

GENERAL GUIDANCE ON THE BANK'S TRANSITIONAL DIRECTION

Introduction

1. **This document provides general guidance on the Bank's transitional direction.**
The Bank has also produced more detailed guidance on its use of the transitional direction as FMI competent authority and in the context of bank recovery and resolution.
2. This guidance explains:
 - a. the general effect of the Bank's transitional direction, which is to generally delay onshoring changes which fall within the remit of the Bank until 30 June 2020;
 - b. how firms and FMIs should interpret their pre-exit obligations, while the transitional relief is in place; and
 - c. exceptions to the Bank's general approach.
3. Firms and FMIs should have regard to this guidance while the transitional relief granted under the direction is in effect. Firms and FMIs should note that this guidance is non-binding in nature, that it may be amended from time-to-time and that the direction should be followed in the case of any inconsistency with this guidance.
4. The transitional direction will come into effect on exit day and will apply until 30 June 2020 unless the Bank decides to change this in future.
5. Any reference to an EU regulation, including to a Binding Technical Standard, is a reference to the UK version of that regulation, unless otherwise stated.

General delay of onshoring changes until 30 June 2020

6. **The general effect of the transitional direction is to delay all changes to regulatory requirements for firms and FMIs resulting from onshoring for 15 months after exit, i.e. until 30 June 2020.** This includes:
 - a. onshoring changes that the Bank is making to rules and Binding Technical Standards;
 - b. changes that HM Treasury is making to onshored EU regulations (such as onshored EMIR¹); and
 - c. changes that HM Treasury is making to existing domestic legislation that relates to EU membership (for example UK legislation that implemented an EU Directive).
7. The transitional direction only applies to requirements which fall within the remit of the Bank, but covers both:

¹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

- a. new and amended regulatory requirements that have changed as a result of onshoring; and
 - b. existing regulatory requirements that apply to a firm or an FMI for the first time as a result of onshoring (even if those requirements have not themselves changed).
8. **This means that firms and FMIs should generally, until 30 June 2020, continue to comply with their pre-exit regulatory obligations. This is unless the Bank has provided for an exception (see section below for more details).**
9. The transitional direction does not allow optionality, making it mandatory for firms and FMIs to continue to comply with the effect of pre-exit requirements, where this is covered by the direction.
10. The use of the transitional power does not affect the Bank's approach to the supervision of individual FMIs. The Bank will continue to consider supervisory action in relation to individual FMIs in line with its statutory objectives.

How firms should interpret their pre-exit obligations

11. **The Bank's intention is that firms and FMIs should, in substance, continue to do the same thing after exit as before. But in order to achieve this, firms and FMIs should take a common sense approach to interpreting pre-exit regulatory requirements.**
12. For example:
- a. If a requirement referred to the EU before exit day it may need to be read as if the UK were still a member state after exit day.
 - b. Other references requiring similar adaptation may be to governments, central banks, national competent authorities, other institutions of member states and non-EEA third countries.
13. In particular, any obligation to provide information to (i) an undertaking in the EU or member state, or (ii) an institution of the EU or a member state should be read as an obligation to provide it to the equivalent or corresponding undertaking or institution in the UK instead (see paragraph 9 of the transitional direction). Any record keeping obligations in relation to the provision of such information should similarly be adapted.

Exceptions to the Bank's general approach

14. The Bank has excepted certain requirements from the general approach described above (see paragraph 6 of the transitional direction). These are explained below and in the "*Bank Recovery and Resolution Guidance on the Bank's use of the transitional direction*" and the "*Guidance on the Bank's use of the transitional direction as FMI competent authority*".

15. **Interaction with other transitional arrangements.** The Bank's transitional direction does not apply where specific transitional provisions have been included in relation to the relevant issue in the underlying onshoring changes.
16. **Interaction with HM Treasury equivalence findings.** In certain areas, the use of the transitional power has the same effect as if the EU had been found equivalent by HM Treasury. The effect of the direction is to end the transitional relief if HM Treasury find the EU equivalent before 30 June 2020, but the requirements will remain the same for firms and FMIs.
17. Please note that in coordination with the FCA, the Bank and PRA will at this time exempt all areas of MiFIR and certain areas of EMIR from the scope of the transitional power where the effect of the transitional power could be achieved by HM Treasury making a finding of equivalence. The transitional direction does not at this time apply to changes to the requirements for CCPs relating to the definition of OTC derivative in Article 2 of EMIR. Further detail in relation to the corresponding requirements for PRA firms is set out in the "*General guidance on the PRA's transitional direction*".
18. **Central bank exemptions.** The direction does not apply in relation to requirements where HM Treasury has the power to exempt central banks and other bodies from those requirements.

Accounting Standards

19. References in onshored legislation to International Accounting Standards ("IAS") should be read as references to EU-adopted IAS while the transitional relief granted under the direction is in effect unless and until a firm or FMI is required to move from EU-adopted IAS to UK-adopted IAS.

Gibraltar

20. HM Treasury has already provided for specific transitional provisions in relation to Gibraltar and therefore these are not covered by the transitional direction.