RPC Cover

Title: European Union (Withdrawal) Act – Financial Services Statutory Instruments (II)
IA No: RPC-4297(1)-HMT
RPC Reference No: RPC-4297(1)-HMT
Lead department or agency: HM Treasury
Other departments or agencies: Department for Exiting the European Union

Impact Assessment (IA)

Date: 19/11/2018

Stage: Final

Source of intervention: Domestic

Type of measure: Secondary Legislation

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Summary: Intervention and Options [1]

RPC Opinion: Fit for Purpose

Cost of Preferred (or more likely) Option (£m) (in 2016 prices)				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year**	**One-In, Three-Out**	**Business Impact Target Status**
-131.6	-131.6	15.3	Not in scope	Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?

These Statutory Instruments (SIs) form part of the wider work the government is undertaking to ensure that there will be a functioning financial services regulatory regime at the point where the UK leaves the EU, in any scenario. They are made using powers under the EU (Withdrawal) Act 2018 to prevent, remedy or mitigate any failure of retained EU law to operate effectively after the UK leaves the EU. The UK and EU have agreed the terms of an implementation period that will start on 29 March 2019 and last until 31 December 2020. However, the government has a duty to plan for all scenarios. Together with the other financial services SIs that will follow, these SIs would ensure that a functioning and stable financial services regulatory regime is in place at the point of exit on 29 March 2019, in any scenario, including in the unlikely scenario in which there is no deal in place and the UK leaves the EU without an implementation period.

What are the policy objectives and the intended effects?

These SIs are not intended to make policy changes, beyond what is appropriate to ensure a functioning financial services framework and to provide for a smooth transition in the unlikely scenario where the UK leaves the EU without an implementation period being in place. The government's objectives in laying these SIs are:

- Having a functioning legislative and regulatory regime in place, in particular the financial services regulators' capability to fulfil their statutory objectives as set out in the Financial Services and Markets Act 2000 (FSMA);
- Enabling regulators and firms to be ready – by minimising disruption and avoiding material unintended consequences for the continuity of service provision to UK customers, investors and the market;
- Protecting the existing rights of UK consumers;
- Ensuring financial stability.

[1] Familiarisation costs only – excludes non-monetised impacts. Results given to two significant figures.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

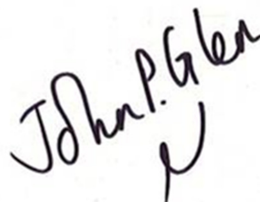
As noted in the EU (Withdrawal) Bill Impact Assessment, 'the Government does not consider that there are alternative ways to prepare the domestic statute book for our exit from the European Union within the timetable dictated by the Article 50 process.' The policy positions presented in these SIs are the result of systematically applying the principles set out above to deficiencies or inoperable provisions in the statute book.

The powers in the EU (Withdrawal) Act 2018 are limited to fixing deficiencies, and cannot be used to develop new policy beyond what is appropriate to address the deficiencies. The aim is to limit the disruption to and burden on firms by maintaining the status quo as far as possible. Most of the changes to retained EU law made by these SIs will not come into effect in March 2019 if, as expected, the UK enters an implementation period.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** N/A

Does implementation go beyond minimum EU requirements?		N/A			
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes	
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** N/A		**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:  Date: 19/11/2018

Summary: Analysis & Evidence

Policy Option 1

Description: Proceed with secondary legislation to fix deficiencies in retained EU law relating to financial services.

FULL ECONOMIC ASSESSMENT [2]

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:
2018	2018	10	-190.3	-125.8	-141.1

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	42.0	10.0	**125.8**
High	99.9	11.0	**190.2**
Best Estimate	57.9	10.0	**141.1**

Description and scale of key monetised costs by 'main affected groups'

The costs incurred by businesses as a result of these SIs are set out in the categories below. Since these SIs aim to broadly preserve the status quo in financial services (FS) regulation, quantifiable costs on business that are directly attributable to these SIs are minimal and mainly consist of familiarisation costs. On the whole, none of the SIs present substantial familiarisation costs, however they have been monetised using a standardised methodology.

Other key non-monetised costs by 'main affected groups'

While the majority of direct costs on business fall under the familiarisation costs category, there will be a limited set of other business costs linked to business operations that will be introduced by these SIs. These other business costs may include transition costs, such as changes to business processes and reporting requirements. Given the wide range of firms affected by these changes, and differences in their size and the activities they undertake, it has not been possible to monetise these costs in the time available.

In addition, HM Treasury intends to legislate to provide the financial services regulators with powers to introduce transitional measures that they could use to phase in any changes resulting from the UK leaving the EU, which could reduce the costs on business of adjusting to the new regulatory regime. It is not possible to monetise an estimate of the impact of this, as the regulators will have discretion as to how they exercise these powers.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

N/A

Other key non-monetised benefits by 'main affected groups'

These SIs (when taken together with the rest of the FS onshoring SIs, and subsequent changes to FS regulator rules and associated legislation) help ensure that there will be a functioning financial services regulatory regime at the point where the UK leaves the EU, in any scenario. They also take action to avoid businesses facing a regulatory cliff-edge. Without these SIs, financial services firms would face much greater costs, and far greater uncertainty.

Key assumptions/sensitivities/risks	**Discount rate**	3.5

[2] Familiarisation costs only – excludes non-monetised impacts. Results given to two significant figures.

A number of assumptions and limitations frame our analysis: these are detailed in section III.1. Further assumptions relating to the quantification of familiarisation costs for these SIs can be found in the Annex.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m:**
Costs:	**Benefits:**	**Net:**	
16.4	0	-16.4	N/A

Evidence Base (for summary sheets)

Impact Assessment of Financial Services Statutory Instruments – European Union (Withdrawal) Act (EUWA)

I. Overview: the EUWA and Financial Services

1. The Financial Services (FS) industry is highly important to the UK economy: in 2017, it contributed a total £130bn in gross value added (GVA) to the UK economy, 7.1% of the UK's total GVA.[3] Furthermore, a large amount of FS activity happens across borders, and trade between the UK and the rest of the EU represents an important element of this: in 2016, the UK exported £79bn of FS (including insurance & pension funding) in total worldwide, of which £29bn went to the EU (36%).[4]

2. In the context of the UK's withdrawal from the EU, the government recognises that it is important to ensure continuity of the FS regulatory framework. The European Union (Withdrawal) Act 2018 (EUWA) repeals the European Communities Act 1972, and converts into UK domestic law the existing body of directly applicable EU law (including EU Regulations). It also preserves UK laws made to implement our EU obligations – e.g. legislation implementing EU Directives. This body of law is referred to as "retained EU law".

3. The EUWA also gives Ministers powers to prevent, remedy or mitigate any failure of EU law to operate effectively, or any other deficiency in retained EU law, through Statutory Instruments (SIs). We sometimes refer to these contingency preparations for financial services legislation as 'onshoring'.

4. These SIs are not intended to make policy changes, other than those that are appropriate to ensure a smooth transition when the UK leaves the EU, or to reflect the UK's new position outside the EU. The scope of the power in the EUWA is drafted to reflect this purpose, and subject to further restrictions, such as the inability to use the power to impose or increase taxation or fees, or establish a public authority. The power is also time-limited, and falls away two years after Exit Day.

1. The implementation period

5. The UK and the EU have agreed the terms of an implementation period that will start on 29 March 2019 and end on 31 December 2020. This will provide time to introduce the new arrangements that will underpin our future relationship, and provide valuable certainty for businesses and individuals. During the implementation period, common rules will continue to apply, and the UK will continue to implement new EU law that comes into effect. This will mean that access to each other's markets will continue on current terms, and

[3] 'UK GVA(O) low level aggregates', Office for National Statistics, July 2018 (Current prices)
[4] Geographical breakdown of the current account, The Pink Book, ONS, July 2018

businesses, including financial services firms, will be able to trade on the same terms as now until 31 December 2020.

6. Whilst the government has every confidence that a deal will be reached and the implementation period will be in place, we have a duty to plan for all eventualities, including a 'no deal' scenario. The government is clear that this scenario is in neither the UK's nor the EU's interest, and we do not anticipate it arising. To prepare for this unlikely eventuality, HM Treasury intends to use powers in the EUWA to ensure that the UK continues to have a functioning financial services regulatory regime in all scenarios. This involves preparing SIs under the EUWA that fix deficiencies in retained EU law.

7. In general, these SIs will not take effect in March 2019 in the event that an implementation period is in place. In that scenario, the existing EU single market for financial services will continue to apply in the UK and firms will remain subject to current legislation.

2. Context for FS

8. A significant proportion of existing UK FS legislation is currently derived from the EU. There are over 200 pieces of EU legislation that relate to FS, as well over 280 pieces of UK secondary legislation and 24 pieces of UK primary legislation. This Impact Assessment covers ten SIs that address deficiencies in UK law and retained EU law relating to financial services regulation that arise from the UK leaving the EU. HM Treasury intends to lay further SIs between now and March 2019, to address deficiencies across the entirety of EU financial services legislation. Taken as a whole, these SIs will ensure that there is a functioning regulatory framework in place on exit day, in any scenario.

9. These SIs are not intended to make policy changes, but simply to make the amendments to ensure the UK's regulatory framework continues operate effectively when the UK leaves the EU. In making these SIs, EU-derived laws and rules that are in place in the UK will continue to apply, as far as is practicable. The UK financial services framework on exit day will not deviate beyond what is appropriate to ensure a functioning regime.

10. The impact of these SIs on business is best understood when considering them as a package of interlinked reforms. Each SI contributes to the overall objective of ensuring that there is legal certainty and a functioning regulatory regime at the point of exit, but their effectiveness is dependent on other EU Exit-related SIs. Firms will want to consider the full package of SIs, along with the associated changes to regulator rules, when making changes to business processes, for example deciding whether changes to IT systems are required.

11. There are complex interdependencies between these SIs and the changes that they make. For example, firms entering into a Temporary Permissions Regime may become subject to the Prudential Regulation Authority's (PRA) rules, and be affected by changes made in the legislation addressing deficiencies in other SIs. These interdependencies make it difficult to separate the effects of different SIs, and to give an assessment of the numbers of firms affected and exactly how they will be affected. In addition to these SIs, there will be amendments to the financial services regulators' rulebooks, and to the EU-derived

technical standards.[5] These changes will be made by the regulators, and many of these changes will be consequential to HM Treasury's SIs. Rules made through these sub-delegated powers will be subject to the same constraints as HM Treasury's use of the EUWA's powers, as well as additional mechanisms to ensure robust HM Treasury oversight. The regulators have announced that they intend to consult on these rule changes from Autumn 2018 onwards. There will also be changes to other relevant legislation that is not specific to the financial services sector, but will have an impact on it.

II. Approach

1. Principles of onshoring

12. Section 8 of the EUWA gives Ministers powers to make regulations to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law arising from the UK leaving the EU.

13. Examples of deficiencies in financial services legislation include:

    - Functions that are currently carried out by EU authorities would no longer apply to the UK (for example, supervision of trade repositories, which HM Treasury proposes to transfer to the Financial Conduct Authority);
    - Provisions in retained EU law that would become redundant (for example, references to Member States and European Consumer Credit Information);
    - Provisions that would be inconsistent with ensuring a functioning regulatory framework – for example, requirements regarding automatic recognition of an action by an EU body by the relevant UK body – where alternative arrangements for cooperating with EU bodies would be more appropriate;
    - Provisions requiring participation in EU institutions, bodies, offices and agencies (for example, joint decision making in supervisory and resolution colleges) which would no longer work after the UK leaves the EU.

14. In the unlikely scenario that the UK leaves the EU without a deal, the UK would be outside of the EU's framework for financial services with no alternative bespoke arrangements in place. The UK's position in relation to the EU would be determined by the default Member State and EU rules that apply to third countries at the relevant time. The European Commission has confirmed that this would be the case.[6]

15. In light of this, our approach in this scenario cannot and does not rely on any new, specific arrangements being in place between the UK and the EU. As a general principle the UK would also need to default to treating EU Member States (and EEA states) largely as it does other third (non-EEA) countries. However, HM Treasury recognises that in some areas, given the complex and highly integrated nature of the EU financial services system,

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[5] EU-derived technical standards are defined in section IV. (2.)

