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EU-UK FINANCIAL SERVICES AFTER BREXIT ENHANCED EQUIVALENCE - A WIN-WIN PROPOSITION

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1

SUMMARY

For financial services, it is possible for the UK and EU to have a close, collaborative relationship after Brexit which reflects the long history of partnership between the UK and the constituent EU member states. It is in fact possible for the relatively recent achievements of the EU's passporting regime to be continued with the UK, in another form, after Brexit, to allow EU customers to have the most cost effective access to the global financial centre located in the European timezones and to enable pan-European financial flows to continue unhindered. The EU would have a valuable role in helping to shape financial regulation in a global context and in facilitating financial flows in and out of the EU. Reverting to a pure third country arrangement with

the UK would bring with it disruption, inefficiencies and friction costs that would be borne by EU customers and counterparties to no particular benefit to the EU, its economy or its citizens.

This analysis shows how such a collaborative relationship for financial services can be constructed. It contains a draft EU regulation (Appendix A), draft UK implementing measures (Appendix B) and sections of a draft UK-EU agreement (Appendix C) that would effect a mutually beneficial arrangement, to establish predictable reciprocal access between financial services firms and their customers and counterparties after Brexit.

2

THE CASE FOR UK-EU COLLABORATION



Now that Brexit negotiations have moved from the procedural first phase to the more substantive second phase, it has become clear that both the EU and the UK are looking to work towards some kind of deal to ensure that goods and services in general can flow without unnecessary barriers across Europe.

This is not surprising. Notwithstanding the rhetoric on both sides, it has always been clear that it is in the interests of both parties to ensure that as much as possible of the current set-up can continue. It has been apparent from the beginning that such an outcome is likely to include a mutual access deal to enable the continued provision of financial services – and indeed services generally – between the EU and UK after Brexit.

The UK has a large trade deficit with the EU on goods, so a deal for goods is unequivocally in the EU's interests. For financial services, the costs to EU customers, consumers and counterparties of not having straightforward, direct and cost-effective access to the UK's global financial services markets and providers are equally clear. Research has indicated a range of possible figures for the cost to the City of London of a lack of a mutual access arrangement with the EU, none of which is attractive.¹ The reverse of this proposition is also true. EU customers, consumers and counterparties will bear significantly increased costs arising from the disruption and business fragmentation that will inevitably arise without a robust mutual access arrangement for financial services.

¹ See, for example, the report produced by Oliver Wyman, 'The impact of the UK's exit from the EU on the UK-based financial services sector'. This estimates that in a scenario where the UK becomes a third country with little or no access to the EU, approximately £18-20bn of EU-related activity would be lost with 31,000-35,000 jobs at risk. See also the report produced by PricewaterhouseCoopers, 'Leaving the EU: Implications for the UK financial services sector'. This report estimates a reduction of 70,000-100,000 of those employed in the UK financial services sector and a decline of 5.7%-9.5% in the gross value added of the UK financial services sector.

3

RETHINKING THE WAY TO COLLABORATE

From the EU's perspective, it is not possible for the UK to continue to make use of the financial services passports without membership of the EEA. Given that the UK government has signalled that it does not intend to remain part of the EEA, it necessarily follows that the UK will not be able to make use of the financial services passports after Brexit. Suggestions to the contrary are mischievous. The UK wishes to repatriate sovereignty. This means the UK will not, after Brexit, apply the single EU regulatory rulebook as it evolves. Autonomy for the UK means that it will not be subject to the jurisdiction of the three European Supervisory Authorities (ESAs) – the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA). It also means the UK will not participate in EU financial services lawmaking. In fact the UK will not have political involvement in the EU's institutions, whether that be the European Council, European Parliament or the European Court of Justice. The UK will to that extent be a third country. It can cooperate with the EU in new ways but any relationship of collaboration and cooperation needs to recognise these foundational facts.

Political sentiments have been expressed in some quarters in the EU about punishing the UK for Brexit. The UK will be unable to accept this, not least given the role of its Parliament. It is already clear the UK will not sign up to some form of Treaty of Versailles, with punitive payment obligations and negative trading arrangements. The alternative of no deal is less attractive (and is not the UK's preferred option) but it is not punitive and would permit the UK to succeed in other ways. Furthermore, efforts to try to pare

back on any deal with the UK in order to discourage other member states from leaving the EU will be self-harming. The EU needs to have the self-confidence to survive on its own merits, on the basis that being a member of the EU is worthwhile and attractive in and of itself. Holding the EU back commercially and financially to make a political point will weaken the authority of the EU both externally and internally. In addition, if opening itself up to global trade is seen to risk the EU's very existence, it is hard to see how the EU can ever achieve its full potential or even succeed in the longer term. The bona fide objectives of the EU federalists are largely structural. They seek the solidity of a new unified entity. They do not seek to close the EU off from global trade, let alone from global financial flows. In fact, it is enshrined in EU Treaties that the Commission shall be guided by the need to promote trade between Member States and third countries.² Mario Draghi, President of the European Central Bank (ECB) has stated that 'international trade results in a more efficient use of production factors and in specialisation where comparative advantage exists, thereby raising productivity growth.'³

Against this backdrop, two points must be addressed.

The first is that the UK and the EU have always sat somewhat uneasily together in the financial services sector. The more federalist instincts of the EU have often been resisted by the UK. The EU's single rulebook is ill-suited to the hugely divergent regulatory requirements of the City of London, which houses global wholesale markets requiring heavily judgement-based regulation in order to be supervised safely. The prescription of EU rulemaking

² See Article 32, Treaty on the Functioning of the European Union (TFEU).

³ In his speech at the Economic Policy Symposium of the Federal Reserve Bank of Kansas City, Jackson Hole, 25 August 2017.

has certainly helped to establish the single market in financial services and to break down barriers between many of its member states, but those rules are overly prescriptive for the dynamic and fast-evolving global markets in the UK. These markets require fewer rules and more hands-on supervision. This needs to be unfettered by process and bureaucracy so that it can be responsive to market needs. Such responsiveness is also key to avoiding the dangerous build-up of systemic risk in the global markets in the UK, to the detriment of those markets, the EU and the UK.

Conversely, the UK's more free market instincts have often ruffled feathers in the 27 other member states, which are not so entwined with the global financial markets. The UK's resistance to a single financial services regulatory rulebook and federal EU supervision has impeded the full development of those ideals from the EU's perspective. Moreover, the needs of the eurozone are increasingly at the heart of EU regulatory rulemaking. Given the UK has never been part of the eurozone, its needs are very different. Regulations made to protect the euro project are increasingly difficult to apply in the UK. Many lead to the displacement of eurozone risk into the global financial markets in a manner which will not be accepted by those markets, instead pushing business activity outside the EU entirely to centres which do not seek to have an ability to manage the markets' sentiment over the value of euro credits.

Brexit brings with it the opportunity for the EU and eurozone to refine the regulation specific to those projects, whilst permitting EU citizens to have frictionless access to the global financial centre on their doorstep. The EU would work together with the UK to define high level regulatory outcomes with which both UK and EU regulation must comply in order not to give rise to systemic risk for each other nor to prejudice each other's consumer protection agendas. Establishing a new system which properly permits the natural regulatory divergence between the UK and the EU will avoid the ever-increasing tensions of progressively differing needs and aims, whilst providing maximum benefit to EU citizens.

The second point to be considered is that the EU will be damaged unless it continues to collaborate closely with the UK after Brexit. Putting aside the

politics and looking purely at the financial side of things, EU financial institutions and clients need continued access to the deep pools of liquidity and services that are only available from the City within the EU's own timezones. The provision of financial services requires human interaction on a real-time basis, particularly for larger-scale financings and dealings. For that the humans in question need to be awake and operating efficiently and in the requisite numbers within normal EU working hours. Seeking out capital from elsewhere in the world will be extremely restricting given the time differences. This is not just true for the wholesale markets. EU consumers will benefit from services and products incubated locally in the UK, with real-time, interactive human support. These services and products will generally be spin-offs from the global wholesale markets located in the UK, where the sophistication of those markets and their providers leads to greater diversification and more cost-effective pricing for consumers.

EU financial institutions need access to the UK's counterparty and client base, in both a wholesale and retail context. It is also advantageous to the EU (and UK) for UK financial institutions, and the large number of global financial institutions which choose to carry out a substantial amount of their global business from London, to have access to counterparties and clients across the EU.

Overall, it is clearly in the interests of both the EU and the UK to continue to have one of the two world-leading financial centres in their timezones. As appealing as tearing bits off the City might appear to certain EU member states, the reality is that the marginal boosts to their own economies will be more than outweighed by the increased costs for their own consumers and other negative real economy effects of diminishing the magnetism of the City. The real winner of such behaviour is actually New York, rather than Frankfurt, Paris or Dublin.

Any such approach would also force the UK to respond aggressively to protect itself, which would mean the EU will have next to no influence over financial regulation in its nearest global financial centre and that centre will run itself with no real regard for the EU or the euro project.

4

THE PATH FORWARD: BINDING MUTUAL ACCESS



What is needed, therefore, is a mechanism by which the EU and the UK can develop their own paths but continue to enjoy the close relationship and mutual access that they have benefitted from under the single market. In that way, the EU can get on with integrating its supervisory and rulemaking approaches, particularly around the euro, and the UK can apply international standards but without being tied to the EU's approach, or vice versa.

Why should the EU agree to a mutual access deal that is two-way and binding for financial services, rather than relying upon its unilateral discretions as the European Commission has suggested?⁴ The answer is that without sufficient certainty there will still be business fragmentation and less investment in financial services in the EU timezones, because of the potential for access withdrawal. Warm words are insufficient for business. Instead, there needs to be sufficient predictability, provided by Treaty-based commitments.

This paper sets out how such a binding mutual access deal can be achieved using the existing mechanism of 'equivalence' under EU law, tightening its procedural and substantive protections so as to form a more solid foundation for a lasting relationship between the EU and the UK: the Enhanced Equivalence model.⁵

The proposal includes a fully worked-out draft Enhanced Equivalence Regulation (set out in Appendix A), envisaged to be adopted by the EU in the normal way prior to Brexit. It also contains a proposed draft of the necessary UK implementing measures (set out in Appendix B). The EU Regulation would be brought into UK law as secondary legislation under the European Union (Withdrawal) Bill (the so-called Repeal Bill) in the UK. The UK implementing measures would make the necessary changes to the Regulation to ensure it works in a UK context. There would then be a new UK-EU agreement (set out in Appendix C), largely on procedural items, giving certainty to mutual declarations of equivalence across the whole financial services sphere.

⁴ See European Commission Staff Working Document, 'EU equivalence decisions in financial services policy: an assessment', SWD (2017) 102 final, 27 February 2017.

⁵ The EU and the UK may consider it appropriate to adopt a similar approach in contexts other than financial services. However, this is beyond the scope of this particular proposal which focuses solely on financial services.

5

THE CONCEPT OF EQUIVALENCE

Equivalence is a concept already provided for extensively in EU financial services laws and regulations. It is in use for countries as diverse as the US, Mexico and Singapore.⁶ It has caused no detriment to the EU economy and indeed has provided much-needed access to international capital for EU financial institutions and large corporates. The proposed Enhanced Equivalence arrangement would reform the equivalence concept in a manner that is reciprocal so it would permit EU financial institutions and customers easy access to the global financial markets hosted in the City of London, and vice versa. The essential premise of equivalence status is that, having concluded that the third country's regulatory environment is sufficiently equivalent to its own in a specific area of financial services, the EU trusts the third country to regulate and supervise its financial services businesses effectively. UK financial services laws and regulations would be deemed equivalent across the board to those in the EU, allowing for institutions located in the UK to be regulated solely in the UK whilst providing services and products to customers across the EU, and permitting EU businesses similar unfettered access to the UK's global markets whilst being regulated solely in the EU. This proposal has the potential to replicate the effects of the passport but on the basis of 'equivalent' regulation rather than 'identical' regulation, allowing for much-needed divergence between UK and EU regulation. The extent of that divergence will depend on the precise meaning of equivalence.

Under current EU law equivalence is based on outcomes.⁷ Third countries can take alternative

approaches and adopt different rules, provided the relevant regulatory and prudential outcomes are achieved by those rules to the same extent that those outcomes are achieved by the corresponding EU rules. This is a sensible approach and is capable of permitting the necessary degree of divergence so long as outcomes are objectively defined and at a high level. Outcomes are most easily identified by reference to international standards where those exist, such as the Basel capital regime for banks and investment firms. Where those standards do not exist and cannot easily be created, the UK and EU would need to agree them at a working level. Working relationships are strong and should be up to the task of identifying and defining appropriate outcomes.

The European Commission appears to be seeking to narrow the concept of equivalence for significant investment businesses. In recent proposals⁸ it states that third country provisions may only be considered to have equivalent effect to the EU's requirements in that context after a detailed and granular assessment, taking account of supervisory convergence.⁹ This approach seems designed principally for the UK. However, any narrowing, were it to be adopted, would be misguided in that it would render more brittle any mutual recognition arrangement entered into with the UK and would make more unlikely the long-term adoption by the UK of equivalence-based access to the EU's markets. This would, as explained in *The Case for UK-EU Collaboration* above, ultimately reduce the choices

for EU customers and counterparties and increase the costs of financial services to them. In addition, and most significantly, any narrower arrangement rendering the UK a rule-taker, as long as it were in operation and accepted (at least temporarily) by the UK, would exacerbate systemic risks in the global financial markets. It would introduce the new risk that prescriptive rules turn out to be inappropriate for the global markets in unforeseen contexts and that UK supervisors do not have the necessary rule-making and supervisory autonomy to counter that risk and avoid UK taxpayer exposure. This is unlikely to be acceptable politically. Moreover, the result would require other states around the world to take active steps to protect the international financial markets from the resulting accrual of unnecessary risk in those markets. Such steps would further weaken the EU's opportunities for growth and global trade - and its reputation.

It is therefore to be assumed that the EU will act in its own interests and will not seek to narrow the concept of equivalence for the UK, to avoid self-harm. The question then is how outcomes-based equivalence is to be properly understood, beyond looking to international standards where possible. Two other concepts are relevant. First, as has already been identified in EU financial services legislation, a key factor that must be observed in relation to equivalence-based access is not inserting systemic risk into the EU markets - and vice versa.¹⁰ Quite naturally, no system would be acceptable were it to insert significant systemic risk into the EU, though any possibility of systemic risk needs to be viewed against the backdrop of an equivalence framework where the EU regulators can rely on the effectiveness of UK law, regulation and supervision, and vice versa. It is not therefore envisaged that this concept would act as a barrier or even a brake on recognition, but it should be borne in mind at the edges when identifying compliance with certain outcomes.

Secondly, for consumer business, the intention is that UK businesses selling into the EU would observe EU standards when doing so. The same would also be true for EU businesses selling into the UK. As for the sale of goods, the international legal framework is such that sales into any jurisdiction must generally comply with local standards. This approach also makes sense for financial services in the context of consumer protection. EU and UK consumers will need to be protected from mis-selling and from products which do not comply with local marketing and consumer protection rules, which must generally be assessed by local regulators. Subject to that, so long as consumers have redress in the UK or relevant EU member state courts, at their option, in accordance with equivalent consumer protection standards, it should be permitted to sell products from the UK to EU consumers and vice versa.

The position is entirely different for the wholesale markets, where it is well-recognised that market participants can look after themselves without the same protection of stricter regulation that consumers enjoy. These market participants include banks and other licensed financial services institutions, fund managers as well as medium- and large-sized corporates, amongst others. This position is already recognised across the EU in the harmonised reverse solicitation regime contained in Article 46(5) of the Markets in Financial Instruments Regulation (MiFIR), which permits EU wholesale customers at their own volition to opt out of EU regulation and into the international markets, protected by the laws and regulations of the financial services provider. This is an important point which reflects international best practice and allows for true interconnectivity between the EU and global economies. The EU has been a pioneer in promoting the free flow of capital internationally, and to this end has enshrined a prohibition on restrictions of internal capital movement in its Treaties.¹¹

6 For a summary of the numerous jurisdictions for which equivalence decisions have been adopted, see the European Commission's overview table of 'Equivalence Decisions adopted by the European Commission', 3 October 2017, available on the European Commission's website.

7 For example, Recital 41 of the Markets in Financial Instruments Regulation (MiFIR), No 600/2014, states: 'The equivalence assessment should be outcome-based; it should assess to what extent the respective third-country regulatory and supervisory framework achieves similar and adequate regulatory effects and to what extent it meets the same objectives as Union law.' Michel Barnier, the European Chief Negotiator in the Brexit negotiations, has previously confirmed this approach. See for example his Financial Times article in 2012 and his statement in 2014.

8 Proposed Regulation on the prudential requirements of investment firms and amending Regulations (EU) No 575/2013, (EU) No 600/2014 and (EU) No 1093/2010, 2017/0359 (COD). The Proposed Regulation and the related Proposed Directive on the prudential requirements of investment firms and amending Directives 2013/36/EU and 2014/65/EU are intended to enhance competition and support the objectives of the EU Capital Markets Union.

9 Revisions to Article 47 of MiFIR contained in Article 61 of the Proposed Regulation.

10 See, for example, recitals 7 to 8 of the European Market Infrastructure Regulation (EMIR) (Regulation (EU) No 648/2012). Recital 8 states that 'It is appropriate and necessary in this context [i.e. determining whether a foreign regulatory system should be regarded as applying equivalent regulatory standards as applicable in the EU] to verify the effective equivalence of foreign regulatory systems in order to... mitigate systemic risk'. See also recital 44 of MiFIR (Regulation (EU) No 600/2014). The European Commission has also confirmed that equivalence determinations are primarily guided by the principle of proportionality and a risk-based approach. This involves early identification of 'risks to the EU financial system which may be arising as a result of an increased exposure to a specific third-country framework' (see European Commission Staff Working Document, 'EU equivalence decisions in financial services policy: an assessment', SWD (2017) 102 final, 27 February 2017).

11 See Article 63(1), TFEU: 'Within the framework of the provisions set out in this Chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.'

6

BRANCH ACCESS

It would also be desirable on both sides to recognise branch access in a similar manner to that permitted at present under the passport. This is because the costs of subsidiarising in the City of London are prohibitive for EU businesses seeking to

operate in the UK's wholesale markets. Therefore, a system which permits the UK regulators to rely on EU regulators for home state oversight in the context of the EU headquarters for UK branches, and vice versa, would be desirable.

7

SHARED SOVEREIGNTY AND JOINT SUPERVISION

The EU and UK should not seek to interfere in each other's jurisdictions through attempts at shared sovereignty or joint supervision. Even were such arrangements to be acceptable politically, which is doubtful, they would be dangerous and undesirable. They would introduce perilous new risks into the system by slowing down processes and forcing them through committee-based structures ill-suited to dynamic and safe supervision. The inevitable differing interests between the EU (including the eurozone) and the UK could not be bridged on the real-time basis that would be required. Differences of view would delay decisions, introducing entirely new risks into the markets, to worldwide detriment.

One regulator in each jurisdiction, that is to say, one for the UK and one for the EU (in the EU's case

in accordance with the regulatory arrangements between the EU level and member state level regulators), needs to have the final say on matters, particularly those directly relating to systemic and idiosyncratic risk. There cannot be ambiguity on this point.

Both the EU and UK will need nevertheless to be watchful for any build-up of systemic risk in their respective jurisdictions. There will need to be collaboration and information-sharing between both sets of regulators going forward, and the sophisticated network of information-sharing arrangements that has been built up over the years should of course be utilised to the fullest extent possible. But this collaboration should be based on an arrangement that falls short of shared sovereignty or joint supervision.

8

ENHANCED EQUIVALENCE



The proposal set out in this paper pulls together the myriad of existing EU equivalence provisions in the financial services context. It fills in the gaps, for instance for commercial lending, UCITS, primary insurance, insurance mediation and payment services. It unifies the procedures for granting equivalence status and provides for additional protections for the EU as already envisaged in many EU equivalence laws. It also provides for dependability and certainty through provisions setting out base-line procedural safeguards and facilitating a UK-EU agreement to establish further procedural safeguards, dispute resolution and consultation processes.

