

PUBLIC STATEMENT

Update on the UK's withdrawal from the European Union - preparations for a possible no-deal Brexit scenario on 12 April

On 29 March 2017, the United Kingdom of Great Britain and Northern Ireland (UK) invoked Article 50 of the Treaty on European Union (TEU) which triggered the process for its withdrawal from the European Union, or Brexit. The invocation procedure provides that after a negotiation period of up to two years, the treaties will cease to apply with respect to that Member State.

Following a request from the UK on 20 March 2019 the European Council (Council) agreed on Thursday 21 March 2019 to extend the period provided for in Article 50(3) TEU to 22 May 2019, provided the Withdrawal Agreement endorsed by the Council on 25 November 2018¹ is approved by the House of Commons by 29 March 2019 at the latest. If the Withdrawal Agreement is not approved by then, the Council has agreed to an extension until 12 April 2019. In that scenario, the UK would be expected to indicate a way forward before this date.

A no-deal scenario

ESMA had initiated a systematic analysis of the potential impact of a no-deal Brexit for European securities markets and for ESMA as an organisation and has been preparing for that scenario happening on 29 March 2019. The latest developments mean that if the Withdrawal Agreement is not ratified by 29 March 2019, a no-deal scenario may occur on 12 April 2019 whereby the UK will become a third country without any transitional arrangements.

In terms of ESMA's previously published measures and actions, including public statements, issued on the basis of a no-deal Brexit scenario on 29 March 2019², ESMA wants to highlight that reference to 29 March 2019 in these statements should now be read as 12 April 2019.

¹ OJ C 661, 19.2.2019, p. 1

² A full list of Brexit-related publications can be found [here](#).

The following should be noted with regard to the measures below:

Clearing and Settlement – Access to UK CCPs and the UK CSD

ESMA announced on [18 February](#) and [1 March](#) 2019 that in the event of a no-deal Brexit, and without an extension to the Article 50 TEU period, it would recognise the three UK CCPs and the UK CSD. This was done on the basis that the conditions stipulated respectively in Article 25 of EMIR and Article 25 CSDR were satisfied. One of these conditions was the respective equivalence decisions on the UK adopted by the European Commission (EC) and announced in its preparedness Communication of 19 December 2018.

The extension to the Article 50 TEU period means that the ESMA recognition decisions would not apply on 30 March 2019. The EC, as announced in its [public statement](#) of 25 March 2019, intends to adopt amended equivalence decisions in relation to UK CCPs and the CSD to take into account this extension. Similarly, ESMA intends to amend its recognition decisions to make sure that UK CCPs and the CSD are recognised in the event Brexit occurs on 12 April.

Counterparties to Uncleared OTC derivatives

ESMA has on [8 November](#) 2018 published a final report with draft regulatory technical standards (RTS) proposing to amend the three Commission Delegated Regulations on the clearing obligation under EMIR. The draft RTS allow UK counterparties to be replaced with EU ones without triggering the clearing obligation.

In addition, ESMA together with the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) have published a joint draft RTS proposing a similar approach to facilitate the novation of legacy contracts to EU counterparties considering that novation may also trigger the application of bilateral margin requirements.

On 13 March 2019 Commission Delegated Regulations ((EU) 2019/396 and (EU) 2019/397) based on those draft RTS were [published](#) in the Official Journal of the European Union and entered into force.

These Delegated Regulations are conditional on a no-deal Brexit without an extension of the Article 50 TEU period. The extension agreed by the Council means that both Delegated Regulations will not be applicable. ESMA is working closely with the European Commission and the other ESAs to amend the relevant Delegated Regulations.



Databases and IT systems

ESMA has on [5 February](#) and [19 March](#) 2019 issued public statements informing stakeholders on ESMA's approach in relation to the impact of a no-deal scenario on ESMA's databases and IT systems. ESMA intends to maintain the general approach presented in the statements, but any action presented in the statements for 29 March 2019 will be postponed to the new Brexit date of 12 April 2019. Furthermore, the double volume cap calculations will not be published in April 2019. ESMA will publish updated statements explaining the revised approach shortly.

There is still a high level of uncertainty as to the final timing and conditions of Brexit. Should changes occur, ESMA will assess whether its approach needs to be adjusted and will inform the public accordingly.