[6] European Commission notice: https://ec.europa.eu/info/publications/180208-notices-stakeholders-withdrawal-uk-banking-and-finance_en

deficiencies would not be adequately resolved by defaulting to existing third country frameworks alone. In such cases, we might need to take a different approach to manage the transition to a stand-alone UK regime. HM Treasury has identified several principles that would justify taking a different approach:

- Having a functioning legislative and regulatory regime in place, in particular the regulators' capability to fulfil their statutory objectives as set out in the Financial Services and Markets Act 2000 (FSMA);
- Enabling regulators and firms to be ready – by minimising disruption and avoiding material unintended consequences for the continuity of service provision to UK customers, investors and the market;
- Protecting the existing rights of UK consumers; and
- Ensuring financial stability.

16. In addition, HM Treasury has confirmed its intention to temporarily empower the Bank of England, the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) to make transitional provision by waiving or modifying changes to firms' regulatory obligations where those obligations have changed as a result of onshoring financial services legislation. For example, the power could be used to delay the application of onshoring changes. The power will enable transitional provision to be made in response to changes to the regulators' own rules, onshored EU regulations (that will form part of retained EU law) and EU-derived domestic primary and secondary legislation. The power could be used to grant transitional relief in respect of any existing regulatory requirements that would otherwise apply for the first time on exit day to a particular category of firm, for example firms in the temporary regimes referred to above.

17. Transitional relief could be granted to particular firms, classes of firms, or all firms to which a particular onshoring change applies, including firms that have entered into one of the transitional regimes referred to above. Firms would not need to apply for transitional relief in order to benefit from it. Rather, the regulators will issue "directions" that set out the terms of the proposed transitional relief, which would be published on the regulators' websites. It will be within the regulators' discretion as to how to exercise this power.

18. Wherever practicable, our approach is that the same laws and rules that are currently in place in the UK will continue to apply at the point of exit, providing continuity and certainty as we leave the EU. However, some changes would be required to reflect the UK's new position outside the EU and would have no new special arrangements in place in the unlikely event of a 'no deal' scenario. These changes would not take effect in 29 March 2019 if, as expected, we enter an implementation period.

19. This general approach was already reviewed by the RPC in its assessment of the Withdrawal Bill Impact Assessment.[7]

Regulatory rules and guidance

20. HM Treasury is delegating powers to the UK's financial services regulators to address deficiencies in the regulators' rulebooks arising as a result of exit, and to the EU Binding Technical Standards (BTS) that will become part of UK law. Delegating the deficiency-fixing power in this way will give UK regulators the flexibility to ensure that the full set of EU-derived rules for which they are responsible will operate effectively from exit. Such sub-delegated powers will be subject to the same constraints as HM Treasury's use of the EU (Withdrawal) Act's powers, as well as additional mechanisms to ensure robust HM Treasury oversight. This will be achieved through the Financial Regulators' Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018 SI. The regulators have announced their intention to consult on these changes wherever possible from Autumn 2018 onwards.[856]

21. In addition, the financial services regulators provide a range of information and guidance to firms and consumers, including on preparing for the UK leaving the EU.[7] The regulators will continue to provide guidance and information to firms as appropriate in the lead up to and beyond Exit day, in line with their statutory objectives. Subject to negotiation outcomes, this will include guidance on complying with the onshored regime.

2. Alternatives to onshoring

22. As noted in the European Union (Withdrawal) Bill Impact Assessment, 'the Government does not consider that there are alternative ways to prepare the domestic statute book for our exit from the European Union within the timetable dictated by the Article 50 process.'[8] The policy positions presented in these SIs are the result of systematically applying the principles set out above to deficiencies in the statute book.

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[7] RPC opinion: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/675290/rpc-4105_1_-dexeu-eu-withdrawal-bill-opinion.pdf

[8] 'The FCA consults on its approach ahead of the UK's exit from the EU', 10 October 2018, https://www.fca.org.uk/news/press-releases/fca-consults-brexit-approach

[5] CP 18/28: Brexit: proposed changes to the Handbook and Binding Technical Standards – first consultation https://www.fca.org.uk/publications/consultation-papers/cp18-28-brexit-proposed-changes-handbook-bts-first-consultation

[6] The Bank of England's approach to amending financial services legislation under the European Union (Withdrawal) Act 2018 https://www.bankofengland.co.uk/paper/2018/the-boes-approach-to-amending-financial-services-legislation-under-the-eu-withdrawal-act-2018

[7] An example of information provided by regulators: FCA, 'Preparing your firm for Brexit' (https://www.fca.org.uk/firms/preparing-for-brexit)

[8] EU Withdrawal Bill Impact Assessment: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628004/2017-07-12_repeal_bill_impact_assessment__1_.pdf

23. The powers in the EUWA are limited to fixing deficiencies, and cannot be used to develop new policy beyond what is appropriate to address the deficiencies. The aim is to limit the disruption to, and burden on, firms by broadly maintaining the status quo. Therefore, the only conceivable alternative to laying these SIs would be to do nothing, and leave the statute book unchanged.

3. Do nothing

24. If the EUWA came into force but these SIs were not laid in Parliament then the EUWA would transfer EU law at the point of exit into the UK statute book, but it would not be appropriately amended to address deficiencies. Following the UK's exit, that law would, in many areas, fail to operate effectively or otherwise be deficient. Examples of this include:

    - The scope of EU regulations is generally defined with reference to the EU and/or its Member States. Once the UK is no longer a Member State, it would no longer be within scope of the legislation leaving uncertainty about the regulatory requirements that apply to UK firms.
    - UK Credit Ratings Agencies and Trade Repositories, which are currently supervised by EU regulators, would fall out of the EU supervisory framework, but no UK body would have powers to supervise them. This would leave these entities unregulated, causing financial stability risks.
    - EU firms and funds could continue to access the UK market, but the UK would no longer be part of the EU regulatory framework that they were operating under. UK regulators' powers to supervise them would be limited.
    - UK regulators would not be able to recognise third country central counterparties or central securities depositories, as these are currently recognised by EU regulators. These entities would lose access to UK markets, with significant impacts for their business and their customers.

25. These SIs are laid to avoid these and other possible adverse impacts, and ensure that there is a sound regulatory system, which will follow broadly the same rules and standards as now. If we left the EU without an agreement, but took no further action to prepare our domestic statute book, we would have an incomplete and incoherent legal system for financial services.

26. The cost of 'doing nothing' would far outweigh the costs that business will incur as a direct consequence of these SIs. 'Doing nothing' clearly goes against the government's commitment to prepare for all eventualities and provide business with clarity and certainty as they plan their response to EU exit. It is therefore essential that the appropriate adjustments to legislation are made before we have left the EU.

4. Choice of baseline

27. This Impact Assessment baselines against the UK statute book as it is expected to be before the UK leaves the EU in March 2019. Therefore, the assessment considers what the marginal impact on business will be of the changes made in the SIs to fix deficiencies in the existing legislation. For example, where a supervisory function is currently carried out at EU

level, and is being transferred to a UK regulator by these SIs, the relevant impact is the marginal impact of the change in regulator – not the full cost of the UK regulation.

28. The impacts presented for each SI are measured against a scenario where all other financial services legislation would function as intended on exit day. This makes it possible to consider the incremental impact of an individual SI on businesses. This IA does not consider the broader impact of the UK's departure from the EU.

29. This Impact Assessment provides an analysis of known costs that businesses will incur as a result of these SIs. Where possible, these costs have been quantified. However, these SIs represent only part of the picture for business impacts. In order to understand the full impact of the regulatory changes that will take place, it is necessary to consider these SIs alongside the rest of the set of financial services onshoring SIs, amendments to the regulators' rulebooks reflecting these SIs, the changes to EU binding technical standards made by regulators, and SIs amending other related legislation that is not specific to financial services.

5. Scope

30. This Impact Assessment measures primarily the impact on UK-based businesses of the changes to legislation resulting from these SIs. As for certain SIs the regulatory impacts extend to EEA firms that have a branch in the UK, these firms have also been included.

31. In addition to measuring business impact, this Impact Assessment describes the impact of the onshoring SIs on the UK financial regulators, the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA), Bank of England, and Payment Systems Regulator (PSR).

III. Assessment

1. Assumptions and limitations

32. A number of assumptions and limitations frame our analysis.

    - First, the impacts analysed in this document are limited to those that stem directly from these SIs. As explained above, in order to understand the impact on business, these SIs need to be considered alongside all other financial services SIs made under the EUWA, consequential amendments to the regulators' rulebooks, amendments to existing EU technical standards to address deficiencies, and amendments to other related legislation. It is therefore not possible to estimate their full impact at this stage.
    - Second, these SIs are designed to come into effect in the unlikely scenario where the UK leaves the EU on 29 March 2019 without an implementation period. The large majority of changes made by these SIs would only come into effect in that scenario. It is important to remember that the most likely outcome is that these SIs will not come into effect in March 2019, and therefore business will not be impacted by them at that time.

A small minority of provisions in these SIs come into force before March 2019, in order to help support preparations for the UK leaving the EU, for example, provisions allowing the regulators to begin preparations for transitional regimes, such as the Temporary Permissions Regime. Where this is the case, it is set out in the description of the relevant SI below. Where this is not specified, the changes described would only come into effect if the UK leaves the EU in March 2019 without an implementation period.

- Third, the constrained timeframes driven by the Article 50 process, which set the UK's withdrawal date from the EU as 29 March 2019, mean that it has not been possible to undertake a formal consultation with industry, and therefore not Consultation Stage Impact Assessment was prepared. While HM Treasury continues to engage regularly with the financial services industry on the changes being made by these SIs and their impact, it has not been possible to undertake engagement in the detail required to monetise costs associated with these SIs in the time available. In addition, time constraints have meant that industry engagement has proceeded largely on an SI by SI basis, and it has not been possible to share the full package of onshoring SIs, along with accompanying regulator rule changes, with industry in parallel – meaning it has not been possible to discuss the impact of the full package of changes with firms as this impact assessment was being produced.
- Fourth, HM Treasury intends to legislate to provide the financial services regulators with powers to introduce transitional measures that they could use to phase in any onshoring changes.

33. Where it has not been possible to quantify costs with precision or by estimation an explanation has been provided as to why this is the case.

34. There are further specific assumptions and limitations which pertain to individual SIs. These limitations are detailed in the relevant sections covering each SI.

2. Benefits to business

35. These SIs (when taken together with the rest of the FS onshoring SIs, and subsequent changes to FS regulator rules and associated legislation) ensure that there will be a functioning financial services regulatory regime at the point where the UK leaves the EU, in any scenario, including where no deal is agreed. They also take action to avoid businesses facing a regulatory cliff-edge.

36. Without these SIs, financial services firms would face much greater costs, and far greater uncertainty, due to issues including:

    - UK legislation would be defective: legislation would at times be contradictory, its scope would be unclear, and the requirements that apply to UK firms would be unclear. This could lead to firms to stop certain activities, to seek legal advice, or potentially expose them to legal risks that could mean they incur costs.
    - Non-UK central counterparties that were operating in the UK prior to exit would not be able to continue to access the UK market and would need to stop providing

services in the UK. This would cause significant disruption to them, and to the firms that access the services of these central counterparties.

