

London Stock Exchange plc Hard Brexit Impact Assessment

11 December 2018 – London Stock Exchange plc (the “Exchange”, “London Stock Exchange”) is a Recognised Investment Exchange under Part XVIII of the United Kingdom’s (UK’s) Financial Services & Market Act 2000 (FSMA 2000). The Exchange operates the world’s most international capital market, with companies from over 100 countries quoted across our markets. London Stock Exchange’s markets include the Main Market – London’s flagship venue for equity, debt and exchange traded products – and AIM – the world’s leading market for growth companies. Issuers accessing our markets access a highly global investor base¹.

London Stock Exchange plc is a wholly owned subsidiary of London Stock Exchange Group plc (LSEG). In the context of Brexit, we believe an agreement between the United Kingdom and the European Union would support financial stability, reinforce global regulatory cooperation and reduce uncertainty for our customers around the world. Nevertheless, we continue to work with our customers and market participants as they prepare contingency plans in the event of a no-deal Hard Brexit scenario in line with published statements from the UK and EU authorities.

As a systemically important financial markets infrastructure business, London Stock Exchange plc is fully committed to maintaining orderly markets and providing continuity of service to its customers and market participants across the UK and internationally. We firmly believe that global capital markets are best served by continued access for all participants and service providers, including from the European Economic Area (EEA). This would enable continued interaction of EEA participants with other participants in our market, particularly those from the UK and outside the EEA.

This note provides information on the latest planning assumptions we are working to in the event that no transitional or other agreement is reached before the UK’s withdrawal from the European Union (EU) on 29 March 2019 (“Hard Brexit”). We will keep the market updated should significant new information become available which enables us to change these planning assumptions. Due to the varied nature of our customer base, various participants may be affected in different ways and we encourage participants to familiarise themselves with these planning assumptions when developing their own contingency arrangements. We remain available to discuss any questions you may have on your arrangements.

Any queries on this Notice should be addressed to your relationship manager or the UK Regulation Team stockexchangenotices@lseg.com

In line with the European Commission’s withdrawal notices for stakeholders, for the purposes of contingency planning for a Hard Brexit, we are assuming in this scenario that London Stock Exchange plc has no MiFID authorisation and that the UK and the Exchange are not granted equivalence under MiFIR Article 23 (Share Trading Obligation)². An explanation of the implications of this is provided below in the section on Trading Obligations.

While we feel this extreme outcome is unlikely, we need to be prepared for all possible scenarios, including a no deal Hard Brexit, based on these assumptions. We continue to engage in close dialogue with the UK, EU and other regulators and stakeholders with a view to obtaining a solution which ensures continuity of service can be maintained for all market participants after 29 March 2019.

¹ <https://www.ons.gov.uk/economy/investmentpensionsandtrusts/bulletins/ownershipofukquotedshares/2016#rise-in-uk-shares-owned-outside-of-the-country-continues>

² https://ec.europa.eu/info/sites/info/files/180208-notice-withdrawal-uk-financial-instruments_en.pdf (See page 3)

1. Trading Obligations

1.1 MiFIR

MiFIR Article 23(1) introduced a requirement for EU investment firms (the “share trading obligation”) to ensure that the trades they undertake in shares admitted to trading on a regulated market, or traded on a trading venue in the EU, take place on a regulated market, MTF or systematic internaliser in the EU or a third-country trading venue that is considered to be equivalent to a regulated market by the European Commission. The MiFIR share trading obligation potentially covers a large number of securities on London Stock Exchange markets including companies from the EU, UK and of other nationalities. ESMA confirmed in November 2017 that whenever an EU investment firm is part of the transmission of an order in a share subject to the share trading obligation, they should ensure that the ultimate execution of that order complies with the requirement under MiFIR Article 23 [\(link\)](#).

Whilst Exchange Traded Funds may not be directly within the scope of the share trading obligation, related participants including brokers, liquidity providers and fund managers that are subject to MiFID will need to consider the share trading obligation when trading underlying securities that are subject to the share trading obligation, including in the creation and redemption process.

