

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART THREE

SEPARATION PROVISIONS

TITLE X

UNION JUDICIAL AND ADMINISTRATIVE PROCEDURES

Chapter 2

ADMINISTRATIVE PROCEDURES

Article 92

Ongoing administrative procedures

- 1 The institutions, bodies, offices and agencies of the Union shall continue to be competent for administrative procedures which were initiated before the end of the transition period concerning:
 - a compliance with Union law by the United Kingdom, or by natural or legal persons residing or established in the United Kingdom; or
 - b compliance with Union law relating to competition in the United Kingdom.
- 2 Without prejudice to paragraph 3, for the purposes of this Chapter an administrative procedure shall be considered as having been initiated at the moment at which it has been formally registered with the Union institution, body, office or agency.
- 3 For the purposes of this Chapter:
 - a an administrative procedure on State aid governed by Council Regulation (EU) 2015/1589⁽¹⁾ shall be considered as having been initiated at the moment at which the procedure has been allocated a case number;
 - b proceedings for the application of Article 101 or 102 TFEU conducted by the European Commission under Council Regulation (EC) No 1/2003⁽²⁾ shall be considered as having been initiated at the moment at which the European Commission has decided to initiate proceedings in accordance with Article 2(1) of Commission Regulation (EC) No 773/2004⁽³⁾;
 - c proceedings in connection with the control of concentrations between undertakings governed by Council Regulation (EC) No 139/2004⁽⁴⁾ shall be considered as having been initiated at the moment at which:
 - (i) a concentration of Union dimension has been notified to the European Commission in accordance with Articles 1, 3 and 4 of Regulation (EC) No 139/2004;

- (ii) the time limit of 15 working days referred to in Article 4(5) of Regulation (EC) No 139/2004 has expired without any of the Member States competent to examine the concentration under their national competition law having expressed its disagreement as regards the request to refer the case to the European Commission; or
- (iii) the European Commission has decided, or is deemed to have decided, to examine the concentration in accordance with Article 22(3) of Regulation (EC) No 139/2004;
- d an investigation by the European Securities and Markets Authority of an alleged infringement listed in Annex III to Regulation (EC) No 1060/2009 of the European Parliament and of the Council⁽⁵⁾ or Annex I to Regulation (EU) No 648/2012 of the European Parliament and of the Council⁽⁶⁾ shall be considered as having been initiated at the moment at which that Authority has appointed an independent investigating officer in accordance with Article 23e(1) of Regulation (EC) No 1060/2009 or Article 64(1) of Regulation (EU) No 648/2012.

4 The Union shall provide the United Kingdom with a list of all individual ongoing administrative procedures that fall within the scope of paragraph 1 within 3 months after the end of the transition period. By way of derogation from the first sentence, in the case of individual ongoing administrative procedures of the European Banking Authority, the European Securities and Markets Authority, and the European Insurance and Occupational Pensions Authority, the Union shall provide the United Kingdom with a list of such ongoing administrative procedures within 1 month after the end of the transition period.

5 In an administrative procedure on State aid governed by Regulation (EU) 2015/1589, the European Commission shall be bound in relation to the United Kingdom by the applicable case law and best practices, as if the United Kingdom were still a Member State. In particular, the European Commission shall, within a reasonable period of time, adopt one of the following decisions:

- a a decision finding that the measure does not constitute aid pursuant to Article 4(2) of Regulation (EU) 2015/1589;
- b a decision not to raise objections pursuant to Article 4(3) of Regulation (EU) 2015/1589;
- c a decision to initiate formal investigation proceedings pursuant to Article 4(4) of Regulation (EU) 2015/1589.

- (1) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union ([OJ L 248, 24.9.2015, p. 9](#)).
- (2) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty ([OJ L 1, 4.1.2003, p. 1](#)).
- (3) Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty ([OJ L 123, 27.4.2004, p. 18](#)).
- (4) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings ([OJ L 24, 29.1.2004, p. 1](#)).
- (5) Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ([OJ L 302, 17.11.2009, p. 1](#)).
- (6) Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ([OJ L 201, 27.7.2012, p. 1](#)).