37. Benefits provided by these SIs include, but are not limited to:

    - The Markets in Financial Instruments (Amendment) (EU Exit) Regulations ensure that UK financial markets continue to operate in a fair, stable and transparent manner post EU withdrawal, and that investors will be afforded the same protections that they currently enjoy. Specifically, it will include temporary powers for the FCA to allow flexibility over how the MiFID II transparency regime operates during a four-year transitional period, with the aim of preserving existing outcomes as far as possible. It will allow the FCA to grant temporary authorisations to EU-authorised Data Reporting Services Providers so that they can continue providing services in the UK after exit – limiting disruption for the providers and their clients. It provides for the UK authorities to make equivalence decisions after exit, which reduce duplication in supervisory functions and facilitate international trade.
    - The Central Securities Depositories (Amendment) (EU Exit) Regulations ensure that the UK retains an operative regulatory framework for Central Securities Depositories (CSDs). This will enable UK firms to continue to use CSDs for settlement purposes under UK law – avoiding disruption that could otherwise occur at exit.
    - The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations, and elements of the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provision) (EU Exit) Regulations seek to support the UK remaining a member of the Single Euro Payments Area (SEPA) after exit. This would allow users of UK payment service providers/banks (including UK individuals and businesses) to continue to make quick and efficient credit transfers and direct debit payments in euros through this payment scheme after exit.

Further benefits are detailed by SI below.

3. Costs to business

38. The costs incurred by businesses as a result of these SIs fall in to in the categories set out below. Financial services firms can plan on the assumption that an implementation period will be in place when the UK leaves the EU. Firms are not expected to prepare now to implement the onshoring changes by 29 March 2019. This means thatcosts incurred at this point should mainly be familiarisation costs.

Familiarisation costs

39. These SIs are not intended to make any substantial changes to the legislative framework beyond what is appropriate to address any deficiencies, but they still give rise to a requirement for impacted businesses to familiarise themselves with the regulatory changes. On the whole, none of the SIs present substantial familiarisation costs. These should be one-off costs as the regulations introduced will not require ongoing updating or monitoring for changes from business.

40. As detailed in the limitations above, HM Treasury continues to engage regularly with the financial services industry on the changes being made by these SIs and their impact. This engagement, along with the publication of SIs in draft , will help mitigate the costs of disseminating regulatory updates to the impacted parties, by giving industry an understanding of the approach that has been taken, and how that will impact on their business.

41. One component of familiarisation costs is the cost of disseminating information about regulatory changes throughout a business. As the SIs under consideration do not make regulatory changes beyond what is appropriate to address deficiencies there will be limited information that needs to be disseminated beyond the businesses' internal compliance and legal teams. The familiarisation costs below are therefore not intended to cover any wider costs of disseminating information throughout the business.

42. These familiarisation costs do not include the costs of implementing changes to business processes following familiarisation. In some cases it has been possible to estimate these transitional costs of changes firms will have to make, where this is the case these are described below.

43. Our methodology for measuring familiarisation costs is presented in the Annex.

Table 1. Familiarisation costs by SI

SI title	Familiarisation cost per firm (2 significant figures)	Total familiarisation cost to all impacted firms (2 significant figures)
Short Selling (Amendment) (EU Exit) Regulations 2018	£270	£700,000
Central Securities Depositories (Amendment) (EU Exit) Regulations 2018	£400	£4,400
The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018	£820	£230,000
Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018	£1,200	£400,000
Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018	£610	£760,000
Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018	£150	£1,200
The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018	£120	£18,000
Capital Requirements (Amendment) (EU Exit) Regulations 2018	£1,700	£1,700,000
Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018	£1,900	£9,600,000
Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2018	£670	£21,000

Other business costs

44. While the majority of direct costs to business fall under the familiarisation costs category, there will be a limited set of other business costs linked to business operations that will be introduced by these SIs. These will primarily be one-off costs to adapt to the changes introduced and include changes to business processes, reporting requirements (for

example, reporting to a UK regulator when previously firms had reported to an EU regulator), and changes to authorisation fees (for example, the power to authorise new UK trade repositories and Credit Rating Agencies will be transferred from ESMA to the FCA. This may result in costs to firms if they apply for authorisation to the FCA).

45. In most cases, it is not currently possible to quantify these costs without further consultation with industry due to the need to better understand exactly what changes businesses will need to make, which depends on how their systems are currently set up.

46. HM Treasury has considered whether suitable proxies exist that could be used to provide an estimate of these costs – for example by drawing on the impact assessments prepared when this legislation was introduced, where they are available. However, since these SIs generally make changes to the scope of this legislation, then these were not considered suitable proxies and have not been used here.

4. Small and Micro Business Assessment (SaMBA)

47. As set out above, our approach is that, wherever possible, the same laws and rules that are currently in place in the UK will continue to apply at the point of exit, providing continuity and certainty as we leave the EU. These SIs are not intended to make policy changes, other than those that are appropriate to ensure a smooth transition when the UK leaves the EU, or to reflect the UK's new position outside the EU. As such, where the existing framework includes exemptions, or other provisions, for small and micro businesses, these SIs do not remove these provisions but maintain them. Equally, they do not add in new provisions for SMBs, or otherwise make changes that are not required to fix deficiencies arising from the UK's exit from the EU, as this is not a permitted use of the powers in the EUWA.

48. As the intention of these SIs is to prepare a workable regime for financial services firms, the usual 'exemption' test that would be applied to Small and Micro Businesses (SMBs) is not relevant. Small or micro businesses would be disadvantaged if they were exempt from the changes made by these SIs, as the regulation they would be subject to would not have been amended to reflect the UK's position outside of the EU. This would disrupt their ability to operate after Exit, leaving them at a disadvantage compared to larger businesses.

49. These SIs will indirectly impact a large number of small businesses who use financial services firms and funds in order to do business. These firms will indirectly benefit from these SIs due to the fact that they will ensure that there is a clear and workable financial services regulatory regime in "no deal" EU exit scenario, limiting disruption to firms and customers and enabling financial services firms to continue operating.

Information for firms, including SMBs

50. The government's Technical Notice on Banking, Insurance and Other Financial Services, published on 23 August[9], set out that firms, including SMBs, should continue to plan on the basis that an implementation period will be in place from March 2019 to December 2020, and continue to follow guidance from the regulators. It also provided information for personal and business customers of financial services firms and funds, and financial services firms, funds and financial market infrastructure) with information about the impact of the UK leaving the EU without a deal, and the government's approach to ensuring that we have a functioning financial services regulatory framework in any scenario.

51. The Treasury has published the SIs covered in this impact assessment in draft, in order to provide Parliament, firms and other stakeholders with further details on our approach to onshoring financial services legislation. These publications are accompanied by explanatory information, setting out the key changes made by SI.

52. The financial services regulators provide a range of information and guidance to firms, including on preparing for the UK leaving the EU.[10] The regulators will continue to provide information and guidance to firms, including SMBs, in the lead up to, and beyond, the UK leaving the EU as appropriate and in line with their statutory objectives. Subject to negotiation outcomes, this will include guidance on complying with the onshored regime.

Impact of individual SIs on SMBs

53. The below table outlines whether SMBs are directly in scope of these SIs, and, where that is the case, provides some further information on the provisions made for SMBs in the regulations these SIs amend. In many cases, the Treasury does not have access to data which would allow us to determine the number of SMBs affected on an individual SI basis, however where there has been previous analysis done this is referenced below.

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[9] Banking, insurance and other financial services if there's no Brexit deal, 23 August 2018, https://www.gov.uk/government/publications/banking-insurance-and-other-financial-services-if-theres-no-brexit-deal/banking-insurance-and-other-financial-services-if-theres-no-brexit-deal

[10] An example of information provided by regulators: FCA, 'Preparing your firm for Brexit' (https://www.fca.org.uk/firms/preparing-for-brexit)

Table 2. Impact on SMBs

SI title	Applicable to small (inc. micro) businesses?
Short Selling (Amendment) (EU Exit) Regulations 2018	Yes
Central Securities Depositories (Amendment) (EU Exit) Regulations 2018	No
The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018	No
Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018	Yes
Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018	Yes
The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018	Yes
Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018	No
Capital Requirements (Amendment) (EU Exit) Regulations 2018	Yes
Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018	Yes
Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2018	No

Short Selling (Amendment) (EU Exit) Regulations 2018

54. The legislation applies to activities that are undertaken by small businesses. The Short Selling Regulation, which this SI amends, does not provide any basis for excluding small or micro businesses from the regulation as exempting smaller firms from the short selling regulation as this would hinder its effectiveness, and run the risk of regulatory arbitrage based on firm size. It is not possible to quantify the number of small or micro business affected because the Short Selling Regulation has an activity-based, not firm-based scope, so neither the government nor the regulators hold information on the size of the affected firms.

55. An impact assessment was produced in 2012 on the Short Selling Regulations , which implemented the EU Regulation on Short Selling and certain aspects of credit default swaps.[11] This impact assessment was unable to quantify the number of SMBs affected, nor the likely cost to participants.

The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018

[11]Impact Assessment; UK implementation of the regulations on Short-Selling and certain aspects of credit default swaps https://www.legislation.gov.uk/ukia/2012/395/pdfs/ukia_20120395_en.pdf

56. Insurance undertakings with less than €5 million yearly premium income or insurance obligations (liabilities) of less than €25m are excluded from the scope of the Solvency 2 Directive, and therefore from this SI. This means that undertakings that small and micro businesses are very likely to be excluded from the scope of the directive.

57. An impact assessment was produced for the Solvency 2 Regulations 2015[12], which implemented the Solvency 2 Directive. This impact assessment concluded that all micro-businesses (those with fewer than 10 employees) would be out of scope of the Directive and that, according to estimates provided by the then-Financial Services Authority, approximately 100 small insurance firms would fall outside the scope of the Solvency 2 Directive.

Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018

58. The legislation applies to small businesses. While no deposit-taking banks or building societies in the UK are likely to meet the definition of a small or medium-sized enterprise (SME) there may be investment firms which are small businesses and are covered by this legislation.

59. There are existing measures in the legislation this SI amends that were taken to address the possible impact on small businesses, which this SI leaves unchanged, such as public interest test for exercise of the resolution powers in the Banking Act 2009, and the provision of simplified obligations that apply to firms whose failure would be unlikely to have a significant negative effect on financial markets or the wider economy. The factors taken into consideration in determining whether this is the case include an institution's size, the scope of its activities, its risk profile and/or its interconnectedness to the rest of the financial system. Judged by these criteria, it is unlikely that a SMB will be sufficiently systemically important to be affected by a resolution action.

60. An impact assessment was produced for the Bank Recovery and Resolution Order 2014 which implemented the Bank Recovery and Resolution Directive.[13]. This impact assessment did not quantify the number of SMBs affected by the Regulations, but concluded that even the smallest banks affected would not qualify as either small or micro businesses.

Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018

61. The legislation applies to activities that are undertaken by small and micro businesses if they currently fall within the scope of the Payment Services Regulations or Electronic

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[12]Impact Assessment: Transposition of Solvency II Directive (2009/138/EC) and Omnibus II https://www.legislation.gov.uk/ukia/2015/143/pdfs/ukia_20150143_en.pdf

[13] The EU Bank Recovery and Resolution Directive (BRRD) - Impact Assessment , https://www.legislation.gov.uk/ukia/2014/342/pdfs/ukia_20140342_en.pdf

Money Regulations (which do contain derogations designed to limit the impact on small businesses). The intention of this SI is to ensure that the payments and e-money regimes within the UK continues to operate as intended when the UK leaves the EU. This SI is therefore aimed at minimising the impact of these regulatory changes on all firms, including small businesses.

62. Impact assessments were produced for The Electronic Money Regulations 201114 and Payment Services Regulations 2017[15], which implemented the implementing the Electronic Money Directive, and the Payment Services Directive II respectively. The e-money impact assessment estimated that 48 small e-money institutions would be affected by the Regulations. The Payment Services Regulations impact assessment estimated that 96 e-money institutions and 729 small payment institutions would be covered by the scope of the Payment Services Regulations.

Capital Requirements (Amendment) (EU Exit) Regulations 2018

63. The legislation applies to activities that are undertaken by small businesses if they currently fall within the scope of the EU Capital Requirements Regulation (CRR) – i.e. all banks, building societies and investment firms that are also small businesses. The PRA estimate there are around 20 small and micro UK authorised banks and building societies.

