



No-deal Brexit: Impact on financial markets

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While a range of outcomes, including [a departure under the terms of the current Withdrawal Agreement](#), remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on the financial services industry?

Financial services businesses incorporated in the UK, or that have a branch in the UK, are permitted to carry on business throughout the EU without additional local regulation under the various "passports" that apply. The key issue however is the extent to which the post-Brexit regime will differ from the existing passporting regime.

Potential impact

If there is an agreement on the terms of the UK's withdrawal, then there will be an implementation period during which passporting rights will remain unaffected. In the event of a no-deal Brexit, however, passporting will cease immediately, which is likely to cause significant disruption. Therefore, both the UK and the EU have taken steps to mitigate some - but not all - of the relevant risks.

For financial services law, the UK has finalised the so-called 'onshoring' process, involving converting directly applicable EU law into UK law and granting UK authorities and regulators the necessary powers to ensure as smooth a transition as possible. Even though in general UK-supervised organisations operating within the UK will be given some time to adjust to onshoring changes, they will have to comply with new requirements 'from day one' in certain key areas. The onshored law comes into force on 'exit day' - the day when the UK leaves the EU.

The UK is also setting up a Temporary Permissions Regime ('TPR') for inbound EU organisations and investment funds. Eligible entities that enter the TPR will be able to continue their regulated activities in the UK for up to three years while they work towards obtaining the appropriate regulatory permissions. This will significantly minimise disruption for EU organisations operating in the UK. Organisations passporting in from the EU have to notify their UK regulator (PRA or FCA) by 11 April 2019 if they wish to make use of the TPR.

The EU Commission is adopting only a limited number of contingency measures on a pan-European level, particularly with a view to minimising disruption in the EU derivatives markets. In practice, this broadly means that UK organisations can, for a limited period, continue relying on current clearing and margining arrangements. Individual EU member states are also adopting ad-hoc Brexit contingency measures, which may be relevant to UK organisations depending on the place of business.

In many cases, UK organisations will need to rely on their own contingency plans in the event of a no-deal Brexit. Many organisations with significant business elsewhere in the EU are going down the EU entity route, and either transferring business to an existing group entity or opening a new entity. In this instance, they must ensure that the EU entity is adequately staffed, has a sound governance structure, and implements proper outsourcing arrangements.

How DLA Piper can help

DLA Piper continues to advise clients on the impact of Brexit for financial markets and assists them with developing and implementing their contingency plans. Our network of professionals across the EU can help you navigate effectively through the cross-border challenges.

For support with Brexit financial services impact, please contact the authors or your usual DLA Piper contact.

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