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## Brexit Law – The UK Regulator’s Brexit publications

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### The Temporary Permissions Regime (TPR) and Financial Services Contracts Regime (FSCR)

8 March 2021

#### FCA Publications

	Consultation papers	Policy statements	Final EU Exit instruments/Rulebook Instruments	Current status
<b>Policy documents on TRP and FSCR</b>	<b>TPR</b> CP18/29: Temporary permissions regime for inbound firms and funds (October 2018) <b>FSCR</b> CP19/2 Brexit and contractual continuity (January 2019)	PS 19/5: FCA Brexit Policy Statement and Transitional Directions	<b>Final EU Exit Instruments:</b> N/A	Notification window closed on 30 January 2020 but reopened on 30 September 2020 to 30 December 2020 to allow firms and fund managers that had not notified to do so before the end of the transition period. Firms that notified the FCA entered the TPR at 11pm on 31 December 2020. Their temporary permission is noted on the <a href="#">FS Register</a> . <b>Directions:</b>

				<p><b>FSMA firms:</b></p> <p>9th November 2018</p> <p>28th March 2019</p> <p>11th April 2019</p> <p>24th May 2019</p> <p>30th October 2019</p> <p>31 January 2020</p> <p>29 September 2020</p> <p><b>EEA authorised payment institutions and EEA registered account information service providers:</b></p> <p>18 December 2018</p> <p>28 March 2019</p> <p>11 April 2019</p> <p>31 July 2019</p> <p>30 October 2019</p> <p>31 January 2020</p> <p>29 September 2020</p> <p><b>EEA Authorised Electronic money institutions</b></p> <p>18 December 2018</p>
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				<p>28 March 2019</p> <p>11 April 2019</p> <p>31 July 2019</p> <p>30 October 2019</p> <p>31 January 2020</p> <p>29 September 2020</p> <p><b>EEA UCITS operators</b></p> <p>28 March 2019</p> <p>11 April 2019</p> <p>24 May 2019</p> <p>18 October 2019</p> <p>30 October 2019</p> <p>29 September 2020</p> <p>31 December 2020</p> <p><b>EEA AIFM s</b></p> <p>28 March 2019</p> <p>11 April 2019</p> <p>24 May 2019</p> <p>18 October 2019</p> <p>30 October 2019</p> <p>29 September 2020</p>
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NB: Following its CP 20/20 (published on 23 September 2020), the FCA finalised [its approach to the authorisation and supervision of international firms](#) (which includes EEA firms) on 3 February 2021.

Since TPR firms and SRO firms have a deemed Part 4A permission, home/host state restrictions on regulatory actions will no longer apply. TPR and SRO firms will be within the full scope of authorisation, supervision and rule making powers. By contrast, firms in CRO are exempt from the general prohibition. They are therefore not treated as authorised persons and the FCA is generally unable to apply Handbook rules to these firms. However, the FSCR Regulations do allow the FCA a limited rule-making power, but only to charge FCA fees.

	<b>Consultation papers</b>	<b>Policy statements/ Handbook Notices</b>	<b>Final EU Exit instruments/Rulebook Instruments</b>	<b>Current status</b>
<b>Policy documents on application of rules to firms in TRP and SRO</b>	<p><b>TPR</b></p> <p>CP18/29: Temporary permissions regime for inbound firms and funds (October 2018) (Chapter 4)</p> <p>CP 18/36: Brexit: Proposed changes to the Handbook and Binding Technical Standards – second consultation (November 2018) (Chapter 4)</p> <p>CP18/34 Regulatory fees and levies: policy proposals for 2019/20 (November 2018) (Chapter 6 proposes that firms in the temporary permissions regime will contribute to the devolved authorities' debt advice levy on the same basis as UK firms.)</p> <p>CP19/16 FCA Regulated Fees and Levies: Rates Proposal 2019/20 (April 2019)</p> <p>CP 19/27 Quarterly consultation No 25 (September 2019)</p> <p><b>FSCR</b></p>	<p>PS 19/5: FCA Brexit Policy Statement and Transitional Directions (February 2019)</p> <p>Handbook Notice No 80</p> <p>Handbook Notice No 83</p> <p>Handbook Notice 67</p> <p>PS 19/19 FCA regulated fees and levies 2019/20: Including feedback on CP19/16 and 'made rules' (July 2019)</p>	<p><b>Final EU Exit Instruments:</b></p> <p>Exiting the European Union: Temporary Permission and Financial Services Contracts Instrument FCA 2019/36 (as amended)</p> <p>Exiting the European Union: Glossary (Amendments) Instrument 2019 FCA 2019/19</p> <p>Exiting The European Union: High Level Standards (Amendments) Instrument 2019 FCA 2019/20</p> <p>Exiting the European Union: Handbook (Amendments) Instrument 2020 FCA 2020/47</p> <p>Exiting the European Union: Handbook (Amendments) (No.2) Instrument 2020 (as amended) FCA 2020/48</p> <p>Exiting the European Union: Handbook (Amendments) (No 3) Instrument 2020 FCA 2020/78</p>	<p>Firms in the TPR became "TP Firms" for the purposes of the FCA Handbook at 11pm on 31 December and subject to the application of the FCA's rules in accordance with GEN 2.2.</p>

