

Interpretative guide on completing our forms after the UK's withdrawal from the EU

The purpose of this guide

1. We have not, in general, amended our pre-exit day FCA forms¹ to resolve provisions which no longer have their intended effect (for example, references to legislation that may have been amended as part of the United Kingdom's (UK) withdrawal from the EU and may therefore no longer be correct).
2. This guide sets out the approach the FCA expects users of our forms to take when interpreting EU-based references still present in our forms now that the UK has withdrawn from the European Union (EU). This guide covers our forms and, where applicable, the accompanying FCA guidance on how to complete them.

Binding technical standards (BTS) forms

3. The guide does not set out the approach to be taken by users of forms in binding technical standards (BTS). Users of BTS forms should take the following approach:
 - a. The reporting and disclosure requirements forms contained in certain CRD IV and CRR BTS, should be read in line with our specific guidance on those forms (see [link available after exit day]). This reflects corresponding guidance produced by the PRA for dual-regulated firms (see [link available after exit day]).
 - b. All other BTS forms have been amended to correct deficiencies and can be found in pdf format on the Handbook website (see [link available after exit day]).
 - c. In some cases, an electronic version of the BTS form has been created on FCA systems. We continue to operate such electronic forms. These electronic versions have been updated to reflect the amendments to address EU-based references.
 - d. The electronic version of the suspicious transactions and orders form under the Market Abuse Regulation (STOR) form has not been updated. Users of this form must still complete the electronic version but refer to the FCA website version of

¹ Forms used prior to exit day. Exit day has the meaning as defined in the European Union (Withdrawal) Act 2018.

the STOR BTS (which is found here [link available after exit day]) to see the changes made to the form flowing from the UK's withdrawal from the EU.

Temporary Permission firms

4. It should also be noted that for Temporary Permission (TP) firms, some references within forms to passporting firms (and related concepts) may still be relevant to firms within the Temporary Permissions Regime (TPR). For example, although there are no longer 'incoming EEA firms' on exit day there are TP firms which used to be incoming EEA firms or incoming Treaty firms (some of whom may still be operating without a UK branch). TP firms should consider whether EU-based references remain applicable to them.

Gibraltar-based firms

5. We are maintaining the pre-exit day regulatory position on Gibraltar within our Handbook.² This position is in line with the Government's commitment that Gibraltar financial services firms should, until December 2020, have the same market access in the UK as they did before exit day. For Gibraltar-based firms able to exercise passport rights, the Government's commitment means they continue to be able to exercise such rights after exit day. This means that applicable forms pre-exit may continue to be relevant. Instead of the default interpretations laid out in the tables below, Gibraltar-based firms should read relevant forms in light of GEN [ref/URL] and 'Our approach to non-Handbook guidance where it relates to EU law or EU-derived law' (see [link available after exit day]).

Interaction with the transitional directions

6. Under its powers in Regulation 198 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, the FCA has made a number transitional directions to waive or modify regulatory requirements amended under the EU Withdrawal Act. Where a form relates to a requirement which has been waived or modified the relevant form should, for the duration of the direction, be interpreted in light of that direction.

The content of this guide

7. Table 1 sets out a default approach for interpreting EU-based references found in our forms. This is in line with the approach taken more widely in the FCA Handbook to take account of the UK's withdrawal from the EU and the associated legislative changes made.

² We have made rules and guidance in relation to Gibraltar (see [link to follow]) ([GEN 2.3]).

8. Table 2 and table 3 respectively set out more specific cases in relation to forms found in the Handbook (table 2) and those found not in the Handbook but on one of our systems, such as Connect or the FCA website (table 3). It sets out an expected approach in each instance. The specific case guidance takes priority over table 1.
9. We expect users of our forms and, when relevant, the accompanying guidance, to use this interpretive guide in light of the UK's withdrawal from the EU and the associated legislative changes, which includes the Glossary and rules and directions in the FCA Handbook. There may be some circumstances where it is appropriate to continue to use the pre-exit day EU-based reference.
10. This guide should also be read in conjunction with the Prudential Regulation Authority's (PRA's) Supervisory Statement on interpreting reporting and disclosure requirements and regulatory transactions forms after the UK's withdrawal from the EU³, where relevant, for shared forms. Where appropriate, our approach to forms is the same as the PRA's.

