CRR. For UK firms, these equivalence decisions will ensure they will not be subject to increased capital requirements as a result of their EEA State exposures

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		Third countries (excl. UK)[1]	UK[2]	
	country firm would be regarded as that for a corporate entity and would have a higher risk weighting.			
Article 114(7), 115(4) and 116(5) – CRR	Exposures to central governments, central banks, regional governments, local authorities and public sector entities. An equivalence determination ensures EU firms are not subject to increased capital requirements.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	**The Capital Requirements Regulation Equivalence Directions 2020** will grant equivalence to the EEA for Articles 114(7), 115(4), 116(5), 132(3) and 142(2) of the CRR. For UK firms, these equivalence decisions will ensure they will not be subject to increased capital requirements as a result of their EEA State exposures
Article 132(3) – CRR	The risk weighting applied to investments in collective investment undertakings (CIU) is higher for a third country CIU than for an EU CIU, unless the following conditions are met: (i) the CIU is managed by a company which is subject to supervision that is considered equivalent to that under EU law; and (ii) cooperation between competent authorities is sufficiently ensured.			
Article 142(2) – CRR	A subsidiary located in a third country can be taken into account for the definition of 'large financial sector entity'.			
Article 202 – CRR	Sets out the conditions eligible credit protection providers (which qualify for the treatment in Article 153(3)) must meet.	Not applicable	Not applicable	Yes. This provision is stood still for the duration of the TTP.
Article 212(2) – CRR	A life policy issued by a third party insurer will only be eligible to count as collateral if it is subject to supervision by a competent authority of a third country which applies supervisory and regulatory	Not applicable	Not applicable	Yes. This provision is stood still for the duration of the TTP.

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		Third countries (excl. UK)[1]	UK[2]	
	arrangements at least equivalent to those applied in the EU			
Article 325 – CRR	Own funds requirements for market risk. For the purpose of calculating net positions and own funds requirements on a consolidated basis, institutions may – if the competent authorities in the relevant Member State permit it – use positions in one institution or undertaking to offset positions in another institution or undertaking. Where there are undertakings located in third countries, there are additional conditions which have to be met, namely that: (a) such undertakings have been authorised in a third country and either satisfy the definition of a credit institution or are recognised third country investment firms; (b) such undertakings comply, on an individual basis, with own funds requirements equivalent to those laid down in the CRR; and (c) no regulations exist in the third countries in question which might significantly affect the transfer of funds within the group.	Not applicable	Not applicable	Yes. This provision is stood still for the duration of the TTP.
Article 400(2)(c) – CRR	Large Exposures. Under the CRR, an institution is not permitted to incur an exposure to a client or group of connected clients the value of which exceeds 25% of its eligible capital. There are exceptions to this rule, including where the exposure is to	No	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	**The Capital Requirements Regulation Equivalence Directions 2020** will grant equivalence to the EEA for Article 391 of the CRR. For UK firms, these equivalence decisions will ensure they will not be subject to increased capital requirements as a result of their EEA State exposures

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		Third countries (excl. UK)[1]	UK[2]	
	group companies, insofar as those group companies are covered by consolidated supervision under EU law or with equivalent standards in force in a third country.			
Article 461 – CRR and delegated regulation (Article 460)	Liquidity coverage ratio – liquid assets = third country assets.	Not applicable	Not applicable	Yes. This provision is stood still for the duration of the TTP.
Article 421 – CRR	Liquidity: Outflows on retail deposits	Not applicable	Not applicable	Yes. This provision is stood still for the duration of the TTP.
Article 55(1) – BRRD	Requires EU firms and other in-scope entities to include a contractual recognition of bail-in clause in a very wide range of non-EU law governed contracts. Contractual recognition not required where bail-in permitted pursuant to third country law/binding agreement with third country.	No	No.	PRA & FCA: Partial transitional relief until March 2022 - firms are not required to include a contractual recognition of bail-in term in new or materially amended EEA law governed phase two liabilities (the FCA refer to them as elected liabilities) after the end of the transition period.
Article 55 – IFD	Consolidated supervision Where two or more EU investment firms are subsidiaries of a third country parent undertaking, Member States shall assess whether the investment firms are subject to supervision by the parent's supervisory authority which is equivalent to the supervision set out in the IFR and the IFD. If not equivalent, NCA may apply certain supervisory techniques, including requiring establishment of holding company within the EU.	No	No	Not applicable