	<p>CP19/2 Brexit and contractual continuity (January 2019)</p> <p>[NB for firms in SRO, the rules applicable to TPR firms apply with some modification so CPs 18/29 and 18/36 are also relevant]</p>		<p>Exiting the European Union: SMCR and APR (Amendments) (No 2) Instrument 2020 FCA 2020/79</p> <p>Periodic Fees (2019/20) and Other Fees (EU Exit) Instrument FCA 2019/77</p> <p>EXITING THE EUROPEAN UNION: DEFERRAL OF COMMENCEMENT AND MISCELLANEOUS FEES INSTRUMENT 2020 FCA 2020/6</p>	
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	Consultation Papers/Policy Statements	Final Directions	Policy Guidance	Current status
<b>Temporary transitional directions</b>	<p>Brexit: proposed changes to the Handbook and Binding Technical Standards – first consultation (CP18/28)</p> <p>Brexit – what we expect firms and other regulated persons to do now (February 2019)</p> <p>PS 19/5: FCA Brexit Policy Statement and Transitional Directions</p>	<p>Main FCA Transitional Direction</p> <p>FCA Prudential Transitional Direction</p> <p>Annex A – application of the ‘standstill’ in the Transitional Direction to amendments made in SIs and Exit Instruments amending technical standards</p> <p>Annex B – application of the ‘standstill’ in the Transitional</p>	<p>FCA Explanatory Note – Main Transitional Directions</p> <p>FCA Explanatory Note – Share Trading Obligation</p> <p>FCA Explanatory Note – Derivatives Trading Obligation</p> <p>See also October statement on use of the TTP</p>	<p>The FCA published its final TTP directions on 22 December 2020.</p> <p>The FCA announced the use of its TTP to modify the UK’s DTO on 31 December 2020.</p> <p>The FCA’s transitional directions entered into force at 11pm on 31 December and apply until 31 March 2022 unless otherwise stated in the directions or varied or revoked. The transitional</p>

	Consultation Papers/Policy Statements	Final Directions	Policy Guidance	Current status
	<p>Statement on how [the FCA] intends to use the temporary transitional power (including updated list of key requirements and statement on requirements with respect to onshoring changes where the TTP does not apply) (October 2020)</p> <p>FCA statement on approach to the share trading obligation (November 2020)</p> <p>FCA statement on use of the TTP to modify the UK's derivatives trading obligation</p>	<p>Direction to amendments made in the FCA Handbook</p> <p>FCA Transitional Direction for the Share Trading Obligation</p> <p>FCA Transitional Direction for the Derivatives Trading Obligation</p>		<p>directions for the share trading obligation and the derivative trading obligation do not state an expiry date and could apply until 31 December 2022 unless varied or revoked.</p>

### Non-Handbook guidance and other non-binding materials

	Publication
<b>FCA Webpages on TPR</b>	<p>Temporary Permissions Regime webpage</p> <p>Rules that will apply to firms and fund operators in the TPR</p> <p>Adding a new sub-fund to an umbrella scheme in the TPR</p> <p>Supervising firms in the TPR</p> <p>Landing slots for firms in the TPR</p>

