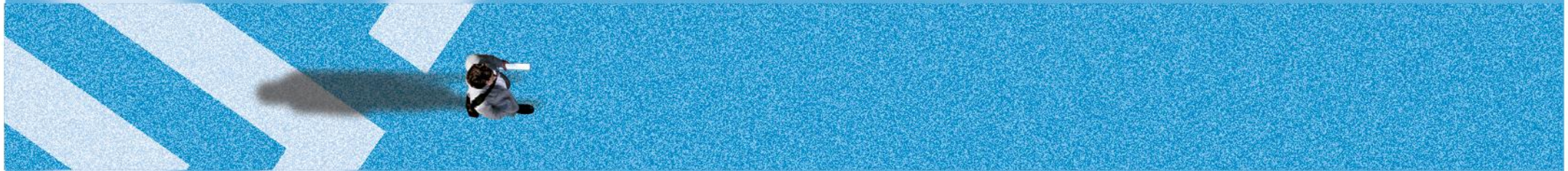


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**BEYOND THE BREXIT TRANSITION PERIOD – NEW DEADLINES FOR FIRMS**  
MARCH 2021

# BEYOND THE BREXIT TRANSITION PERIOD

## NEW DEADLINES FOR FIRMS

Firms should plan for the possible 'cliff-edge' impact of the expiry of post-transition period transitional arrangements

- Under the withdrawal agreement concluded by the UK with the EU, the UK formally left the EU on 29 March 2020 and entered a transition period that ended on 31 December 2020.
- On the expiry of the transition period, the UK ceased to be in the EU single market and to be treated as a Member State under EU law.
- The UK-EU Trade and Cooperation Agreement does not directly affect the treatment of financial services after the end of the transition period.
- However, the EU, a few Member States and the UK have established some temporary transitional arrangements for financial services to mitigate some of the immediate impact of the ending of the transition period on firms and markets.

- This paper highlights some of the deadlines created by those temporary arrangements to illustrate where firms may need to take action to meet the deadline or to address the consequences of the expiry of a relevant regime (e.g., where financial market infrastructure may withdraw services as a result).

*This paper is not intended to be comprehensive or to provide legal advice. For more information, speak to your usual Clifford Chance contact or one of the lawyers named below.*

## EUROPEAN UNION

### The EU only adopted a few measures to mitigate the impact of the end of the Brexit transition period

31 March 2021	<b>MoU:</b> Agreed deadline for conclusion of UK-EU memorandum of understanding on financial services regulatory cooperation.	Commission might resume consideration of additional equivalence decisions for the UK following conclusion of memorandum of understanding.
	<b>CSDs:</b> Expiry of temporary equivalence decision for and temporary recognition of UK central securities depository (CSD) under the EU Central Securities Depositories Regulation.	Irish issuers expected to have migrated their securities from Euroclear UK & Ireland to Euroclear Bank SA by this date.
30 April 2021	<b>Data:</b> Expiry of provisions in UK-EU Trade and Cooperation Agreement treating transfers of data to UK as not being to a third country (absent a previous Commission adequacy decision for the UK).	Period automatically extends to 30 June 2021 unless the UK or the EU objects.
1 January 2022	<b>Novations:</b> Expiry of temporary derogation allowing novation of legacy OTC derivatives from UK to EU counterparties without triggering EU margin requirements under EU EMIR.	
18 February 2022	<b>Novations:</b> Expiry of temporary derogation allowing novation of legacy OTC derivatives from UK to EU counterparties without triggering EU clearing requirements under EU EMIR.	
30 June 2022	<b>CCPs:</b> Expiry of temporary equivalence decision for and temporary recognition of UK central counterparties (CCPs) under EU EMIR.	UK CCPs cease to be (a) able to provide clearing services to EU clearing members and trading venues, (b) eligible for clearing OTC derivatives subject to the EU mandatory clearing obligation and (c) QCCPs for the purposes of the Capital Requirements Regulation.
	<b>Intragroup:</b> Expiry of temporary derogation under EU EMIR margin RTS allowing EU entities to transact with UK and other non-EU affiliates without collecting initial or variation margin.	Equivalence decisions in place for Japan and the US (CFTC). Decisions proposed for Australia, Brazil, Canada, Hong Kong, Singapore and the US (prudential regulators) – but not the UK.
	<b>Intragroup:</b> Expiry of temporary derogation under EU EMIR clearing RTS allowing EU entities to transact with UK and other non-EU affiliates without clearing on an eligible CCP.	No equivalence decisions yet in place or proposed for the UK or any other third country.
31 December 2023	<b>Benchmarks:</b> Expiry of transitional period for UK and other non-EU benchmarks to be qualified for use in the EU via equivalence, recognition or endorsement.	EU supervised entities cease to be able to use UK benchmarks in the EU unless the benchmarks are qualified for use in the EU.