London Stock Exchange plc is hopeful that, in the event of a Hard Brexit, it would be immediately declared equivalent for the purposes of MiFID II, including the share trading obligation under MiFIR Article. 23. London Stock Exchange plc has fully adopted MiFID II and this will be reflected in the prevailing law in the UK immediately after Brexit. An equivalence determination should be straightforward and would recognise that EU firms need to access primary venues such as ours for best execution. Such equivalence decisions have already been confirmed for a number of global exchanges including ASX, HKEX, Nasdaq and NYSE. However, to date, we have not received formal confirmation that an equivalence decision for UK trading venues will be forthcoming and the European Commission advised in February that all participants “need to reassess their trading arrangements to ensure continued compliance with their obligations under the MiFID framework.” [\(link\)](#)

1.2 Share Trading Obligation Impact for Issuers

Due to the share trading obligations introduced under MiFID II, in the event that London Stock Exchange plc is not granted MiFID II equivalence, EEA MiFID II investment firms will not be allowed to execute trades on the Exchange in UK-listed securities which are also dual listed (or admitted to trading) on an EEA venue that are subject to the share trading obligation. They will face restrictions, requiring them to execute these trades on an EEA venue or equivalent third country venue even if liquidity is thin and the price is less favourable.

If the security is sole listed on London Stock Exchange, then it is our understanding the restriction will not apply i.e. the investment firm can continue to execute the trade through the Exchange.

2. Ability to access London Stock Exchange markets for trading of securities

Membership of London Stock Exchange provides firms with the ability to trade directly on London Stock Exchange trading services. Clearing brokers are also required to be members of the Exchange. The table below details considerations for member firms.

Members	Hard Brexit Contingency planning assumptions
UK member firms	<p>1 No access change for UK member firms. However, UK member firms that use an EEA firm as their clearing or execution broker, can no longer be assured that they will, in all circumstances, be able to do so and should develop contingency plans and notify the Exchange of these, if they have not already done so.</p>
Non-EEA member firms	<p>2 No access change for non-EEA member firms. However, member firms that use an EEA firm as their clearing or execution broker, can no longer be assured that they will in all circumstances, be able to do so and should develop contingency plans and notify the Exchange of these, if they have not already done so.</p>
EEA member firms	<p>3 EEA member firms and their clients may not be able to continue as active direct members of the Exchange and should therefore develop contingency plans and notify the Exchange of these, if they have not already done so.</p> <p>In a Hard Brexit scenario, UK Recognised Investment Exchanges, such as London Stock Exchange will no longer have EEA passporting rights and will be considered to be third-country trading venues in EEA jurisdictions.</p> <p>London Stock Exchange has reviewed access arrangements for third-country trading venues in a number of EEA member states but considers that these are not assured arrangements in all circumstances in the event of a Hard Brexit. National arrangements may not therefore be viable, in the event that equivalence under MiFIR Article 23 is not confirmed. National arrangements also rely on approvals, including cooperation arrangements between EEA and UK authorities, which may not be forthcoming or in place in a Hard Brexit scenario. We do not yet have confirmation that existing IOSCO MoU arrangements between authorities, which are focused on enforcement, will be sufficient.</p> <p>EEA member firms establishing a UK subsidiary company and applying for authorisation from the FCA are welcome to apply for London Stock Exchange membership for their UK entities in advance of their authorisation being conferred. London Stock Exchange also accepts direct trading members from non-EEA jurisdictions such as Australia, Dubai, Hong Kong, Israel, Switzerland, and remains willing to consider other jurisdictions should this be of assistance in the contingency planning for any existing EEA member firm.</p>

3. Securities admitted for trading on London Stock Exchange markets

London Stock Exchange plc does not expect to change the securities available for trading on the Exchange's markets as a result of a Hard Brexit.

4. London Stock Exchange Derivatives Market

Other than the issues mentioned in Section 2 in relation to EEA Member Firms, we do not expect any impacts to LSEDM services in a Hard Brexit scenario.

5. TRADEcho

TRADEcho is an Approved Publication Arrangement (APA) service provided by London Stock Exchange for the reporting of off-exchange trades and those by Systematic Internalisers (SIs) to allow clients to remain compliant with their MiFID transparency obligations.

Earlier this year, London Stock Exchange applied to the Autoriteit Financiële Markten in The Netherlands to continue to offer TRADEcho's APA services to EU-27 customers from Amsterdam. Subject to regulatory approval, this will operate in addition to TRADEcho's existing UK-authorized APA.