	<b>Publication</b>
	<a href="#">Cancelling a temporary permission</a>
<b>Application of the Senior Managers and Certification Regime to firms in the temporary permissions regime: clarification of the PRA's and FCA's proposals</b>	<a href="#">Application of the Senior Managers and Certification Regime to firms in the temporary permissions regime: clarification of the PRA's and FCA's proposals</a>
<b>Interpretative guide on completing FCA forms after the UK's withdrawal from the EU</b>	<a href="#">Interpretative guide on completing our forms after the UK's withdrawal from the EU</a>
<b>FCA approach to non-Handbook guidance where it relates to EU law or EU derived law</b>	<a href="#">Brexit: our approach to non-Handbook guidance where it relates to EU-law or EU-derived law</a>
<b>Navigational guide to the FCA Handbook for Post-Brexit Transition</b>	<a href="#">Navigational guide to the FCA Handbook for Post-Brexit Transition</a>



## PRA Publications

	<b>Consultation papers</b>	<b>Policy statements</b>	<b>Final EU Exit instruments/Rulebook Instruments</b>	<b>Current status</b>
<b>Policy documents on TRP and FSCR</b>	<p>CP26/18: UK withdrawal from the EU: Changes to PRA Rulebook and onshored Binding Technical Standards (October 2018) (chapter 7 and 8)</p> <p>Consultation paper: UK withdrawal from the EU: Further changes to – PRA Rulebook and Binding Technical Standards – Resolution Binding Technical Standards (CP32/18) (December 2018).</p>	<p>Policy statement: The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018 (PS5/19) (February 2019).</p> <p>PS5/19: The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018 (June 2019) – supersedes April PS5/19 and supplements February PS5/19</p>	<p><b>Final EU Exit Instruments:</b></p> <p>N/A</p>	<p>Notification window closed on 11 April 2019. EEA firms that notified the PRA or submitted an application for authorisation in place of their passport before the end of the transitional period entered the TPR at 11pm on 31 December 2020. Their temporary permission is noted on the <a href="#">FS Register</a></p> <p><b>Directions:</b></p> <p><a href="#">7 November 2018</a></p> <p><a href="#">22 March 2019</a></p> <p><a href="#">28 March 2019</a></p> <p><a href="#">31 January 2020</a></p>
<b>Policy documents on application of rules to firms in TRP and SRO</b>	<p><b>TPR</b></p> <p>CP26/18: UK withdrawal from the EU: Changes to PRA Rulebook and onshored Binding Technical Standards (October 2018)</p> <p>Consultation paper: UK withdrawal from the EU: Further</p>	<p>Policy statement: The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018 (PS5/19) (February 2019).</p>	<p><b>Final EU Exit Instruments:</b></p> <p>PRA Rulebook: (EU Exit) Instrument 2019 (PRA 2019/10) (April 2019).</p>	<p>The PRA published the final PRA Rulebook EU Exit Instrument and final PRA transitional direction and related guidance documents on 28 December 2020. They began to apply from 11pm on 31 December 2020. Firms in TPR with an establishment in the UK</p>