Brexit is, of course, the catalyst for a proper consideration of the mechanisms by which equivalence operates in the EU. But a review is, in reality, needed in any event – Brexit or no Brexit. The various existing equivalence regimes have been developed piecemeal, and therefore lack the coherence, predictability and utility that a sophisticated review could identify. The proposal to overhaul the various regimes in this regard could be of significant benefit to the EU entirely outside the Brexit context. Similarly, the EU-UK bilateral agreement presented here has been developed with Brexit in mind, but could quite straightforwardly be developed by the EU to provide for a template for an even closer relationship with other third countries, and not just the UK.

8.1 THE EQUIVALENCE REGULATION

The proposal contained here consists of a draft Equivalence Regulation,¹² which would be bolstered by a bilateral mutual recognition agreement to implement greater procedural protections, dispute resolution and coordination processes between the UK and the EU. The Regulation removes restrictions as to available business models, so that it covers all types of services on a two-way, UK to EU and EU to UK basis.¹³ It also removes restrictions as to the types of EU clients that may be accessed by UK service providers, providing for retail as well as wholesale recognition.¹⁴

The concept of equivalence is defined across the entirety of the framework. There would be the same decision-makers in each case – the European Commission with assistance from the ESAs. They would look to ensure the relevant high level outcomes are met by the UK or other relevant third country seeking equivalence status. The draft Equivalence Regulation prioritises an assessment based on international standards, and the concept of materiality contained within it establishes a further level of abstraction from line-by-line comparison; there is a requirement as well to consider market evidence.¹⁵ Optionality for an ‘international competitiveness’ principle is also included.¹⁶ It is in the interests of EU firms and investors that the equivalence concept encourages the acceptance of standards which maintain free global competition and diverse choices of financial services products and services. The European Commission has itself acknowledged that promoting the EU’s competitiveness is a positive effect of an equivalence determination.¹⁷ Additionally, ‘promoting the competitiveness of the EU’ was

included in the (now-abandoned) 2016 proposed settlement between the UK and the EU negotiated by David Cameron. This indicates that its inclusion here is likely to be viable and politically acceptable.¹⁸

For wholesale business the high level outcomes must not pollute the other jurisdiction’s system (the ‘systemic risk test’).¹⁹ For retail business, the other jurisdiction’s consumer protection standards must be observed (the ‘consumer protection test’).²⁰ These tests are well understood and, properly implemented, would facilitate the use of equivalence in a transparent and flexible manner, while maintaining confidence and protecting key interests.

The Regulation envisages a menu of areas in which a third country can be granted equivalence status. The menu would cover the existing areas where equivalence determinations already exist and also those additional areas that fill in the gaps. Third countries could opt for equivalence to facilitate cross-border access in specific financial services sectors only, leaving out those areas where there is no alignment of outcomes. Core overarching principles are also encoded in the draft Regulation which govern the manner in which agreed equivalence recognitions should be interpreted in Union law (and, correspondingly, in UK law when the Equivalence Regulation is grandfathered into domestic legislation). These principles include commitments to act in good faith, in a non-discriminatory and transparent manner and a commitment not to act inconsistently with equivalence recognitions that have been granted.²¹ These principles would also be reflected in the bilateral agreement as enforceable commitments provided by both jurisdictions.

The draft Regulation includes a branch access regime, based on current passporting concepts of home state prudential regulation, with host state conduct and liquidity regulation.²² The Regulation provides for cooperation agreements with third country regulators for, inter alia, coordinating regulatory developments, tax information and enforcement.²³ It also provides for the grandfathering in of existing recognitions so no new applications need to be considered where equivalence has already been granted under existing equivalence provisions.²⁴ Interim, transitional and temporary equivalence recognitions are also possible. These will provide additional flexibility for a variety of contexts. The approach continues the history of transitional equivalence recognitions that have been successfully used in the past.²⁵

The Regulation provides for two tracks for equivalence relationships. First, the default is for standalone equivalence determinations for third countries, as now, with limited base-level procedural safeguards.²⁶ Second, the Enhanced Equivalence track provides for the ability to agree a mutual recognition agreement (MRA) concluded with third countries under which a comprehensive range of equivalence recognitions would be granted (two-way) and protected by the procedures of an agreement.²⁷ This could feasibly be agreed as a standalone MRA or as a financial services chapter in a comprehensive, multi-sector free trade agreement (FTA).

8.2 THE UK IMPLEMENTING MEASURES

The draft UK Implementing Measures ensure the Equivalence Regulation, when finalised, is adopted into UK law in a mirror fashion that provides the necessary reciprocal underpinnings for the UK-EU Agreement.²⁸

There are minimal substantive differences between these measures and the Equivalence Regulation. These comprise only substitutive cross-reference changes necessary to refer to the correct provisions of EU legislation as imported into UK national law under the UK Repeal Bill or to other relevant national implementing measures which have transposed existing EU directives into UK law. There are also changes in references to regulatory bodies from EU to UK equivalents.

8.3 UK-EU AGREEMENT

The proposal also contains sections of a draft bilateral UK-EU Agreement,²⁹ which could form part of an FTA or an MRA. Either approach would comply with the requirements of the World Trade Organisation (WTO).³⁰ The UK and EU would enter into the Agreement as part of the Brexit deal and it would be effective on Brexit. The Agreement has only a few mandatory elements, leaving flexibility for bilateral negotiations. In particular, the Regulation provides that the EU can agree specific arrangements for equivalence with third countries.³¹

The Agreement would be negotiated on behalf of the EU by the European Commission and approved by the European Council.³² It would be two-way, providing benefits for EU financial services customers and counterparties, as well as UK financial services customers and counterparties. The Agreement would provide for certainty by way of Treaty-based commitments for equivalence declarations to be made immediately after Brexit across all areas of financial services business, and commitments to maintain them in accordance with the FTA or MRA.³³

12 Appendix A.

13 See Appendix A, Draft Equivalence Regulation, Article 3 and Annexes I and II.

14 See Appendix A, Draft Equivalence Regulation, Article 3 and Annexes I and II.

15 See Appendix A, Draft Equivalence Regulation, Recitals 10 and 11 and Articles 2(36) and 3(3).

16 See Appendix A, Draft Equivalence Regulation, Recital 13.

17 ‘In some other cases, the positive effects of an equivalence finding have to be assessed by taking into consideration the impacts on EU market participants and non-EU financial sector entities, in particular to allow EU market participants [to] have a wider range of services and transaction choices that would be compliant with EU regulatory purposes’, European Commission, Commission Staff Working Document, ‘EU equivalence decisions in financial services policy: an assessment’, SWD (2017) 102 final, 27 February 2017.

18 Promoting the competitiveness of the EU was agreed as part of the UK Settlement. See ‘A New Settlement for the United Kingdom within the European Union’ (2016/C 69 1/01), which stated that the EU must ‘enhance its competitiveness’ (Section B: Competitiveness) which means ‘lowering administrative burdens and compliance costs... and repealing unnecessary legislation’.

19 See Appendix A, Draft Equivalence Regulation, Article 2(36)(b).

20 See Appendix A, Draft Equivalence Regulation, Article 2(36)(a).

21 See Appendix A, Draft Equivalence Regulation, Recitals 7, 8, 14, 15 and 16.

22 See Appendix A, Draft Equivalence Regulation, Article 11 and Annexes I and II.

23 See Appendix A, Draft Equivalence Regulation, Articles 3(2)(e) and 6’

24 See Appendix A, Draft Equivalence Regulation, Article 15(1).

25 For example, Commission Decision 2008/961/EC accepting US (and Japanese) GAAP as equivalent to IFRS; see also Commission Implementing Decision 2008/961/EC, which granted temporary equivalence to the GAAP of China, Canada, South Korea and India. In 2012, Commission Implementing Decision 2012/194/EU granted permanent equivalence to the GAAP of China, Canada and South Korea.

26 See Appendix A, Draft Equivalence Regulation, Recital 6 and Article 1.

27 See Appendix A, Draft Equivalence Regulation, Recital 6 and Article 1.

28 Appendix B.

29 Appendix C.

30 An FTA would be entered into in accordance with Article V of the General Agreement on Trade in Services (GATS). The FTA would need to cover topics other than financial services as well, in order to satisfy the GATS requirement for such agreements to have ‘substantial sectoral coverage’. Alternatively the bilateral Agreement could be entered into as an MRA under Article VII of GATS.

31 See Appendix A, Draft Equivalence Regulation, Article 8’

32 See Appendix A, Draft Equivalence Regulation, Article 8.

33 See Appendix C, Draft EU-UK Bilateral Agreement, Article 3 and Recitals.

When equivalence has been committed to, it may not be withdrawn except where an objective divergence occurs. In this context it should be considered whether the EU or UK could subsequently make a new law in an identical area so as to introduce new 'outcomes'. One approach would be to mandate the outcomes required in a particular sector, agreed up front, so that neither the EU nor UK can add to them. There could be an exception to this where there has been a proper consultation process, carried out in accordance with the Agreement, to revise the Agreement and to determine new outcomes in an objectively fair manner.³⁴

The Agreement provides for a supra-national court, formed from both parties, which would assess compliance with the equivalence commitments.³⁵ If either party departed from its commitments, there would be a breach of Treaty actionable under international law and enforceable in the new supra-national court.³⁶ This provision is based on that in the Canadian Comprehensive Economic and Trade Agreement (CETA).

There would be notice periods for new areas and for the withdrawal of equivalence in any area. There

is a process for agreeing outcomes in entirely new areas.³⁷

There is then a series of options. There could be a joint committee³⁸ that enables the EU and UK to work together on new proposals, which would give EU regulators an ongoing seat at the table in the shaping of new financial regulations in the UK, and vice versa. There could also be consultation processes,³⁹ coordination processes,⁴⁰ provisions for mediation⁴¹ and private law remedies for private parties affected by breaches of the Agreement.⁴² The draft takes such provisions from the CETA precedent.

Because these provisions would all be contained in an FTA or an MRA, there would be no requirement for Most Favoured Nation treatment of other countries. However, in the case of an MRA, under the General Agreement on Trade in Services (GATS) the UK and EU would need to accord 'adequate opportunity' to other WTO members to either accede to the MRA or negotiate comparable agreements.

In addition, the draft Agreement removes any residual concerns over any potential cliff edge.⁴³

³⁴ See Appendix C, Draft EU-UK Bilateral Agreement, Article 6.

³⁵ See Appendix C, Draft EU-UK Bilateral Agreement, Article 8.

³⁶ See Appendix C, Draft EU-UK Bilateral Agreement, Article 8.

³⁷ See Appendix C, Draft EU-UK Bilateral Agreement, Articles 2 and 4.

³⁸ See Appendix C, Draft EU-UK Bilateral Agreement, Article 5.

³⁹ See Appendix C, Draft EU-UK Bilateral Agreement, Article 6.

⁴⁰ See Appendix C, Draft EU-UK Bilateral Agreement, Article 6.

⁴¹ See Appendix C, Draft EU-UK Bilateral Agreement, Article 7.

⁴² See Appendix C, Draft EU-UK Bilateral Agreement, Article 9.

⁴³ See Appendix C, Draft EU-UK Bilateral Agreement, Article 2.14.

9

NEXT STEPS: IMPLEMENTATION



The Regulation would be adopted by the European Council passing it by qualified majority vote, and by a majority of MEPs in the European Parliament voting in favour. If this is achieved prior to Brexit the UK could assist in Council in finalising the arrangements satisfactorily and UK MEPs could do the same in the European Parliament.

The proposal contains the UK's implementing measures. These implementing measures will require a negative consent procedure to be adopted by the UK Parliament and are based on the most recent draft of the European Union (Withdrawal) Bill. That Bill will bring the Equivalence Regulation and other EU regulations into UK law, on the basis of terms currently subject to debate in the UK Parliament.

So the UK would end up with its own version of the Equivalence Regulation, given that the Equivalence Regulation would (it is envisaged) be adopted by the EU before Brexit. The proposed implementing measures change the relevant references from ESMA, the EBA and EIOPA to the Prudential Regulation Authority, Financial Conduct Authority and so on, and make the other adjustments necessary to ensure the Regulation works in an identical manner under UK law.⁴⁴

The Agreement would be negotiated by the European Commission and UK Government and approved by the European Council and the UK Parliament. It would be entered into before Brexit and would take effect from the date of Brexit.

⁴⁴ See Appendix B, Draft UK Implementation of the Equivalence Regulation, Schedule 1.



10

CONCLUSION

The result of adopting these (WTO-compliant) proposals would be that each of the UK and EU can pursue their own approach to regulation, subject to achieving similar outcomes. UK regulators have already endorsed the use of international standards, so the proposals go with the grain of the practicalities. It would ensure both the UK and EU are able to tailor their regimes appropriately. Indeed, in the context of the consolidation of the eurozone this structure is a neat solution to the problems that were building up within the EU architecture in accommodating both the UK and the eurozone.

So far, the evidence is that proposals for a cross-border deal for financial services under equivalence or other mutual recognition concepts have met with

widespread welcome from market participants and the UK Government and across the EU.⁴⁵ Indeed, most of the discussion about the future relationship between the UK and the EU has involved the use of the EU's equivalence concept. This concept represents a huge achievement of the EU to date in the recognition of providers' access to the EU for financial services. On its own, left unamended, it would not be capable of achieving the purposes desired by the UK or EU after Brexit. But if it were to be enhanced only slightly, as set out herein, it would provide for a strong and stable long-term relationship between the EU and UK which permits the EU to serve the best interests of its citizens and to continue the highly productive relationship with the UK in financial services which has been developed and enjoyed successfully over many years.

⁴⁵ See 'Mutual Recognition – A Basis for Market Access After Brexit', International Regulatory Strategy Group, 11 April 2017; 'JP Morgan calls for UK-EU financial services free trade deal post-Brexit', Financial Times, 15 November 2017; 'Preparing for our future UK trade policy', Department for International Trade, CM 9470, October 2017; section 8.23, 'The United Kingdom's exit from, and new partnership with, the European Union, Department for Exiting the European Union, 15 May 2017; section 4.5, 'Implications of Brexit on EU Financial Services', ECON Committee, European Parliament, IP/A/ECON/2016-22, June 2017.



Appendix A

DRAFT EQUIVALENCE REGULATION

REGULATION (EU) [•]/20[•] OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of [•] on the recognition of the equivalence of third country financial services regimes

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

Having regard to the [Treaty on the Functioning of the European Union] and in particular [Article 114, 207, 212, 216, 290 and 291]⁴⁶ thereof, Having regard to the proposal from the European Commission,

[After transmission of the draft legislative act to the national parliaments,]

Having regard to the opinion of [•], Whereas:

01. The current trend in financial services regulation in the Union and many third countries has been to participate in the development, adoption and recognition of standards that are consistent with international norms. These include those developed by the International Organization of Securities Commissions, the Financial Stability Board, the Basel Committee on Banking Supervision, the International Monetary Fund, the International Association of Insurance Supervisors and the International Accounting Standards Board.

02. Having regard to the interests of the consumers and participants in the Union's financial services sector (including, credit institutions, financial institutions, insurers, reinsurers, fund managers, central counterparties, regulated markets, OTFs, MTFs, trade repositories; and their customers), it is in the interests of the Union to develop an enhanced framework for the Union to make individual recognition decisions and to negotiate and conclude bilateral mutual recognition agreements with third countries to establish enhanced equivalence relationships.

03. The recognition of equivalence is intended to promote regulatory convergence with international norms, reduce prudential and supervisory burdens, and increase the choice of financial services and products

available to customers and undertakings in the Union.

04. The current framework for recognising the equivalence of standards applied by the financial services regimes of third countries pursues a number of general objectives. The ability to recognise the equivalence of regulatory requirements imposed by third-country financial services regimes with corresponding regulatory requirements applicable in the Union is in the interests of the Union. First, this balances the needs of financial stability and investor protection in the Union with the benefits of maintaining open and globally integrated EU financial markets. Secondly, regulatory convergence around international standards is promoted in addition to reinforcing supervisory co-operation between the Union and relevant third countries. Thirdly, the cross-border activities of financial markets participants are managed effectively and proportionately in a secure prudential environment with third countries that adhere to, implement, and rigorously enforce equivalent high standards of prudential rules as the Union.

05. Where a third country's financial services regime is recognised as applying equivalent standards to those applied in the Union, there are benefits to the Union and to the relevant third country. These benefits include, but are not limited to, the following: (i)

reductions and eliminations of overlaps in compliance for undertakings authorised in the Union and for Union competent authorities; (ii) a less burdensome prudential regime for Union financial institutions' exposures to third-country entities; and (iii) a wider range of choice for Union firms and investors in terms of services, products and investment choices originating from third countries. Similar benefits will also apply from the third country's perspective.

06. The Union's current equivalence framework consists of provisions recognising the equivalence of third country financial services regimes that are interspersed amongst various Union legislative acts and are of divergent scope and effect in Union law. The effectiveness and value of the current equivalence framework can therefore be enhanced by a consolidated and consistent equivalence concept and assessment process, additional procedural safeguards, and the ability to establish broad and comprehensive enhanced equivalence relationships governed by and subject to any additional procedural protection established by bilateral mutual recognition agreements.

07. Equivalence is based on the Union and the third country giving legal effect to agreed equivalence recognitions and third-country provisions corresponding to an equivalence provision (subject to any specific terms and conditions contained in a relevant mutual recognition decision or agreement) on a reciprocal basis.

08. The Union and third countries should not adopt measures in their legal systems which are inconsistent with the legal effect that the agreed recognition provisions and the third-country provisions corresponding to equivalence provisions (subject to any specific conditions contained in a relevant mutual recognition decision or agreement) are intended to have, unless the appropriate procedures, if any have been established under any mutual recognition agreement (including any advance notice periods) have been complied with.

09. Equivalence is intended to enable the Union to rely on the compliance by undertakings established in third countries with the third country's regulatory framework and, for undertakings established in the Union, for the third country to rely on supervision and compliance in the Union, ensuring compliance with

the Union's regulatory framework.

10. Assessments of equivalence shall be transparent and involve consideration of material factors based on relevant technical advice, including advice requested from any relevant specialist bodies (and any previously issued guidance from such bodies) and in a manner which is proportionate to the level and nature of access or recognition that is, or would be, granted.

11. In undertaking assessments of equivalence, the Commission (and any relevant European Supervisory Authority) is obliged to consider the views of, or any technical data or market evidence provided by, market participants, including but not limited to market participants established in the Union and the relevant third country, and where relevant, international bodies such as the Basel Committee on Banking Supervision, the Financial Action Task Force, the Financial Stability Board, the International Association of Insurance Supervisors, the International Accounting Standards Board, the International Monetary Fund and International Organization of Securities Commissions. Where there are concerns regarding confidentiality, national competent authorities within the Union may coordinate with market participants in their jurisdiction, including handling any data received from market participants.

12. Equivalence is premised on the Union and the relevant third country achieving the same key outcomes, but not necessarily adopting the same approach or legal wording. Alternative approaches from those taken in the Union to reducing prudential risk (or other regulatory outcomes) may legitimately be adopted within the framework of continuing equivalence, so long as those approaches remain equivalent. Where divergence of approaches is a concern, an assessment of the materiality of said divergence, including its impact on the Union and the relevant third country should be undertaken.

13. [The Union and the relevant third country should commit to implementing reforms to their respective legal and supervisory regimes to further competitiveness in their financial services sectors. Consistent with one of the objectives of equivalence recognition, furthering competitiveness and increasing the choice of third country financial services and products available in the Union may require the

⁴⁶ NOTE: Article 114 of the Treaty on the Functioning of the European Union has not been chosen as the sole base for the Regulation as this relates to measures for the harmonisation of the internal market only. Articles 207, 212 and 290 of the Treaty have been included as well for consideration. Article 207 relates to the common commercial policy of the Union. Article 212 relates to economic, financial and technical cooperation measures. Article 216 relates to the Union's competence to conclude agreements with third countries for the objectives contained in, inter alia, a legally binding Union act. Articles 290 and 291 relate to the Commission's powers to adopt legal and non-legal delegated acts.

implementation of new equivalence provisions in future Union legislation.]⁴⁷

14. The Union and the relevant third country should commit to ensuring that requirements and obligations under their legal regimes relating to the authorisation, licensing and supervision of financial services businesses are clear, transparent, objective, established in advance, and made publicly accessible. Where discretionary powers are established they should be exercised consistently with those principles should not be exercised arbitrarily.