64. No specific action is proposed to minimise regulatory burdens on small businesses regulated under the CRR, as it is important to ensure they still face the same prudential rules as they do now, aiding their financial stability and the stability of the wider sector. The CRR does include a derogation for small trading book business, which provides greater flexibility for qualifying firms with regards to their capital requirements. This policy intent of this derogation will remain unchanged as a result of this SI. The overarching intention of this SI is to ensure that the prudential regime within the UK continues to operate as intended when the UK leaves the EU. This SI therefore is aimed to minimise the impact of these regulatory changes on all firms, including small businesses.

Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

65. The legislation applies to activities that are undertaken by small businesses, if they are currently in scope of the Markets in Financial Instruments Directive and the linked Markets in Financial Instruments Regulation. All relevant businesses must be compliant with these regulations, irrespective of size.

66. There are no specific exemptions for small businesses, to ensure that investor protection standards are maintained for all market participants. The intention of this SI is to ensure that the prudential regime within the UK continues to operate as intended when the UK leaves the EU. No specific provisions are introduced to minimise regulatory burdens on

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[14] Impact Assessment on Draft E-money Regulations
https://www.legislation.gov.uk/ukia/2011/522/pdfs/ukia_20110522_en.pdf
[15] Impact Assessment: Implementation of the EU Payment Services Directive II
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/598246/PSDII-consultation-Impact-Assessment.pdf

small businesses, as all relevant businesses must continue to be compliant with these regulations. This SI aims to minimise the impact of these regulatory changes on all firms, including small businesses.

67. An impact assessment was on the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 implementing the Markets in Financial Instruments Directive II16. This impact assessment did not quantify the number of SMBs affected.

The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018

68. The legislation applies to activities that are undertaken by small businesses if they currently undertake cross-border Euro direct debits and credit transfers. The intention of this SI is to ensure that the payments and e-money regimes within the UK continues to operate as intended when the UK leaves the EU. This SI is therefore aimed at minimising the impact of these regulatory changes on all firms, including small businesses.

69. The EU Regulation establishing technical and business requirements for credit transfers and direct debits in euro did not include any specific derogations for small businesses. As set out below, this SI makes amendments to ensure the UK's regulation remains closely aligned to the EU regime, in order to maximise the prospects of the UK remaining with the in the scope of the Single Euro Payments Area (SEPA) payment schemes. The UK remaining within SEPA would be of benefit to business, including SMBs.

70. An impact assessment was produced on the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012, did not quantify the number of SMBs affected[17].

5. Impacts on the public sector

71. Besides business, the financial services regulators are the other key group impacted by these SIs, along with HM Treasury itself.

72. The regulators will need to take on new functions, and make changes to their operations, resulting in costs. Where these SIs transfer new functions to the regulators, HM Treasury proposes to follow the model outlined in the Financial Services and Markets Act 2000 and allocate functions to UK regulators in a way which is consistent with the responsibilities already conferred on them by Parliament, and the requirements the UK domestic framework places on regulators in relation to consultation and impact analysis, providing certainty and continuity for firms.

73. In addition, where changes to the regulators' rulebooks, or to EU technical standards, are required as a result of leaving the EU, the regulators intend to consult on these changes.

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[16] Impact Assessment; Markets in Financial Instruments Directive II (MiFID II) https://www.legislation.gov.uk/ukia/2017/111/pdfs/ukia_20170111_en.pdf

[17] Impact Assessment: Regulation for Establishing Technical Requirements for credit transfers and direct debits in euros. https://www.legislation.gov.uk/ukia/2012/440/pdfs/ukia_20120440_en.pdf

74. HM Treasury will also need to take on responsibilities for functions currently being carried out by the European Commission. Where these SIs transfer functions to the Treasury these functions will be exercised through legislation, following the usual Parliamentary procedures for secondary legislation.

6. Indirect impacts

75. Where firms do face increased costs as a result of these changes, they may choose to pass on these costs to their customers, which will include other UK businesses. Since this impact is determined by firm behaviour and not a direct consequence of the SIs, it is not considered further in this Impact Assessment.

7. Post-Implementation Review

76. As set out above, this secondary legislation is being made under the EU (Withdrawal) Act, and follows the approach taken by the Act. As set out in the impact assessment on the EU Withdrawal Bill, the Act disapplies the requirement for post-implementation reviews of the statutory instruments that are brought forward under the Act, given the unique set of circumstances. As set out in that IA, these SIs make corrections to existing laws, meaning any repeal or modification could leave the statute book deficient. In addition, the regulations are being made under a power that will cease to exist after 2 years and therefore the power would not be available to make any changes following a review.

77. This does not remove the general need to review and improve legislation in due course and where appropriate, however the need for, timing and nature of any such review would be dependent on the outcome of negotiations.

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IV. Assessment by SI

I. Summary table

Table 3. Summary of anticipated costs by SI

	Familiarisation Costs	Transition Costs	Changes to IT Systems	Changes to Business Process	Changes to Reporting Requirements	Capital Requirements Change	Other Costs
Short Selling (Amendment) (EU Exit) Regulations 2018	X	x					
Central Securities Depositories (Amendment) (EU Exit) Regulations 2018	X			X			
The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018	X				x	x	
Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018	X					x	
Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018	X	X	x	x		x	
The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018	X						
Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018	X		x				x
Capital Requirements (Amendment) (EU Exit) Regulations 2018	X		x		x	x	
Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018	X	X	X	X	X		
Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2018	X		X	X	X		x

2. Short Selling (Amendment) (EU Exit) Regulations 2018

78. This SI makes amendments to ensure that the Short Selling Regulation18 (SSR) continues to operate once the UK leaves the EU. The SSR facilitates greater coordination and consistency between EU Member States where measures have to be taken to restrict short selling. It also increases transparency of short positions held by investors in certain EU securities through notification requirements. The SI amends the scope of the SSR to capture instruments admitted to trading on UK venues only. The FCA will remain the UK regulator for the SSR regime.

79. This SI will primarily impact firms that trade financial instruments which are admitted to trading on a trading venue in the UK (except where the principal trading of that instrument is in a third country) including when they are traded outside of the trading venue.

80. **Transition costs.** Under the SSR, there are certain exemptions for market-making activities and primary market operations. To benefit from the exemption under UK SSR European market makers (individuals or companies that provide liquidity to the market by selling and buying securities) will be required to join a UK trading venue and submit a notification to the FCA at least 30 days ahead of the UK's exit. Trading venues are regulated markets in which multiple third party buying and selling interests interact in the same system. In the system, both investment firms and market operators can trade financial instruments.

81. The cost of joining a UK trading venue depends on the venue and their requirements. As an example, it costs between £10,000 and £575,000 to join the London Stock Exchange (LSE) depending on the issuer's market capitalisation[19]. There are currently 190 EU market makers and the FCA estimate that 100 of those may seek the exemption.[20] The Treasury does not hold data on the market capitalisation of the firms expected to seek the exemption, so to produce a best estimate we have assumed a similar spread of market capitalisation to the LSE Main Market[21], suggesting a median-sized firm would have a Market Value Range of £100-250m corresponding to an admission fee of £168,400.

82. **Changes to business processes.** There will be no significant change to business processes. EU market makers will have to register with the UK trading venue and submit a notification to receive an exemption from the requirement to disclose a short position in the UK. As set out above, the cost of registering with a UK trading venue will vary.

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[18] Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps

[19] Fees for issuers https://www.londonstockexchange.com/companies-and-advisors/main-market/documents/listing2018aprilnew.pdf
Fees for Issuers, London Stock Exchange Group, 1 April 2018 (pg 7) (https://www.londonstockexchange.com/companies-and-advisors/mainmarket/documents/listing 2018aprilnew.pdf)

[20] Information from the FCA

[21] LSE Main Market Factsheet (https://www.londonstockexchange.com/statistics/historic/main-market/main-market-factsheet-archive-2018/lsemainmarketfactsheet-oct2018.xlsx)

83. **Changes to reporting requirements.** Only notifications to the FCA ahead of exit day will remain valid. Where EU market makers will be required to notify the FCA, this will constitute a short registration form or email, therefore costs in this respect will be negligible.

84. **Familiarisation costs.** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant sections of legislation amended by this SI, to advise firms of the impact on their business, and how they should respond. This will be a one-off cost.

3. Central Securities Depositories (Amendment) (EU Exit) Regulations 2018

85. Central Securities Depositories (CSDs) are financial market infrastructures (FMIs) which keep a record of who owns individual securities, such as shares or bonds. They facilitate the transfer of securities between people and companies by registering a change of ownership after a trade is agreed. CSDs also provide for the initial recording of new securities**.** Within the EU, the Central Securities Depositories Regulations (CSDR)[22] set out legislation which govern the authorisation, supervision and regulatory framework for CSDs.

86. This SI makes changes to the CSDR to ensure that the UK retains an operative regulatory framework for CSDs following exit. The SI transfers the powers from the European Securities and Markets Authority (ESMA) to the Bank of England, enabling the Bank of England to recognise third country CSDs post-exit. The SI also makes amendments to the transitional arrangements contained within the underlying EU regulations. Transitional provisions under the 2014 EU Regulations allowed CSDs to apply for authorisation, and third country CSDs to apply for recognition, from ESMA. The amendments introduced by this SI require all third country CSDs to notify the Bank of England before exit day of their intention to provide services in the UK following exit: this requirement applies to any third country CSD benefitting from transitional arrangements at the point of exit. The amendments introduced by this SI are intended to allow third country CSDs who wish to continue to provide services relating to the UK after exit to continue to benefit from transitional arrangements.

87. The changes made by this SI will enable UK firms to continue to use third country CSDs for settlement purposes under UK law. It benefits the affected CSDs by enabling them to continue providing services under UK law, and benefit their users by providing continuity of service at the point of exit.

88. The UK has one CSD (Euroclear United Kingdom & Ireland), who settled 61.9 million transactions and held securities to the value of €6trillion in 2017[23]. It is estimated that around c.10 third country CSDs will seek recognition to continue to operate in the UK after

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[22] Regulation (EU) No 909/2014 of the European Council and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012

[23] Figures taken from EUI website (www.euroclear.com/about/en/business/Keymetrics)

exit. A wide range of businesses use CSDs - including investment firms, insurance firms, asset managers, pension funds, banks, and central counterparties. The SI does not place requirements on these clients of CSDs directly, however they will be affected as CSDs may need to update existing services to clients in order to meet the requirements in this SI.

89. **Familiarisation costs.** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant sections of legislation amended by this SI, to advise firms of the impact on their business, and how they should respond. This will be a one-off cost.

90. **Changes to business processes.** There will be a requirement for non-UK CSDs, wishing to provide services in the UK under Article 25, to apply to the Bank of England for recognition. These CSDs will also have to notify the Bank if they wish to enter into the UK transitional regime. The process for this will be determined by the Bank of England and communicated to firms. For non-UK EEA CSDs, this will be a new requirement because they will no longer be able to rely on authorisation by their home authority to provide services in the UK. This is likely to require a new back office process to ensure this requirement can be met – this would be a one-off cost to apply for recognition. For CSDs outside the EEA, this requirement will be similar to the process they would have to undertake to obtain recognition to provide services within the EEA.

91. **Capital requirements**: There is no direct impact on capital requirements as a result of this SI. For third country CSDs who enter into the UK transitional regime, any changes in capital requirements would be determined by the rules of their home regulator, and are therefore outside the scope of this impact assessment.

4. The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018

92. The Prudential Regulation Authority (PRA) is responsible for the prudential regulation and supervision of UK insurers. The EU's Solvency II regime, which came into force in 2016, is a harmonised prudential framework for insurance and reinsurance firms in the EU – and therefore the PRA regulates UK insurers in accordance with Solvency II. Prudential regulation is aimed at ensuring financial services firms are well managed and able to withstand financial shocks so that the services they provide to businesses and consumers are safe and reliable. Solvency II is designed to provide a high level of policy-holder protection by requiring firms to accurately value their assets and liabilities, understand the risks they are exposed to, and to hold capital that is sufficient to absorb shocks. Solvency II is a risk-sensitive regime in that the capital a firm must hold is dependent on the nature and level of risk to which a firm is exposed.