## SELECTED EU MEMBER STATES

### Few Member States created temporary transition regimes for UK firms

31 December 2021	<b>Sweden:</b> Expiry of exemption for UK firms to continue to provide investment services in Sweden in relation to professional clients where agreement was in place on the 29 March 2019.	
30 June 2022	<b>Denmark:</b> Expiry of temporary licences granted to UK firms before the end of the transition period to provide cross-border investment services to professional clients.	See DFSA press release <a href="#">here</a> .

**Notes** | For more information, see our briefing, *The post-Brexit patchwork: EU market access rules for UK firms* (December 2020, [here](#)).

## The UK created several temporary regimes to mitigate the impact of end of the transition period on both UK and non-UK firms

2021-22	<b>TPR:</b> PRA and FCA to allocate 'landing slots' (ending before 31 December 2022) within which EEA firms that entered the temporary permissions regime (TPR) must apply for authorisation.	EEA firms in the TPR may have their temporary permissions cancelled if do not apply for authorisation in their landing slot.
2021-23	<b>TMPR:</b> FCA to allocate 'landing slots' within which EEA funds that entered the temporary marketing permissions regime (TMPR) must apply for recognition.	EEA funds in the TMPR will cease to benefit from the TMPR if they do not apply for recognition in the relevant landing slot.
11 February 2021	<b>TPR (PRA):</b> Deadline for PRA-regulated EEA firms in the TPR to submit senior managers and certification regime forms to enable individuals to obtain a deemed approval by 12 weeks from the end of the transition period.*	
31 March 2021	<b>TTP (DTO):</b> FCA to review temporary transitional relief granted under its temporary transitional power (TTP) with respect to the application of the UK derivative trading obligation (DTO) under UK EMIR to transactions with EEA clients.	The FCA's transitional <a href="#">direction</a> with respect to the DTO applies until the expiry of the power to give temporary transitional relief (unless ended earlier).
	<b>TPR (PRA):</b> Expiry of temporary relief for PRA-regulated EEA firms in the TPR from status disclosure requirements.	
	<b>TPR (PRA):</b> UK specific remuneration rules begin to apply to PRA-regulated EEA firms in the TPR for first performance year starting after this date.*	
30 June 2021	<b>TPR (PRA):</b> Expiry of temporary relief for PRA-regulated EEA insurers in the TPR from branch Solvency II qualitative reporting.*	
	<b>CSDs:</b> Deadline for EEA CSDs in the temporary recognition regime ( <a href="#">list</a> ) to apply to the Bank of England for recognition where they provide services covered by Article 25 UK Central Securities Depositories Regulation.	EEA CSDs that do not apply by the deadline lose the benefit of parts of the overseas persons exclusion under FSMA where they provide services covered by Article 25 UK CSDR in the UK.
	<b>SFD:</b> Deadline for EEA systems in the temporary designation regime ( <a href="#">list</a> ) to apply to the Bank of England for designation for settlement finality protection.	EEA systems that do not apply by the deadline lose the benefit of temporary settlement finality protection in the UK.