15. The Union and the third country must act in good faith in developing future laws based on independent standards referenced in this Regulation. It is in the interests of the Union to further develop and add to existing equivalence recognition provisions if these may: (i) reduce or eliminate overlaps in compliance and supervision for relevant institutions and Union regulators; (ii) allow the application of a less burdensome prudential regime for Union financial institutions' exposures to equivalence third countries; and (iii) provide firms and investors in the Union with a wider range of services, instruments and investment choices that may still satisfy the regulatory objectives that are pursued in the Union.

16. The Union and the relevant third country should commit to acting in a non-discriminatory manner in the application of any requirements under their respective financial services regimes generally and should ensure that other legal requirements do not discriminate between undertakings in the Union and undertakings in the third country. [In particular, discrimination between natural or legal persons based on the official currency of the jurisdiction, or the currency that has legal tender in the jurisdiction, where that natural or legal person is established is prohibited.]⁴⁸

17. [Union or third country undertakings shall be able to seek legal remedy regarding the resolution of disputes between private parties and the parties to the mutual recognition agreement [(where provision

has been made for such purposes in the relevant mutual recognition agreement)] where private parties have suffered loss or damage as a result of the Union or relevant third country's suspension of the legal effect of agreed equivalence, recognition or other legislative developments in the Union or third country which are inconsistent with the agreed equivalence recognition (and any reciprocal third country recognition provisions) applicable between the Union and the relevant third country. Union or third country undertakings should only be entitled to a legal remedy where the suspension or legislative development was not effected in accordance with the applicable notice and change procedures, including any that have been agreed in the relevant mutual recognition agreement. Such Union or third country entities shall not be prevented from seeking any other legal remedy that they may be entitled to under the legal regime of the third country or of the Union, or public international law.]⁴⁹

18. [Equivalence should provide stable and certain effects for participants in the Union's and relevant third country's financial services sectors. Assessments of equivalence should consider financial services regimes as a whole, and a failure to meet any of the recognition conditions should be determined on relevant outcomes not being achieved due to the overarching approach adopted by a financial services regime, instead of a specific requirement in one jurisdiction's regime being precisely reflected in the legal drafting of laws in the other jurisdiction.]⁵⁰

19. [Where additional requirements for a third-country entity that carries out cross-border financial services activities to register with Union authorities are imposed under an existing equivalence provision even though the relevant third country has been determined to be equivalent, equivalence decisions or mutual recognition agreements may provide for alternative and substitutive registrations (and the conditions applicable to such alternative and substitutive registrations) which shall be treated as

satisfying such requirements (as described in the relevant recognition decision or mutual recognition agreement).]⁵¹

20. Mutual recognition agreements may incorporate any further principles as agreed between the Union and the relevant third country, providing these do not conflict with the principles set out in this Regulation.

HAVE ADOPTED THIS REGULATION

47 NOTE: Promoting competitiveness is one of the fundamental aims of the single market, and it should be noted that promoting competitiveness of the Union has previously been agreed to by the EU before (see New Settlement for the United Kingdom within the European Union (2016/C 69 1/01)). The Settlement states that the EU must "enhance its competitiveness" (Section B: Competitiveness) which means "lowering administrative burdens and compliance costs...and repealing unnecessary legislation". While the Settlement was conditional on a referendum result to remain in the EU, the Settlement may still be an indication of what is politically viable.

48 NOTE: This is another aspect from the Settlement mentioned above, and again may be indicative of what is politically viable.

49 NOTE: A principle regarding the availability of private law claims against either party to a mutual recognition agreement is included as an option for consideration.

50 NOTE: This recognition principle emphasises that equivalence status and recognition depends on a 'holistic' assessment, and should not rely entirely on specific rules being implemented in the relevant third country.

51 NOTE: Some existing equivalence provisions in EU legislation require equivalent third-country firms to register with Union authorities before they are entitled to the benefits granted under the particular equivalence provision. This option considers alternative, substitutive registration requirements to be treated as having satisfied the Union's registration requirements e.g. if such firms are already listed on the third country's financial services register for a particular regulated activity.

Appendix A DRAFT EQUIVALENCE REGULATION

SUBJECT MATTER,
SCOPE AND
DEFINITIONS

Chapter I

ARTICLE 1
SUBJECT MATTER

01. This Regulation is intended to enhance and supplement Union legislation regarding the equivalence of third country legal and supervisory regimes for various purposes, by harmonising the concepts, rationale and process applicable to existing equivalence regimes under other pieces of Union legislation, by consolidating the areas where equivalence can be determined and ensuring that all aspects of the relevant regimes are covered by equivalence determinations, and by establishing a consolidated framework for recognising the equivalence of third country legal and supervisory regimes for financial services and applying uniform conditions for such recognitions and processes for the continued application of equivalence determinations.

02. This Regulation aligns the existing equivalence regimes under other pieces of Union legislation by setting out a consistent equivalence concept and assessment process and establishing principles which shall apply to the determination of third country equivalence status under all equivalence recognition provisions, whether or not a mutual recognition

agreement is in place between the Union and that third country.

03. This Regulation consolidates the existing equivalence regimes, and extends equivalence provisions to areas which are currently not covered, but which it would be desirable to be covered by an equivalence determination, and subject to an equivalence process.

04. This Regulation also enables equivalence recognitions to be granted under mutual recognition agreements to be concluded with third countries to establish a comprehensive range of equivalence recognitions governed by additional procedural safeguards to be negotiated with such third countries.

05. Existing recognitions granted pursuant to equivalence provisions regarding the relevant third country will continue in full force and effect until such time as a mutual recognition agreement is adopted, or they are otherwise amended or revoked in accordance with the procedure in the relevant Union legislation or the transitional procedures set out in Article 15.

ARTICLE 2
DEFINITIONS

For the purposes of this Regulation, the following definitions shall apply:

01. 'additional equivalence criteria' means the additional criteria listed in the column headed 'additional equivalence criteria' in the relevant rows of the tables at Annex I [and Annex II] of this Regulation that correspond to and that are applicable to a specific equivalence recognition provision, and describe material outcomes to be considered amongst other recognition conditions. Additional equivalence criteria are indicative and do not necessarily, in themselves, require a specific standard, rule or approach to be adopted for equivalence recognition under Article 3;

02. 'administrator of benchmarks' means an administrator within the meaning of Article 3(6) of Regulation (EU) 2016/1011;

03. 'agreed equivalence recognition' means an equivalence recognition provision that has been included in a particular mutual recognition agreement or that has been adopted by the Commission by an implementing act pursuant to Article 3 of this Regulation;

04. 'AIF' means an AIF within the meaning of point (a) of Article 4(1) of Directive 2011/61/EU;

05. 'AIFM' or 'alternative investment fund manager' means an AIFM within the meaning of Article 4(1)(b) of Directive 2011/61/EU;

- 06.** ‘ancillary insurance intermediary’ means an ancillary insurance intermediary within the meaning of point (4) of Article 2(1) of Directive (EU) 2016/97;
- 07.** ‘ancillary risks’ means risks that may be insured in addition to a particular primary risk pursuant to Article 16 of Directive 2009/138/EC;
- 08.** ‘appointed representative’ means an appointed representative within the meaning of Article 4(8) of Directive 2014/17/EU;
- 09.** ‘approved publication arrangement’ or ‘APA’ means an approved publication arrangement within the meaning of point (52) of Article 4(1) of Directive 2014/65/EU;
- 10.** ‘arbitration panel’ means the arbitrators that are appointed in accordance with Article 12 and the arbitration process established therein and for the purposes of resolving disputes relating to a particular mutual recognition agreement;
- 11.** ‘arbitration process’ means the arbitration process that may be established under a mutual recognition agreement, and that complies at least with the provisions of Article 12, for the purposes of resolving any dispute concerning the interpretation, application and implementation within the Union or relevant third country of a mutual recognition agreement;
- 12.** ‘ARM’ means an approved reporting mechanism within the meaning of point (54) of Article 4(1) of Directive 2014/65/EU;
- 13.** ‘audit firm’ means an audit firm within the meaning of Article 2(3) of Directive 2006/43/EC;
- 14.** ‘benchmark’ means a benchmark within the meaning of Article 3(3) of Regulation (EU) 2016/1011;
- 15.** ‘card-based payment transaction’ means a card-based payment transaction within the meaning of Article 2(7) of Regulation (EU) 2015/751;
- 16.** ‘central bank’ means a central bank within the meaning of point 46 of Article 4(1) of Regulation (EU) No 575/2013;
- 17.** ‘central counterparty’ or ‘CCP’ means a CCP within the meaning of Article 2(1) of Regulation (EU) No 648/2012;
- 18.** ‘central securities depository’ or ‘CSD’ means a central securities depository within the meaning of point 1 of Article 2(1) of Regulation (EU) No 909/2014;
- 19.** ‘collateral security’ means collateral security within the meaning of Article 2(m) of Directive 98/26/EC;
- 20.** ‘consumer credit activities’ means operating as, or carrying out services typically carried out by, a creditor,⁵² or a credit intermediary, including ancillary services, in relation to credit agreements⁵³ and consumers;
- 21.** ‘consumer’ means a consumer within the meaning of Article 3(a) of Directive 2008/48/EC;
- 22.** ‘credit agreement’ means a credit agreement within the meaning of Article 4(3) of Directive 2014/17/EU or a credit agreement within the meaning of Article 3(c) of Directive 2008/48/EC;
- 23.** ‘credit institution’ means a credit institution within the meaning of point (1) of Article 4(1) of Regulation (EU) No 575/2013;
- 24.** ‘credit intermediary’ means a credit intermediary within the meaning of Article 4(5) of Directive 2014/17/EU;
- 25.** ‘credit rating agency’ means a credit rating agency within the meaning of point (b) of Article 3(1) of Regulation (EC) No 1060/2009;
- 26.** ‘creditor’ means a creditor within the meaning of Article 4(2) of Directive 2014/17/EU or within the meaning of Article 3(b) of Directive 2008/48/EC;
- 27.** ‘CTP’ means a consolidated tape provider within the meaning of point (53) of Article 4(1) of Directive 2014/65/EU;
- 28.** ‘data reporting services provider’ means a data reporting services provider within the meaning of point (63) of Article 4(1) of Directive 2014/65/EU;
- 29.** ‘derivatives’ means those financial instruments defined in point (44)(c) of Article 4(1) of Directive 2014/65/EU; and referred to in Annex I, Section C, (4) to (10) thereto;
- 30.** ‘electronic money institution’ means an electronic money institution within the meaning of Article 2(1) of Directive 2009/110/EC;
- 31.** ‘electronic money issuer’ means an electronic money issuer within the meaning of Article 2(3) of Directive 2009/110/EC;
- 32.** ‘electronic money’ means electronic money within the meaning of Article 2(2) of Directive 2009/110/EC;
- 33.** ‘eligible counterparties’ means parties that may be recognised as eligible counterparties pursuant to Article 30 of Directive 2014/65/EU;
- 34.** ‘ELTIF’ means an ELTIF within the meaning of Article 1(1) of Regulation (EU) 2015/760;
- 35.** ‘equivalence recognition provision’ means a provision listed in the rows of the table at Annex I [and Annex II] of this Regulation recognising that the legal and/or supervisory regime of a third country applies requirements that are at least equivalent to those that are applied in the Union for the purposes of enabling entities supervised in third countries to carry out financial services business in the Union;
- 36.** ‘equivalent’ means requirements or standards that are materially similar to the corresponding requirements or standards that are applied in the Union. Whether requirements or standards are equivalent shall be determined, primarily, upon whether the following outcomes are achieved, taking into account that alternative approaches achieving the same outcomes may legitimately be adopted and that legislation and regulation may address matters in different ways and still achieve the same outcome:
- (a)** there is, in a retail context, adequate protection for consumers, investors, deposit holders, policy holders and/or any other persons who may be owed a fiduciary or other similar duty;
- (b)** there is no significant risk of increased systemic risk in the market for financial services in the Union.
- 37.** ‘EU AIF’ has the meaning given to EU AIFs in point (k) of Article 4(1) of Directive 2011/61/EU;
- 38.** ‘European Banking Authority’ or ‘EBA’ means the body established by Regulation (EU) No 1093/2010;
- 39.** ‘European Insurance and Occupational Pensions Authority’ or ‘EIOPA’ means the body established by Regulation (EU) No 1094/2010;
- 40.** ‘European Securities and Markets Authority’ or ‘ESMA’ means the body established by Regulation (EU) No 1095/2010;
- 41.** ‘European Supervisory Authorities’ comprises supervisory authorities that are responsible for microprudential oversight at the European Union Level, namely the European Banking Authority, European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority;
- 42.** ‘existing equivalence regimes’ means the provisions contained in various pieces of Union legislation recognising that, for various purposes and effects, the legal regime of a third country applies requirements at least equivalent to those that are applied in the Union, and which are listed in Annex III;
- 43.** ‘existing recognitions’ means implementing measures or decisions that have been adopted which recognise the equivalence of the legal and supervisory regime of a particular third country (or categories of entities of that third country) pursuant to an existing equivalence regime;
- 44.** ‘financial counterparty’ means a financial counterparty within the meaning of Article 3(3) of Regulation (EU) 2015/2365;
- 45.** ‘financial holding company’ means a financial holding company within the meaning of point (20) of Article 4(1) of Regulation (EU) No 575/2013;
- [The fact that a specific standard or requirement is applied in the Union shall not affect whether non-Union standards are equivalent, unless the specific Union standard or requirement is also applied generally in relevant international standards, guidance, or conventions, or unless the outcomes listed in points (a) - (b) are not satisfied];

⁵² In this paragraph, the term “creditor” means a creditor within the meaning of Article 3(b) of Directive 2008/48/EC.

⁵³ In this paragraph, the term “credit agreement” means a credit agreement within the meaning of Article 3(c) of Directive 2008/48/EC.

46. ‘financial instrument’ means a financial instrument within the meaning of point (15) of Article 4(1) of Directive 2014/65/EU;

47. ‘financial sector entity’ means a financial sector entity within the meaning of point (27) of Article 4(1) of Regulation (EU) No 575/2013;

48. ‘financial services’ means services of a financial nature offered by a financial service supplier of a Party and for which a Party has made specific commitments in its GATS Schedule, including financial markets infrastructure and insurance and insurance-related services. Financial services include the following (or, where relevant, are similar to or would correspond to the following if they were carried out entirely within the Union):

(a) carrying out any of the activities listed in Annex I of Directive 2013/36/EU;

(b) consumer credit activities and mortgage credit activities;

(c) insurance distribution;

(d) investment services and activities;

(e) operating as, or carrying out services typically carried out by an insurance or reinsurance undertaking (including direct life insurance and non-life insurance, and reinsurance services);

(f) operating as, or carrying out services typically carried out by an insurance distributor;

(g) carrying out reinsurance distribution;

(h) operating as, or carrying out services typically carried out by, an institution;

(i) operating as, or carrying out services typically carried out by, a CCP;

(j) operating as, or carrying out services typically carried out by, an administrator of benchmarks;

(k) operating as, or carrying out services typically carried out by, a trade repository;

(l) operating as, or carrying out services typically

carried out by, a central securities depository;

(m) operating as, or carrying out services typically carried out by, an AIFM or Non-EU AIFM;

(n) operating as, or carrying out services typically carried out by, an AIF or Non-EU AIF;

(o) operating as, or carrying out services typically carried out by, a management company;

(p) operating as, or carrying out services typically carried out by, an investment company or UCITs;

(q) operating as, or carrying out services or activities relating to OTC derivatives typically carried out by, a financial counterparty, non-financial counterparty which is above the threshold set out in Article 10 of Regulation (EU) 648/2012, or any other participants in the OTC derivatives markets subject to regulation under Regulation (EU) 648/2012;

(r) operating as, or carrying out services typically carried out by, a credit ratings agency;

(s) operating as, or carrying out services typically carried out by, a management company;

(t) operating as, or carrying out services typically carried out by, an investment company;

(u) operating as, or carrying out services typically carried out by, an institution for occupational retirement provision;

(v) operating as, or carrying out services typically carried out by, an auditor, audit firm or statutory auditor;

(w) operating as, or carrying out services typically carried out by, a payment services provider;

(x) operating as, or carrying out services typically carried out by, a data reporting services provider, APA, CTP or ARM);

(y) operating as, or carrying out services typically carried out by, a transfer system;

(z) operating as, or carrying out services typically carried out by, a service provider;

(aa) operating as, or carrying out services typically carried out by, an electronic money institution or an electronic money issuer;

(bb) operating as, or carrying out services, including payment services, typically carried out by, a payment institution or a payment service provider;⁵⁴

(cc) operating as, or operating or managing a trading venue;

(dd) operating or managing a regulated market;

(ee) operating as, or operating, a depository that has been appointed in respect of an AIF;

(ff) carrying out the activities typically carried by an issuer of securities or issuers of financial instruments;

(gg) operating as, or operating, a money market fund; or

(hh) operating as, or operating, a systematic internaliser;

49. ‘institution for occupational retirement provision’ means an institution for occupational retirement provision as defined in Article 6(a) of Directive 2003/41/EC;

50. ‘institution’ means an institution within the meaning of Article 4(3) of Regulation (EU) No 575/2013;

51. ‘insurance distribution’ means insurance distribution within the meaning of point 1 of Article 2(1) of Directive (EU) 2016/97;

52. ‘insurance distributor’ means an insurance distributor within the meaning of point 8 of Article 2(1) of Directive 2009/138/EC;

53. ‘insurance intermediary’ means an insurance intermediary within the meaning of point (3) of Article 2(1) of Directive (EU) 2016/97;

54. ‘insurance undertaking’ means an insurance undertaking within the meaning of Article 13(1) of Directive 2009/138/EC;

55. ‘investment company’ means an investment company authorised in accordance with Directive 2009/65/EC;

56. ‘investment firm’ means an investment firm within the meaning of Article 4(1)(1) of Directive 2014/65/EU;

57. ‘investment services and activities’ means investment services and activities within the meaning of Article 4(1)(2) of Directive 2014/65/EU;

58. ‘IOSCO’ means the International Organisation of Securities Commissions;

59. ‘issuer of financial instruments’ means a legal entity which issues or proposes to issue financial instruments;

60. ‘issuer of securities’ means a legal entity which issues or proposes to issue securities;

61. ‘large financial sector entity’ means a large financial sector entity within the meaning of Article 142(4) of Regulation (EU) No 575/2013;

62. ‘life insurance’ means any of the classes of life insurance listed in Annex II of Directive 2009/138/EC;

63. ‘management company’ means a management company within the meaning of point (b) of Article 2(1) of Directive 2009/65/EC;

64. ‘manager of an ELTIF’ means a manager of an ELTIF within the meaning of Article 2(1)(12) of Regulation (EU) 2015/760;

65. ‘manager of a qualifying social entrepreneurship fund’ means a manager of a qualifying social entrepreneurship fund within the meaning of Article 3(1)(c) of Regulation (EU) No 346/2013;

⁵⁴ In this paragraph the term “payment service provider” means a payment service provider within the meaning of Article 4(11) of Directive (EU) 2015/2366 or Article 2(24) of Regulation (EU) 2015/751.

