



**BANK OF ENGLAND**

Sir Jon Cunliffe  
Deputy Governor Financial Stability

25 October 2018

Dear Chief Executive Officer,

1. The Central Securities Depositories Regulation (CSDR) sets the framework through which central securities depositories (CSDs) may provide CSD services in the EU. This framework requires a CSD to be authorised in an EU Member State or recognised by ESMA.
2. When the UK leaves the EU, recognition of non-UK CSDs so that they can continue to provide CSD services in the UK will become the responsibility of UK, rather than EU, authorities. HM Treasury has confirmed that the Bank of England ('the Bank') will be given functions and powers in relation to non-UK CSDs, and that HM Treasury will be responsible for assessing the equivalence of the regulatory regimes in other jurisdictions. The UK Government has now published the draft legislation that will amend the CSDR in order to implement it in UK law<sup>1</sup>. This includes a transitional regime, which will allow non-UK CSDs currently providing services in the UK to continue to do so in advance of being recognised.
3. Political agreement was reached in March, between the UK and EU27 that there should be an implementation period until the end of 2020 as part of the UK's Withdrawal Agreement with the EU. Negotiation continues between the EU and UK authorities on the Withdrawal Agreement. The Bank's presumption is that, subject to the UK's Withdrawal Agreement with the EU being agreed and ratified, non-UK CSDs will be able to continue to provide CSD services in the UK during the implementation period. However, the transitional regime will maintain legal certainty for non-UK CSDs and their UK participants, whatever the outcome of negotiations between the EU and the UK.
4. We have identified your CSD as one which may require recognition to provide CSD services within the UK, after the UK's withdrawal from the EU. This letter provides further detail on the future regime, including the conditions under which non-UK CSDs may use the transitional regime. The regime will not be final until the details of the legislation have been approved by the UK Parliament and come into force. We are communicating now in order to allow non-UK CSDs to prepare accordingly.
5. To facilitate those preparations, by both CSDs and the Bank, non-UK CSDs that wish to continue to provide CSD services in the UK after the UK's withdrawal from the EU are encouraged to give

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<sup>1</sup> <https://www.gov.uk/government/publications/draft-central-securities-depositories-amendment-eu-exit-regulations-2018>

the Bank an early indication of their intention to use the transitional regime, prior to the legislation coming into force.

What will the UK's proposed recognition regime for non-UK CSDs look like post-EU withdrawal?

6. There is currently no UK domestic regime for the recognition of non-UK CSDs as recognition is the responsibility of EU authorities. Under the current EU framework, Article 25 of the CSDR sets out the application process and criteria for third-country CSDs wishing to be recognised in the EU. Article 69 of the CSDR sets out the transitional regime for third-country CSDs while the recognition application process is ongoing.
7. Under the European Union (Withdrawal) Act 2018, existing EU law will be converted into UK domestic law at the point of the UK's withdrawal from the EU. The UK Government has proposed that, immediately following the UK's withdrawal from the EU, UK domestic law requirements for recognition of non-UK CSDs will in essence be the same as the current requirements for recognition of third-country CSDs in the EU under Article 25 of the CSDR. In a similar vein, the transitional regime will also be similar to the one described in Article 69 of the CSDR. In due course, following the UK's withdrawal from the EU, and in light of developments internationally, the Bank intends to review this framework.
8. The transitional regime gives certainty to non-UK CSDs and their users for the period following the UK's withdrawal from the EU. The intention is that under the transitional regime a non-UK CSD will be able to continue to provide CSD services in the UK without discontinuity of service; and that non-UK CSDs will subsequently be able to obtain recognition if the relevant criteria under Article 25 are satisfied.
9. The CSDR provides that the recognition process for third-country CSDs must commence once an equivalence assessment of the jurisdiction in which that CSD is established has been completed. Once a positive equivalence decision has been made, non-UK CSDs in the relevant jurisdiction will have six months to make an application for recognition. The Bank must also establish cooperation arrangements with the CSD's responsible third-country authorities. The Bank anticipates charging a fee for recognition and will consult on this in due course.

