

PUBLIC STATEMENT

Contingency plans of Credit Rating Agencies and Trade Repositories in the context of the United Kingdom withdrawing from the European Union

1. The European Securities and Markets Authority (ESMA) is issuing this Public Statement in order to raise market participants' awareness on the readiness of credit rating agencies (CRAs) and trade repositories (TRs) for the possibility of no agreement being reached in the context of the United Kingdom (UK) withdrawing from the European Union (EU).
2. As there is no assurance that a transition period will be agreed, entities using services provided by CRAs and TRs need to consider the scenario where a no-deal Brexit would take place on 30 March 2019.
3. Derivatives subject to the reporting obligation under EMIR¹ must be reported to a registered EU-established TR or a recognised third-country TR². Similarly, CRAs need to have a legal entity registered in the EU and supervised by ESMA, in order for their ratings to be used for regulatory purposes in the EU. In a no-deal Brexit scenario, TRs and CRAs established in the UK will lose their EU registration as of the UK's withdrawal date.
4. UK-based CRAs and TRs currently registered with ESMA have implemented contingency plans in preparation of a no-deal Brexit scenario. ESMA has noted significant steps forward by both industry sectors in terms of preparedness, however, some actions still need to be completed.
5. ESMA is engaging on a continuous basis with the relevant supervised entities to ensure that the agreed Brexit contingency plans are fully executed by March 2019 in case of no-deal Brexit, including the finalisation of pending applications for registration. ESMA is currently assessing a number of CRAs and TRs applications, submitted as part of the firms' Brexit contingency plans.
6. ESMA emphasises that a positive decision on a registration application ultimately depends on the completeness and the quality of the application file and on the applicant's compliance with the relevant regulations.
7. Given the cross border nature of both industries, after Brexit, ESMA intends to have in place with the UK Financial Conduct Authority (FCA) an MoU in order to allow information

¹ 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.

² Please consult the ESMA register webpage for an updated list of the available TRs: <https://www.esma.europa.eu/supervision/trade-repositories/list-registered-trade-repositories>.

exchange for effective supervision and enforcement. With specific reference to the CRA industry, the presence of an MoU is a precondition to allow registered CRAs to endorse - under certain circumstances - ratings issued from the UK and in turn to allow the use of those ratings for regulatory purposes in the EU27. Taking the wider negotiations between the EU and UK into account, ESMA plans to start negotiations with the UK FCA with the intention to have MoUs in place sufficiently in time before the end of March 2019.

8. EU counterparties and CCPs must report details of derivative contracts to a registered EU-established TR or a recognised third-country TR. All counterparties must ensure that this requirement continues to be fulfilled. ESMA invites market participants to contact their TR to verify whether continuity of service will be ensured after Brexit.
9. ESMA is preparing for the eventuality that some counterparties may need to request their existing UK TR to port their data to a EU27 TR. Ensuring data quality in the transfer of EMIR data from one TR to another is key. Against this background, ESMA encourages counterparties to ensure that they and their reporting entities fully adhere to the most recent reporting requirements:
 - a. to better enable any potential transfer of data due to the UK's withdrawal; and
 - b. to ensure their continuous compliance with the EMIR reporting obligation.
10. In general, ESMA emphasises the importance for market participants to monitor closely the public disclosures made by CRAs and TRs in the context of Brexit.

Background

11. On 29 March 2017, the UK notified the European Council of its intention to withdraw from the EU pursuant to Article 50 of the Treaty on European Union. The withdrawal will take place on the date of entry into force of a withdrawal agreement or, failing that, two years after the notification, on 30 March 2019.
12. ESMA supervises the following CRAs and TRs established in the UK: AM Best Europe-Rating Services Ltd.; DBRS Ratings Limited; Fitch Ratings Limited; Fitch Ratings CIS Limited; Moody's Investors Service Ltd; Moody's Investors Service EMEA Ltd; The Economist Intelligence Unit Ltd; DTCC Derivatives Repository Plc; UnaVista Limited; CME Trade Repository Ltd.; ICE Trade Vault Europe Ltd.; Bloomberg Trade Repository Limited.
13. ESMA has made it clear in its bilateral communications to CRAs and TRs that any registered TR and CRA in the EU27 should comply with minimum substance requirements and relevant outsourcing conditions to ensure that the post-Brexit set-up in the EU27 is as strong as the pre-Brexit set-up in the EU.
14. In that context ESMA published an Opinion on 31 May 2017 setting out general principles aimed at fostering consistency in authorisation, supervision and enforcement related to the relocation of entities, activities and functions from the UK. On 12 July 2018, ESMA also issued a Public Statement in order to raise the awareness of all market participants on the

importance to prepare for the possibility of no agreement in the context of the UK withdrawing from the EU. In particular, ESMA emphasised the importance of the timeline to submit requests for authorisation to ESMA for CRAs and TRs wishing to relocate.

15. The majority of the UK CRAs and TRs have expressed their intention to continue providing their services in the EU27 after Brexit and have implemented subsequent actions, such as:
 - i) applied to register a new legal entity in the EU27; ii) notified ESMA of material changes concerning the organisation of the entities already registered in the EU27 (e.g. strengthening the presence of staff in the EU27).