	<p>changes to – PRA Rulebook and Binding Technical Standards – Resolution Binding Technical Standards (CP 32/18)</p> <p>CP18/19: UK withdrawal from the EU: Changes following extension of Article 50</p> <p><b>FSCR</b></p> <p>Consultation paper: UK withdrawal from the EU: Further changes to – PRA Rulebook and Binding Technical Standards – Resolution Binding Technical Standards (CP 32/18)</p> <p>CP18/19: UK withdrawal from the EU: Changes following extension of Article 50</p>	<p>PS5/19: The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018 (June 2019)</p> <p>The Bank of England's amendments under the European Union (Withdrawal) Act 2018: Changes before the end of the transition period (PS 30/20) (December 2020)</p>	<p>PRA Rulebook: EU Exit (Amendment) Instrument 2019 (PRA2019/11) (June 2019).</p> <p>PRA Rulebook: (EU Exit) Instrument 2020 (December 2020). This revokes the PRA Rulebook: (EU Exit) Instrument 2019.</p>	<p>are required to comply with the same rules that apply to other third country branches (subject to any applicable transitional relief). For firms in TPR without a branch in the UK a more limited set of rules apply.</p>
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	<b>Consultation Papers/Policy Statements</b>	<b>Final Direction</b>	<b>Policy Guidance</b>	<b>Current status</b>
<b>Temporary transitional directions</b>	<p>CP18/19: UK withdrawal from the EU: Changes following extension of Article 50</p> <p>Policy statement: The Bank of England's amendments to financial services legislation under the European Union</p>	<p>PRA Transitional Direction</p>	<p>Guidance on the PRA's use of the transitional direction</p> <p>General Guidance on the PRA's transitional direction</p>	<p>On 28 December, the PRA published its final transitional direction and related guidance documents.</p> <p>The PRA transitional direction applies from 11pm on 31 December until 31 March 2022</p>

	<b>Consultation Papers/Policy Statements</b>	<b>Final Direction</b>	<b>Policy Guidance</b>	<b>Current status</b>
	<p>(Withdrawal) Act 2018 (PS5/19) (February 2019).</p> <p>CP13/20 UK withdrawal from the EU: Changes before the end of the transition period</p> <p>The Bank of England's amendments under the European Union (Withdrawal) Act 2018: Changes before the end of the transition period (PS27/20) (December 2020)</p> <p>The Bank of England's amendments under the European Union (Withdrawal) Act 2018: Changes before the end of the transition period (PS 30/20) (December 2020)</p>			unless otherwise stated in the direction or varied or revoked.

NB: The PRA is currently reviewing its approach to authorising and supervising international banks. On 11 January 2021, the PRA published its [CP 2/21](#) "International banks: The PRA's approach to branch and subsidiary supervision".

## Non-Handbook guidance and other non-binding materials

	<b>Publication</b>
<b>PRA Webpages on TPR</b>	<a href="#">Temporary Permissions Regime webpages</a>
<b>BoE webpage on transitioning to post-exit rules</b>	<a href="#">Statement on transitioning to post-exit rules and standards</a>
<b>Approach to non-Handbook guidance and other non-binding materials</b>	<a href="#">Supervisory Statement (SS1/19): Non-binding PRA materials: The PRA's approach after the UK's withdrawal from the EU (December 2020)</a>
<b>Application of the Senior Managers and Certification Regime to firms in the temporary permissions regime: clarification of the PRA's and FCA's proposals</b>	<a href="#">Application of the Senior Managers and Certification Regime to firms in the temporary permissions regime: clarification of the PRA's and FCA's proposals</a>
<b>Expectations on deposit-takers with regards to the depositor protection rules</b>	<a href="#">SS18/15: Depositor and dormant account protection (December 2020)</a>
<b>Waiver by consent of the Continuity of Access rules</b>	<p><a href="#">Waiver by consent of the Continuity of Access rules</a></p> <p>Deposit-takers entering the TPR or SRO with establishments in the UK in which they hold deposits would be subject to the Depositor Protection Part of the PRA Rulebook (DPP) at the end of the transition period. This waiver by consent is available in relation to such firms and exempts a firm from particular provisions of the DPP, specifically the Continuity of Access rules (DPP 13.4-13.8 inclusive) and from the related Continuity of Access reporting requirements (DPP 15.2-15.4 inclusive and 15.7). Inbound freedom of services firms holding deposits outside the UK are not subject to the Depositor Protection Part, so do not need to request the waiver.</p>
<b>Operational readiness for the TPR</b>	<a href="#">PRA Dear CEO letter</a> and <a href="#">BoE webpage</a> on operational readiness for the TPR

