



THE DEPUTY LEADER OF THE HOUSE OF LORDS

The Lord Hodgson of Astley Abbotts
House of Lords
London
SW1A 0PW

22 March 2021

Dear Lord Hodgson,

In the Grand Committee debate on the Financial Services Bill on Monday 8 March, I committed to follow up in writing on the questions you raised regarding the UK's existing equivalence arrangements with the EU.

In your remarks, you requested a list of the financial services equivalence decisions made by the Government for the EU member states and other EEA states, whether these decisions have been reciprocated by the EU, and whether these decisions are time-limited.

I understand you wrote to the Economic Secretary on 20 January requesting an update in the week commencing 12 April on the equivalence decisions made and an overview of all equivalence decisions in place. As requested, the Economic Secretary will respond to your letter then, providing an update on the UK's existing equivalence arrangements with the EU member states and other EEA states, so as to give you the most up to date information.

As you know, on 9 November 2020, the Chancellor announced in his statement to the House of Commons that the UK was granting a package of equivalence decisions to the EEA states. This is in addition to the decisions which the UK had already made for the EEA states in 2019 (which granted equivalence under the Transparency Directive and Prospectus Regulation, in relation to the recognition of EU-adopted International Financial Reporting Standards, for the purpose of preparing financial statements under the Transparency Directive, and to prepare a prospectus under the Prospectus Regulation), and also to exemptions for central banks and certain public bodies in the EEA under certain prudential regulations in the area of financial services. There are no time limits on any UK decisions for the EEA states.

The EU has granted the UK decisions for Central Bank exemptions (which are not time-limited), as well as an 18 month time-limited decision for Central Counterparties under Article 25 of the European Markets Infrastructure Regulation ("EMIR"), and a 6 month time-limited decision for Central Securities Depositories under Article 25 of the Regulation on Central Securities Depositories.

Annex A provides a list of the equivalence regimes that exist in UK and EU law and are relevant to financial services, and notes which ones the EU has made a decision for in

respect of the UK, and which ones the UK has made a decision for in respect of the EEA states. I hope that this adequately covers the information that you requested.

Annex B provides a summary of these equivalence regimes, for information. The references provided are to the relevant EU legislation.

These equivalence decisions provide a range of benefits, including supporting well-regulated open markets, facilitating effective pooling and management of risk, and supporting both UK and EEA clients' access to financial services and market liquidity.

I would like to thank you for raising this issue in Committee, and I hope that you find this information helpful.

I am copying this letter to all those who spoke in the Committee debate on Monday 8 March, and I am placing a copy of this letter in the Library.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Howe', is positioned above a long, thin horizontal line that serves as a signature separator.

EARL HOWE

House of Lords, London, SW1A 0PW

E: psdeputyleaderofthelords@cabinetoffice.gov.uk | Tel: 020 7219 8075

Annex A: Table setting out where UK and EU have made equivalence decisions

Equivalence Regimes (References are to EU and onshored UK legislation)		
Article	Decision made by the EU for the UK	Decision made by the UK for the EU¹
Capital Requirements Directive and Regulation (CRD IV/CRR) (No. 575/2013)		
Art. 107	No Decision	Full Decision
Art. 114, 115, 116	No Decision	Full Decision
Art. 132	No Decision	Full Decision
Art. 142	No Decision	Full Decision
Art. 391	No Decision	Full Decision
Solvency II (Commission Delegated Regulation No.2015/35 supplementing Directive No. 2009/138)		
Art. 378	No Decision	Full Decision
Art. 379	No Decision	Full Decision
Art. 380	No Decision	Full Decision
European Markets Infrastructure Regulation (EMIR) (No 648/2012)		
Art. 2A	No Decision	Full Decision

¹ All UK decisions were made by direction pursuant to section 2 (Equivalence directions) and section 3 (Exemption directions) of The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019 ([S.I.2019/541](#)), other than the decision under EMIR Article 25 which was made pursuant to The Central Counterparties (Equivalence) Regulations 2020 (S.I. 2020/1244).

Art. 13	No Decision	Partial decision recognising clearing and margining rules for the purpose of intragroup transactions between UK and EEA subsidiaries
Art. 25	EU have granted UK a time-limited decision which applies from 01/01/2021 to 30/06/2022	Full Decision
Art. 75, 77	No Decision	No Decision
Credit Rating Agencies Regulation (No. 1060/2009, 462/2013)		
Art. 5 (6)	No Decision	Full Decision
Benchmarks Regulation (No. 2016/1011)		
Art. 30	No Decision	Full Decision
Regulation on Central Securities Depositories (CSDR) (No. 909/2014)		
Art 25	EU have granted UK, a time-limited decision which applies from 01/01/2021 to 30/06/2021	Full Decision
Short Selling Regulation (No. 236/2012)		
Art 17 (2)	No Decision	Full Decision
Markets in Financial Instruments Directive II and Regulation (MiFID/MiFIR)		
Art. 23 MIFIR MIFID (STO)	No Decision	No Decision
Art 28(4) MIFIR (DTO)	No Decision	No Decision
Art 33 (2) MIFIR	No Decision	No Decision
Art. 38 MIFIR	No Decision	No Decision