³ See [link available after exit day].

General guidance

Table 1

This table sets out the various types of EU-based references, and a default approach to how these should be interpreted.

Type of reference	Default interpretation
Reference to UK primary or secondary legislation	This should be read as a reference to UK legislation as amended under the European Union (Withdrawal) Act 2018 (EUWA).
References to deleted 'glossary terms'	These should, depending on the context and relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook), generally be read as if deleted in line with the deletion of the corresponding Handbook Glossary terms.
Reference to an EU regulation	This should be read as a reference to the UK version of the EU regulation which is part of UK law by virtue of EUWA.
Reference to an EU technical standard	This should be read as a reference to the UK version of the EU technical standard, as amended.
Reference to an EU directive	This should generally be read as a reference to the implementing UK legislation (including FCA or PRA rules), or the UK, FCA or PRA processes, that give effect to the directive, as amended on EU withdrawal. In some cases, it may also be helpful to refer to the text of the EU directive as at exit day to provide additional context.
Reference to the European Supervisory Authorities (ESAs) ⁴ guidelines and recommendations and other non-legislative material	See Guidance on our approach to EU non-legislative materials [link available after exit day].
Reference to terms such as the European Union or EU; or the European Economic Area or EEA (i.e. not part of a compound term, for example, an 'EEA firm' etc)	This should be read as a reference to the UK, subject to the context and the relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook).
Reference to Member State, Member States or home Member State	This should be read as a reference to the UK, subject to the context and the relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook).

⁴ EIOPA, ESMA and the EBA.

Type of reference	Default interpretation
Reference to third country	This should be read as a reference to a territory or country which is not the United Kingdom
Reference to an EEA bank	These should be read as references to a UK bank or a non-UK bank depending on the context and the EU withdrawal legislative changes (which includes changes to the FCA Handbook).
Reference to an EEA firm	This should be read as a reference to a third-country firm depending on the context and the relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook).
References to EEA other than the UK	This should be read as a reference to EEA states.
Reference to EEA notifications	This should be read as if deleted as there is no longer a requirement to submit them, subject to the context and the relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook).
References to an EEA regulator and EEA branch	These should be read as if they are deleted, subject to the context and the relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook).
Reference to the European Union not in relation to legislation	This should be read as a reference to the UK.
Reference to Euros	Any threshold set in Euros will continue to apply as such. This is subject to the relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook).
References to an incoming EEA firm or to an incoming Treaty firm	These should be read as if they are deleted as there will be no firms passporting into the UK after exit day. However, it should be noted that for TP firms, some references within our Handbook forms to passporting firms (and related concepts) may still be relevant to firms within the Temporary Permissions Regime (TPR).
References to the official language or languages of the EEA State	These should be read as 'the official languages of the United Kingdom'. This is subject to the relevant EU withdrawal legislative changes (which includes changes to the FCA Handbook).
Reference to freedom to provide services	On the basis that UK firms will no longer be able to write business under the Freedom to Provide Services in the EU after exit:

Type of reference	Default interpretation
	<ul style="list-style-type: none">• any data relating to business performed through freedom to provide service will be a nil entry after EU withdrawal, and• any references to the country where the freedom to provide services notification was made for the purpose of identifying the location where a contract is entered into should be disregarded.

Guidance on specific forms in the Handbook

Table 2

This table sets out guidance on how to approach specific cases.