66. ‘manager of a qualifying venture capital fund’ means a manager of a qualifying venture capital fund within the meaning of Article 3(c) of Regulation (EU) No 345/2013;

67. ‘material’ and ‘materially’ shall be interpreted primarily with reference to relevant international standards, guidance, conventions and agreements, any relevant technical guidance issued by international bodies or financial services markets associations and the principles of proportionality;

68. ‘material financial services business’ means financial services business that is quantitatively material in comparison to the other economic activities of an undertaking, taking into account the value of the business, transaction volume, proportion of clients and other relevant factors[, as specified in regulatory technical standards produced by ESMA in accordance with Article [•] or as specified in legislation or regulations adopted by the third country, as applicable]/[Unless a mutual recognition agreement contains specific provisions which specify a different threshold, material financial services business shall be where a third country undertaking derives more than [20%] of its income from business in the Union and the nominal value of such income derived from the Union is in excess of [EUR 50 million], and where a Union undertaking derives more than [20%] of its income from business in the relevant third country and the nominal value of such income derived from the relevant third country is in excess of [EUR 50 million];

69. ‘mediation and/or consultation process’ means the processes indicated in Article 12 for the purposes of facilitating discussions between the Commission on behalf of the Union and the third country recognition body on behalf of the relevant third country relating to any matters arising from a mutual recognition agreement;

70. ‘Member State of reference’ has the meaning given to Member State of reference in point (z) of Article 4(1) of Directive 2011/61/EU;

71. ‘mixed financial holding company’ means a mixed financial holding company within the meaning of point (21) of Article 4(1) of Regulation (EU) No 575/2013;

72. ‘money market fund’ means a collective investment undertaking to which Article 1 of Regulation (EU) 2017/1131 is applicable;

73. ‘mortgage credit activities’ means operating as, or carrying out services typically carried out by, a creditor⁵⁵ or credit intermediary,⁵⁶ including ancillary services,⁵⁷ in relation to credit agreements⁵⁸ and consumers;⁵⁹

74. ‘mutual recognition agreement’ means an agreement entered into by the Union pursuant to Article 8 of this Regulation with a third country, under which the Union recognises the equivalence of the third country’s legal and supervisory regime for financial services to enable the provision of financial services in the Union by entities supervised in that third country, and vice versa, or for other purposes including reducing regulatory and prudential burdens;

75. ‘non-EU AIF’ means a non-EU AIF within the meaning of point (aa) of Article 4(1) of Directive 2011/61/EU;

76. ‘non-EU AIFM’ means a non-EU AIFM within the meaning of point (ab) of Article 4(1) of Directive 2011/61/EU;

77. ‘non-life insurance’ means any of the classes of non-life insurance listed in Annex I of Directive 2009/138/EC;

78. ‘OTC derivatives’ means OTC derivatives within the meaning of Article 2(7) of Regulation (EU) No 648/2012;

79. ‘parent undertaking’ means a parent undertaking within the meaning of Article 2(9) and 22 of Directive 2013/34/EU;

80. ‘participating undertaking’ means a participating undertaking within the meaning of point (a) of Article 212(1) of Directive 2009/138/EC;

81. ‘payee’ means a payee within the meaning of Article 2(13) of Regulation (EU) 2015/751;

82. ‘payer’ means a payer within the meaning of Article 2(14) of Regulation (EU) 2015/751;

83. ‘payment institution’ means a payment institution within the meaning of Article 4(4) of Directive (EU) 2015/2366;

84. ‘payment service provider’ means a payment service provider within the meaning of Article 4(11) of Directive (EU) 2015/2366;

85. ‘payment service’ means a payment service within the meaning of Article 4(3) of Directive (EU) 2015/2366;

86. ‘payment services provider’ means a payment services provider within the meaning of Regulation (EU) 2015/751;

87. ‘professional client’ means a professional client within the meaning of point (10) of Article 4(1) of Directive 2014/65/EU;

88. ‘public sector entity’ means a public sector entity within the meaning of point (8) of Article 4(1) of Regulation (EU) No 575/2013;

89. ‘qualifying social entrepreneurship fund’ means a qualifying social entrepreneurship fund within the meaning of Article 3(1)(a) of Regulation (EU) No 346/2013;

90. ‘qualifying venture capital fund’ means a qualifying venture capital fund within the meaning of Article 3(b) of Regulation (EU) No 345/2013;

91. ‘recipient of the e-society service’ means a recipient of the service within the meaning of Article 2(d) of Directive 2000/31/EC;

92. ‘recognition conditions’ means the conditions contained in points (a) to (f) of Article 3(2) of this Regulation[, or if relevant the conditions that are applicable to equivalence decisions adopted under the processes set out in an existing equivalence regime];

93. ‘recognition principles’ means the overarching principles as they have been implemented in a particular mutual recognition agreement and that have been designated as recognition principles for the purposes of this paragraph, or where no mutual recognition agreement is in place the overarching principles at the recitals to this Regulation;

94. ‘regulated market’ means a regulated market within the meaning of point (21) of Article 4(1) of Directive 2014/65/EU;

95. ‘regulatory committee’, means the committee that may be established under a mutual recognition agreement, and that complies with the provisions of Article 10;

96. ‘regulatory purposes’ means regulatory purposes within the meaning of point (g) of Article 3(1) of Regulation (EC) No 1060/2009;

97. ‘reinsurance distribution’ means reinsurance distribution within the meaning of point (2) of Article 2(1) of Directive (EU) 2016/97;

98. ‘reinsurance intermediary’ means a reinsurance intermediary within the meaning of point (5) of Article 2(1) of Directive (EU) 2016/97;

99. ‘reinsurance undertaking’ means a reinsurance undertaking within the meaning of Article 13(4) of Directive 2009/138/EC;

100. ‘reinsurance’ means reinsurance within the meaning of Article 13(7) of Directive 2009/138/EC including the activity consisting in accepting risks, ceded by any member of Lloyd’s, by an insurance or reinsurance undertaking other than the association of underwriters known as Lloyd’s;

101. ‘retail client’ means a retail client within the meaning of point (11) of Article 4(1) of Directive 2014/65/EU;

102. ‘securities financing transaction’ or ‘SFT’ means a securities financing transaction within the meaning of Article 3(11) of Regulation (EU) No 2015/2365;

103. ‘securities’ means transferable securities within the meaning of point (44) of Article 4(1) of Directive 2014/65/EU;

⁵⁵ In this paragraph, the term “creditor” means a creditor within the meaning of Article 4(2) of Directive (EU) 2014/17.

⁵⁶ In this paragraph, the term “credit intermediary” means a credit intermediary within the meaning of Article 4(5) of Directive (EU) 2014/17.

⁵⁷ In this paragraph, the term “ancillary service” means an ancillary service within the meaning of Article 4(4) of Directive (EU) 2014/17.

⁵⁸ In this paragraph, the term “credit agreement” means a credit agreement within the meaning of Article 4(3) of Directive (EU) 2014/17.

⁵⁹ In this paragraph, the term “consumer” means a consumer within the meaning of Article 4(1) of Directive (EU) 2014/17.

- 104.** 'service provider' means a service provider within the meaning of Article 2(b) of Directive 2000/31/EC;
- 105.** 'statutory auditor' means a statutory auditor within the meaning of Article 2(2) of Directive 2006/43/EC;
- 106.** 'subsidiary' means a subsidiary undertaking within the meaning of Articles 2(10) and 22 of Directive 2013/34/EU, including any subsidiary of a subsidiary undertaking of an ultimate parent undertaking;
- 107.** 'supply of a financial service' means the supply of a service through the four modes of supply set forth in paragraph 2 of Article I of the GATS;
- 108.** 'systematic internaliser' means a systematic internaliser within the meaning of Article 4(1)(20) of Directive 2014/65/EU;
- 109.** 'third country firm' means a third country firm within the meaning of point 57 of Article 4(1) of Directive 2014/65/EU;
- 110.** 'third country recognition body' means the body that is designated in a mutual recognition agreement for the purposes of representing the relevant third country in all matters relating to equivalence recognition provisions;
- 111.** 'third-country insurance undertaking' means a third-country insurance undertaking within the meaning of Article 13(3) of Directive 2009/138/EC;
- 112.** 'third-country resolution proceedings' means third-country resolution proceedings within the meaning of point (88) of Article 2(1) of Directive 2014/59/EU;
- 113.** 'trade repository' means a trade repository within the meaning of Article 2(2) of Regulation (EU) No 648/2012 or a trade repository within the meaning of Article 3(1) of Regulation (EU) 2015/2365;
- 114.** 'trading venue' means a trading venue within the meaning of Article 4(1)(24) of Directive 2014/65/EU;
- 115.** 'transfer system' means a transfer system within the meaning of Article 2(a) of Directive 98/26/EC;
- 116.** 'transferable securities' means transferable securities within the meaning of point (n) of Article 2(1) of Directive 2009/65/EC;
- 117.** 'undertakings in collective investments' or 'UCITs' means UCITs within the meaning given to that term in Article 1(2) of Directive 2009/65/EC.

Appendix A DRAFT EQUIVALENCE REGULATION

EXISTING
EQUIVALENCE
FRAMEWORKS

Chapter II

ARTICLE 3

DETERMINATION OF EQUIVALENCE

01. For the purposes of the equivalence recognition provisions listed in the tables in Annex I [and Annex II] of this Regulation, the following process shall be used for the determination of a third country's legal regime as being equivalent to that in the Union.

02. The Commission shall adopt an equivalence recognition by an implementing act or by including it in a mutual recognition agreement if:

(a) the third country applies requirements which are equivalent in terms of outcome to the legally binding requirements applicable in the Union that correspond to a particular agreed equivalence recognition set out in the table in Annex I [or Annex II], as determined by the Commission based on the technical advice received from European Supervisory Authorities in accordance with Article 3(3);

(b) the third country applies equivalent ongoing and effective supervision and enforcement to entities that are authorised and supervised in that third country;

(c) equivalent standards of professional secrecy and data protection are in place and enforced in that third country;

(d) equivalent standards or requirements relating to anti-money laundering and antiterrorist financing are in place and enforced in that third country;

(e) appropriate cooperation agreements (including regulatory enforcement, information sharing and tax information exchange and regulatory cooperation) are or have been entered into between the relevant third country's financial services regulators and the Commission in respect of each relevant sector (and, if the Commission deems necessary, Union supervisory authorities) that include at the least provisions relating to:

(i) notifications between relevant third country regulators, and the Commission (and if the Commission deems necessary, Union supervisory authorities);

(ii) the establishment of public registers of the third country entities that carry out financial services business in the Union pursuant to any agreed equivalence recognition; and

(iii) prompt notifications to the Commission (and if the Commission deems necessary, European Supervisory Authorities) by the relevant third country financial services regulators where entities authorised or supervised in that third country that carry out financial services business in the Union pursuant to arrangements established pursuant to this Regulation are subject to disciplinary or infringement proceedings in the third country, are subject to a variation, termination or suspension of authorisation to carry out any particular financial service under that third country's legal and supervisory regime, or enter into any insolvency, administration, receivership, resolution or any other similar event or process; and

(f) [the third country sets out reciprocal recognitions that are, or will be, effective in the third country's legal system specifically corresponding to each agreed equivalence recognition [(this condition may be disapplied completely or in relation to any agreed equivalence recognition, if the Commission does not intend to require reciprocal recognitions from the third country in deciding to adopt a recognition decision or to conclude a mutual recognition agreement)]]].⁶⁰

⁶⁰ NOTE: A reciprocity requirement is only needed if there is to be a two-way deal. A facility for non-reciprocal recognitions may be desirable as it provides more flexibility.

03. In assessing whether the recognition conditions have been met, the Commission must consider the views of, or any technical data or market evidence provided by, market participants, including but not limited to market participants established in the Union and the relevant third country, and where relevant, European Supervisory Authorities and international bodies such as the Basel Committee on Banking Supervision, the Financial Action Task Force, the Financial Stability Board, the International Association of Insurance Supervisors, the International Accounting Standards Board, the International Monetary Fund and International Organization of Securities Commissions. Where there are concerns regarding confidentiality,

national competent authorities within the Union may coordinate with market participants in their jurisdiction, including handling any data received from market participants.

04. Until such time as an equivalence recognition is made by the Commission, the Commission may implement the transitional provisions referred to in Article 15.

05. The Commission shall consider adopting an equivalence recognition by way of an implementing act upon its own initiative or if requested by the Council [or if requested by a third country].

ARTICLE 4

OVERALL PRINCIPLES FOR EQUIVALENCE RECOGNITION

01. Equivalence recognition provisions should be construed, and given effect in Union law, in accordance with the recognition principles in the manner in which they have been incorporated in this Regulation or as further specified in a mutual recognition agreement.

02. The equivalence provisions agreed between the Union and a third country (subject to any specific conditions contained in a relevant mutual recognition agreement or the recognition decision) shall be given legal effect in Union law.

03. Equivalence recognition is based on the Union and each relevant third country applying, and continuing to apply, equivalent requirements and standards, taking into account:

(a) material legal, supervisory and prudential standards and requirements; and

(b) the proportionate application of equivalent legal, supervisory and prudential standards and requirements [(including, to the extent necessary, whether material financial services are carried out)].

04. The Commission shall ensure that agreements made between the Union and a third country recognition body (including those made pursuant to a mediation and/or consultation process or adopted by an [arbitration panel]/[judicial decision procedure]), [as well as any recommendations made by a regulatory committee (subject to any terms agreed between the Union and the relevant third country as to when recommendations are required to be implemented)], are given legal effect in Union law if this has been agreed or if the Commission otherwise deems necessary, and may implement any such agreements, recommendations and decisions by adopting delegated regulations.

ARTICLE 5

EFFECT OF EQUIVALENCE RECOGNITION IN THE UNION

01. Agreed equivalence recognitions shall include any of the equivalence recognition provisions listed in the tables at Annex I to this Regulation[, and any of the additional equivalence recognition provisions set out in Annex II as further determined in accordance with the provisions of Chapter III].⁶¹

02. Agreed equivalence recognitions shall (subject to the terms of any relevant mutual recognition agreement and without the need for further legal implementation) be recognised under Union law

as having direct legal effect in accordance with the description contained in the column headed “Description of effect of agreed equivalence recognition in the Union” of the table[s] at Annex I [and Annex II] to this Regulation. However, the Commission shall take any measures necessary, including issuing guidance and adopting delegated or implementing regulations, to further implement or clarify the effect in Union law of any agreed equivalence recognitions.

ARTICLE 6

COORDINATION BETWEEN THE UNION AND THE THIRD COUNTRY

01. The Commission shall notify any relevant third country financial services regulator, third country recognition body, and any relevant regulatory committee, promptly upon becoming aware of proposed relevant legislative developments in the Union relevant to any agreed equivalence recognitions or which are relevant to whether the recognition conditions remain satisfied.

02. The Commission shall ensure that any relevant third country financial services regulator or third country recognition body commits to notifying the Commission, and any relevant regulatory committee, promptly upon becoming aware of proposed legislative developments in the third country relevant to any agreed equivalence recognitions or which are relevant to whether the recognition conditions remain satisfied.

03. The Commission shall cooperate with any relevant third country financial services regulator, third

country recognition body, and any relevant regulatory committee, in discussing the effects that a relevant proposed legislative development in the Union or the third country may have on the recognition conditions continuing to be satisfied. Such cooperation shall be in accordance with any procedures established by the relevant cooperation agreement, mutual recognition agreement or any regulatory committee.

04. The Commission shall cooperate with any third country financial services regulator, third country recognition body, and any relevant regulatory committee, in seeking to ensure that legislative developments in the Union or the relevant third country consider the incorporation of third country equivalence provisions in accordance with the objectives of this Regulation.

⁶¹ NOTE: It should be considered whether “filling the gaps” should be included within the Regulation, which may lead to delays or complications, or whether the additional equivalence recognition provisions proposed in Annex II should be delegated to ESMA as a technical matter, or otherwise left to further legislation.

Appendix A DRAFT EQUIVALENCE REGULATION

CONSOLIDATION PROVISIONS

Chapter III

ARTICLE 7

IDENTIFICATION OF ADDITIONAL EQUIVALENCE RECOGNITION PROVISIONS

01. The Commission shall be able to identify additional equivalence recognition provisions in addition to the existing equivalence regimes set out in Annex I, so that a third country's regime is considered equivalent to that in the Union for the purposes of a specified part of the relevant Union legislation.

02. The Commission shall be assisted by technical advice from relevant European Supervisory Authorities including the European Banking Authority, the European Insurance and Occupational Pensions Authority, the European Securities and Markets Authority.

03. The Commission will adopt delegated regulations to identify additional equivalence recognitions, and will include a description of the effect of the equivalence recognition in the Union, as well as the procedure for determining such equivalence.

04. The Commission shall be able to amend the

equivalence recognition provisions included in Annex I [or Annex II] or the delegated regulations adopted under this Article as necessary where there is a legislative development in Union law which will have the effect of altering or repealing the underlying Union legislation relating to that equivalence recognition provision.

05. [The Commission has identified a number of additional equivalence provisions, which shall come into effect on the same date as this Regulation. The table in Annex II of this Regulation sets out the equivalence recognition provisions that have been identified by the Commission and if included as an agreed equivalence provision would therefore be recognised under Union law as having direct legal effect in accordance with the description contained in the column headed "Description of effect of agreed equivalence recognition in the Union" of the table at Annex II to this Regulation.]⁶²

⁶² NOTE: Additional equivalence regimes could be included as part of the Regulation, or could be implemented by delegated legislation.

Appendix A DRAFT EQUIVALENCE REGULATION

MUTUAL
RECOGNITION
AGREEMENTS

Chapter IV

ARTICLE 8

NEGOTIATION OF MUTUAL RECOGNITION
AGREEMENTS BY THE COMMISSION

01. At the request of the Council the Commission shall initiate [, or upon a request received by the Commission from a third country the Commission shall consider initiating,] negotiations relating to mutual recognition agreements to be concluded with third countries on behalf of the Union.

02. The Commission shall negotiate the provisions of permanent mutual recognition agreements and, additionally, the provisions of interim or transitional mutual recognition agreements, as necessary.

03. Mutual recognition agreements negotiated by the Commission on behalf of the Union may be concluded by the Council making a decision to adopt the agreement in accordance with Article 218(6) of the

Treaty on the Functioning of the European Union.

04. In negotiating the provisions of mutual recognition agreements, the Commission should take into account the recognition principles included in the recitals to this Regulation and shall ensure that the recognition principles are incorporated into all mutual recognition agreements negotiated and concluded between the Union and a third country. The Commission may include further recognition principles in a mutual recognition agreement, as negotiated with the third country.

05. The terms of concluded mutual recognition agreements shall be recognised and given legal effect within the Union.

ARTICLE 9

CONDITIONS FOR MUTUAL
RECOGNITION AGREEMENTS⁶³

01. Mutual recognition agreements shall confirm how the recognition conditions are satisfied by provisions of the third country's legal and supervisory regime or how the recognition conditions may be satisfied subject to other arrangements or commitments set out in a particular mutual recognition agreement.

02. Mutual recognition agreements may contain any or all of the provisions regarding the establishment of a regulatory committee in accordance with Article 10, provisions establishing a mediation and/or consultation process in accordance with Article 12, provisions establishing an [arbitration/judicial decision] process in accordance with Article 13, and provisions setting out

a procedure for the suspension of agreed equivalence recognitions in accordance with Article 14.

03. [Nothing in this Article or this Regulation shall prohibit or restrict the finding of equivalence regarding a third country under existing Union legislation in accordance with the process set out in that relevant legislation [as amended and supplemented in this Regulation].]⁶⁴

⁶³ NOTE: Consider whether there should be an additional condition such that equivalence can only be determined for Union markets (i.e. those contained in the EU, rather than world markets that the EU accesses) such that the EU recognises the sovereignty of UK or world markets.

⁶⁴ NOTE: Not all existing equivalence decisions require all the requirements set out in Article 3. There is an option to consider whether all existing equivalence procedures are replaced under the consolidated equivalence assessment processes in this Regulation or may exist in parallel leaving an option as to whether equivalence decisions are made under the original equivalence procedure, or the consolidated process established under this Regulation.

ARTICLE 10

THE REGULATORY COMMITTEE

01. Mutual recognition agreements may establish a regulatory committee, or where appropriate, multiple regulatory committees with oversight over different types of market participants (e.g. separate committees for systemically important firms, credit institutions, market infrastructure and investment firms) in accordance with the terms of this Article.

02. The regulatory committee will consist of a chairperson and permanent members as specified under the provisions of the mutual recognition agreement.⁶⁵

03. Permanent members and chairpersons shall be selected on the basis of expertise or experience in financial services law and regulation and in accordance with the relevant provisions established in a mutual recognition agreement.