TRADEcho will continue to allow trade reporting services across a single member ID of the combined EU27 and UK instrument universe. Customers will be granted access to the new EU APA service under their current agreements. Customers will need to indicate to which APA they are reporting via a new field (Target APA) in the inbound trade report message.

For market dissemination, the outbound, publishing GTP message will indicate the relevant APA by disseminating its APA MIC code as "Venue of Publication".

The Smart Report Router (SRR) will support both TRADEcho APAs, along with the existing external APAs (including any new EEA APAs being set up). The SRR will be modified to introduce new rules to distinguish reporting obligations in the relevant jurisdiction of the submitter and its counterparty.

6. Transaction reporting

Members should note that in a Hard Brexit scenario, London Stock Exchange will have to report transactions directly to the FCA for any firms trading on the Exchange other than through a UK subsidiary or branch.

London Stock Exchange will issue further guidance to impacted member firms in due course. This will have no impact on existing third-country firms based outside the EEA.

7. Primary Markets Loss of passporting right for EEA Equity and Fixed Income prospectuses

On 21 November 2018, the UK Government confirmed that, in the event of a Hard Brexit, prospectuses approved by an EEA competent authority that have not been passported into the UK before the date of exit will no longer automatically benefit from passporting rights into the UK market³. A company wishing to admit to both an EEA Regulated Market and the London Stock Exchange's Main Market would therefore need to ensure that a Prospectus is approved by the FCA and separately by any EEA competent authority, unless the EU and UK take equivalence decisions with respect to prospectuses approved by their respective competent authorities. The content requirements for a Prospectus in the UK would be the same as those required in the EU.

With regard to issuers admitted or considering admission to AIM, we expect the impact of a Hard Brexit to be minimal as issuers usually structure transactions within the parameters of the Prospectus exemptions.

With respect to issuers listing solely on London Stock Exchange, we anticipate minimal impact. For example, of the 108 equity IPOs on the London Stock Exchange last year, none used an outbound EU equity prospectus passport from the UK.

Furthermore, the UK Government has confirmed its intention in a Hard Brexit to issue an immediate equivalence decision enabling issuers to continue to use EU-adopted IFRS for the purposes of preparing financial statements used in a prospectus for the UK market.

8. Primary Markets - Listing requirements for ETFs

Currently, all London Stock Exchange main market admitted exchange traded funds (ETFs) utilise the Undertakings for Collective Investment in Transferable Securities (UCITS) EU harmonised regulatory framework. All UCITS ETFs established in another EEA country must be recognised under section 264 of the FSMA 2000 before they can be passported for UK retail investor distribution.

The FCA temporary permissions regime will permit existing UCITS ETFs (listed before 29 March 2019) to continue to be marketed in the UK. The FCA expects the regime will be in place for a maximum of three years within which time firms and funds will be required to obtain authorisation or recognition in the UK.

The FCA has stated that they expect the temporary permissions regime will work in a similar way for investment funds with fund managers notifying them in relation to those funds they plan to continue to market in the UK. The FCA expects to start accepting notifications in early January 2019.

For further details of the FCA temporary permissions regime see the below CP18/29: Temporary permissions regime for inbound firms and funds.

<https://www.fca.org.uk/publications/consultation-papers/cp18-29-temporary-permissions-regime-inbound-firms-and-funds>

It is our current understanding that new funds created after 29 March 2019 will require recognition under section 272 of the FSMA 2000 before being able to be admitted to the Main Market and distributed to UK retail investors.

³ <https://www.gov.uk/government/publications/draft-official-listing-of-securities-prospectus-and-transparency-amendment-eu-exit-regulations-2019/draft-official-listing-of-securities-prospectus-and-transparency-amendment-eu-exit-regulations-2019-explanatory-information>

9. International Securities Market

Issuers on the International Securities Market (ISM) should continue to benefit from the Quoted Eurobond Exemption. The UK Government is seeking to make minor adjustments to tax legislation to ensure references to EEA/EU are amended to incorporate a reference to the UK.

10. Stamp Duty Intermediary Relief

We await clarification in due course from the UK Government as to whether EEA members and participants will continue to benefit automatically from stamp duty intermediary relief in a Hard Brexit scenario.

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