Handbook form or accompanying guidance location	Form title	Reference	Interpretation
SUP 8 Annex 2D	Application form for a waiver or modification of rules	European directive requirement	Section B Question 11 (and the notes to completing the waivers form) should be read and completed in light of the UK's withdrawal from the EU and the associated legislative changes.
SUP 10A Annex 10D	MiFID Article 4 APER Information Form	MiFID II requires certain information to be provided by the applicant firm when making changes to their management body or key function holders and currently refers to European technical standards.	The information required is detailed in the MiFID II UK version of Regulatory Technical Standards (RTS) Implementing Technical Standards (ITS) which are part of UK law by virtue of the EUWA.
SUP 16 Annex 42AR (and guidance notes in SUP 16 Annex 42BG)	REP-CRIM – Financial Crime Report	Non-EEA Correspondent Banks	Question 5 of the return requires firms to report the number of 'non-EEA Correspondent Banks' at the end of the reporting period and the number new in the same period. these references to 'correspondent banks' should be taken to mean any relationship <i>outside of the UK</i> .
SUP 16 Annex 19B in relation to form at SUP 16 Annex 19AR	Notes for completion of the Mortgage Lenders & Administrators Return ('MLAR')	Land in the EEA	References to land in the EEA for the purpose of SUP 16 Annex 19B should be taken to mean 'land in the UK'.

Handbook form or accompanying guidance location	Form title	Reference	Interpretation
GENPRU 3 Annex 3G	Classification of groups (GENPRU 3.1.3G)	'EU regulated entity', 'EU non-regulated entity', 'non-EU regulated entity' and 'non-EU non-regulated entity'	References to 'EU regulated entity', 'EU non-regulated entity', 'non-EU regulated entity' and 'non-EU non-regulated entity' on the first page of the form, should be read as if 'EU' is replaced by 'UK' in each case.
GENPRU 3 Annex 3G	Classification of groups (GENPRU 3.1.3G)	'supervisors in EEA states' and 'EEA supervisors'	<p>The reference in field H1 of the form to '(i.e. supervisors in EEA States in which the group has significant regulated activity?)' should be read as '(i.e. supervisors in the UK)'.</p> <p>The reference in field H2 of the form to '(i.e. EEA supervisor of the group's most important regulated activity in the EU)?' should be read as '(i.e. UK supervisor of the group)'.</p>
MAR 9 Annex 7D in relation to MAR 9.3.6D and guidance at SUP 17A.2.1BG	MAR 9 Annex 7 FCA MDP on-boarding application form	Section 3 Non-UK, EEA authorised applicant entities	Delete this section.
MAR 9 Annex 7D in relation to MAR 9.3.6D and guidance at SUP 17A.2.1BG	MAR 9 Annex 7 FCA MDP on-boarding application form	Section 4 Data types, 4.1 (see note)	The references to non-MiFID firms should be read to mean non-UK investment firms, excluding UK branches.
MAR 9 Annex 7D in relation to MAR 9.3.6D and guidance at SUP 17A.2.1BG	MAR 9 Annex 7 FCA MDP on-boarding application form	Section 6 Fees (2 nd paragraph)	Delete the sentence 'An incoming DRSP, authorised in another EU member state, would pay 80% of each charge.'

Handbook form or accompanying guidance location	Form title	Reference	Interpretation
MAR 9 Annex 5D in relation to MAR 9.3.1R	Data Reporting Services Provider (DRSP) Material Change in information	EEA	References to the term 'EEA' should be read to mean EEA, and the general guidance with respect to the term 'EEA' in Table 1 does not apply.
MAR 9 Annex 3D in relation to MAR 9.2.3D and MAR 9.2.4G	Data Reporting Services Provider (DRSP) Variation of Authorisation	EEA	References to the term 'EEA' should be read to mean 'non-UK', and the general guidance with respect to the term 'EEA' in Table 1 does not apply.
MAR 9 Annex 4D in relation to MAR 9.2.5D	Data Reporting Services Provider (DRSP) Cancellation of authorisation	EEA	References to the term 'EEA' should be read to mean 'non-UK', and the general guidance with respect to the term 'EEA' in Table 1 does not apply.