04. The regulatory committee shall [(subject to any other roles concluded in the relevant mutual recognition agreement)] have the following functions:⁶⁶

(a) [periodic] reviews of international developments and/or standards relevant to the cross-border financial services arrangements established under agreed equivalence recognitions[, as requested by the Commission or the third country recognition body];

(b) consulting with the Commission, the third country recognition body, relevant Union and third country supervisory authorities or other relevant third parties, and issuing recommendations to the Commission and third country recognition body regarding the implementation of the terms of the relevant mutual recognition agreement, and coordinating developments and reforms in the legal regimes of the Union and the relevant third country[, as requested by the Commission or the third

country recognition body];

(c) [at its own initiative, or]where requested by the Commission or the third country recognition body, considering whether the terms of a mutual recognition agreement, the recognition conditions or the recognition principles are not satisfied or complied with, and issuing recommendations [or initiating the mediation and/or consultation process where it deems necessary];

(d) [at its own initiative, or]where requested by the Commission or the third country recognition body, considering whether proposed changes or reforms ought to be made to the respective legal regimes of the Union or the relevant third country in accordance with developments in international standards or developments in the legal regime of the Union or third country and issuing recommendations [where it deems necessary];

(e) monitoring developments in the legal systems of the Union and the third country, and [where requested] making recommendations to the Commission or the third country recognition body, or, where a mutual recognition agreement provides for a mediation and/or consultation process, initiating the mediation and/or consultation process where the regulatory committee believes there is a risk of breach of the terms of a mutual recognition agreement or the recognition conditions; and

(f) to the extent that a mutual recognition agreement provides for a mediation and/or consultation or [arbitration/judicial decision] process, participating in the mediation and/or consultation or [arbitration/judicial decision] processes of a mutual recognition agreement pursuant to the specific procedures established in a mutual recognition agreement.

05. Decisions taken by the permanent members of the regulatory committee shall be taken on the basis of simple majority. In the event of a tied vote, the chairperson shall take the final binding vote.

06. The regulatory committee shall act in accordance with the specific provisions and procedures established in a mutual recognition agreement.

07. The regulatory committee shall be able to request specialist technical, legal or other advice if it considers necessary.

08. Costs of the regulatory committee shall be shared equally between the Union and the relevant third country.

09. The Commission is enabled to adopt delegated regulations or take other measures with legal effect in Union law to implement the recommendations of the regulatory committee as the Commission considers appropriate.

ARTICLE 11

SUPERVISION OF CROSS-BORDER SERVICES

01. The relevant national competent authority of the relevant third country will have supervisory and prudential oversight over any cross-border activities of a relevant third country firm. Similarly, the relevant national competent authority of member state of the Union will have supervisory and prudential oversight over any cross-border

activities of a firm authorised in a member state of the Union.

02. Article 11(1) above shall apply equally to subsidiaries and branches of both relevant third country firms and firms authorised in a member state of the Union.

ARTICLE 12

MEDIATION AND CONSULTATION PROCESS

01. Mutual recognition agreements may establish a mediation and/or consultation process in accordance with the terms of this Article.⁶⁷

02. The mediation and/or consultation process shall function as a forum for cooperative discussion between the third country (represented by the third country recognition body) and the Union (represented by the Commission), and, to the extent that the mutual recognition agreement establishes a regulatory committee, the regulatory committee regarding any matter arising under a mutual recognition agreement.

03. The Commission and the third country recognition body may agree to extend the duration of the mediation and/or consultation process once it has commenced.

04. Specific procedures relating to the mediation and/or consultation process shall be provided for in a mutual recognition agreement.

05. The Commission is enabled to adopt delegated regulations or take other measures with legal effect in Union law to implement the terms of any agreement between the Commission and the third country recognition body arising out of the mediation and/or consultation process.

⁶⁵ NOTE: Regulatory committees are optional and it is for the parties to consider the establishment of a committee and its role in the relevant bilateral mutual recognition agreement.

⁶⁶ NOTE: The regulatory committee's functions (for example whether it may act on its own initiative) could be established in the Regulation, but might be more appropriately left to the agreement of the parties in the relevant bilateral mutual recognition agreement.

⁶⁷ NOTE: It is optional whether the parties wish to establish a mediation and/or consultation process under the relevant bilateral mutual recognition agreement, and under what terms. Including a mediation and/or consultation process may or may not affect the risk of revocation of agreed equivalence recognitions.

ARTICLE 13

[ARBITRATION] / [JUDICIAL DETERMINATION] PROCESS

- 01.** Mutual recognition agreements may establish [an arbitration] / [a judicial determination] process.⁶⁸
- 02.** The Commission or the third country recognition body may initiate the [arbitration][judicial determination] process by submitting a request to the relevant responding party and, to the extent that the mutual recognition agreements establish a regulatory committee, sending a notice to the regulatory committee.
- 03.** Where a mutual recognition agreement provides for a mediation and/or consultation process, the [arbitration] [judicial determination] process may only be initiated where a matter has not been resolved in accordance with the mediation and/or consultation process.
- 04.** [The arbitration panel shall be selected on the basis of experience in financial services law and regulation.
- 05.** The arbitrators shall adopt decisions by simple majority. In the event of a tied vote, the chairperson of the arbitration panel shall take the final binding vote.
- 06.** Specific procedures relating to the arbitration process shall be provided for in a mutual recognition agreement.]
- 07.** [The judicial determination process shall involve [three] judges appointed in agreement between the Union and the relevant third country. In the event that no agreement can be reached regarding any one of the judges, the other judges already chosen shall decide between them and confirm the remaining judge or judges.]⁶⁹ In the event that no agreement can be reached regarding any judges, the judges shall be appointed by a [neutral third party].
- 08.** Decisions made by the [arbitration panel] [judges] shall be made public (redacted as necessary to the extent that they involve confidential information) and shall include the rationale for the decision bearing in mind the recognition principles and the outcomes listed at points (a) and (b) of Article 2(36) of this Regulation.
- 09.** The Commission is enabled to pass delegated or implementing regulations or to take other measures with legal effect in Union law to implement the terms of the decision of the [arbitration panel][judicial determination] arising out of the [arbitration][judicial determination] process as it may deem necessary.

68 NOTE: If the Union and the third country wish to agree a bespoke disputes resolution process, they may do so by including it in a mutual recognition agreement. It is optional whether mutual recognition agreements should be enabled to establish an arbitration or judicial determination process, or it may be preferable for the only option to be termination of the agreed equivalence recognition(s) without an arbitration or judicial process.

69 NOTE: If a judicial process will be available, there may be issues concerning national sovereignty especially as to the relevant law to be used to determine disputes. Public scrutiny should also be considered, especially the extent to which judicial or arbitral procedures are made public, although this may increase uncertainty/instability.

Chapter V

ARTICLE 14

SUSPENSION OF MUTUAL RECOGNITION AGREEMENTS OR EQUIVALENCE RECOGNITIONS

01. Mutual recognition agreements may specify that the Commission shall be empowered to take action [suspending the effect of a mutual recognition agreement] / [suspending the effect of agreed equivalence recognition provisions, contained in a mutual recognition agreement] [including on a [partial,]temporary or conditional basis]. Agreed equivalence recognitions contained in a mutual recognition agreement shall continue to have effect in Union law unless the Commission has adopted a delegated regulation pursuant to this Article suspending their legal effect.⁷⁰

02. The Commission may, by delegated regulations, take the suspensive actions referred to in Article 14(1) in relation to the agreed equivalence recognitions established under a mutual recognition agreement. [The Commission should exercise its powers under this Article in accordance with the recognition principles and the terms of the mutual recognition agreement.

The Commission's power to suspend the legal effect of a mutual recognition agreement in the event of a third country's financial services regime not being equivalent to the Union's financial services regime may only be exercised where the overarching approach adopted by the third country's financial services regime means that the outcomes listed at points (a) to (b) of Article 2(36) of this Regulation will not be achieved.⁷¹

03. The Commission may by delegated regulation suspend the legal effect of any agreed equivalence

recognitions (where no mutual recognition agreement is in place) and existing recognitions [including on a [partial,]temporary or conditional basis] in the event of a third country's financial services regime not being equivalent to the Union's financial services regime [if the overarching approach adopted by the third country's financial services regime means that the outcomes listed at points (a) and (b) of Article 2(36) of this Regulation will not be achieved. Existing recognitions may only be suspended in accordance with the provisions of this Regulation.]

04. Notwithstanding paragraph 2 above, the Commission may choose to exercise its powers under this Article as it deems necessary, notwithstanding whether the exercise is in accordance with the applicable procedures specified in a mutual recognition agreement.

05. To provide legal certainty to undertakings in the Union and the relevant third country, delegated regulations adopted by the Commission pursuant to this Article shall take effect one year after the date that they are published in the *Official Journal*.

06. Notwithstanding the adoption of a delegated regulation suspending the legal effect of agreed equivalence recognitions, the Commission shall be entitled to adopt a delegated regulation pursuant to this Article whereby part or all of the agreed equivalence recognitions are deemed to continue to apply for transitional period as determined by the Commission.

⁷⁰ NOTE: Options are provided concerning the extent to which agreed equivalence recognitions may only be suspended entirely (which may mean that suspensions are less likely to be used), or whether suspensions of individual agreed recognitions should be possible and on a partial, temporary or conditional basis.

⁷¹ NOTE: Suspensions may only be justified if the third country regime is, overall, non-equivalent. This may reduce the risk of suspensions being made on the basis of the relevant third country not implementing a precise Union-specific requirement.

Appendix A DRAFT EQUIVALENCE REGULATION

EXISTING, ADDITIONAL AND TRANSITIONAL EQUIVALENCE PROVISIONS

Chapter VI**ARTICLE 15**

01. Existing equivalence recognitions pursuant to an existing equivalence regime and equivalence recognitions made pursuant to this Regulation shall continue in full force until such time as a mutual recognition agreement is entered into with a third country. Where a mutual recognition agreement is entered into with a third country the mutual recognition agreement shall contain transitional provisions regarding any existing recognitions pursuant to an existing equivalence regime already adopted in respect of that third country.

02. The Commission is enabled to pass delegated regulations or take other measures with legal effect in Union law to further implement or clarify the legal effect that any existing recognitions are intended to have pursuant to the transitional provisions contained in a mutual recognition agreement.

03. The Commission is enabled to pass delegated regulations at the request of the Council or its own initiative as it deems necessary to supplement

or otherwise amend the equivalence recognition provisions contained in Annex I [and Annex II] or the existing equivalence regimes contained in Annex III of this Regulation.

04. The Commission is enabled to pass delegated regulations at the request of the Council or its own initiative as it deems necessary to determine that all or part of a third country's regime is considered equivalent on a temporary, transitional or interim basis for the purposes of any of the equivalence recognition provisions listed in the table[s] at Annex I [and Annex II]. The temporary, transitional or interim period shall last for a period as determined by the Commission in the relevant delegated regulations.

05. Mutual recognition agreements may provide for the terms under which the Union and the third country may supplement an existing mutual recognition agreement with additional agreed equivalence provisions.

Appendix A DRAFT EQUIVALENCE REGULATION

FINAL PROVISIONS

Chapter VII

ARTICLE 16

EXERCISE OF DELEGATED POWERS

01. The power to adopt delegated or implementing acts as referred to in Articles 3(2), 4(4), 5(2), 7(3), 7(4), 10(9), 12(5), 13(9), 14, 15(2), 15(3), and 15(4) is conferred on the Commission subject to the conditions laid down in this Article.

02. The power to adopt delegated or implementing acts referred to in point 1 of this article shall be indefinitely conferred on the Commission from [•].

03. The delegation of power referred to in Articles 3(2), 4(4), 5(2), 7(3), 7(4), 10(9), 12(5), 13(9), 14, 15(2), 15(3), and 15(4) may be revoked by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specific in the decision. It shall take effect within 60 days following notification by the Commission to the relevant third country recognition body corresponding to the mutual recognition agreement that is affected by the decision

and the publication of the decision in the *Official Journal of the European Union*. It shall not affect the validity of any delegated acts already in force.

04. As soon as it adopts a delegated act, the Commission shall simultaneously notify the European Parliament and the Council.

05. A delegated or implementing act referred to in point 1 of this Article shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