93. This SI makes relevant amendments to legislation implementing the Solvency II Directive[24] to ensure the Solvency II framework continues to function after the UK leaves the EU. While a range of amendments are needed to ensure Solvency II will continue to work

[24] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)

effectively in a standalone UK regime, there are two categories of amendments that will directly impact some firms. First, Solvency II provisions on groups will be amended to reflect the fact that the UK will no longer be a part of the EU's joint supervisory framework. This will mean that EU groups with business in the UK will be subject to additional supervision by the PRA. Secondly, EU assets and exposures held by UK insurers will no longer be subject to preferential capital treatment under the Solvency II standard formula.

94. The SI makes arrangements for HM Treasury to take equivalence decisions about third country regulatory regimes, while UK regulators will be required provide technical assessments of a third country regime's equivalence to the UK. The SI also transfers certain functions from EU regulators to UK regulators. Responsibility for producing technical information on both the 'risk free rate'[25] and correlation parameters used in Standard Formula solvency calculations, as well as maintaining Binding Technical Standards (BTS) will transfer to the PRA. Responsibility for declaring an 'exceptional adverse situation'[26] for the insurance market will transfer to the Prudential Regulation Committee of the Bank of England. The SI will remove the obligation for UK regulators to comply with specific information-sharing and co-operation requirements that exist for countries within the EEA. All UK firms subject to Solvency II will be affected by this SI. This includes 284 insurance and reinsurance undertakings[27] under Solvency II of varying sizes, though in some cases there will be no changes in the requirements placed on firms, so the only costs will be familiarisation costs.

95. **Familiarisation costs.** Impacted firms will need to understand the changing regulatory environment. This will involve legal experts examining the SI, and the relevant sections of legislation amended by this SI, in order to advise businesses of the cost. This will be a one-off cost.

96. **Transition costs.** EU-incorporated insurance companies that currently use the passport to access UK markets would need to be authorised as branches or subsidiaries in the UK in the medium term (although they will be able to continue business in the UK under a Temporary Permissions Regime for three years after the UK has left the EU). However, this need for firms to become UK authorised arises as a result of the EU leaving the EU, not of this SI, so is outside the scope of this IA. For UK companies that do not operate in the EU there should be no change to the regulatory burden.

97. **Regulation and reporting requirements.** The changes made by this SI would mean that more insurance firms would fall within the scope of PRA group supervision. This is an unavoidable impact of leaving the EU, since the UK would no longer be part of the EU's joint supervisory framework for groups. There would be increased regulatory and

[25] The risk-free rate is used by insurance and reinsurance firms to value their liabilities and in calculating the Matching Adjustment and Volatility Adjustment.
[26] This enables supervisors to extend the recovery period firms can use to re-establish compliance with the Solvency Capital Requirement (SCR).
[27] Information provided by the PRA

compliance costs for affected firms since UK sub-groups would have to put in place the necessary governance and processes at sub-group level.

98. **Capital requirements:** Under the standard formula used in Solvency II to calculate the amount of capital that insurers need to hold against various financial exposures, there is preferential treatment for a range of EEA exposures. This SI removes this preferential treatment (since once the UK is outside of the EU, it will not be appropriate for the UK to give preferential treatment to EU exposures). This will mean that capital must be held in relation to EEA exposures in line with the credit rating of those exposures, as is currently the case for non-EEA exposures. The SI would mean that firms using the standard formula could face higher capital requirements as a result of the changes, unless they divest themselves of such assets.

99. The impact on individual firms will depend on the exposures they have, which we do not currently hold information on. Therefore, it is not possible to quantify the estimated impact on the insurance industry in the time available to complete this legislation. Although the SI will remove EEA information sharing and co-operation requirements, UK authorities will be expected to maintain a high level of mutually beneficial supervisory cooperation with EU and EEA authorities in line with the existing domestic framework provisions for cooperation and information sharing with other countries.

5. Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018

100. The Banking Act 2009 established the UK's Special Resolution Regime. This regime provides the Bank of England, the Prudential Regulation Authority (PRA) the Financial Conduct Authority (FCA) and HM Treasury with tools to protect financial stability by effectively resolving banks, building societies, investment firms, banking group companies and central counterparties that are failing, while protecting depositors, client assets, taxpayers and the wider economy.

101. The Bank Recovery and Resolution Directive (BRRD)[28] established an EU wide framework for the recovery and resolution of credit institutions and investment firms that are failing or likely to fail, reflecting the Financial Stability Board's Key Attributes of Effective Resolution Regimes for financial institutions (FSB Key Attributes).

102. This SI ensures that the UK's Special Resolution Regime is legally and practically workable on a standalone basis once the UK has left the EU. The policy aims of the BRRD will remain a core element of this regime, providing continuity and certainty as the UK leaves the EU, and conformity with the FSB Key Attributes.

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[28] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council

103. This instrument addresses deficiencies which arise from the UK's exit from the EU. In line with the approach taken in the other Financial Services EU Exit instruments, it will amend the Banking Act 2009, the Insolvency Act 1986, subordinated legislation and EU tertiary legislation so that they treat the EEA no differently from other third countries. Following EU withdrawal, the UK will retain (with amendments) its third country recognition framework and expand its scope to include EEA-led resolutions.

104. Aligning the treatment for EEA states with that for third countries will mean that EEA-led resolutions will be recognised in the UK, unless the Bank of England and HM Treasury are satisfied that one or more statutory grounds for refusal exist. The conditions for refusing recognition will be amended by this instrument to reflect the UK's new position outside the EU, by replacing references to "EEA" with references to the UK. This means that once the UK leaves the EU, the same approach will apply to the recognition of EEA-led resolutions as currently applies to the recognition of third country resolutions.

105. This SI will also remove deficient references to the BRRD from UK law requiring the UK regulators to follow operational and procedural mechanisms to cooperate with other EEA authorities. This is because when the UK withdraws from the EU the BRRD will no longer apply to the UK. However, the removal of these BRRD operational mechanisms does not prevent UK regulators from co-operating with their EEA counterparts after Exit. Following the UK's withdrawal from the EU, both the Financial Services and Markets Act 2000 and the Banking Act 2009 will allow the UK authorities to continue to share information with EEA counterparts, in the same way as with authorities in third countries, subject to statutory restrictions on the disclosure of confidential information.

106. The BRRD also includes mandates for BTS (Binding Technical Standards) relating to resolution and supervisory matters. This SI transfers BTS responsibility to the Bank of England where the BTS relates to the powers of the resolution authority. Where the BTS relate to supervisory matters, responsibility has been transferred to the PRA and FCA as appropriate. The regulators will update industry and stakeholders on their approach towards these BTS in due course. Regulation making powers are conferred on the Treasury to replace policy setting delegated powers that were previous conferred on the European Commission. These transfers of legislative functions fall within paragraph 1(2)(a) of Schedule 7 to EUWA which is why these regulations are subject to the affirmative procedure.

107. The BRRD mainly relates to the regime for dealing with the failure of bank or other financial institutions. As such, the impact on going concern businesses is generally limited. The original transposition of the BRRD imposed costs on firms primarily in the form of increased cost of debt financing, due to the increased risk that creditors would be exposed to loss if the firm failed. This is not affected by this SI – UK firms remain subject to the same bail-in rules as they are pre-exit.

108. The relevant legislation applies to all banks and building societies as well as investment firms that are required to hold initial capital of at least €730,000. We estimate this is c.350

firms[29]. The PRA is responsible for the prudential regulation and supervision of banks, building societies and major investment firms, with the FCA responsible for the remaining investment firms. The Bank of England is the UK's resolution authority.

109. **Familiarisation costs.** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant sections of legislation amended by this SI, to advise firms of their impact on their business, and how they should respond. This will be a one-off cost.

110. **Capital requirement costs.** The BRRD requires that certain liabilities of affected firms, where they are governed by the law of a non-EEA country, must require a contractual recognition term making clear that they may be cancelled, written down, or converted, in the event that the firm is subject to resolution actions as a result of failing.

111. As this SI aligns the treatment for EEA states with that for third countries , the contractual recognition requirement will expand to cover any debt issued by a UK firm that is governed by EEA law. The regulators will be making changes to their rules subsequent to this SI that may result in changes to this requirement and are therefore out of scope of this Impact Assessment. The regulators are currently consulting on these changes.

6. Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018

112. EU legislation on payments and e-money (The Payment Services (PSD 2) Directive[30] and E-Money Directive[31], implemented in the UK through the Payment Services Regulations 2017 and Electronic Money Regulations 2011) creates the regulatory regime for payment institutions (PIs), electronic-money institutions (EMIs) and open banking firms such as registered Account Information Service Providers (rAISPs). It sets rules for making payments and issuing e-money for these institutions and banks (all together Payment Service Providers – PSPs). It also applies some of the conditions for membership of the Single Euro Payments Area (SEPA, which allows for the fast and cheap execution of euro payments within its geographical scope).

113. This SI provides powers to the Financial Conduct Authority (which, along with the Payment Systems Regulator, regulates payment services providers) to vary affected firms' permissions and to create a 'Temporary Permissions Regime' (TPR) that will enable these firms to continue providing services in the UK for a limited period after exit, while they or their subsidiaries apply for UK authorisation. It gives the FCA the power to implement the regime in accordance with their statutory objectives, and makes necessary and

[29] Information provided by the PRA.

[30] Directive 2015/2366/EUof the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC

[31] Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC

consequential amendments to legislation to 'switch off' transitional provisions in domestic legislation at the end of the TPR. This is to the benefit of these firms, who would otherwise lose this access as soon as the UK leaves the EU, causing disruption for these firms and their customers.

114. **Changes to business processes.** When in the Temporary Permissions Regime, the EEA firm will face a choice regarding how to leave the regime. The options available will differ depending on the type of firm.

- PIs will have to establish an authorised or registered UK subsidiary to provide services in the UK when the EEA firm's temporary permission ends. This will also apply to EMIs which provide payment services that are unrelated to e-money issuance.
- EEA EMIs which only provide payment services related to e-money issuance, and EEA rAISPs, will have to become authorised or registered to continue providing services in the UK when their temporary permission ends. These firms will not have to set up a UK subsidiary.
- PIs, EMIs and rAISPs will be required to notify the FCA within a year of exit day how they propose to leave the regime: by establishing a UK subsidiary, becoming authorised or registered or running down their UK customer contracts.

115. There would be costs associated with applying for authorisation and establishing a subsidiary, if that is what firms choose to do. However, these costs are outside the scope of this Impact Assessment because losing passporting is a direct impact of the UK leaving the EU, and this SI delays that impact by introducing a TPR.

116. **Changes to reporting requirements.** As a result of this legislation, affected EEA firms who enter the TPR will need to provide information previously provided to European bodies to the UK regulator as well. This changes who receives the reports but does not affect the substance of reporting requirements on firms themselves, since the SI maintains the existing reporting requirements. This is designed to limit any costs associated with changing reporting structures, and any costs would be minimal and transitional.

117. **Changes to capital requirements.** There are no direct capital requirement changes for firms operating in the UK. However, indirectly there would be an increase for some firms, as EEA firms that previously passported services into the UK will be required to set up a subsidiary in the UK if they wish to continue to operate here. The cost of doing this is outside the scope of this impact assessment, since it is a direct consequence of the UK leaving the EU, and not an impact associated with this SI.

118. **Familiarisation costs.** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant sections of legislation amended by this SI, to advise firms of their impact on their business, and how they should respond.

