



BANK OF ENGLAND

News release

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Temporary permissions and recognition regimes

HM Government has published a draft of the statutory instrument (SI) that will, subject to parliamentary approval, deliver a temporary permissions regime for EEA firms operating in the UK. HM Government has also laid in Parliament the separate draft SI that will, subject to parliamentary approval, deliver a temporary recognition regime for non-UK central counterparties (CCPs).

The aim of the temporary permissions and recognition schemes will be to allow firms, including CCPs, who wish to continue carrying out business in the UK in the longer term to operate in the UK for a limited period after withdrawal while they seek authorisation or recognition from UK regulators.

As the Bank has made clear, EEA firms, and non-UK CCPs, providing cross-border services into the UK may plan on the assumption that permanent PRA authorisation or recognition by the Bank will only be needed by the end of the implementation period which has been agreed in principle as part of the UK's Withdrawal Agreement with the EU. In the event that the Withdrawal Agreement is not ratified, the temporary permissions and recognition regimes provide confidence that a back-stop will be available.

Temporary permissions regime

HMT's draft SI sets out that to be eligible for entry into the temporary permissions regime, firms must be authorised to carry on a regulated activity in the UK under the EU passporting regime. They will also have to inform the relevant regulator before exit day of their intention to enter into the regime. PRA firms can do this either by a notification to the PRA (if the firm has not submitted an application for authorisation before exit day) or by an application for authorisation submitted before exit day (applications submitted prior to the SI being legislated would be sufficient for these purposes as well).

The temporary permissions regime would deem firms to have a Part 4A permission for a maximum of three years. HMT would be able to extend the duration of the regime by increments of twelve months. Once in the regime, the PRA would have the same powers in relation to these firms as if they were a Part 4A authorised firm. Firms would be subject to the same obligations and supervisory framework as if they were a Part 4A authorised firm. As noted by the PRA on 27 June 2018, we expect to consult, in co-ordination with the FCA

where appropriate, on proposed changes to our broader rules this autumn.¹ HMT has stated that it intends to provide regulators with powers to grant transitional relief, where appropriate, to ensure that, in a scenario in which an implementation period is not in place, firms have sufficient time to comply with new legal obligations or changes to existing legal obligations resulting from changes made to legislation and rules under the EU (Withdrawal) Act. The scope of these transitional powers will include obligations on firms in the temporary permissions regime.

Financial Services Compensation Scheme (FSCS) membership will be extended to all deposit-takers and insurers in the regime with a branch in the UK. Firms in the regime without a branch in the UK will be outside of the scope of the FSCS, with the exception of EEA insurers that currently operate in the UK via a passport but without a branch, which will retain their existing FSCS membership whilst in the regime. A consultation on the broader approach to FSCS protection will be published later in the year.

HMT's draft SI would also temporarily extend statutory time limits for UK regulators to process authorisation applications from EEA passporting firms from six and twelve months for complete and incomplete applications respectively to three years from exit day. This would take effect immediately and would apply to existing applications as well as those submitted thereafter. The extension of statutory deadlines would allow the PRA and FCA to manage the volume of authorisation applications associated with EU withdrawal in a smooth and orderly manner, in support of our statutory objectives, including during an implementation period as necessary.

Temporary recognition regime

Non-UK CCPs will be eligible for the temporary recognition regime if they are currently permitted to offer clearing services in the EU. To enter the scheme, they will need to inform the Bank of England before exit day of their intention to provide clearing services in the UK. They can do this either by a notification to the Bank or by submitting an application for recognition before exit day.

CCPs in the temporary regime will be deemed to be recognised to provide clearing services in the UK for a maximum of three years, extendable by HMT in increments of twelve months. CCPs that have not already submitted an application for recognition must do so within six months of the start of the temporary regime.

Next steps

Firms are encouraged to continue engaging with the Bank and PRA on their authorisation and recognition processes, including on how to make best use of the additional time provided by the implementation period in their planning. The Bank and PRA expect to publish further guidance to relevant firms on the temporary permissions and recognition regime in due course, including the notification process for entry.

¹ <https://www.bankofengland.co.uk/news/2018/june/boes-approach-to-financial-services-legislation-under-the-eu-withdrawal-act>

Separately, HMG has also announced that it will lay legislation in relation to the framework for settlement finality designation. This will clarify the means through which overseas CCPs, central securities depositories (CSDs) and payment systems can benefit from UK settlement finality designation. The Bank will write to EU systems that may wish to maintain their designation to clarify the process. That letter is being published today.

The Bank also notes HMG's commitment, in December 2017, to lay additional legislation, if necessary, to ensure contractual obligations not covered by the temporary permissions regime can continue to be met.

ENDS

Note to Editors

Bank of England [letter](#) to EU systems designated under the Settlement Finality Directive