Art. 47 MIFIR	No Decision	No Decision
Regulation on Transparency of Securities Financing Transactions (SFTR) (No. 2015/2365)		
Art. 19	No Decision	No Decision
Art. 21(1)	No Decision	No Decision
Prospectus Regulation (No. 2017/1129)		
Art. 29	No Decision	Full Decision
Annexes of delegated regulation 2019/980	No Decision	Full Decision
Transparency Directive (No. 2004/109)		
Art. 23(4)	No Decision	Full Decision
Central Bank Exemptions		
EMIR Art. 1	Full Decision	Full Decision
Market Abuse Regulation Art. 6	Full Decision	Full Decision
SFTR Art. 2	Full Decision	Full Decision
MiFIR Art. 1	Full Decision	Full Decision
Statutory Audit Directive (No. 2014/56, 2006/43)		
Art 46(2)	No Decision	Full Decision
Art 47(3)	No Decision	Full Decision
Accounting Directive (No. 2013/34)		
Art. 46	No Decision	No Decision

Annex B: Short Summary of Equivalence Regimes

Equivalence Regimes Article	Description
Markets in Financial Instruments Directive II and Regulation (MiFID/MiFIR)	
Art. 23 and 28 (4) MIFIR	Allows firms to fulfil share trading obligation and/or the derivatives trading obligation by executing trades on third country trading venues
Art 33 (2) MIFIR	Firms can meet derivatives trading obligation by following equivalent rules in a third country.
Art. 38 MIFIR	Third country trading venues and central counterparties ("CCPs") recognised under EMIR may request access on non-discriminatory basis to CCPs and trading venues
Art. 46 (1) MIFIR	Allows third country firms to provide cross-border investment services to professional clients
Capital requirements directive and regulation (CRD IV/CRR) (No. 575/2013)	
Art. 107(4) CRR	Allows institutions to treat exposures to third country investment firms, credit institutions and exchanges as exposures to similar domestic financial institutions.
Art. 114, 115, 116 CRR	The specific risk weights applicable to exposures to central governments, central banks, regional governments, local authorities, and public sector entities may apply to similar entities located in third countries for the purpose of calculation of the capital ratio of domestic financial institutions
Art. 132 CRR	Allows the application of CRR look-through provisions to CIUs managed by companies subject to equivalent supervision
Art. 142 CRR	A subsidiary located in a third country can be taken into account for the definition of 'large financial sector entity'
Art. 391 CRR	Permits small firms to have higher large exposures limits for exposures to third-country banks.
Solvency II (Commission Delegated Regulation No.2015/35 supplementing Directive No. 2009/138)	
Art. 378	Reinsurers from third-country can be recognised as equivalent as domestic reinsurers. Includes a temporary equivalence provision.

Art. 379	Third-countries solvency rules can be considered equivalent for the calculation of the consolidated capital requirements of domestic insurance groups present in third countries. Includes a temporary equivalence provision.
Art. 380	The jurisdiction granting equivalence can recognise the equivalence of group supervision exercised by a third-country. Includes a temporary equivalence provision.
European Markets Infrastructure Regulation (EMIR) (No 648/2012)	
Art. 2A	Enables derivatives traded on third country markets to be treated as exchange-traded rather than OTC
Art. 13	Third-country regimes can be considered as equivalent to avoid complicating or conflicting rules on OTC derivative transactions, including margining, intragroup transactions, the clearing and reporting obligations.
Art. 25	Recognition of central counterparties established in third countries
Art. 75, 77	Recognition of third country trade repositories
Prospectus Regulation (No. 2017/1129)	
Art. 29	Equivalence of prospectus information: third country prospectus information requirements may be deemed to be equivalent to domestic prospectus requirements,
Annexes of delegated regulation 2019/980	3rd country GAAP with IFRS: An equivalence determination will allow third country issues in the domestic markets to prepare their consolidated accounts for use in a prospectus to use the accounting standards deemed relevant instead of using domestically-adopted IFRS
Transparency Directive (No. 2004/109)	
Art. 23(4)	3rd country GAAP with IFRS: Equivalence of accounting standards
Accounting Directive (No. 2013/34)	
Art. 46	Equivalence of third-country reporting requirements for payments to governments country-by-country reporting
Credit Rating Agencies Regulation (No. 1060/2009, 462/2013)	
Art. 5(6), 5(7)	Credit rating agencies authorised or registered in third country comply with legally binding requirements which are equivalent to the requirements of this Regulation
Statutory Audit Directive (No. 2014/56, 2006/43)	
Art 46 (2)	Allows the jurisdiction granting equivalence to derogate from the requirements of Art. 45 to register and oversee third country auditors where the third country has been recognised as equivalent. Also includes transitional equivalence.

Art 47(3)	Allows domestic audit authorities to agree working arrangements with third country competent authorities or the transfer of audit working papers and investigation reports where the third country competent authority has been approved as adequate.
Regulation on Central Securities Depositories (CSDR) (No. 909/2014)	
Art. 25	Recognition of third country CSDs to provide issuance and maintenance services for domestic law securities.
Regulation on Transparency of Securities Financing Transactions (SFTR) (No. 2015/2365)	
Art. 19	Recognition of third country trade repositories
Art. 21(1)	Equivalence of legal, supervisory and enforcement arrangements of a third country ensuring protection of professional secrecy
Benchmarks Regulation (No. 2016/1011)	
Art. 30 (2), 30(3)	Administrators authorised or registered in third country can be recognized as equivalent to the requirements under this Regulation in order to be used in the jurisdiction granting equivalence.
Short Selling Regulation (No. 236/2012)	
Art. 17(2)	The legal and supervisory framework of a third country market may be considered as equivalent so it can be exempted for market making activities and primary market operations
Market Abuse Regulation (MAR) (No. 596/2014)	
Art 6(5)	Exemption for monetary and public debt management activities: This Regulation may not apply to certain equivalent public bodies and central banks of third countries