7. The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018

119. The Credit Transfers and Direct Debits in Euro amending Regulation (SEPA Regulation)[32] sets out the business rules that firms have to comply with to make payments within the Single Euro Payments Area (SEPA). SEPA enables efficient, low cost euro payments to be made across EEA Member States and with non-EEA countries who meet the governing body's non-EEA country access criteria. Within SEPA, Payment Service Providers (PSPs) are able to send and receive payments in a faster and cheaper way than other international payments. This SI is being made in order to ensure that the regulation establishing technical and business requirements for Credit Transfers and Direct Debits in Euro (No. 260/2012 – "the SEPA Regulation") can continue to operate effectively after the UK's withdrawal from the EU.

120. The retention and amendment of this piece of EU law is designed to maximise the likelihood of the UK remaining a member of the Single Euro Payments Area (SEPA), which enables quick and efficient Euro payments, as a non-EEA country. Currently the UK is a member of SEPA by virtue of being a member of the EU. In order to maintain membership of SEPA after the UK leaves the EU, the UK payments' industry is required to make an application join SEPA as a non-EEA country. Applications from non-EEA countries are determined by the European Payments Council (EPC) by reference to its published criteria for non-EEA country participation. These criteria include that relevant provisions of EU law, which include inter alia the SEPA Regulation and others, are effectively represented in the domestic law of the applicant state.

121. This SI makes amendments to the SEPA Regulation as retained to ensure that it can continue to operate effectively once the UK has left the EU, and to maximise the prospects of the UK remaining within the geographical scope of the SEPA payment schemes. These changes include introducing the concept of a qualifying area within which these regulations will apply to UK PSPs Euro transactions, and transferring functions to appropriate UK bodies from the European Commission (in this case, HM Treasury). This SI also provides HM Treasury with the power to revoke the retained SEPA Regulation, along with any other relevant associated legislation, in the event that the UK is no longer able to remain a member of SEPA. Should UK PSPs no longer be able to access SEPA, then they will no longer be able to comply with some of the requirements in this legislation. This power therefore enables HM Treasury to revoke these requirements to prevent the detrimental effects on UK PSPs of having a regulatory requirement which they cannot meet.

122. **Familiarisation costs:** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant

[32] Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009

sections of legislation amended by this SI, to advise firms of their impact on their business, and how they should respond.

8. Trade Repositories (Amendment, and Transitional Provision) (EU Exit) Regulations 2018

123. This SI amends EU legislation relating to trade repositories the European Markets Infrastructure Regulation (EMIR),[21], in order to set out the authorisation process that will allow UK and EU trade repositories to continue to provide services from a UK entity in the UK after the UK leaves the EU. This will enable these UK and EU trade repositories to continue to report data to UK regulators after the UK leaves the EU. This will be achieved by transferring some supervision functions currently carried out by the European Securities and Markets Authority (ESMA) to the FCA. These functions are those relating to general requirements for TR registration, as set out in Title 6 of EMIR, and those relating to general requirements for trade repositories, as set out in Title 7 of EMIR. This includes the power to make technical standards setting out trade repository obligations. The FCA will be able to accept applications for registration from TRs before exit day, and will have the powers described above from exit day.

124. A maximum of eight Trade Repositories (TRs) will be affected by this SI[33]. In addition, thousands of financial counterparties such as investment companies, insurance companies, credit institutions, banks and other non-financial counterparties report in to trade repositories. While the SI does not place requirements on these firms directly, they will be affected as TRs may need to update contractual arrangements, port customer data or in the case of TRs in the temporary regime, change their legal entity from the EU TR to the UK, in order to comply with the requirements in this SI.. TRs are currently regulated by ESMA, so the UK regulators do not have direct access to information relating to clients of trade repositories. As the volume of firms affected is so large, and both financial counterparties and non-financial counterparties are affected by the reporting obligation, it is difficult to provide an estimate of the number of firms affected.

125. **Changes to IT systems.** TRs will need to amend or expand existing IT systems to cater for requirements under the new SI as well as connecting to FCA systems. We anticipate that TRs will leverage from existing systems at an approximate cost of £10,000-15,000[22] per TR, although this cost is also dependent on the size of the TR. The thousands of firms who use the TRs may also need to make changes to their existing IT systems in order to meet the

[21] 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

[33] https://www.esma.europa.eu/supervision/trade-repositories/list-registered-trade-repositories

[22] FCA estimates of the operational impact of setting up under the UK regime, based on the volume of data the FCA perceives TRs to hold and the number of clients they have.These are estimated figures, as there is some uncertainty over how TRs will implement business changes as result of leaving the EU.

reporting requirements and connect to the UK TR. As we are not making changes to the reporting requirements we expect firms to be able to leverage on existing systems. We anticipate that the approximate cost per firm would be £5,000[23].

126. **Business processes.** The TRs may need to make changes to both back and front office business processes to meet requirements under the SI. In addition, lawyers will need to repaper existing clients to the new UK TR. Lawyers at the firms who use the TRs may also need time to review the new contracts. Firms who use TRs may also need to amend current front and back office processes to accommodate requirements under this SI.

127. **Other costs.** There will be costs to the FCA to incorporate new supervision of TRs as well as build costs for new IT systems to connect to TRs and access derivative reports in order to meet requirements under this SI. We estimate this cost to be approximately £500,000[34] per TR, although this cost is also dependent on the size of the TR. The Bank of England may also incorporate additional costs as a result of connectivity and IT systems changes/builds to access data held in TRs. There may also be additional costs for firms should they set up new UK entities to meet requirements under the SI, although, as with other SIs, this need to set up new UK entities is not a result of this SI but a result of the UK leaving the EU, and is therefore out of scope of this impact assessment.

7. Capital Requirements (Amendment) (EU Exit) Regulations 2018

128. This SI makes amendments to ensure the Capital Requirements Regulation (CRR)[35], as well as the UK legislation implementing the Capital Requirements Directive[36], continue to function after the UK leaves the EU. This means that the existing capital requirements regime will still apply to UK banks and investment firms, as well as additional prudential rules including liquidity, remuneration, and the disclosure of information. All UK banks, building societies and designated investment firms will be affected by this SI.I

129. This SI changes the treatment of firms' exposures to EU assets, most notably to EU sovereign debt. Exposures to EU assets are given preferential treatment under the CRR – for example, exposures to EU sovereign debt are subject to a 0% risk weight, meaning no capital needs to be held against these exposures. In a no deal scenario, UK exposures would no longer be treated preferentially by the EU27 and EU27 exposures would no longer be treated preferably within the UK. This SI removes preferential treatment for

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[23] FCA estimates of Additional resource that may be needed to accommodate change to the way in which firms currently interact with TRs. These are estimated figures, as there is some uncertainty over how firms will implement business changes as result of leaving the EU.

[34] FCA estimates based on: number of additional FCA FTE required to facilitate a new TR supervisory regime, the annual cost of FTE, the cost to create and maintain new technology solutions in order to connect to, and access data held by, TRs. These are estimated figures, as the project to facilitate these changes is on-going.

[35] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012

[36] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC

EU27 exposures and more detail on the impact of this is detailed under ‘capital requirements’ below.

130. A further change through this SI regards group consolidation of capital requirements. As the UK will fall outside of the joint supervisory framework for consolidated liquidity requirements in the EU, the UK will no longer be able to act as the EU consolidated group supervisor for a UK group with EU business. Likewise, an EU group in the UK will similarly be subject to an additional layer of UK-led supervision, which will be overseen by the PRA. We do not anticipate that this will have a material impact on the groups affected, but it will mean that EU banks have to subscribe to a new layer of liquidity consolidation.

131. The SI also transfers a number of functions currently carried out an EU level to both the FCA and the PRA (Prudential Regulation Authority) of the Bank of England. This will avoid a significant gap in the UK prudential framework which would otherwise allow firms to take on additional risks without sufficient financial resources to cover them, exposing the UK to financial stability risks.

132. **Familiarisation costs.** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant sections of legislation amended by this SI, to advise firms of their impact on their business, and how they should respond. This will be a one-off cost.

133. **Changes to IT Systems.** Some firms may need to make a one-off change to some elements of their liquidity reporting systems to reflect the changes to consolidation levels this SI makes. There may be some changes to systems and processes as exposures to EU jurisdictions are reclassified to apply the third-country treatment.

134. **Capital requirements.** The CRR specifies how much capital and liquidity firms must hold against different types of exposures, for example to CCPs or central banks, expressed as a percentage of the total exposure. EU assets, and those of third countries deemed equivalent by the Commission, are given preferential treatment under CRR. In a no deal scenario and with no Commission assessment of equivalence between the EU27 and the UK, UK exposures would no longer be treated preferentially by the EU and the UK will no longer treat EU27 exposures preferentially.

135. One example of this is that exposures to EU sovereign debt are currently subject to a 0% risk weight (meaning that financial institutions don’t need to hold capital against these exposures). As a result of changes in this SI, these exposures will instead require capital weighted according to countries' credit rating – meaning that if UK firms hold sovereign debt of any EU member states, they may need to hold additional capital against these assets. Additionally, once the 0% risk weighting is removed, these holdings would become subject to the large exposure limit – a regulatory limit on a firms’ exposure to a particular counterparty.

136. The CRR provides the option for banks to use the risk weightings set out in CRR when calculating regulatory capital (the Standardised Approach), or to apply their own internally developed model (the Internal Ratings Based approach) where this model has been approved by the regulators.

137. The changes made by this SI affect the Standardised Approach. There will be no changes to an Internal Ratings Based Approach as a result of this SI, and therefore firms which use this approach won't be affected.

138. The impact on the change in capital treatment will therefore vary between firms which use the Standardised Approach (SA) and those which use the Internal Ratings Based (IRB). The Treasury does not collect information on which firms use SA vs. the IRB and we cannot know how firms would change their holdings in a no deal scenario. It has therefore not been possible to monetise the impact of this change in this impact assessment.

139. In addition, HMT has committed to providing the financial services regulators with the power to phase in requirements that change as a result of EU Exit. The regulators will be able to use this for a wide range of regulatory changes that firms will face, including the removal of preferential risk charges in the Capital Requirements Regulation. We expect this would initially help to mitigate the cliff-edge risks arising from much of the impact of changes to capital treatment.

8. Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018

140. This SI addresses deficiencies in the EU's Markets in Financial Instruments Directive (MiFID) II[37] and its associated Regulation[38] and Delegated Acts, as they will apply to the UK once the UK leaves the EU.

141. MiFID II regulates firms who provide services to clients linked to financial instruments (such as shares, bonds and derivatives), the venues where those instruments are traded, and own account dealers (such as market makers). Following the financial crisis, MiFID II was intended to make European markets safer, more transparent and more efficient by offering greater protection to investors, introducing more transparency to market activity, and moving a significant part of over-the-counter trading on to regulated trading venues.

142. Consistent with the government's overall approach, the policy approach set out in MIFID II legislation will not change after the UK has left the EU. This statutory instrument does not intend to make policy changes, other than to reflect the UK's new position outside the EU, and to smooth this transition. However, this SI does make the necessary changes to address deficiencies as a result of the UK leaving the EU.

143. Functions under MiFID II that are carried out by ESMA will no longer apply in the UK after EU Withdrawal. Therefore, these are transferred to either the FCA or Bank of England (depending on the nature of the function in question) and the functions of the European Commission to HM Treasury.

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[37] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

[38] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012

144. This is in-line with the approach taken across financial services regulation, as set out in the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018.

145. This SI deletes obligations on UK authorities to cooperate and share information with EEA authorities. UK authorities will be able to continue to cooperate and share information with EEA authorities, in the same way as they can with authorities outside the EEA, based on the existing domestic framework provisions for cooperation and information sharing, which allow for this on a discretionary basis.

146. Under MiFID II, a third-country's regulatory or supervisory regime may be deemed by the European Commission to be equivalent to the approach set out in MiFID II. For example, a third-country regime may be equivalent in relation to trading venues for the purpose of the trading obligations for shares and derivatives, or for the purpose of the provision of investment services and activities to professional clients. Equivalence decisions reduce duplication in regulatory or supervisory requirements between the EU and third-countries and facilitate international trade in financial services.