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		Third countries (excl. UK)[1]	UK[2]	
Product recognition				
Article 29(3) – Prospectus regulation	Prospectuses drawn up under the laws of a Third Country can be approved by the EU NCAs for use in connection with an offer to the public or admission to trading on an EU regulated market. Decision for the NCA.	No	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	**The Prospectus Regulation and Transparency Directive Directions 2019** as amended grant equivalence to the EEA States in respect of Article 29(3).
Articles 35,36 – AIFMD	Third-country AIFs - Enables access to the single market for marketing purposes.	No	No	No. UK TPR provides alternative mechanism.
Funds and asset management				
Articles 37, 39-41 – AIFMD	Provisions in aggregate provide for the authorisation of Third Country AIFMs intending to market and manage EU/Third Country AIFs with an AIFMD "passport".	No	No	No. UK TPR provides alternative mechanism.
Article 21(6) – AIFMD	Third-country depositary An AIFM that is fully authorised under the Directive is required to appoint a single independent depositary in respect of each AIF it manages. For non-EU AIFs, the depositary may be established in the same jurisdiction as the AIF provided certain conditions are satisfied.	No	No	No
Article 20 – AIFMD & Article 13 – UCITS	Provides that an AIFM can delegate tasks to third parties, which in turn can sub-delegate such tasks. The AIFM must notify the competent authority of its home Member State before any delegation arrangements become effective. The other conditions are set out in the article.	Numerous co-operation agreements	Co-operation in place between UK & EU. The ESMA/UK MoU can be accessed here.	Co-operation in place between UK & EU. The ESMA/UK MoU can be accessed here.

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Article 9(6) – AIFMD & Article 7(1)(a) – UCTIS	Member States may authorise AIFMs not to provide up to 50 % of the additional amount of own funds if they benefit from a guarantee of the same amount given by a credit institution or an insurance undertaking which has its registered office in a Member State, or in a third country where it is subject to prudential rules considered by the competent authorities as equivalent to those laid down in Union/Community law.	Not applicable	Not applicable	Not applicable
Article 50 – UCITS	Under the UCITS Directive, restrictions are imposed on the types of investments which UCITS funds can be invested in. UCITS funds can only invest in other collective investment undertakings which are subject to supervision which is equivalent to that in the EU.	Not applicable	Not applicable	Not applicable
Insurance				
Article 172 – Solvency II	Reinsurance contracts between an EU cedant and a Third Country reinsurer which is located in a jurisdiction whose solvency regime is assessed to be equivalent for the purposes of Article 172 must be treated in the same manner as if the contract were concluded with an EU reinsurer.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The Solvency 2 Regulation Equivalence Directions 2020
Article 260 – Solvency II	The EU can recognise the equivalence of group supervision exercised by a third-country. Does not prevent EU regulation at a European sub-group level.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The Solvency 2 Regulation Equivalence Directions 2020