Does your CSD need UK recognition post-EU withdrawal?

10. We expect that a non-UK CSD will need to apply for UK recognition if it intends to do any of the following after the UK's withdrawal from the EU:
  - I. Provide notary or central maintenance services referred to in points (1) and (2) of Section A of the CSDR Annex<sup>2</sup> in relation to financial instruments constituted under UK law to either issuers or CSD participants established in the UK; or
  - II. Establish a branch in the UK.

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<sup>2</sup> These provisions are listed in an annex to this letter.

How should I apply to use the transitional regime in advance of applying for recognition?

11. The transitional regime will enable non-UK CSDs to continue to provide CSD services in the UK until the recognition process is complete. Any existing domestic UK law requirements that may be applicable in such circumstances will continue to apply<sup>3</sup>. The transitional regime is open to:
  - I. Any non-UK CSD that is within the existing transitional regime under CSDR and relevant UK domestic legislation; and
  - II. Any EU CSD that is authorised in the EU under the CSDR prior to the UK's withdrawal from the EU.
12. In addition, the legislation will contain a requirement that any such non-UK CSD that intends to provide CSD services in the UK must notify the Bank of that fact in advance of the UK's withdrawal from the EU.
13. In line with this, any non-UK CSDs that wish to continue to provide CSD services in the UK after the UK's withdrawal from the EU are encouraged to indicate their intent to use the transitional regime now, prior to the legislation coming into force. If they reply to this letter saying they wish to use the transitional regime, then the Bank will, upon the legislation coming into force and subject to its terms, treat this as the notification and confirm that it has done so. The non-UK CSD can rescind this notification at any point by notifying the Bank.
14. To inform market participants, the Bank intends to publish on the Bank website<sup>4</sup> the names of all non-UK CSDs that have given an indication of their intention to provide CSD services in the UK and use the transitional regime prior to the legislation coming into force. When giving an indication of their intention to enter into the transitional regime, each non-UK CSD is asked to provide its consent for this publication.
15. Non-UK CSDs may use the transitional regime until the recognition process is complete. However a non-UK CSD must apply for recognition within 6 months of an equivalence decision having been made. The Bank will not charge a fee in respect of the transitional regime.

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<sup>3</sup> Such as, in the case of UK securities, the Uncertificated Securities Regulations 2001 (SI 2001/3755) providing for the requirements to maintain a register of dematerialised securities.

<sup>4</sup> <https://www.bankofengland.co.uk/eu-withdrawal/information-on-the-effect-of-the-uks-withdrawal-from-the-eu-on-fmi-supervision>

What do I need to do next?

16. Non-UK CSDs are invited to write to the Bank to:

- I. Indicate their intention to provide CSD services in the UK and use the transitional regime after the UK's withdrawal from the EU;
- II. Indicate which activities, referred to in Paragraph 10 of this letter, your firm would be conducting in the UK;
- III. Indicate if the firm undertakes any non-exempt regulated activities that would require Part 4A permission under the UK Financial Services and Markets Act 2000;
- IV. Provide a nominated primary contact point and contact details at the CSD;
- V. Confirm that the individual submitting the indication is empowered to do so;
- VI. Give consent for the publication of the name of the non-UK CSD on the Bank website.

17. The Bank will update you when the legislation has come into force. Where a notification is made after this point, it should follow the same format as above.

18. We are separately writing to the domestic competent authority in your jurisdiction to advise them on the above process, should you choose to apply for recognition in the UK.

19. The Bank stands ready to provide assistance if you have any questions. Please direct your responses to the requests above, and any other enquiries to [CSD-Enquiries@bankofengland.co.uk](mailto:CSD-Enquiries@bankofengland.co.uk) along with a contact name and details for further discussion.

Yours sincerely,



Sir Jon Cunliffe  
Deputy Governor Financial Stability

## **ANNEX**

### List of Services in the CSDR Annex

#### Section (A)

1. Initial recording of securities in a book-entry system ('notary service');
2. Providing and maintaining securities accounts at the top tier level ('central maintenance service');