147. To ensure that the MiFID II equivalence regimes can continue to operate effectively in the UK, HM Treasury will take on the Commission's function of making equivalence decisions for third-country regimes, while the UK regulators will take on the role that ESMA currently has for registering firms.

148. To ensure business continuity, where the Commission has taken equivalence decisions for third-countries before exit day, these will be incorporated into UK law and will continue to apply to the UK's regulatory and supervisory relationship with those third-countries.

149. As the EEA financial services 'passporting' system will be unworkable without a negotiated agreement with the EU, this SI makes amendments to the UK's Data Reporting Services Regulations 2017 to put in place a transitional arrangement in which EU-authorised Data Reporting Services Providers (DRSPs) that meet the required conditions will be granted temporary authorisations to continue to provide data reporting services in the UK for a period of up to one year. The intention of this is to allow DRSPs to consider their options and, if appropriate, establish a UK branch or subsidiary to obtain permanent UK authorisation during the transitional arrangement. DRSPs seeking the temporary authorisation described above will need to notify the FCA.

150. In addition, this SI also ensures that Gibraltar-based DRSPs providing data reporting services in the UK, that are authorised in accordance with Gibraltarian law that enacts MiFID II, will continue to be able to provide data reporting services in the UK. This is in line with the UK Government's statement in March 2018 on guaranteeing Gibraltar financial services firms' access to UK markets as now until 2020.

151. In general, this SI provides that the EU is treated as a third-country, consistent with the approach in other onshoring SIs. However, certain exceptions to this approach have been taken to help provide for a smooth transition for market participants by maintaining existing outcomes as far as possible, in line with the government's approach to onshoring.

152. These exceptions are as follows:

- EEA emission allowances will continue to be a financial instrument so that there is no change to how they are currently traded on UK markets;
- Energy forwards that must be physically settled and are traded on Organised Trading Facilities (OTFs) in the EU will continue to be excluded from the definition of financial instruments, to ensure there is no change in the requirements applied to UK market participants trading these instruments;
- The exemption from authorisation for commercial firms trading commodity derivatives, the 'Ancillary Activities Exemption' (AAE), which involves looking at a firm's trading activity compared to overall trading activity in the market, will continue to be based on UK and EU market data.
- UK firms will be able to treat Undertakings for Collective Investment in Transferable Securities (UCITS) in the EU as automatically non-complex instruments, so that they can, in general, continue to be sold to retail clients in the UK without a client undertaking an appropriateness test.

153. MiFID II establishes a transparency regime requires that buyers and sellers of financial instruments disclose price and volume information for their trades. For each class of financial instrument, there are various thresholds and waivers which apply in respect of making price and volume data of orders and transactions public. Some of these thresholds and waivers protect investors who place large orders while others take account of the illiquidity of some instruments. Waivers relating to the trading in equities are also subject to a mechanism which limits the proportion of trading that can take place without being subject to pre-trade transparency (the 'Double Volume Cap Mechanism').

154. This SI grants the FCA a set of temporary powers that will allow the FCA some flexibility over how the MiFID II transparency regime is operated during a transitional period of up to four years in length (although it can be ended earlier by the Treasury). The powers being granted to the FCA aim to preserve existing outcomes of the transparency regime as far as possible, while providing the FCA with the time required to operate the transparency regime in a standalone UK context (including making any necessary changes to aspects of the transparency regime that are in the Binding Technical Standards) and avoiding any potential for regulatory disputes with relevant transparency regimes in third-countries.

155. The direct cost to the FCA of developing and adapting IT systems in order to carry out its new and revised responsibilities under the transaction reporting and transparency regimes is estimated at £3.5m to £4m[39].

156. The waivers and thresholds contained in the MiFID II transparency regime are generally calculated on the basis of EU-wide market data. An abrupt move to using UK-only data poses operational challenges for the FCA and could result in outcomes that are contrary to

[39] FCA estimates based on: assumed one-off costs of updating systems and practices, ongoing costs, and expected numbers of firms that will engage with the future regime. These are broad estimates, and there is some uncertainty over how firms will implement business changes as result of leaving the EU.

what the transparency regime aims to achieve, whilst also minimising market disruption to businesses. For this reason, this FCA is being granted temporary powers in regard to the regime during a transitional period. This period will operate until the FCA is equipped with appropriate reporting data to move to UK-only information.

157. These temporary powers include the ability, in specified circumstances, to:

- Amend certain transparency calibrations (which are otherwise frozen on exit day);
- Direct the application of the Double Volume Cap Mechanism; and
- Freeze the obligation to publish trading information in respect of certain instruments.

158. In addition, certain transparency conditions (such as the requirement to publish trading carried out under the waivers) will be suspended for the duration of the transitional period (on the basis that the FCA will not have sufficient data or resources during the transitional period to comply with such transparency conditions). The FCA will have a statement of policy on how these temporary powers will be used in place before exit day. This statement of policy, and any subsequent changes to it, will be published and made publicly available, and must be approved by HM Treasury beforehand.

159. Under the transaction reporting regime in MiFID II, investment firms are required to submit a report to their national regulatory authorities following the execution of a trade. These transaction reports are used by regulators to detect and prevent market abuse. The transaction reporting regime in MiFID II is explicitly linked to the Market Abuse Regulation (MAR), in that MiFID II provides for the collection of data used to identify possible instances of market abuse, and MAR provides for its investigation and enforcement.

160. UK branches of EEA firms currently send transaction reports to their home regulator rather than the FCA. The effect of this SI is to require UK branches of EU firms to report to the FCA, in the same way as UK branches of non-EEA firms are required to do. UK branches of EEA firms will need to adapt their reporting systems to comply with this SI.

161. Under this SI, firms will continue to be required to provide transaction report on trades in financial instruments admitted to trading, or traded on trading venues, in the UK and in the EU. This will minimise adjustment costs for firms and maintains the existing scope for the monitoring of markets by the FCA.

162. This SI will directly impact approximately 3300 UK firms and 1650 EEA firms operating in the UK –financial services firms who provide services linked to financial instruments, and the venues where those instruments are traded.

163. **Changes to reporting requirements and IT processes:** Under MiFIR as it currently applies in the UK (prior to onshoring), UK branches of EEA firms must send transaction reports back to their home regulator rather than to the FCA. The effect of this SI is to require UK branches of EEA firms to report to the FCA, which will entail the extra costs of reporting to both EU and UK regulatory authorities, and time to adapt their systems accordingly.

164. The FCA estimate that this will affect approximately 1,500 branches of EEA firms[40], and assuming that 75% of these will start to report to the FCA. Firms can report directly, or through an Approved Reporting Mechanism (ARM) - a person authorised under MiFID II to provide the service of reporting details of transactions to competent authorities. The only ARM that publicly lists its costs (Euronext) charges a flat fee of approximately £7,500 a year[41]. The FCA has assumed that a firm must pay that fee, and also needs to spend money upfront to separate out the transactions that need to be sent to the FCA, and that this work costs the amount of the annual fee to the ARM, so £7,500 on a one-off basis. This gives an estimated one-off cost to business of £8.75 million and ongoing annual costs of £8.75 million.[42]

165. In addition, this SI requires that trading venues report transactions to the FCA on behalf of EEA investment firms as these firms will no longer be subject to the UK's reporting obligations. There will be a cost of adapting their systems to reflect this, which is estimated to be the same as the cost set out above. It is estimated that approx. 200 firms will be affected by this, at £1.75 million cost to business on a one-off basis and £1.75 million a year on an ongoing basis.[43]

166. Separately, this SI grants the FCA a set of temporary powers that will allow the FCA some flexibility over how the MiFID II transparency regime is operated. If the FCA make decisions that change thresholds, then firms will incur costs in updating their systems to deal with new thresholds. Updating for new thresholds should be more straightforward than separating out transaction reports. The FCA assumes the estimated figure of £3,750. Therefore, the overall one-off operational adjustment for firms is estimated to be in the region of £16.75 million (assuming about 90 per cent of firms doing investment business are affected by the thresholds).[44]

167. **Familiarisation costs:** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant

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[40] Information provided by the FCA
https://www.euronext.com/technology-solutions/compliance-solutions/apa-arm, non-member ARM transaction reporting fee of €700 per month, converted at an exchange rate of £1=€1.12.
[42] Take up figures and costs are FCA estimates based on: assumed one-off costs of updating systems and practices, ongoing costs, and expected numbers of firms that will engage with the future regime. These are broad estimates, and there is some uncertainty over how firms will implement business changes as result of leaving the EU.

[43] Take up figures and costs are FCA estimates based on: assumed one-off costs of updating systems and practices, ongoing costs, and expected numbers of firms that will engage with the future regime. These are broad estimates, and there is some uncertainty over how firms will implement business changes as result of leaving the EU.

[44] Take up figures and costs are FCA estimates based on: assumed one-off costs of updating systems and practices, ongoing costs, and expected numbers of firms that will engage with the future regime. These are broad estimates, and there is some uncertainty over how firms will implement business changes as result of leaving the EU.

sections of legislation amended by this SI, to advise firms of their impact on their business, and how they should respond.

9. Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2018

168. The EU Credit Rating Agency Regulation[45] (CRAR) was introduced in 2009 to regulate credit rating agencies (CRAs) established in the EU. Credit ratings are an opinion on the creditworthiness of an entity or financial instrument, and are used by firms determining capital requirements under the Capital Requirements Regulation and Solvency II. Only credit ratings issued under the CRAR can be used for these purposes. ESMA is responsible for supervising firms registered under CRAR. There are six UK CRAs that will be directly affected by this change, along with 26 EU27 CRAs that will be indirectly affected.[46]

169. This SI enables the Credit Rating Agencies Regulation framework, to be supervised and enforced in the UK. This involves giving the FCA powers to supervise CRAs, and will mean that some firms previously supervised by ESMA will now be supervised by the FCA (or both). For this purpose, CRAR itself will be amended (for example, by replacing references to ESMA with the FCA) as well as the Financial Services and Markets Act (to include appeal rights, exemption from liability in damages and ability to levy fees). Further detail on these changes is set out below.

Registration regimes

170. Consistent with the current approach to regulating CRAs in the EU, firms wishing to apply for registration will need to maintain or establish a legal entity here. To allow the registration and supervision of UK CRAs to transfer from ESMA to the FCA with minimal disruption, this SI includes a Conversion Regime and a Temporary Registration Regime (TRR) for CRAs. It confers functions and powers on the FCA that are required to start the preparatory work for registering UK CRAs prior to exit day, to maintain continuity and ensure that UK firms can continue to use credit ratings without disruption at the point of exit. The SI sets out the process for three types of "pre-exit" applications.

- the automatic registration process (or Conversion Regime) for registered CRAs who are established in the UK. They will need to notify the FCA, 20 days prior to exit day, that they wish to convert their ESMA registration to registration with the FCA
- the automatic certification process, under which certified CRAs established outside the EU will be able to notify the FCA, no later than 20 days prior to exit day, of their intention to extend their certification to the UK
- the TRR is only available to new legal entities established in the UK that are part of a group of CRAs with an existing ESMA registration on exit day. Such entities enter

[45] Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013 amending Regulation (EC) No 1060/2009 on credit rating agencies
[46] Information provided by the FCA

the TRR if they have submitted an advance application, which has not yet been determined, to the FCA prior to exit day

171. For other firms wishing to apply for registration as a new CRA in the UK, the TRR will not be available, and applications will be processed by the FCA in accordance with the usual procedures set out in the retained CRAR.

Endorsement and certification of ratings

172. This SI will amend CRAR to enable ratings to be used for regulatory purposes in the UK if those ratings are issued by a CRA established in the UK and registered with the FCA. The provisions for endorsement and certification will also apply, modified to work in a UK context, allowing ratings issued in third countries (and which meet certain conditions) to be used for regulatory purposes in the UK.