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Article 227 – Solvency II	Provision provides that where a Solvency II group contains a Third Country (re)insurer which is located in a jurisdiction whose solvency regime is assessed to be equivalent for the purposes of Article 227, the group may apply to use local rules for the Third Country (re)insurer in their group capital calculations carried out under the deduction and aggregation method rather than having to apply Solvency II rules to the Third Country (re)insurer.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The Solvency 2 Regulation Equivalence Directions 2020
Accounting, offers of securities				
Article 2 of Regulation (EC) 1569/2007 – Third-Country GAAP	Accounting standards (Third-country GAAP with IFRS) The Generally Accepted Accounting Principles of a third country may be considered equivalent to IFRS adopted pursuant to Regulation (EC) No 1606/2002 if the financial statements drawn up in accordance with Generally Accepted Accounting Principles of the third country concerned enable investors to make a similar assessment of the assets and liabilities, financial position, profit and losses and prospects of the issuer as financial statements drawn up in accordance with IFRS, with the result that investors are likely to make the same decisions about the acquisition, retention or disposal of securities of an issuer.	Yes	No. The European Commission has indicated that it will not make a corresponding equivalence assessment in respect of the UK in the short to medium term.	See paragraph 4 of **The Prospectus Regulation and Transparency Directive Directions 2019** as amended **[Note**: section 71(3) of the Prospectus (Amendment etc.) (EU Exit) Regulations 2019 amends onshored Delegated Regulation 2019/980 to include a new Article 23a requiring EEA issuers to present their historical financial information in accordance with EU IFRS or national accounting standards in that EEA state.]

Provision	Coverage	Equivalence/adequacy decision already taken by European Commission in respect of third countries		Relief available under UK TTP or because of a UK equivalence decision?
		Third countries (excl. UK)[1]	UK[2]	
Article 47 – Accounting Directive	Country-by-country reporting Empowers the Commission to exempt certain undertakings from reporting requirements, where the third-country reporting requirements are deemed equivalent under the Article 46 criteria and undertakings prepare and publish a report in compliance with these.	Yes	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	No. The FCA maintains a published list of non-EEA States third countries whose laws lay down requirements equivalent to those imposed upon issuers by this chapter, or where the requirements of the law of that non-EEA State third country are considered to be equivalent by the FCA.
Articles 45(6), 46(2) and 47(3) – Statutory Audit Directive	Registration, Equivalence and Adequacy Third countries may be recognised as adequate to cooperate with the competent authorities of Member States on the exchange of audit working papers or other documents held by statutory auditors and audit firms. Equivalence of audit framework: Art. 46(2) sets the framework for a possible reliance on a third-country oversight system in Europe, subject to reciprocity. Article 46 (2) Equivalence: transitional period The Commission may decide that the requirement of equivalence referred to in paragraph 1 of this Article is not complied with, it may allow the third-country auditors and third-country audit entities concerned to continue their audit activities in accordance with the requirements of the relevant Member State during an appropriate transitional period.	Yes for registration & equivalence	No. The European Commission has indicated that corresponding EU equivalence assessment of UK is ongoing.	The Department for Business, Energy and Industrial Strategy will be laying **The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) (No. 2) Regulations 2020** to grant audit equivalence to the EEA States and approve as adequate their audit competent authorities.

Provision	Coverage	Equivalence/adequacy decision already taken by European Commission in respect of third countries		Relief available under UK TTP or because of a UK equivalence decision?
		Third countries (excl. UK)[1]	UK[2]	
Article 23(6) – Transparency Directive	Equivalent conditions of independence as management companies/investment firms Undertakings whose registered office is in a third country which would have required an authorisation in accordance with Article 5(1) of Directive 85/611/EEC or, with regard to portfolio management under point 4 of section A of Annex I to Directive 2004/39/EC if it had its registered office or, only in the case of an investment firm, its head office within the Community, shall also be exempted from aggregating holdings with the holdings of its parent undertaking under the requirements laid down in Article 12(4) and (5) provided that they comply with equivalent conditions of independence as management companies or investment firms.	No	No. The European Commission has indicated that it will not make a corresponding equivalence assessment in respect of the UK in the short to medium term.	**The Prospectus Regulation and Transparency Directive Directions 2019** as amended grant equivalence to the EEA States in respect of Article 23.
Article 46(e) – Securitisation Regulation	Review to consider whether an equivalence regime could be introduced for third-country originators, sponsors and SSPEs	No	No	Not applicable
Payments				
Article 8(3) – EMD	The Community may, through agreements concluded with one or more third countries, agree to apply provisions that ensure that branches of an electronic money institution having its head office outside the Community are treated identically throughout the Community.	No	No	No

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If you would like to discuss the issues raised in this paper in more detail, please contact any of the experts above or your usual Allen & Overy contact.