Guidance on specific forms not in the Handbook

Table 3

This table sets out guidance on how to approach specific cases.

Form not found in the Handbook or accompanying guidance location	Form title	Reference	Interpretation
Connect	Application for registration as a consumer buy-to-let firm (for use by unauthorised firms only)	Section 2 Basic details, 2.1 What type of firm is the applicant?	The reference to 'UK branch of a non-EEA firm' should be read to mean 'UK branch of a non-UK firm'.
Connect	Application for Authorisation: Core details form	Section 2 About the applicant firm, 2.6 What type of firm is the applicant firm?	The reference to 'UK branch of a non-EEA firm' should be read to mean 'UK branch of a non-UK firm'.
Connect	Application for Registration as a Small Payment Institution (SPI)	Section 1 Identification details and timings, 1.1 What type of firm is the applicant?	The reference to 'UK branch of a non-EEA firm' should be read to mean 'UK branch of a non-UK-firm'.
Connect	Application for registration as an Account Information Service provider	Section 1 Identification details and timings, 1.1 What type of firm is the applicant?	The reference to 'UK branch of a non-EEA firm' should be read to mean 'UK branch of a non-UK firm', in accordance with Payment Services Regulation 18, which does not require an Account Information Service provider's head office etc. to be in the UK.

Form not found in the Handbook or accompanying guidance location	Form title	Reference	Interpretation
Connect	Application for Authorisation as an Electronic Money Institution (AEMI)	Section 1 Identification details and timings, 1.1 What type of firm is the applicant?	The reference to 'UK branch of a non-EEA firm' should be read to mean 'UK branch of a non-UK firm', in accordance with the onshored version of Electronic Money Regulation 4(b), which will permit the Electronic Money Institution's head office to be outside the UK.
Connect	Application for Registration as a Small Electronic Money Institution (SEMI)	Section 1 Identification details and timings, 1.1 What type of firm is the applicant?	The reference to 'UK branch of a non-EEA firm' should be read to mean 'UK branch of a non-UK firm', in accordance with Electronic Money Regulation 13(9), which requires the small Electronic Money Institution's head office to be in the UK.
Connect	Application for Authorisation MiFID and Article 3 exempt firms: Controllers appendices – Legal persons and Partnerships	Section 7 Non-EEA controllers	The reference to 'Non-EEA controllers' should be read to mean 'Non-UK controllers'.

Form not found in the Handbook or accompanying guidance location	Form title	Reference	Interpretation
Connect	<p>Application for Authorisation as a Payment Institution (API)</p> <p>Application for Authorisation as an Electronic Money Institution (AEMI)</p> <p>Application for registration as an Account Information Service Provider (RAISP)</p> <p>Variation of EMD Authorisation / Registration</p> <p>Variation of PSD Authorisation / Registration</p>	PII	The information regarding PII refers to firms complying with the EBA guidelines and recommendation on PII. Our level 3 guidance covers the approach that we would take to firms continuing to apply the EBA guidelines and recommendation.
Connect	Application for Authorisation MiFID Annex	Permission Profile table 1- MiFID firms	The 'bidding in emission auctions product' column and the 'emissions auction product' row are deleted.
Connect	Application for a Variation of Permission (VOP)	Permissions Section	The 'bidding in emissions auctions product and 'emissions auction product' options are deleted.
Connect	Application for Authorisation and Variation of Permission (VoP)	Permissions Section	The 'managing a UCITS' permission shall be read as 'managing a UK UCITS'.
Connect	Application for Authorisation: Supplement for securities and futures firms (non-complex)	N/A	EEA firms seeking to establish 3 rd Country Branches in the UK shall complete the MiFID Annex Form.

Form not found in the Handbook or accompanying guidance location	Form title	Reference	Interpretation
Connect	Application for Authorisation: Supplement for securities and futures firms (complex)	N/A	EEA firms seeking to establish 3 rd Country Branches in the UK shall complete the MiFID Annex Form.