173. Consistent with the broader approach to transferring functions, responsibility for assessing third country regulatory frameworks for the purposes of endorsement will be transferred from ESMA to the FCA. To ensure continuity at the point of exit, the FCA will adopt existing decisions made by ESMA on the suitability of non-EU regulatory frameworks. The SI will also introduce a transitional period to allow for ratings issued before exit day in the EU by firms who register with the FCA or apply for registration with the FCA to be used in the UK for regulatory purposes for up to one year. After this time, all ratings will need to be issued or endorsed into the UK for them to be eligible for regulatory use.

174. In line with our general approach, the power to make equivalence decisions will be transferred from the Commission to HMT. Existing Commission equivalence decisions on third countries will be automatically retained under the EU (Withdrawal) Act.

Appeal/review rights and notice procedures

175. The EU CRAR contains several provisions enabling CRAs to appeal investigative and enforcement decisions made by ESMA to the Joint Board of Appeal of the European Supervisory Authorities and ultimately to the Court of Justice of the EU (ECJ).

176. Investigation and enforcement powers in relation to CRAs in the UK will be transferred to the FCA by this SI. The Board of Appeal and ECJ will no longer have jurisdiction under UK CRAR, and therefore references to these EU institutions are being replaced with appropriate UK institutions – in this case the Upper Tribunal, which is consistent with other appeals of FCA decisions under the Financial Services and Markets Act 2000 (FSMA). The following decisions will be subject to the FCA's Supervisory Notice Procedure (which builds in a right of appeal to the Tribunal):

- decisions to refuse registration of a CRA (or group of CRAs)
- decision to withdraw registration
- decision to temporarily prohibit a CRA from issuing ratings or to suspend the regulatory use of ratings issued by a CRA

177. This SI also applies the FCA's Warning and Decision Notice procedures in respect of other decisions it takes under the UK CRAR regime (which are also subject to a right of appeal to the Tribunal). This is to enable its decision and appeals procedures to fit together effectively and to provide consistency with its current functions. Other decisions of the FCA under its functions in relation to CRAs will be subject to judicial review in the usual way.

178. **Changes to IT systems.** We intend to replicate existing reporting requirements to limit costs for firms by reducing the need for IT system changes. The regulation also permits some manual submission of data, so impacted businesses should not be required to develop new reporting processes. However, CRAs will likely incur some costs – a cost of around £10,000[47] per firm for the five firms the FCA expect to enter this regime– to calibrate existing systems with the FCA's reporting requirements.

179. **Changes to business processes.** Firms will be familiar with the regulatory framework applied by the SI and so changes to business processes will be limited to the additional resource required to conduct existing tasks in a UK context (e.g. compliance). We expect this to amount to a cumulative cost of around £180,000[48] for all firms. We do not foresee required changes in analytical or audit functions which should remain at group level.

180. **Changes to reporting requirements.** While we intend to replicate existing reporting requirements to limit costs, entities will be required to submit ratings data and periodic information to the FCA. We estimate some resource will be required to handle this process for each of the six firms who we expect to register with the FCA. This could equate to a cumulative annual cost of £60,000[49] for the five firms we expect to register with the FCA.

181. **Familiarisation costs.** Impacted firms will need to understand these changes to the regulatory environment. This will involve legal experts examining the SI, and the relevant sections of legislation amended by this SI, to advise firms of their impact on their business, and how they should respond.

182. **Other costs.** If firms choose to restructure their business in response to the UK leaving the EU, there could be costs associated with establishing a new UK legal entity – these costs are outside the scope of this impact assessment as they are a consequence of the UK leaving the EU, and not directly related to this SI.

183. There may also be costs associated with duplicating efforts for compliance and control functions. We estimate 3 FTE may be required for each firm – around £320,000[50] – and

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[47] FCA estimates based on experience of IT changes required for previous regulatory changes. These are estimated figures, as there is some uncertainty over how CRAs will implement business changes as result of leaving the EU

[48] FCA estimates based on experience of changes to business processes based on previous regulatory changes. These are estimated figures, as there is some uncertainty over how CRAs will implement business changes as result of leaving the EU

[49] FCA estimates based on experience of changes to reporting requirements based on previous regulatory changes. These are estimated figures, as there is some uncertainty over how CRAs will implement business changes as result of leaving the EU

[50]FCA estimates based on: number of additional FTE that may be required as a result of the changes, the annual cost of FTE, the number of firms expected to register. These are estimated figures, as there is some uncertainty over how CRAs will implement business changes as result of leaving the EU.

predict two firms may follow this course of action. This SI will give the FCA the power to charge fees for CRAs and TRs, in line with their current powers to charge fees for FCA authorised firms. The FCA will be consulting on their approach to fees to in due course.

V. Annex

Familiarisation Costs

Method:
The following formulae are used to estimate familiarisation costs consistently across all SIs:

$$\boldsymbol{Familiarisation\ cost\ of\ SI\ for\ 1\ firm} = \frac{N^{o}\ of\ words\ in\ SI}{words\ read\ per\ minute} \times \frac{1}{60} \times hourly\ wage\ rate$$

$$\boldsymbol{Familiarisation\ cost\ of\ SI\ for\ all\ firms} = \frac{N^{o}\ of\ words\ in\ SI}{words\ read\ per\ minute} \times \frac{1}{60} \times hourly\ wage\ rate \times N^{o} of\ businesses$$

Assumptions and evidence base:

1. It is assumed that the affected business population will evenly incur costs (time and labour) in familiarising themselves with the relevant SI, specifically reading and comprehending the SI.
2. Information regarding the number of businesses affected by relevant SIs has been provided by the financial regulators (the Prudential Regulation Authority, the Financial Conduct Authority and the Bank of England), or is based on Treasury estimates.
3. In calculating the labour cost of reading the SI, it is assumed that affected firms will procure the services of an external solicitor or legal expert to read the SI. We have based the cost of this legal advice on the government guidelines on solicitors' hourly rates[48], using an hourly rate of £330, based on the following assumptions:
    a. As legal expertise in financial services resides predominantly among City law firms, we have used a London, rather than UK-wide value for legal costs.
    b. As this work will be undertaken by a variety of individuals with varying levels of experience at different firms. Therefore, we have used the middle range value (i.e. the value for solicitors and legal executives with over 4 years' experience)
    c. As these rates are based on 2010 figures, so we have adjusted the 2010 figure of £296, to account for inflation[51].

Under this assumption, these hourly rates would reflect the full cost incurred by businesses: no non-wage costs would be incurred since it is assumed the work is not carried out in-house. Under this assumption, one professional per business is assumed to be reading the SI, and disseminating this legal advice the firms' internal compliance and legal teams.

[48] Solicitors' guideline hourly rates: https://www.gov.uk/guidance/solicitors-guideline-hourly-rates
[51] https://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp

Solicitors and legal executives with over 4 years' experience	
Hourly wage rate	£330

The time spent reading and familiarising is based on the word length of the SI and the difficulty of the text based on the Flesch Reading Scale.

It is assumed that, as legal experts, readers will generally be familiar with this type of literature so we have taken the upper bound of the reading speed of difficult text, i.e. 100 words per minute. Furthermore, it is assumed that this form of familiarisation will be undertaken on a one-off basis.

Assumed reading speed (wpm) by Flesch Reading Score:

Fleisch Reading Ease	Level of difficulty	Words per minute assumptions
90–100	Very easy	250-300wpm (assume similar reading speed as prose)
80–90		
70-80	Fairly easy	
60–70	Standard	Around 200wpm (assume average reading speed)
50–60	Fairly difficult	50-100wpm (assume similar reading speed as technical text)
30–50	Difficult	
0–30	Very difficult	

Template – Breakdown of Familiarisation Costs:

Time spent on familiarisation (hrs)	Hourly rate (£)	Number of businesses affected	Familiarisation cost per firm	Total familiarisation cost to all impacted firms
(Number of words in SI) / (words read per minute) * 1/60	£330	Dependent on SI	(Time spent on familiarisation) * (Hourly rate)	(Familiarisation cost per firm) * (Number of impacted firms)

Familiarisation Costs by SI :

SI	Number of words in SI (rounded up to nearest 100)[52]	Words read per minute	Number of businesses affected[49]	Familiarisation cost per firm (2 s.f)	Total familiarisation cost to all impacted firms (2 s. f)
Short Selling (Amendment) (EU Exit) Regulations 2018	4,900	100	2600[50]	£270	£700,000
Central Securities Depositories (Amendment) (EU Exit) Regulations 2018	7,300	100	UK = 1 , Non-UK = 10 Total= 11	£400	£4,400
The Solvency 2 and Insurance (Amendment) (EU Exit) Regulations 2018	15,000 (i)	100	284	£820	£230,000
Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018	21,000	100	350	£1,200	£400,000
Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018	11,200	100	1243	£610	£760,000
Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018	2,800	100	8	£150	£1,200
The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018	2,200	100	153	£120	£18,000
Capital Requirements (Amendment) (EU Exit) Regulations 2018	30,700	100	800 (FCA solo reg) 209 BoE Total: **1009**	£1,700	£1,700,000
Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018	35,200	100	3300 (UK firms) 1650 (EEA firms) Total: **4950**	£1,900	£9,600,000
Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2018	12,200 (i)	100	26 EU firms, of which 5 UK-based Total: **26**	£670	£17,000

Total familiarisation costs in scope of this Impact Assessment (2 s.f): £13m.

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[52] (i) Approximate figures as SI had not completed final checking stages at time of publication.

[49] Figures on numbers of businesses affected are provided by the UK financial services regulators (FCA and Bank of England/PRA). Where SIs create new regimes which firms may chose not to enter these figures are estimates, based on expected take-up by firms.

[50] This is an estimated figure for UK and non-UK firms currently trading UK instruments. A more exact figure cannot be determined as the as the Short Selling Regime has an instrument based, not firm based, scope.

Summary of monetised non-familiarisation costs to business detailed above

SI	Cost description	Amount (£ p.a.)	Recurring or on-off	Number of firms[53] (where amount is per firm)	Total cost (£ p.a.)
One-off costs					
Short Selling (Amendment) (EU Exit) Regulations 2018	Transition costs (joining UK trading venue)	10,000 - 575,000 depending on issuer's market capitalisation Mid-range value: 168,000	One-off	Approx. 100	1,000,000-57,500,000 Mid-range value: 16,800,000
Trade Repositories (Amendment , etc., and Transitional Provision) (EU Exit) Regulations 2018	Systems changes and IT processes (for Trade Repositories)	10,000-15,000 per TR	One-off	8	80,000-120,000
	Systems changes and IT processes (for firms accessing Trade Repositories)	5,000 per firm accessing TRs	One-off	Population of firms unknown[51]	Unknown
Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018	Changes to Reporting Requirements	8,750,000 total cost to firms	One-off	-	8,750,000
	Changes to IT systems	1,750,000 total cost to firms	One-off	-	1,750,000
	Transition costs	16,750,000 total cost to firms	One-off	-	16,750,000
Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2018	Changes to IT systems	10,000 per firms	One-off	5	50,000
	Changes to business processes	180,000 total cost to all firms	One-off	-	180,000
	Changes to Reporting Requirements	60,000 total cost to all firms	One-off	-	60,000

[53] Figures on numbers of businesses affected are provided by the UK financial services regulators (FCA and Bank of England/PRA). Where SIs create new regimes which firms may chose not to enter these figures are estimates, based on expected take-up by firms.

[51] As TRs are currently regulated by ESMA, so the UK regulators do not have direct access to information relating to clients of trade repositories.

Recurring costs					
Credit Rating Agencies (Amendments etc.) (EU Exit) Regulations 2018	Additional cost to duplicating compliance and control functions	320,000 per firm	Recurring	2	640,000
Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018	Changes to Reporting Requirements	8,750,000 total cost to firms	Recurring	-	8,750,000
	Changes to IT systems	1,750,000 total cost to firms	Recurring	-	1,750,000

One off costs total (excludes Systems changes and IT processes for firms accessing Trade Repositories) — Best estimate: £44,440,000 (£28,620,000-85,160,000)

Recurring costs total — £11,140,000