## Relevant SIs

Temporary Permission Regimes	Relevant entity	Guidance note	Current status
<p><a href="#">The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018</a></p>	<p>FSMA firms</p>	<p><a href="#">Explanatory memorandum</a></p>	<p>In force</p> <p>Schedule 5, paragraph 1 of the <a href="#">European Union (Withdrawal Agreement) Act 2020</a> provides that any provision in subordinate legislation made before exit day under (a) the European Union (Withdrawal) Act 2018 (or any provision made under any such provision), or (b) any other enactment, which provides, by reference to exit day for all or part of that or any other subordinate legislation to come into force immediately before exit day, on exit day or at any time after exit day is to be read instead as providing for the subordinate legislation to come into force immediately before IP completion day, on IP completion day or (as the case may be) at the time concerned after IP completion day. This applies to the repeal of passport rights in regulation 2 of the EEA Passport Rights Regulations.</p> <p><a href="#">Financial Services Consequential amendments Regulations 2020</a> amend references within the provisions of the EEA Passport Rights Regulations to exit day to IP completion day to amend the application</p>

			of the TPR from exit day to IP completion date.
<p><a href="#">the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018</a></p>	<p>EEA payment institutions, EEA electronic money and EEA registered account information service providers.</p>	<p><a href="#">Explanatory memorandum</a></p>	<p>In force</p> <p>Schedule 5, paragraph 1 of the <a href="#">European Union (Withdrawal Agreement) Act 2020</a> provides that any provision in subordinate legislation made before exit day under (a) the European Union (Withdrawal) Act 2018 (or any provision made under any such provision), or (b) any other enactment, which provides, by reference to exit day for all or part of that or any other subordinate legislation to come into force immediately before exit day, on exit day or at any time after exit day is to be read instead as providing for the subordinate legislation to come into force immediately before IP completion day, on IP completion day or (as the case may be) at the time concerned after IP completion day.</p> <p><a href="#">Financial Services Consequential amendments Regulations 2020</a> amend references within the provisions of the <a href="#">Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018</a> to exit day to IP completion day to amend the application of</p>

			transitional authorisation from exit day to IP completion date.
<p>Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019</p>	<p>EEA UCITS operators</p>	<p>Explanatory memorandum</p>	<p>In force</p> <p>Schedule 5, paragraph 1 of the <a href="#">European Union (Withdrawal Agreement) Act 2020</a> provides that any provision in subordinate legislation made before exit day under (a) the European Union (Withdrawal) Act 2018 (or any provision made under any such provision), or (b) any other enactment, which provides, by reference to exit day for all or part of that or any other subordinate legislation to come into force immediately before exit day, on exit day or at any time after exit day is to be read instead as providing for the subordinate legislation to come into force immediately before IP completion day, on IP completion day or (as the case may be) at the time concerned after IP completion day.</p> <p><a href="#">Financial Services Consequential amendments Regulations 2020</a> amend references within the provisions of the CIS Regulations to exit day to IP completion day to amend the application of the temporary recognition of EEA UCITS or sub-funds of EEA UCITS from exit day to IP completion date.</p>



<p>The Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019</p>	<p>EEA AIFMs, EuVECA, EuSEFs</p>	<p>Explanatory memorandum</p>	<p>In force</p> <p>Schedule 5, paragraph 1 of the <a href="#">European Union (Withdrawal Agreement) Act 2020</a> provides that any provision in subordinate legislation made before exit day under (a) the European Union (Withdrawal) Act 2018 (or any provision made under any such provision), or (b) any other enactment, which provides, by reference to exit day for all or part of that or any other subordinate legislation to come into force immediately before exit day, on exit day or at any time after exit day is to be read instead as providing for the subordinate legislation to come into force immediately before IP completion day, on IP completion day or (as the case may be) at the time concerned after IP completion day.</p> <p><a href="#">Financial Services Consequential amendments Regulations 2020</a> amend references in the provisions of the AIFM Regulations to exit day to IP completion day to amend the application of the temporary marketing permission from exit day to IP completion date.</p>
<p><b>NB temporary recognition regimes for FMI's (not within scope of this table).</b></p>			

<b>FSCR</b>			
<a href="#">Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019</a>	FSMA firms and EEA electronic money and payment institutions, registered account information service providers, CCPs and TRs	<a href="#">Explanatory memorandum</a>	In force  <a href="#">Financial Services Consequential amendments Regulations 2020</a> amend references in the provisions made by the FSC Regulations to exit day to IP completion day to amend the application of the contractual continuity regime from exit day to IP completion date.



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