ARTICLE 17

01. This regulation shall come into effect [•].

Appendix A DRAFT EQUIVALENCE REGULATION

Annex I

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>1. Directive 2003/71/EC [Prospectus Directive – Equivalence of prospectuses – Art. 20(3)]¹</p>	<p>(a) Prospectuses of issuers having their registered office in the relevant third country that have been drawn up in accordance with national law or practices or procedures in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as third country prospectuses drawn up in accordance with national law, practices or procedures of a third country in respect of which the Commission has adopted an implementing measure, as referred to in Article 20(3) of Directive 2003/71/EC, stating that the relevant third country ensures the equivalence of prospectuses drawn up in that country with Directive 2003/71/EC by reason of its national law or of practices or procedures based on international standards set by international organisations, including the IOSCO disclosure standards (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal or supervisory regime, procedures or practices ensure that the third country prospectuses referred to in point (a) are drawn up in an equivalent manner to international standards set up by international securities commission organisations, including the IOSCO disclosure standards.</p>
<p>2. Directive 2003/71/EC [Prospectus Directive – 3rd country GAAP with IFRS: Art. 35 Regulation 809/2004]</p>	<p>(a) The generally accepted accounting standards of the relevant third country that have been applied to historic financial information prepared by third country issuers (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as accounting standards in respect of which the Commission has adopted a delegated act, as referred to in Article 7(1) of Directive 2003/71/EC and in accordance with Commission Regulation (EC) No 1569/2007, determining the equivalence of the generally accepted accounting principles of that third country with IFRS adopted pursuant to Regulation 1606/2002, with the effect that such third country issuers shall be able to present their historical financial information in accordance with the relevant third country's generally accepted accounting standards (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country ensures that the accounting standards applicable to the historical financial information prepared by issuers in that third country referred to in point (a) are equivalent to the requirements applicable to financial statements referred to in Article 2 of Commission Regulation (EC) No 1569/2007.</p>
<p>3. Directive 2004/109/EC; Regulation (EC) No 1569/2007 [Transparency Directive: 3rd country GAAP with IFRS, Art. 23(4), Sub-para 3]</p>	<p>(a) Generally accepted accounting standards of the relevant third country used by issuers whose registered head office is situated in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as accounting standards in respect of which the Commission has taken the necessary decisions, as referred to in the third paragraph of Article 23(4) of Directive 2004/109/EC, and adopted implementing measures, as referred to in Article 23(4) of Directive 2004/109/EC in accordance with the equivalence mechanism established by Commission Regulation (EC) No 1569/2007, stating that by reason of the domestic law, regulations, administrative provisions, or of the practices or procedures based on the international standards set by international organisations, the third country where the issuer is situated ensures the equivalence of information requirements provided for in Directive 2004/109/EC, as referred to in Article 23(4)(ii) of Directive 2004/109/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country ensures that the accounting standards applicable to the third country entities referred to in point (a) meet the requirements of Article 2 of Commission Regulation (EC) No 1569/2007 in all equivalent respects.</p>
<p>4. Directive 2004/109/EC [General transparency requirements]</p>	<p>(a) Information requirements of the relevant third country which are applicable to issuers whose registered head office is situated in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as requirements in respect of which the Commission has adopted implementing measures, as referred to in Article 23(4) of Directive 2004/109/EC, stating that, by reason of the domestic law, regulations, administrative provisions, or of the practices or procedures based on the international standards set by international organisations, the third country where the issuer is situated ensures the equivalence of the information requirements provided for in Directive 2004/109/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country information requirements applicable to issuers with their registered head office in that third country as referred to in point (a) applicable to issuers in that third country are equivalent to the international standards set by international organisations which correspond to the information requirements provided by Directive 2004/109/EC.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>5. Directive 2013/34/EU [Country by country reporting]</p>	<p>(a) Third-country reporting requirements applicable to the undertakings referred to in Article 42 and 44 of Directive 2013/34/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as reporting requirements in respect of which the Commission has adopted an implementing act, as referred to in Article 47 of Directive 2013/34/EU, identifying such requirements, after applying the equivalence criteria identified in accordance with Article 46 of Directive 2013/34/EU, as equivalent to the requirements of Chapter 10 of Directive 2013/34/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The legal and/or supervisory regime, practices or procedures of the third country ensure that the third country reporting requirements referred to in point (a) are equivalent to the requirements of Chapter 10 of Directive 2013/34/EU, applying the equivalence criteria identified in accordance with Article 46 of Directive 2013/34/EU.</p>
<p>6. Regulation (EC) No 1060/2009 [Credit Rating Agencies: Equivalence: Art. 5(6)]</p>	<p>(a) Credit ratings related to entities established, or financial instruments issued, in the relevant third country that are issued by entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) by entities authorised as, or to operate, a credit rating agency shall be treated in Union law as subject to a legal and supervisory framework of a third country in respect of which the Commission has adopted an equivalence decision, as referred to in Article 5(6) of Regulation (EC) No 1060/2009, stating that the legal and supervisory framework of the relevant third country meets the requirements listed in Article 5(6)(a) to 5(6)(c) of Regulation (EC) No 1060/2009, with the effect that such third country entities may apply for certification pursuant to Article 5(2) of Regulation (EC) No 1060/2009 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) are subject to binding rules equivalent to those set out in Articles 6 to 12 and Annex I of Regulation (EC) No 1060/2009, with the exception of Articles 6a, 6b, 8a, 8b, 8c and 11a, point (ba) of point 3 and points 3a and 3b of Section B of Annex I of Regulation (EC) No 1060/2009.</p> <p>(ii) The third country regulatory regime applicable to the third country entities referred to in point (a) prevents interference by the supervisory authorities and other public authorities of that third country with the content of credit ratings and methodologies.</p> <p>(iii) A cooperation agreement is in place or will be put into place between the relevant third country and ESMA specifying at least the matters referred to in Article 5(7)(a) and (b) of Regulation (EC) No 1060/2009.</p>
<p>7. Directive 2006/43/EC [Statutory Audit: Adequacy of audit framework: Art. 47(3)]</p>	<p>(a) The relevant competent authorities of the third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as competent authorities in respect of which the Commission has adopted a delegated act, as referred to in Article 47(3) of Directive 2006/43/EC, declaring that such third-country competent authorities meet requirements that have been declared adequate and such competent authorities are recognised as adequate to cooperate with the competent authorities of Member States for the exchange of audit working papers or other documents held by statutory auditors and audit firms (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third-country competent authorities referred to in point (a) requirements which are either equivalent to the general adequacy criteria adopted pursuant to Article 47(3) of Directive 2006/43/EC based on the requirements of Article 36 of Directive 2006/43/EC or which ensure equivalent functional results relating to a direct exchange of audit working papers or other documents held by statutory auditors or audit firms.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>8. Directive 2006/43/EC [Statutory Audit: Equivalence of audit framework: Art. 46(2)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, an auditor or an audit entity shall be treated in Union law as third-country auditors or audit entities subject to systems in that third country in respect of which the Commission has adopted an implementing act, as referred to in Article 46(2), recognising the equivalence of the auditors and audit entities in that third country which are subject to systems of public oversight, quality assurance and investigations and penalties in that third country that are equivalent to those of Articles 29, 30 and 32 of Directive 2006/43/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) systems of public oversight, quality assurance and investigations and penalties equivalent to the requirements of Articles 29, 30 and 32 of Directive 2006/43/EC.</p>
<p>9. Regulation (EU) No 648/2012 [EMIR: central bank exemption: Art. 1(6)]</p>	<p>(a) Entities established in the relevant third country and operating as a central bank or public body charged with or intervening in the management of the public debt in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as third country entities with respect to which the Commission has adopted a delegated act pursuant to paragraph 6 of Article 1 of Regulation (EU) No 648/2012, with the effect that the list set out in paragraph 4 of Article 1 of Regulation (EU) No 648/2012 shall be amended accordingly (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>10. Regulation (EU) No 648/2012 [EMIR: regulated markets: Art. 2a]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a regulated market shall be treated in Union law as third-country markets subject to legally binding requirements in respect of which the Commission has adopted an implementing act, as referred to in Article 2a of Regulation (EU) No 648/2012, determining that such requirements are equivalent to the requirements laid down in Title III of Directive 2004/39/EC and such third country entities are subject to effective supervision and enforcement in that third country on an ongoing basis (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third-country entities referred to in point (a) binding requirements which are equivalent to the requirements laid down in Title III of Directive 2004/39/EC.</p>
<p>11. Regulation (EU) No 648/2012 [EMIR: transaction requirements: Art. 13]</p>	<p>(a) Requirements of the third country's legal, supervisory and/or enforcement regime corresponding to any of the requirements laid down in Articles 4, 9, 10 and 11 of Regulation (EU) No 648/2012 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as legal, supervisory and enforcement arrangements in respect of which the Commission has adopted an implementing act as referred to in Article 13(2) of Regulation (EU) No 648/2012 declaring that the requirements set out in Article 13(2) have been met, with the effect that counterparties entering into a transaction subject to Regulation (EU) No 648/2012 shall be deemed to have fulfilled the obligations contained in Articles 4, 9, 10 and 11 of Regulation (EU) No 648/2012 where at least one of the counterparties is established in that third country, as referred to in Article 13(3) of Regulation (EU) No 648/2012 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal, supervisory and/or supervisory regime applies requirements which are equivalent to any of those laid down in Articles 4, 9, 10 and 11 of Regulation (EU) No 648/2012.</p> <p>(ii) The third country requirements referred to in point (i) are effectively applied and enforced in an equitable and non-distortive manner so as to ensure equivalent effective supervision and enforcement in that third country.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>12. Regulation (EU) No 648/2012</p> <p>[EMIR: CCPs: Art. 25(6)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating as, a CCP shall be treated in Union law as being subject to legal and supervisory arrangements in respect of which the Commission has adopted an implementing act, as referred to in Article 25(6) of Regulation (EU) No 648/2012, determining that legal and supervisory arrangements in that third country ensure that a CCP authorised in that third country comply with legally binding requirements which are equivalent to those requirements laid down in Title IV of Regulation (EU) No 648/2012, that they are subject to effective supervision and enforcement in that third country on an ongoing basis, and that the legal framework of that third country provides for an effective equivalent system for the recognition of CCPs authorised under third-country legal regimes, with the effect that such third country entities are able to apply to ESMA for recognition to provide certain clearing services or activities in the Union, as referred to in Article 25(2) and 25(4) of Regulation (EU) No 648/2012 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.</p> <p>(ii) An appropriate cooperation mechanism is established or will be established between the relevant competent authorities of the third country and ESMA which specifies, at least, the matters referred to in Article 7(a) to 7(d) of Regulation (EU) No 648/2012.</p>
<p>13. Regulation (EU) No 648/2012</p> <p>[EMIR: trade repositories: Art. 75]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a trade repository shall be treated in Union law as being subject to legal and supervisory arrangements in respect of which the Commission has adopted an implementing act, as referred to in Article 75(1) of Regulation (EU) No 648/2012, determining that the legal and supervisory arrangements of the third country meet the conditions at Articles 75(1)(a) to 75(1)(c), with the effect that such third country entities may apply for recognition by the Commission, as referred to in Articles 77(1) and 77(2) of Regulation (EU) 2015/2365 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal or supervisory regime applies to the third country entities referred to in point (a) equivalent requirements as those laid down in Regulation (EU) No 648/2012.</p> <p>(ii) A cooperation agreement is in place or will be put in place between the Union and the relevant third country authorities providing for the access described in Article 75(2) of Regulation (EU) No 648/2012, and specifying, at least the matters listed in Article 75(3)(a) and 75(3)(b) of Regulation (EU) No 648/2012.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>14. Regulation (EU) No 909/2014</p> <p>[CSDR: Art. 25(9)]</p>	<p>(a) Entities supervised in a third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a central securities depository shall be treated in Union law as being subject to legal and supervisory arrangements in respect of which the Commission has adopted an implementing act, as referred to in Article 25(9) of Regulation (EU) No 909/2014 (notwithstanding the effect of Article 69(3) of Regulation (EU) No 909/2014), determining that the legal and supervisory arrangements of the third country ensure that CSDs authorised in that third country comply with legally binding requirements equivalent to the requirements laid down in Regulation (EU) No 909/2014, that CSDs are subject to effective supervision, oversight and enforcement in that third country on an ongoing basis and that the legal framework of that third country provides for an effective equivalent system for the recognition of CSDs authorised under third-country legal regimes, with the effect that (notwithstanding the effect of Article 69(3) of Regulation (EU) No 909/2014) such third country entities able to apply to ESMA for recognition as referred to in Article 25(2) of Regulation (EU) No 909/2014, and be recognised as able to provide the services (including by establishing a branch in a Member State) referred to in Article 25(2) of Regulation (EU) No 909/2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements which ensure that the third country entities referred to in point (a) are subject to effective authorisation, supervision and oversight or, if the securities settlement system is operated by a central bank, oversight, ensuring full compliance with the prudential requirements applicable in that third country.</p> <p>(ii) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point(a) comply with requirements which are in effect equivalent to the requirements laid down in Regulation (EU) No 909/2014, taking into account the internationally agreed CPSS-IOSCO standards so far as they do not conflict with Regulation (EU) No 909/2014.</p> <p>(iii) The third country's legal or supervisory regime provides for an effective equivalent system for the recognition of CSDs authorised under third-country legal regimes.</p> <p>(iv) The third country entities referred to in point (a) are permitted under the legal regime of the third country, if necessary, to take the necessary measures to allow their users to comply with the relevant national law of any Member State in which the third country entity may operate to provide central securities depository services, including the law referred to in the second subparagraph of Article 49(1) of Regulation (EU) No 909/2014.</p> <p>(v) A cooperation agreement is in place or will be put in place with the responsible third-country authorities meeting the requirements, at least, of Article 25(7) and Article 25(10) of Regulation (EU) No 909/2014.</p>
<p>15. Regulation (EU) 2015/2365</p> <p>[SFTR: central banks: Art. 2(4)]</p>	<p>(a) Entities established in the relevant third country and operating as a central bank or public body charged with or intervening in the management of public debt in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as third country entities with respect to which the Commission has adopted a delegated act pursuant to paragraph 4 of Article 2 of Regulation (EU) 2015/2365, with the effect that the list set out in paragraph 2 of Article 2 of Regulation (EU) 2015/2365 shall be amended accordingly (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>16. Regulation (EU) 2015/2365</p> <p>[SFTR: trade repositories: Art. 19]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a trade repository shall be treated in Union law as being subject to legal and supervisory arrangements in respect of which the Commission has adopted an implementing act, as referred to in Article 19(1) of Regulation (EU) 2015/2365, determining that the legal and supervisory arrangements of the third country meet the conditions at Articles 19(1) (a) to (d), with the effect that such third country entities may apply to the Commission for recognition as a trade repository, as referred to in Articles 19(3) and 19(4) of Regulation (EU) 2015/2365 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal or supervisory regime applies to the third country entities referred to in point (a) equivalent requirements as those laid down in Regulation (EU) 2015/2365.</p> <p>(ii) The third country's legal or supervisory regime applies to the third country entities referred to in point (a) legally binding and enforceable obligations under the legal regime of the third country to give direct and immediate access to trade repository data to the entities referred to in Article 12(2) of Regulation (EU) 2015/2365.</p> <p>(iii) The relevant recognition decision or mutual recognition agreement specified the relevant third-country authorities that are entitled to access data on SFTs held in trade repositories established in the Union.</p> <p>(iv) Cooperation arrangements are in place or will be put in place between the Union and the relevant third country authorities specifying, at least the matters listed at Article 19(5)(b)(i) and 19(5)(b)(ii) of Regulation (EU) 2015/2365.</p>
<p>17. Regulation (EU) 2015/2365</p> <p>[SFTR: transaction requirements: Art. 21]</p>	<p>(a) The legal, supervisory and/or enforcement arrangements of the relevant third country corresponding to the requirements laid down in Article 4 of Regulation (EU) 2015/2365 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as arrangements in respect of which the Commission has adopted an implementing act, as referred to in Article 21(1) of Regulation (EU) 2015/2365, determining that the legal, supervisory and/or enforcement arrangements of that third country satisfy the requirements set out in Article 21(1)(a) to (b) of Regulation (EU) 2015/2365, with the effect that where counterparties enter into a transaction subject to Regulation (EU) 2015/2365 and at least one of the counterparties is established in the relevant third country and the counterparties have complied with the obligations of that third country in relation to that transaction, the counterparties to the transaction shall be deemed to have fulfilled the requirements laid down in Article 4 of Regulation (EU) 2015/2365, as referred to in Article 21(2) of Regulation (EU) 2015/2365 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The legal, supervisory and/or enforcement arrangements of the third country referred to in point (a) are equivalent to the requirements laid down in Article 4 of Regulation (EU) 2015/2365.</p> <p>(ii) The legal, supervisory and/or enforcement arrangements of the third country referred to in point (a) ensure that the entities referred to in Article 12(2) of Regulation (EU) 2015/2365 have either direct access to the details on securities financing transactions data pursuant to Article 19(1) of Regulation (EU) 2015/2365 or indirect access to the details on securities financing transactions pursuant to Article 20 of Regulation (EU) 2015/2365.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>18. Regulation (EU) 2016/1011</p> <p>[Benchmarks: Requirements for benchmark administrators: Art. 30(2)]</p>	<p>(a) Entities authorised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a benchmark administrator in the third country shall be treated in Union law as entities and benchmarks subject to a third country's legal framework and supervisory practice in respect of which the Commission has adopted an implementing decision, as referred to in Article 30(2) of Regulation (EU) 2016/1011, stating that the legal framework and supervisory practice of that third country meets the requirements listed in Article 30(2)(a) and (b) of Regulation (EU) 2016/1011 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country entities referred to in point (a) are subject to a legal framework and supervisory practice which ensures compliance with the IOSCO principles for financial benchmarks, or where applicable, with the IOSCO principles for PRAs.</p> <p>(ii) A cooperation agreement is in place or will be put in place with the relevant third country competent authorities specifying at least the matters listed in Article 30(4)(a) to 30(4)(c) of Regulation (EU) 2016/1011.</p>
<p>19. Regulation (EU) 2016/1011</p> <p>[Benchmarks: Requirements for benchmark administrators: Art. 30(3)]</p>	<p>(a) Specific entities authorised as, or to operate, a benchmark administrator or benchmarks or families of benchmarks (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) that are subject to specific binding requirements in the relevant third country shall be treated in Union law as specific administrators or specific benchmarks or families of benchmarks subject to binding requirements in that third country in respect of which the Commission has adopted an implementing decision, as referred to in Article 30(3) of Regulation (EU) 2016/1011, stating that the binding requirements in that third country meet the requirements of Article 30(3)(a) of Regulation (EU) 2016/1011 and that such specific administrators or specific benchmarks or families of benchmarks are subject to supervision and enforcement meeting the requirements of Article 30(3)(b) of Regulation (EU) 2016/1011 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The specific third country entities, benchmarks or families of benchmarks referred to in point (i) are subject to a legal framework and supervisory practice which ensures compliance with the IOSCO principles for financial benchmarks or, where applicable, with the IOSCO principles for PRAs.</p> <p>(ii) A cooperation agreement is in place or will be put in place with the relevant third country competent authorities specifying at least the matters listed in Article 30(4)(a) to 30(4)(c) of Regulation (EU) 2016/1011.</p>
<p>20. Regulation (EU) No 236/2012</p> <p>[Short selling: market makers: Art. 17(2)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a market, shall be treated in Union law as subject to legally binding requirements in respect of which the Commission has adopted a decision, as referred to in Article 17(2) of Regulation (EU) 236/2012, determining that the legal and supervisory framework of the third country, for the purposes of the exemption set out in Article 17(1) of Regulation (EU) No 236/2012, is equivalent to the requirements under Title III of Directive 2004/39/EC, under Directive 2003/6/EC and under Directive 2004/109/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure that the third country entities referred to in point (a) have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure a high level of investor protection by subjecting security issuers to periodic and ongoing information requirements.</p> <p>(iii) The third country's legal regime applies to the entities referred to in point (a) equivalent requirements which ensure market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>21. Regulation (EU) No 596/2014</p> <p>[MAR: Exemption for monetary and public debt management activities: Art. 6(5)]</p>	<p>(a) Public bodies and/or central banks established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as third country public bodies and central banks in respect of which the Commission has adopted a delegated act, as referred to in Article 6(5) of Regulation (EU) No 596/2014, with the effect that the exemption referred to in Article 6(1) of Regulation (EU) 596/2014 is extended to those third country public bodies and/or central banks (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>22. Regulation (EU) No 596/2014</p> <p>[MAR: Climate policy/emissions: Art. 6(6)]</p>	<p>(a) Public bodies established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as third country public bodies in respect of which the Commission has adopted a delegated act, as referred to in Article 6(6) of Regulation (EU) No 596/2014, with the effect that the exemption referred to in Article 6(3) of Regulation (EU) No 596/2014 is extended to such third country public bodies (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country has entered into or will enter into an agreement with the Union pursuant to Article 25 of Directive 2003/87/EC.</p>
<p>23. Regulation (EU) No 600/2014</p> <p>[MiFIR: Central banks: Art. 1(9)]</p>	<p>(a) Entities established in the relevant third country and operating as a central bank in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as third country entities with respect to which the Commission has adopted a delegated act to extend the scope of paragraph 6 of Article 1 of Regulation (EU) No 600/2014, as referred to in paragraph 9 of Article 1 of Regulation (EU) No 600/2014, with the effect that the scope of paragraph 6 of Article 1 of Regulation (EU) No 600/2014 shall be extended accordingly to such entities (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>24. Directive 2014/65/EU, Regulation (EU) No 600/2014</p> <p>[MiFIR/MiFID: Trading venues trading obligation: financial instruments: Art. 23 MiFIR/25(4) (a) MiFID]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a regulated market shall be treated in Union law as being subject to a legal and supervisory framework of a third country in respect of which the Commission has adopted an equivalence decision as referred to in the third and fourth subparagraphs of Article 25(4)(a) of Directive 2014/65/EU stating that a regulated market in that third country complies with legally binding requirements which are equivalent to the requirements resulting from Regulation (EU) No 596/2014, from Title III of Directive 2014/65/EU, from Title II of Regulation (EU) No 600/2014 and from Directive 2004/109/EC, and regulated markets in that third country are subject to effective supervision and enforcement (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent standards which ensure that such entities have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure that security issuers are subject to periodic and ongoing information requirements ensuring a high level of investor protection.</p> <p>(iii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure market transparency and integrity by the prevention of market abuse in the form of insider dealing and market manipulation.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>25. Directive 2014/65/EU, Regulation (EU) No 600/2014</p> <p>[MiFIR: Trading venues trading obligation: financial instruments: Art. 28(4) MiFIR]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a trading venue shall be treated in Union law as being subject to legally binding requirements in respect of which the Commission has adopted a decision, as referred to in Article 28(4) of Regulation (EU) 600/2014, determining that those requirements are equivalent to the requirements for the trading venues referred to in paragraph 1(a), (b) or (c) of Article 28(4) of Regulation (EU) 600/2014, resulting from Regulation (EU) 600/2014, Directive 2014/65/EU, and Regulation (EU) No 596/2014, and such third country entities are subject to effective supervision and enforcement in the third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime provides for an effective equivalent system for the recognition of trading venues authorised under Directive 2014/65/EU to admit to trading or trade derivatives declared subject to a trading obligation in that third country on a non-exclusive basis.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent standards which ensure that such entities have clear and transparent rules regarding the admission of financial instruments to trading so that such financial instruments are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.</p> <p>(iii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure that issuers of financial instruments are subject to periodic and ongoing information requirements ensuring a high level of investor protection.</p> <p>(iv) The third country's legal or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure market transparency and integrity by the prevention of market abuse in the form of insider dealing and market manipulation.</p>
<p>26. Regulation (EU) No 600/2014</p> <p>[MiFID/MiFIR: derivatives: trade execution and clearing obligations: Art. 33]</p>	<p>(a) Certain requirements of the third country's legal or supervisory regime corresponding to the requirements laid down in Articles 28 and 29 of Regulation (EU) No 600/2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as legal, supervisory and enforcement arrangements in respect of which the Commission has adopted an implementing act, as referred to in Article 33(2) of Regulation (EU) No 600/2014, with the effect that counterparties entering into a transaction subject to Regulation (EU) No 600/2014 shall be deemed to have fulfilled the obligations contained in Articles 28 and 29 of Regulation (EU) No 600/2014 where at least one of the counterparties is established in that third country, and the counterparties are in compliance with those legal, supervisory and enforcement arrangements of the relevant third country, as referred to in Article 33(3) of Regulation (EU) No 600/2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime requirements referred to in point (a) are equivalent to those laid down in Articles 28 and 29 of Regulation (EU) No 600/2014.</p> <p>(ii) The third country requirements referred to in point (a) are effectively applied and enforced in an equitable and non-distortive manner so as to ensure equivalent effective supervision and enforcement in that third country.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>27. Regulation (EU) No 600/2014</p> <p>[MiFIR: trading venues for the purposes of clearing access: Art. 38(1)-(3)]</p>	<p>(a) The third country entities referred to in row 25 of this table shall (where that row is included as an agreed equivalence recognition and subject to any specific conditions) be treated in Union law as third country trading venues subject to a legal and supervisory framework in respect of which the Commission has adopted a decision, as referred to in Article 38(3) of Regulation (EU) No 600/2014, that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues in that third country, with the effect that such third country trading venues are able to make use of the access rights in Articles 35 to 36 of Regulation (EU) No 600/2014, as referred to in Article 38(1) of Regulation (EU) No 600/2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and supervisory framework meets the requirements of Article 38(3) of Regulation (EU) No 600/2014.</p>
<p>28. Regulation (EU) No 600/2014</p> <p>[MiFIR: trading venues for the purposes of clearing access: Art. 38(1)-(3)]</p>	<p>(a) The third country entities referred to in row 12 of this table shall (where that row is included as an agreed equivalence recognition and subject to any specific conditions) be treated in Union law as third country CCPs subject to a legal and supervisory framework in respect of which the Commission has adopted a decision, as referred to in Article 38(3) of Regulation (EU) No 600/2014, determining that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues in that third country, with the effect that such third country CCPs are able to make use of the access rights in Articles 35 to 36 of Regulation (EU) No 600/2014, as referred to in Article 38(1) of Regulation (EU) No 600/2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and supervisory framework meets the requirements of Article 38(3) of Regulation (EU) No 600/2014.</p>
<p>29. Regulation (EU) No 600/2014</p> <p>[MiFIR: trading venues for the purposes of clearing access: Art. 38(1)-(3)]</p>	<p>(a) Entities established in the relevant third country and authorised as, or to operate, a CCP or trading venue (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as third country CCPs and trading venues subject to a legal and supervisory framework in respect of which the Commission has adopted a decision under Article 38(3) of Regulation (EU) No 600/2014, with the effect that such third country CCPs and trading venues may request a license and make use of access rights in accordance with Article 37 of Regulation (EU) No 600/2014, as referred to in Article 38 of Regulation (EU) No 600/2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and supervisory framework meets the requirements of Article 38(3) of Regulation (EU) No 600/2014.</p>
<p>30. Regulation (EU) No 600/2014</p> <p>[MiFIR: investment firms providing services to EU professional client and eligible counterparties: Art. 47]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) as, or to operate, an investment firm shall be treated in Union law, as third country investment firms subject to legal and supervisory arrangements ensuring that the third country investment firms comply with legally binding prudential and business conduct requirements which have equivalent effect to the requirements set out Regulation (EU) No 600/2014, in Directive 2013/36/EU and in Directive 2014/65/EU and in the implementing measures adopted under Regulation (EU) No 600/2014, Directive 2013/36/EU and Directive 2014/65/EU and that the legal framework of that third country provides for an effective equivalent system for the recognition of investment firms authorised under third-country legal regimes which meet the conditions at Article 47(1)(a) to (e) of Regulation (EU) No 600/2014, with the effect that such third country firms may provide investment services or perform investment activities (with or without ancillary services) to eligible counterparties and to professional clients within the meaning of Section I of Annex II of Directive 2014/65/EU by applying for registration by ESMA, as referred to in Article 46 of Regulation (EU) No 600/2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and supervisory arrangements apply to the entities referred to in point (a) legally binding prudential and business conduct requirements meeting the conditions listed at Article 47(1)(a) to (e) of Regulation (EU) No 600/2014.</p> <p>(ii) Cooperation arrangements are in place or will be put in place with the relevant third country specifying at least the matters listed at Article 47(2)(a) to (c) of Regulation (EU) No 600/2014.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>31. Regulation (EU) No 575/2013</p> <p>[CRR: Credit institutions, investment firms: Art. 107(4)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a third-country investment firm, third country credit institutions, or third country clearing house or exchanges shall be treated in Union law as entities subject to prudential supervisory and regulatory requirements in that third country with respect to which the Commission has adopted a decision, by way of an implementing act, as referred to in Article 107(3) of Regulation (EU) No 575/2013, determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the Union, as referred to in Article 107(4) of Regulation (EU) No 575/2013 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>32. Regulation (EU) No 575/2013</p> <p>[CRR: exposures to government bodies: Art. 114- 116]</p>	<p>(a) Entities established and supervised in the relevant third country which correspond to a central government or central bank (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as entities subject to supervisory and regulatory arrangements with respect to which the Commission has adopted a decision by way of an implementing act, as referred to in Article 114(7) of Regulation (EU) No 575/2013, determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the Union, as referred to in Article 114(7) of Regulation (EU) No 575/2013 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>33. Regulation (EU) No 575/2013</p> <p>[CRR: exposures to government bodies: Art. 114- 116]</p>	<p>(a) Entities established and supervised in the relevant third country which correspond to a regional government or local authority (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as entities subject to supervisory and regulatory arrangements with respect to which the Commission has adopted a decision by way of an implementing act, as referred to in Article 115(4) of Regulation (EU) No 575/2013, determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the Union (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>34. Regulation (EU) No 575/2013</p> <p>[CRR: exposures to government bodies: Art. 114-116]</p>	<p>(a) Entities established and supervised in the relevant third country which correspond to a public sector entity (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as entities subject to supervisory and regulatory arrangements with respect to which the Commission has adopted a decision by way of an implementing act, as referred to in Article 116(5) of Regulation (EU) No 575/2013, determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the Union (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>35. Regulation (EU) No 575/2013</p> <p>[CRR: Credit institutions: Art. 142]</p>	<p>(a) Entities corresponding to large financial sector entities (or subsidiaries* of such entities) that are supervised and regulated in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as entities subject to supervisory and regulatory arrangements with respect to which the Commission has adopted a decision via an implementing act, as referred to in Article 142(2) of Regulation (EU) No 575/2013, determining that those third country entities were subject to supervisory and regulatory arrangements at least equivalent to those applied in the Union (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

* The term «subsidiary» in this row means a subsidiary within the meaning of point 16 of Article 4(1) of Regulation (EU) No 575/2013.

