



BANK OF ENGLAND

David Bailey
Executive Director
Financial Market Infrastructure

24 July 2018

Dear Chief Executive Officer,

1. The Settlement Finality Directive (SFD) is implemented in UK law through the Settlement Finality Regulations (SFR). It protects payments and transfers of securities made by EU participants into 'designated systems' governed by the law of an EU Member State from claims in the event of the insolvency of these participants. The directive relies upon automatic recognition by each EU Member State of other Member States' SFD designation of domestic systems. However, from the point at which the UK withdraws from the EU, the UK will no longer be part of this EU framework of automatic recognition.
2. As the UK authority responsible for designations of systems under the SFD, we are writing to you to set out how we envisage the future UK framework for settlement finality designation of EU systems will work. This is because we have identified you as the operator of a system, or systems, currently designated under the SFD.
3. The Bank of England welcomes the agreement, announced 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. Our presumption is that, subject to this agreement being ratified, EU systems will be able to continue to operate with the benefit of existing settlement finality protections during this period.
4. The UK Government has announced that it intends to legislate to ensure the continuation of UK settlement finality protections after the UK leaves the EU. As part of this, the Bank of England will be given new powers to grant permanent designation to non-UK, including EU, systems that are not governed by UK law. This legislation will also include a temporary SFD designation regime, open to EU systems currently designated under the SFD, in advance of permanent designation being granted.
5. This will maintain legal certainty for EU systems who conduct business with UK participants, whatever the outcome of negotiations between the EU and the UK, when the UK withdraws from the EU on 29 March 2019. Furthermore, UK market participants who use these systems will have clarity as to whether these systems will continue to benefit from UK SFD protections, enabling them to plan accordingly. EU systems are able to therefore plan on the

assumption that designation by the Bank will only be needed by the end of the implementation period.

6. We are now commencing preparatory work with a view to ensure a smooth and transparent designation process. This letter sets out how we envisage that this process will take place. The Bank will work closely with systems and will provide guidance to them, taking into account any relevant developments in the political process.

What should I expect the UK SFD designation regime to look like post-EU withdrawal?

7. The final shape of the new UK regime is subject to the legislative process. However, we anticipate that the UK Government will propose that, immediately following the UK's withdrawal from the EU, UK domestic law requirements for designation of systems not governed by UK law will in essence be the same as the requirements for designation of systems governed by UK law. These are set out in the schedule of the SFR.

Will my system need UK SFD designation post-EU withdrawal?

8. We expect that an EU system may wish to apply for UK SFD designation if it:
 - i) has a participant or participants established in the UK; or
 - ii) has an indirect participant or participants that are considered as participants, within the meaning set out in the SFD, established in the UK
9. We do not envisage that it will be a requirement of UK law for a non-UK system to have any form of UK SFD designation in order to have UK participants.

What will I need to do to maintain UK SFD designation post-EU withdrawal?

10. For EU systems, entry into the temporary designation regime would be on the basis of the operator of the system having notified the Bank of its intent to submit an application for designation. The effect of this would be to allow those EU systems that are currently designated to benefit from continued protection in respect of their UK participants, until such time as they may have been granted a permanent designation.

What do I need to do next?

11. To facilitate our preparations for this process, we encourage EU systems designated under the SFD to begin engaging with the Bank for pre-application discussions by replying to this letter stating whether you wish the system, or systems, you operate to continue to benefit from SFD designation in the UK, when the UK withdraws from the EU. In this reply, please give the name of the relevant system or systems as used in the ESMA list of Designated Payment and Securities Settlement Systems.

12. The Bank stands ready to provide assistance if you have any questions. Please direct your responses to the request above, and any other enquiries, to SFD-Enquiries@bankofengland.co.uk, along with a contact name and details for further discussions.

Yours sincerely,



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