

EU No-Deal Contingency Planning

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On December 19, 2018 the European Commission published the legislative proposals and delegated acts (the “[Package](#)”) which it had previously outlined in its Contingency Action Plan of November 13, 2018 to prepare for a “no-deal” scenario whereby the UK exits the EU on March 29, 2019 without a ratified withdrawal agreement in place.

The Package includes 14 measures in a number of areas where a no-deal scenario may create major disruption for citizens and businesses in the EU27. These areas include financial services, air transport, customs, and climate policy. As might be expected the focus of the Package in the area of financial services is on mitigating the potential effect of a no-deal on large financial institutions in the EU27, rather than providing any temporary measures permitting market access for UK firms or protections for UK consumers.

In particular, the European Commission has adopted two temporary and conditional equivalence decisions prolonging the access of EU27 firms to UK central clearing counterparties and UK central security depositories, for 12 and 24 months respectively. In addition, the Commission will amend two Delegated Regulations in order to preserve, for a period of 12 months following withdrawal, the regulatory treatment of derivative contracts currently exempted from the clearing obligation and the bilateral margin requirements that EU law imposes, when such contracts are transferred from the UK to the EU27.

The European Commission has reiterated that financial institutions that wish to provide banking or insurance services in the EU should take steps to be properly authorized by the date of withdrawal, including by establishing a presence in the EU27. In the event of a no-deal, as of the withdrawal date payment institutions authorized by UK competent authorities will not be allowed to provide payment services in the EU or through the use of branches located in the EU27, under their current authorizations.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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