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>36. Regulation (EU) No 575/2013</p> <p>[CRR: Investment firms: Art. 142]</p>	<p>(a) Entities corresponding to large financial sector entities (or subsidiaries* of such entities) that are supervised and regulated in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as entities subject to supervisory and regulatory arrangements with respect to which the Commission has adopted a decision via an implementing act, as referred to in Article 142(2) of Regulation (EU) No 575/2013, determining that those third country entities were subject to supervisory and regulatory arrangements at least equivalent to those applied in the Union (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* The term «subsidiary» in this row means a subsidiary within the meaning of point 16 of Article 4(1) of Regulation (EU) No 575/2013.</p>	
<p>37. Directive 2009/138/EC</p> <p>[Solvency II: third country reinsurance activity: Art. 172]</p>	<p>(a) The solvency regime of the relevant third country that applies to undertakings with head offices in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as a third country solvency regime in respect of which the Commission has adopted a delegated act, as referred to in Article 172(2) of Directive 2009/138/EC, determining that the solvency regime of the third country that applies to reinsurance activities of undertakings with head offices in that third country is equivalent to that laid down in Title I of Directive 2009/138/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The solvency regime of the third country applies to the reinsurance activities of undertakings with head offices in the third country referred to in point (a) equivalent legally binding requirements to those applicable in the Union under Title I of Directive 2009/138/EC.</p>
<p>38. Directive 2009/138/EC</p> <p>[Solvency II: EU insurers in third countries: solvency rules: Art. 227]</p>	<p>(a) The supervisory and solvency regime of the relevant third country that is applicable to insurance and reinsurance undertakings with head offices in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions), shall be treated in Union law as a third country supervisory regime in respect of which the Commission has adopted a delegated act, as referred to in Article 227(4) of Directive 2009/138/EU, determining that the supervisory regime of that third country is equivalent to that laid down in Title I, Chapter VI, of Directive 2009/138/EU, and with the effect that such third country head offices are treated as being subject to authorisation and a solvency regime at least equivalent to that laid down in Title I, Chapter VI, of Directive 2009/138/EU, as referred to in the second paragraph of Article 227(1) of Directive 2009/138/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The supervisory and solvency regime of the third country applies to the reinsurance or insurance undertakings with head offices in the third country referred to in point (a) equivalent legally binding requirements to those applicable under Title I, Chapter VI of Directive 2009/138/EC and such insurance and reinsurance undertakings are subject to authorisation in that third country.</p>
<p>39. Directive 2009/138/EC</p> <p>[Solvency II: third country insurers in EU: group supervision: Art. 260]</p>	<p>(a) The prudential regime of the relevant third country which applies to parent undertakings with head offices in that third country of insurance and reinsurance undertakings (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated as a prudential regime, in respect of which the Commission has adopted a delegated act, as referred to in Article 260(3) of Directive 2009/138/EU, determining that the third country prudential regime is equivalent to that laid down in Title III of Directive 2009/138/EU at the level of the group of insurance and reinsurance undertakings referred to in Article 213(2) (a) and (b) of Directive 2009/138/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The prudential regime of the third country applies to the reinsurance or insurance undertakings with head offices in the third country referred to in point (a) equivalent legally binding requirements to those applicable under Title III of Directive 2009/138/EC and such entities are subject to authorisation in that third country.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>40. Directive 2011/61/EU</p> <p>[Funds – Non-EU AIFMs managing EU AIFs or marketing A AIFs in the Union; EIF AIFMs managing Non-EU AIFs]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as an AIFM shall be treated in Union law as non-EU AIFMs able to acquire prior authorisation by the competent authorities of their Member State of reference, as referred to in Article 37(1) of Directive 2011/61/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Certain requirements of the relevant third country's legal and supervisory regime applicable to the third country entities referred to in point (a) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as meeting the requirements listed in Article 37(2) of Directive 2011/61/EU, with the effect that the third country entities referred to in point (a) shall not be under any obligation to comply with a provision of Directive 2011/61/EU to the extent that it is incompatible with the third country requirement (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(c) Entities established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as a non-EU AIF shall be treated in Union law as meeting the requirements listed in Article 35(2) of Directive 2011/61/EU, with the effect that AIFMs shall be able to submit a notification to the competent authorities of its home Member State in respect of each non-EU AIF that it intends to market, as referred to in Article 35(3) of Directive 2011/61/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) Cooperation arrangements are in place or will be put in place with the relevant third country supervisory authorities (and contain provisions extending the benefit of such cooperation agreements to competent authorities* in the Union) that allow an efficient exchange of information allowing competent authorities to carry out their duties in accordance with Directive 2011/61/EU.</p> <p>(ii) An agreement is in place or will be put in place with the third country which fully complies with the Model Tax Convention on Income and on Capital and ensures an effective exchange of information on tax matters, including any multilateral tax agreements.</p> <p>(iii) The third country's legal and supervisory regime does not materially prevent the effective exercise by the competent authorities of their supervisory functions under Directive 2011/61/EU.</p> <p>(iv) The third country requirements referred to in point (b) are equivalent to corresponding requirements applicable in the Union.</p> <p>* In this row «competent authorities» means competent authorities within the meaning of point (f) of Article 4(1) of Directive 2011/61/EU.</p>
<p>41. Directive 2011/61/EU</p> <p>[AIFM third country depository]</p>	<p>(a) Entities established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a depository shall be treated in Union law as depositories established in a third country subject to prudential regulation and supervision in respect of which the Commission has adopted an implementing act, as referred to in the final sub-paragraph of Article 21(6) of Directive 2011/61/EU, stating that prudential regulation and supervision of the third country has the same effect as Union law and is effectively enforced (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent prudential regulation and supervision as applied to depositories in the Union.</p>

Appendix A DRAFT EQUIVALENCE REGULATION

TABLE OF ADDITIONAL EQUIVALENCE RECOGNITION PROVISIONS

Annex II - Part I

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>1. Regulation (EU) No 600/2014, Directive 2014/65/EU [Investment services/business]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to carry out activities corresponding to investment services and activities (with or without ancillary services) shall be treated in Union law as having the same rights as investment firms authorised by a competent authority pursuant to Articles 5 to 7 of Directive 2014/65/EU, with the effect that such third country entities shall be able to provide the investment services and activities, with or without ancillary services, to retail and/or professional clients within the Union either by establishing a branch* in a Member State or by providing such services as referred to in Articles 34 and 35 of Directive 2014/65/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «branch» means a branch within the meaning of point (30) of Article 4(1) of Directive 2014/65/EU.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) requirements which are equivalent to those applicable to investment firms authorised pursuant to Articles 5 and 6 of Directive 2014/65/EU.</p>
<p>2. Regulation (EU) No 600/2014, Directive 2014/65/EU [Systematic internalisers]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to operate as, or to operate, a systematic internaliser shall be treated in Union law as having the same rights as systematic internalisers authorised by a competent authority under Directive 2014/65/EU, with the effect that such third country entities shall be able to provide the investment services and activities, with or without ancillary services, to retail and/or professional clients within the Union either by establishing a branch* in a Member State or by providing such services as referred to in Articles 34 and 35 of Directive 2014/65/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «branch» means a branch within the meaning of point (30) of Article 4(1) of Directive 2014/65/EU.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) requirements which are equivalent to those applicable to investment firms authorised as systematic internalisers pursuant to Articles 5 and 6 of Directive 2014/65/EU.</p>
<p>3. Directive 2011/61/EU [AIFM delegation]</p>	<p>(a) Undertakings supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to carry out portfolio management and/or risk management activities shall be treated in Union law as third country undertakings to whom AIFMs may delegate portfolio management or risk management, which are authorised or registered for the purpose of asset management, and subject to supervision and where there is cooperation between competent authorities of the home Member State of the AIFM and the supervisory authority of the third country undertaking, satisfying the requirements at points (c) to (d) of Article 20(1) of Directive 2011/61/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) A cooperation agreement is in place or will be put in place with the third country authorities with responsibility for supervising the third country undertakings referred to in point (a) for the purposes of enabling monitoring and supervising of the third country undertaking (and contains provisions extending the benefit of the cooperation agreement to Union supervisory authorities).</p>
<p>4. Directive 2011/61/EU [AIFM third country depository]</p>	<p>(a) Entities established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a depository shall be treated in Union law as depositories established in a third country subject to prudential regulation and supervision in respect of which the Commission has adopted an implementing act, as referred to in the final sub-paragraph of Article 21(6) of Directive 2011/61/EU, stating that prudential regulation and supervision of the third country has the same effect as Union law and is effectively enforced (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent prudential regulation and supervision as applied to depositories in the Union.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>5. Regulation (EC) No 1060/2009 [Credit Rating Agencies]</p>	<p>(a) Credit ratings issued by entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a credit rating agency shall be treated in Union law as credit ratings which may be used by credit institutions, investment firms, insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision, management companies, investment companies, alternative investment fund managers and central counterparties for regulatory purposes, as referred to in Article 4(1) of Regulation (EC) No 1060/2009 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) are subject to binding rules equivalent to those set out in Articles 6 to 12 and Annex I of Regulation (EC) No 1060/2009, with the exception of Articles 6a, 6b, 8a, 8b, 8c and 11a, point (ba) of point 3 and points 3a and 3b of Section B of Annex I of Regulation (EC) No 1060/2009.</p> <p>(ii) The third country's legal and/or regulatory regime applicable to the third country entities referred to in point (a) prevents interference by the supervisory authorities and other public authorities of that third country with the content of credit ratings and methodologies.</p> <p>(iii) A cooperation agreement is in place or will be put in place between the relevant third country and ESMA specifying at least the matters referred to in Article 5(7)(a) and (b) of Regulation (EC) No 1060/2009.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>6. Directive 2013/36/EU, Regulation (EU) No 575/2013 [Credit institution activities]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating as, a credit institution shall be treated in Union law as having the same rights as credit institutions authorised by a Member State pursuant to Article 8 of Directive 2013/36/EU, with the effect that such third country entities shall be able to carry out the activities listed in Annex I of Directive 2013/36/EU within the Union either by establishing a branch* in a Member State or by providing such services, as referred to in Article 33 of Directive 2013/36/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a financial institution shall be treated in Union law as having the same rights as a financial institution from another Member State, as referred to in Article 34(1) of Directive 2013/36/EU, with the effect that such third country entities shall be able to provide the activities listed in Annex I of Directive 2013/36/EU within the Union either by establishing a branch or by providing services, and shall be treated as if the requirements in Article 34(1)(a) to (b) of Directive 2013/36/EU have been satisfied (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «branch» means a branch within the meaning of Article 4(17) of Regulation (EU) 575/2013.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements that are equivalent to those that are required to be applied to credit institutions authorised by Member States pursuant to Article 8 of Directive 2013/36/EU.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (b) requirements that correspond and are equivalent to those contained in Article 34(1)(a) of Directive 2013/36/EU.</p> <p>(iii) The third country's legal regime applies to the third country entities referred to in point (a) requirements that are equivalent to those applied to credit institutions pursuant to Article 1(3) of Directive 2014/65/EU, where such entities are authorised in that third country to carry out investment services and/or performing investment activities.</p> <p>(iv) Where the third country entities referred to in point (a) or (b) are authorised in the relevant third country to carry out activities corresponding to the investment services and activities listed in points (3) and (6) of Section A of Annex I of Directive 2014/65/EU, the third country's legal or supervisory regime applies requirements which are equivalent to those applicable under Part 6 of Regulation (EU) No 575/2013 taking into account the nature, scale and complexity of the third country entity's activities.</p>
<p>7. Regulation (EU) 2015/751 [Interchange Fees]</p>	<p>(a) The provisions of Regulation (EU) 2015/751 shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) be extended to apply to card-based payments transactions carried out between the Union and the relevant third country, where both the payer's payment service provider* and the payee's payment service provider are, respectively, located in either the Union or the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Payment service providers, processing entities, payment card schemes, issuers, acquirers and other technical service providers located in the Union shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) be subject to the same requirements contained in Regulation (EU) 2015/751 when carrying out card-based payment transactions with payment services providers, payers, payees and/or consumers** located in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «payment service provider» means a payment service provider within the meaning of Article 2(24) of Regulation (EU) 2015/751.</p> <p>** In this row the term «consumer» means a consumer within the meaning of Article 2(3) of Directive 2008/48/EC.</p>	<p>(i) The third country's legal regime applies to payment service providers, processing entities, payment card schemes, issuers, acquirers and other technical service providers located in that third country, reciprocal and equivalent requirements to those applied by Regulation (EU) 2015/751.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>8. Directive 2008/48/EC, Directive 2014/17/EU.</p> <p>[Mortgage Lending; Consumer Credit; Mortgage Providers]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to operate as, and carry out the activities of, a creditor or credit intermediary in relation to credit agreements* with consumers shall be treated in Union law as complying with the requirements applicable under Directive 2008/48/EC (as they have been implemented into the law of any Member State, including any applicable derogations or exemptions permitted by that directive) by complying with the corresponding third country requirements (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) applicable to creditors or credit intermediaries in that third country in relation to credit agreements with consumers.</p> <p>(b) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to operate as, and to carry out activities in relation to credit agreements within the scope of Article 3 of Directive 2014/17/EU (including ancillary services**) of, a creditor, credit intermediary, tied credit intermediary, or appointed representative shall be treated in Union law as able (subject to the terms of the mutual recognition agreement) to carry out such activities in relation to credit agreements, with consumers in the Union, including by establishing a branch (subject to the terms of a specific mutual recognition agreement), by complying with the corresponding equivalent third country requirements (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions), instead of the requirements applied by Directive 2014/17/EC (as they have been implemented into the law of any Member State, including any applicable derogations or exemptions permitted by that Directive).</p> <p>(c) Entities referred to in point (a) and (b) of row 6 of this table, may be included in the third country entities referred to in points (a) and (b), and subject to the terms of any relevant recognition decision or mutual recognition agreement which contains the equivalence recognition provision at row 6 of this table as an agreed equivalence provision.</p> <p>* In this row the term «credit agreement» means a credit agreement that is not excluded from Directive 2008/48/EC pursuant to Article 2(2) and 2(2a) of Directive 2008/48/EC.</p> <p>** In this row the term «ancillary services» means ancillary services within the meaning of Article 4(4) of Directive 2014/17/EU.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in points (a) and (b) requirements that are equivalent to those applied by Directive 2008/48/EC and Directive 2014/17/EU.</p>
<p>9. Directive 2014/65/EU, Regulation (EU) No 600/2014</p> <p>[Regulated Markets]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a regulated market in that third country shall be treated in Union law as having the same rights as a regulated market complying with Title III of Directive 2014/65/EU and authorised by a competent authority of a Member State, as referred to in Article 44(1) Directive 2014/65/EU, with the effect that (subject to the terms of the recognition decision or mutual recognition agreement) such a third country market or market operator shall be able to exercise the same rights that a regulated market would be able to in the Union under Directive 2014/65/EU and Regulation (EU) 600/2014, by complying with the equivalent legal and supervisory requirements of the third country (as described in a particular recognition decision or mutual recognition agreement) instead of requirements applicable to a regulated market authorised pursuant to Directive 2014/65/EU or Regulation (EU) No 600/2014, and any national implementing measures adopted by a Member State pursuant to Directive 2014/65/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>10. Directive 2014/65/EU</p> <p>[Data Service Providers]</p>	<p>(a) Entities supervised in a third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a data services provider (including an ARM, CTP or ARM) shall be treated in Union law as having the same rights as a data reporting services provider authorised by the competent authority of a Member State, as referred to in Article 59(1) of Directive 2014/65/EU, with the effect that such third country entities shall be eligible to be included on the list that the European Securities and Markets Authority is required to establish under Article 59(3) of Directive 2014/65/EU (and any withdrawals of authorisation in that third country shall be published on that list for a period of 5 years), and such third country entities shall be able to exercise the same rights that a data reporting services provider would have under Directive 2014/65/EU, by complying with the equivalent legal and supervisory requirements of the third country instead of requirements applicable to a data reporting services provider authorised pursuant to Directive 2014/65/EU, and any national implementing measures adopted pursuant to Directive 2014/65/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>11. Directive 98/26/EC</p> <p>[Payment & Securities Settlement Services]</p>	<p>(a) Formal arrangements established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and would constitute a designated system in that third country (but for being governed by the law of the third country), shall be treated in Union law as if they were systems designated by a Member State under Article 2 of Directive 98/26/EC, with the effect that the protections applicable to systems, participants and collateral security that Member States are required to implement in accordance with Directive 98/26/EC shall be extended (subject to the terms of the mutual recognition agreement) to such third country transfer systems (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal system provides reciprocal and equivalent protections as provided in Directive 98/26/EC to systems, participants and collateral security.</p>
<p>12. Directive 2009/65/EC</p> <p>[UCITS Funds]</p>	<p>(a) Undertakings or investment companies established and supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised in a manner corresponding to UCITs (but for being established in a third country) shall be treated in Union law as having the same rights as UCITs managed by management companies authorised pursuant to Article 5 of Directive 2009/65/EC or investment companies authorised pursuant to Article 27 of Directive 2009/65/EC, whether such third country undertakings are managed by the third country entities referred to in point (b) or by a management company established in the Union and authorised by the competent authorities of that management company's home Member State pursuant to Article 6(1) of Directive 2009/65/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a management company shall be treated in Union law as having the same rights as a management company authorised pursuant to Article 6(1) of Directive 2009/65/EC, with the effect that such third country entities shall be able to carry out the activities of a management company, as referred to in Article 6(2) (and in Article 6(3), of Directive 2009/65/EC where a Member State has exercised the relevant derogation in that article) of Directive 2009/65/EC either by providing such services or establishing a branch* in a Member State, as referred to in Article 16 of Directive 2009/65/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «branch» means a branch within the meaning of point (g) of Article 2(1) of Directive 2009/65/EC.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country undertakings referred to in point (a) requirements that are equivalent to those applied to UCITs authorised pursuant to Article 5(1) of Directive 2009/65/EC or investment companies authorised pursuant to Article 27 of Directive 2009/65/EC.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (b) requirements that are equivalent to management companies authorised pursuant to Article 6(1) of Directive 2009/65/EC.</p> <p>(iii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (b) requirements that are equivalent to those referred to in Article 6(4) of Directive 2009/65/EC, where such third country entities are authorised in that third country to carry out the services referred to in Article 6(3) (a) and (b) of Directive 2009/65/EC.</p>