## UK (CONTINUED)

31 December 2021	<b>TPR (payments and e-money):</b> EEA payments and e-money firms benefiting from temporary deemed authorisation must give a notice of intention to FCA regarding authorisation or registration.	
	<b>CCPs:</b> Expiry of temporary recognition under CCP run-off regime for eligible EEA and other non-UK CCPs that did not enter the temporary recognition regime.	These CCPs cease to be (a) able to provide clearing services to UK clearing members and trading venues, (b) eligible for clearing OTC derivatives subject to the UK mandatory clearing obligation, (c) QCCPs for the purposes of the UK Capital Requirements Regulation and (d) entitled to protection from insolvency proceedings under Part 7 Companies Act 1989.
	<b>CRAs:</b> Expiry of temporary relief allowing UK firms to continue to use credit ratings issued or endorsed by EEA credit rating agencies before 31 December 2020.	Relief granted via exit instrument and via PRA and FCA temporary transitional directions.
	<b>Data services providers:</b> Expiry of deemed authorisation of EEA data services providers that entered the temporary authorisation regime.	For more information, see this FCA <a href="#">webpage</a> .
1 January 2022	<b>TTP (prudential rules):</b> Planned start date for new FCA investment firm prudential regime and new PRA rules replacing CRR: this will end availability of TTP relief from onshoring changes to predecessor prudential rules.	PRA <a href="#">CP5/21</a> proposes new rules continuing relief corresponding to TTP relief, except in relation to the Liquidity Coverage Ratio.
31 March 2022	<b>TTP:</b> Expiry of Bank of England, PRA and FCA temporary transitional directions and proposed new corresponding PRA rules (unless extended).	The directions cover a wide range of prudential, conduct and other obligations, including the UK share trading obligation under UK MiFIR. See above regarding the relief relating to the DTO, credit rating agencies and FCA and PRA prudential rules.
	<b>TPR (PRA):</b> Expiry of temporary relief for PRA-regulated EEA firms in the TPR from bank branch level P&L reporting and certain branch solvency and minimum capital requirements for insurance branches (and Solvency II quantitative and qualitative reporting and composites rules).*	
	<b>OTC derivatives margin:</b> Expiry of transitional period in UK margin RTS.	Affects ability to use some classes of EEA securities as collateral.

## UK (CONTINUED)

30 June 2022	<b>CCPs:</b> Deadline for EEA and other non-UK CCPs in the temporary recognition regime ( <a href="#">list</a> ) to apply to the Bank of England for recognition.	CCPs that do not apply by the deadline continue to have temporary recognition under the CCP run-off regime for up to one year. See above for impact when temporary recognition expires.
1 December 2022	<b>TPR (PRA):</b> Expiry of waiver of continuity of access requirements for firms in the TPR taking deposits through UK branches that consented to the waiver.*	
31 December 2022	<b>TTP:</b> Expiry of UK regulators' powers to give temporary transitional relief.	
31 December 2023	<b>Temporary regimes:</b> Expiry of: <ul style="list-style-type: none"> <li>• TPR for EEA firms</li> <li>• TMPR for EEA funds</li> <li>• temporary recognition regime for EEA CSDs</li> <li>• temporary designation regime for EEA systems</li> <li>• temporary recognition regime for non-UK CCPs.</li> </ul>	HM Treasury has the power to extend the expiry of these temporary regimes (and certain other deadlines) for successive 12 month periods.
31 December 2025	<b>Benchmarks:</b> Expiry of transitional period for EEA and other non-UK benchmarks to be qualified for use in the UK via equivalence, recognition or endorsement.	UK supervised entities cease to be able to use EEA benchmarks in the UK unless the benchmarks are qualified for use in the UK. Assumes passage of Financial Services Bill which extends period from 2023.

## UK (CONTINUED)

### Notes

EEA passported firms that do not enter the TPR or exit the TPR without obtaining authorisation may benefit from the financial services contracts regime which allows the run-off of pre-existing contracts for 15 years (insurance contracts) or 5 years (other contracts). \* indicates similar relief may be available to PRA-regulated firms in supervised run-off under the financial services contracts regime.

The FCA has transitional powers expiring on 31 December 2024 to modify the application of the transparency regime under UK MiFIR. For more information on the use of these powers and certain action taken with respect to the commodity derivatives positions limits regime, see the FCA's supervisory statement on the MiFIR markets regime and other information available on this FCA [webpage](#).

For more information on:

- the TPR and TMPR, see this PRA [webpage](#) and this FCA [webpage](#);
- the TTP, see this PRA [webpage](#) and this FCA [webpage](#);
- the impact on non-UK market infrastructure, see this Bank of England [webpage](#);
- the financial services contracts regime, see this PRA [webpage](#) and this FCA [webpage](#).

There are also temporary registration regimes for new UK credit rating agencies and trade repositories seeking registration in the UK (see FCA webpages [here](#) and [here](#)).



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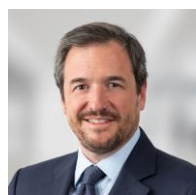
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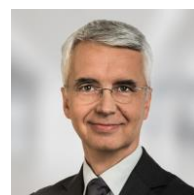
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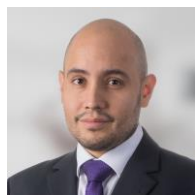


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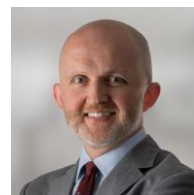
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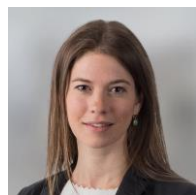
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