

Extract of [the European Securities and Markets Authority \(ESMA\) public statement](#)

PUBLIC STATEMENT

Impact of Brexit on MiFID II/MiFIR and the Benchmark Regulation (BMR) – C(6) carve-out, trading obligation for derivatives, ESMA opinions on third-country trading venues for the purpose of post-trade transparency and position limits, post-trade transparency for OTC transactions, BMR ESMA register of administrators and 3rd country benchmarks

The European Securities and Markets Authority (ESMA) is issuing this statement in relation to ESMA's approach to the application of some key MiFID II/MiFIR and BMR provisions in case the United Kingdom (UK) leaves the European Union (EU) on 29 March 2019 at midnight without a withdrawal agreement (no deal Brexit).

The following MiFID II aspects are covered in this statement: the trading obligation for derivatives, the C(6) carve-out, the ESMA opinions on third-country trading venues for the purpose of post-trade transparency and the position limits regime and post-trade transparency for OTC transactions. This statement also covers the ESMA register of administrators and 3rd country benchmarks under the Benchmark Regulation (BMR).

There is still uncertainty as to the final timing and conditions of Brexit. Should the timing and conditions of Brexit change, ESMA may adjust the approach and would inform the public of the adjusted approach as soon as possible.

(...)

BMR: ESMA register of administrators and 3rd country benchmarks

In case of a no-deal Brexit, UK administrators included in the “*ESMA register of administrators and third-country benchmarks*” (ESMA register)³ before the date of the no-deal Brexit will be deleted from the ESMA register. Those UK administrators were originally included in the ESMA register as EU administrators, but after a no-deal Brexit they would qualify as 3rd country administrators (for which the BMR foresees different regimes to be included in the ESMA register).



However, during the BMR transitional period (as defined in BMR Article 51⁴) this change of the ESMA register would not have an effect on the ability of EU27 supervised entities to use the benchmarks provided by those UK administrators. This is because during the BMR transitional period EU supervised entities can use 3rd country benchmarks even if they are not included in the ESMA register. This BMR provision would be applicable also to the benchmarks provided by the UK administrators deleted from the ESMA register because of a no-deal Brexit.

Similarly, if some 3rd country benchmarks were included in the ESMA register before the date of a no-deal Brexit following a recognition or an endorsement status granted in the UK, those 3rd country benchmarks will be deleted from the ESMA register on the date of no-deal Brexit. The BMR transitional period is also applicable to these 3rd country benchmarks. Therefore, during the BMR transitional period this change of the ESMA register would not have an effect on the ability of EU27 supervised entities to use the 3rd country benchmarks that were endorsed or recognised in the UK before the date of a no-deal Brexit.

³ ESMA register of administrators and third country benchmarks is available here: <https://www.esma.europa.eu/databases-library/registers-and-data>

⁴ See also Q&A 9.3 of ESMA BMR Q&As: https://www.esma.europa.eu/sites/default/files/library/esma70-145-114_qas_on_bmr.pdf