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
13. Directive 2009/65/EC [UCITs delegation of management]	(a) Where a management company delegates functions to a third-country undertaking pursuant to Article 13 of Directive 2009/65/EC and such a mandate involves investment management, the requirement that cooperation between the supervisory authorities concerned must be ensured shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) in Union law be deemed to have been satisfied for the purposes of Article 13(1)(d) of Directive 2009/65/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).	(i) A cooperation agreement for the purposes of monitoring the compliance of the management company with the requirements of Directive 2009/65/EC is in place or will be put in place with the relevant third country supervisory authorities (and contains provisions extending the benefit of the cooperation agreement to Union supervisory authorities).
14. Directive 2009/138/EC [Direct Insurance & Reinsurance]	(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, an insurance undertaking and/or reinsurance undertaking, shall be treated in Union law as having the same rights as an insurance undertaking and/or reinsurance undertaking authorised by a Member State pursuant to Article 14 of Directive 2009/138/EC, with the effect that such third country entities shall be able to insure the classes of insurance listed at Part A of Annex I and Annex II of Directive 2009/138/EC (including ancillary risks) and/or carry out reinsurance within the Union, either by establishing a branch* in a Member State or providing services as an insurance undertaking, as referred to in Article 15(1) of Directive 2009/138/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions). * In this row the term «branch» means a branch within the meaning of Article 162(3) of Directive 2009/138/EC, with the reference to the home Member State in Article 13(11) being construed as a reference to the third country that has authorised the third country undertaking as an insurance undertaking.	(i) The legal and/or supervisory regime of the third country applies to the third country entities referred to in point (a) requirements that are equivalent to those applied to insurance undertakings or reinsurance undertakings authorised under Article 14 of Directive 2009/138/EC.
15. Regulation (EU) No 575/2013 [Life insurance, eligible collateral]	(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to provide life insurance shall be treated in Union law as being subject to supervision by a competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the Union, as referred to in Article 212(2)(j) of Regulation (EU) No 575/2013 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).	(i) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) are subject to requirements which are equivalent to companies providing life insurance that are subject to Directive 2009/138/EC.
16. Directive (EU) 2016/97 [Insurance Mediation]	(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, an insurance intermediary, a reinsurance intermediary and/or an ancillary insurance intermediary shall be treated in Union law as having the same rights as insurance, reinsurance and ancillary insurance undertakings registered with a competent authority pursuant to Article 13(1) of Directive (EU) 2016/97, with the effect that such third country entities shall be able to carry on insurance and/or reinsurance distribution, or insurance distribution on an ancillary basis as described in point (4) of Article 2(1) of Directive (EU) 2016/97 within the Union by establishing a branch** in a Member State or by providing such services, as referred to in Articles 4 and 6 of Directive (EU) 2016/97 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions). ** In this row the term «branch» means a branch within the meaning of point (12) of Article 2(1) of Directive (EU) 2016/97 with the reference to the intermediary's home Member State being construed as the third country that the intermediary is authorised by.	(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements that are equivalent to those that are applicable to insurance, reinsurance and ancillary insurance intermediaries registered with a competent authority pursuant to Article 3 of Directive (EU) 2016/97.
17. Directive 2000/31/EC [E-Commerce]	(a) The provisions of Directive 2000/31/EC shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) be treated in Union law as extending applicable rights to persons and entities located in the relevant third country including those corresponding to service providers, consumers***, and recipients of the e- society service (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions). *** In this row the term «consumer» means a consumer within the meaning of Article 2(e) of Directive 2000/31/EC.	(i) The third country's legal system provides reciprocal and equivalent rights and protections to persons and entities located in the Union as are provided in Directive 2000/31/EC.

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
18. Directive 2009/110/EC [Electronic money services, electronic money institutions]	(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, an electronic money institution shall be treated in Union law as having the same rights as electronic money institutions granted authorisation pursuant to Title II of Directive 2009/110/EEC, with the effect that such third country entities shall be able to pursue the activity of issuing electronic money within the Union, either by establishing a branch* or by providing such services (including the services referred to in Article 18 of Directive (EU) 2015/2366), as referred to in Article 28 of Directive (EU) 2015/2366 applying to electronic money institutions mutatis mutandis pursuant to Article 3(1) of Directive 2009/110/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions). (b) Point (a) does not prejudice the ability of third country entities referred to in point (a) or (b) of row 6 of this table that are authorised in the relevant third country to carry out activities corresponding to «issuing electronic money» (as referred in Annex I of Directive 2013/36/EU), where any relevant recognition decision or mutual recognition agreement has included the equivalence recognition provision at row 6 of this table. * In this row the term «branch» means a branch within the meaning of Article 4(39) of Directive (EU) 2015/2366.	(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements that are equivalent to those that are required to be applied to electronic money institutions authorised pursuant to Title II of Directive 2009/110/EC.
19. Directive (EU) 2015/2366 [Payment Services]	(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a payment institution shall be treated in Union law as having the same rights as a payment institution authorised by a Member State pursuant to Article 11 of Directive (EU) 2015/2366, with the effect that such third country entities shall be able to provide and execute payment services (including the services referred to in Article 18 of Directive (EU) 2015/2366) throughout the Union, either by establishing a branch* or providing such services, as referred to in Article 28 of Directive (EU) 2015/2366 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions). (b) Point (a) does not prejudice the ability of third country entities referred to in point (a) of row 18 of this table that are authorised in the relevant third country to carry out activities corresponding to those carried out by electronic money issuers** where any relevant recognition decision or mutual recognition agreement has included the equivalence recognition provision at row 18 of this table. (c) Point (a) does not prejudice the ability of third country entities referred to in point (a) or (b) of row 6 of this table that are authorised in the relevant third country to carry out activities corresponding to «issuing electronic money» (as referred in Annex I of Directive 2013/36/EU), where any recognition decision or mutual recognition agreement has included the equivalence recognition provision at row 6 of this table. * In this row the term «branch» means a branch within the meaning of Article 4(39) of Directive (EU) 2015/2366. ** In this point the term «electronic money issuers» means an electronic money issuer within the meaning of point 3 of Article 2(1) of Directive 2009/110/EC.	(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements which are equivalent to those which are required to be applied to payment institutions authorised pursuant to Article 11 of Directive (EU) 2015/2366.
20. Directive 2014/59/EU [Recognition of third country resolution proceedings]	(a) Third-country resolution proceedings applied by the authorities of the relevant third country pursuant to the third country's legal and/or supervisory regime (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall (subject to the terms of the specific mutual recognition agreement) be treated in Union law as recognised third-country resolution proceedings, as referred to in Article 94(2) of Directive 2014/59/EU, which national resolution authorities shall assist with implementing and enforcing in accordance with their national law (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).	(i) The third country's legal and/or supervisory regime applies equivalent principles to those applied in the Union under Directive 2014/59/EU to the recovery and resolution of third country entities corresponding to those listed in Article 1(a) to (e) of Directive 2014/59/EU.

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>21. Regulation (EU) 2015/760 [ELTIFs]</p>	<p>(a) Undertakings supervised in the relevant third country and authorised as an ELTIF (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as having the same rights as ELTIFs authorised pursuant to Regulation (EU) 2015/760 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Undertakings supervised in the relevant third country and authorised as, or to operate, a manager of an ELTIF (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as having the same rights as EU AIFMs authorised to manage ELTIFs pursuant to Regulation (EU) 2015/760 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>22. Regulation (EU) No 345/2013 [EuVECA]</p>	<p>(a) Undertakings supervised in the relevant third country and authorised as a qualifying venture capital fund (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as having the same rights as a qualifying venture capital fund authorised pursuant to Regulation (EU) No 345/2013 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Undertakings supervised in the relevant third country and authorised as, or to operate, a manager of a qualifying venture capital fund (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as having the same rights as a manager of a qualifying venture capital fund authorised pursuant to Regulation (EU) No 345/2013 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>23. Regulation (EU) No 346/2013 [EuSEF]</p>	<p>(a) Undertakings supervised in the relevant third country and authorised as a qualifying social entrepreneurship fund (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as having the same rights as a qualifying social entrepreneurship fund authorised pursuant to Regulation (EU) No 346/2013 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Undertakings supervised in the relevant third country and authorised as, or to operate, a manager of a qualifying social entrepreneurship fund (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as having the same rights as a manager of a qualifying social entrepreneurship fund authorised pursuant to Regulation (EU) No 346/2013 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

Appendix A DRAFT EQUIVALENCE REGULATION

TABLE OF ADDITIONAL EQUIVALENCE RECOGNITION PROVISIONS

Annex II - Part II⁷²

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>24. Directive 2011/61/EU [AIFM own funds requirement guarantee]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as a credit institution or insurance undertaking shall be treated in Union law as subject to prudential rules considered to be equivalent to those laid down in Union law, with the effect that competent authorities may treat guarantees provided by such third country entities as reducing the additional amount of own funds required of an AIFM, as referred to in Article 9(6) of Directive 2011/61/EU (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Third country entities referred to in point (a) of row 6 and point (a) of row 14 of Part I may be included in the third country entities referred to in point (a) of this row, where relevant, and subject to the terms of any relevant recognition decision or mutual recognition agreement which contains equivalence recognition provision at row 6 and point (a) of row 14 of Part I as an agreed equivalence provision.</p>	
<p>25. Directive 2009/65/EC [UCITs, various third country categories]</p>	<p>(a) Transferable securities and money market instruments admitted to official listing on a stock exchange in the relevant third country or which are dealt on another regulated market in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as being admitted to, or dealt, on a stock exchange or regulated market, that has been approved by a competent authority, as referred to in Article 50(1)(c) of Directive 2009/65/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Units of collective investment undertakings established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as collective investment undertakings subject to supervision considered by a competent authority to be equivalent to that laid down in Community law, and that cooperation between authorities is sufficiently ensured, as referred to in Article 50(e)(i) of Directive 2009/65/EC; and as undertakings ensuring a level of protection for unit-holders equivalent to that provided for unit-holders in a UCITs and the requirements of Directive 2009/65/EC, as referred to in Article 50(1)(e)(ii) of Directive 2009/65/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(c) Prudential rules of the relevant third country applicable to the registered offices of credit institutions located in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as prudential rules considered by a competent authority to be equivalent to those laid down in Community law, as referred to in Article 50(1)(f) of Directive 2009/65/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(d) Establishments supervised and subject to the prudential regime of the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as establishments issuing or guaranteeing the money market instruments referred to in Article 50(1)(h) of Directive 2009/65/EC subject to and complying with prudential rules considered by a competent authority to be at least as stringent as those laid down in Community law, as referred to in Article 50(1)(h)(iii) of Directive 2009/65/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country undertakings referred to in point (b) requirements ensuring a level of protection for unit-holders equivalent to that provided under Union law for unit-holders in a UCITs and equivalent to the rules on asset segregation, borrowing, lending, and uncovered sales of transferable securities and money market instruments of Directive 2009/65/EC.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (c) prudential rules that are equivalent to those laid down in Union law.</p> <p>(iii) The third country's legal and/or supervisory regime applies to the third country issuers referred to in point (d) prudential rules that are equivalent to those laid down in Union law.</p>

72 NOTE: These are additional new equivalence provisions, separated from the provisions in Part I, Annex II as these are provisions granting discretion to national competent authorities to determine third country equivalence. National competent authorities may wish to retain these discretions however.

RELEVANT UNION LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNION	ADDITIONAL EQUIVALENCE CRITERIA
<p>26. Directive 2009/65/EC [UCITs credit institutions/ insurance own funds requirement]</p>	<p>(a) Credit institutions and insurance undertakings with registered offices in, and supervised by, the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as a credit institution or insurance undertaking shall be treated in Union law as subject to prudential rules considered by a competent authority as equivalent to those laid down in Community law, as referred to in Article 7(1) of Directive 2009/65/EC, with the effect that management companies may (if authorised by a Member State) not provide up to 50% of the additional amount of own funds referred to in point (i) of Article 7(1)(a) of Directive 2009/65/EC on the basis of such a management company benefiting from a guarantee of the same amount given by a credit institution or an insurance undertaking which has its registered office in the relevant third country and is subject to prudential rules considered as equivalent to those laid down in Community law (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country credit institutions and insurance undertakings referred to in point (a) prudential rules which are equivalent to those laid down in Union law.</p>
<p>27. Directive 2009/138/EC [Insurance business carried on by undertakings with third country head offices]</p>	<p>(a) Branches* in the Union of entities carrying out the business referred to in the first subparagraph of Article 2(1) of Directive 2009/138/EC with head offices located in, and supervised by, the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated in Union law as having the same rights as branches which have been authorised by a Member State pursuant to Article 162(2) of Directive 2009/138/EC, with the effect that the Union branches of such entities with head offices in a third country shall be able to carry out the business referred to in the first subparagraph of Article 2(1) of Directive 2009/138/EC, as referred to in Article 162 of Directive 2009/138/EC (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) comply with Union requirements which are equivalent to the requirements under Articles 162(2)(a), and 162(2)(c) to 162(2)(i) of Directive 2009/138/EC.</p>

* In this row the term «branch» means a branch within the meaning of Article 162(3) of Directive 2009/138/EC with the reference to authorisation in a Member State being construed as authorisation in the relevant third country.

Appendix A DRAFT EQUIVALENCE REGULATION

Annex III

RELEVANT UNION LEGISLATION		EXISTING RECOGNITION PROVISION
1.	Directive 2003/71/EC	Article 20(3)
2.	Commission Regulation (EC) No 809/2004	Article 35
3.	Directive 2004/109/EC	Article 23(4) sub-paragraph 3
4.	Directive 2004/109/EC	Article 23(4)
5.	Directive 2013/34/EU	Article 46
6.	Regulation (EC) No 1060/2009	Article 5(6)
7.	Directive 2006/43/EC	Article 47(3)
8.	Directive 2006/43/EC	Article 46(2)
9.	Regulation (EU) No 648/2012	Article 1(6)
10.	Regulation (EU) No 648/2012	Article 2a
11.	Regulation (EU) No 648/2012	Article 13(2)
12.	Regulation (EU) No 648/2012	Article 25(2)
13.	Regulation (EU) No 648/2012	Article 75(1)
14.	Regulation (EU) No 909/2014	Article 25(6)
15.	Regulation (EU) No 2015/2365	Article 2(4)
16.	Regulation (EU) No 2015/2365	Article 19(1)
17.	Regulation (EU) No 2015/2365	Article 21(1)
18.	Regulation (EU) No 2016/1011	Article 30(2)
19.	Regulation (EU) No 2016/1011	Article 30(3)
20.	Regulation (EU) No 236/2012	Article 17(2)
21.	Regulation (EU) No 596/2014	Article 6(5)
22.	Regulation (EU) No 596/2014	Article 6(6)
23.	Regulation (EU) No 600/2014	Article 1(9)
24.	Regulation (EU) No 600/2014	Article 28(4)
25.	Regulation (EU) No 600/2014	Article 33(2)
26.	Regulation (EU) No 600/2014	Article 38
27.	Regulation (EU) No 600/2014	Article 47(1)
28.	Directive 2014/65/EU	Article 25(4)(a)
29.	Regulation (EU) No 575/2013	Article 107(4)
30.	Regulation (EU) No 575/2013	Article 114(7)
31.	Regulation (EU) No 575/2013	Article 115(4)
32.	Regulation (EU) No 575/2013	Article 116(5)
33.	Regulation (EU) No 575/2013	Article 142(2)
34.	Directive 2009/138/EC	Article 172(2)
35.	Directive 2009/138/EC	Article 227(4) or 227(5)
36.	Directive 2009/138/EC	Article 260(3) or 260(5)



Appendix B

DRAFT UK IMPLEMENTATION OF THE EQUIVALENCE REGULATION

20[•] No.[•]

[EUROPEAN WITHDRAWAL ACT]

The [European Withdrawal] Act 20[•] (Mutual Recognition Regulation) Order 20[•]

Made

[A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section [•] of the [European Withdrawal Act] 20[•]]

Laid before Parliament

Coming into force in accordance with article [•]

The [Treasury] are a government department designated for the purposes of section [•] of the [European Withdrawal Act] 20[•] in relation to financial services.

The [Treasury], in exercise of the powers conferred on them by sections [•] of the [European Withdrawal Act] 20[•], hereby make the following Order:]

PART I

GENERAL

01. CITATION

This Order may be cited as the [European Withdrawal Act] 20[•] (Mutual Recognition Regulation) Order 20[•].

02. COMMENCEMENT

(1) Except as provided by paragraph (2), this Order comes into force on the day on which section [•] of the Act comes into force.

(2) This Order comes into force—

(a) for the purposes of [•], [•], and [•] on [•] 20[•]; and

(b) for the purposes of [•], [•], and [•] on such day as the [Treasury] may specify.

03. INTERPRETATION

(1) In this Order—

“Act” means the [European Withdrawal Act] 20[•];

“EU legislation” means any directive, regulation or delegated act of the European Union that is in effect prior to the commencement of this Order;

“FCA” means the Financial Conduct Authority;

“PRA” means the Prudential Regulation Authority;

“the Regulation” means Regulation (EU) No [•] of the European Parliament and of the Council on the recognition of the equivalence of third country financial services regimes;

[...]

PART II

APPLICATION OF THE MUTUAL RECOGNITION REGULATION

04. APPLICATION

(1) The Regulation shall apply in and form part of the law of the United Kingdom, subject to the amendments and modifications described in Schedule 1 to this Order.

Appendix B DRAFT UK IMPLEMENTATION OF THE EQUIVALENCE REGULATION

AMENDMENTS AND MODIFICATIONS TO THE REGULATION

Schedule I

1. APPLICATION

01. The Regulation shall form part of and be incorporated into the law of the United Kingdom as amended in accordance with this Schedule.

2. AMENDMENTS

01. The recitals and articles of the Regulation are incorporated subject to the following amendments and modifications:

(a) All references in the Regulation to “Community” or “Union” are replaced by the words “United Kingdom”.

(b) All references in the Regulation to a “third country” shall mean any country apart from the United Kingdom.

(c) All references in the Regulation to the “European Commission” or “Commission” shall have the meaning given to the words “European Commission” or “Commission” in the Act.

(d) All references in the Regulation to “European Council” or “Council” shall have the meaning given to the words “European Council” or “Council” in the Act.

(e) All references in the Regulation to “EBA” or “European Banking Authority” are replaced by the words “Prudential Regulation Authority”.

(f) All references in the Regulation to “EIOPA” or “European Insurance and Occupational Pensions Authority” are replaced by the words “Pensions Regulator”.

(g) All references in the Regulation to “ESMA” or “European Securities and Markets Authority” are replaced by the words “Financial Conduct Authority”.

(h) The words “in accordance with Article 218(6) of the Treaty of the Functioning of the European Union” are deleted from Article 8(3) of the Regulation.

(i) Article 14(5) of the Regulation is substituted by the following:

“To provide legal certainty to undertakings in the United Kingdom and the relevant third country, orders adopted by the [Secretary of State] pursuant to this Article shall take effect one year from the effective date that is specified in the relevant order.”

(j) The powers to pass delegated or implementing legislation referred to in Articles 3(2), 4(4), 5(2), 7(3), 7(4), 10(9), 12(5), 13(9), 14, 15(2), 15(3), 15(4) of the Regulation shall be construed as powers for the Secretary of State to make orders for the purposes of those provisions, to the same extent as is possible under those provisions.

(k) Articles 16(3)-(5) of the Regulation are deleted.

(l) Article 17 of the Regulation is deleted.

(m) All references in the Regulation to other provisions or pieces of Union legislation shall, unless otherwise indicated in this Order, be construed as references to the provision or piece of Union legislation as incorporated into the law of the United Kingdom [under section [•] of the European Withdrawal Act 20[•]] / [under orders made by the [Treasury] in exercise of the powers conferred by section [•] of the European Withdrawal Act 20[•] and subject to any amendments or modifications to such provisions or pieces of EU legislation contained in [the European Withdrawal Act 20[•]] / [the relevant order made by the [Treasury] in exercise of the powers conferred by section [•] of the European Withdrawal Act 20[•]].

(n) All references to amounts denominated in euros shall be construed as references to the equivalent amount in pounds sterling.

02. The annexes of the Regulation are not subject to the amendments and modifications referred to in articles 2(1)(a), (c) and (d) of this Schedule, and are incorporated under the law in the United Kingdom in the amended forms set out below.⁷³

(a) Annex I of the Regulation is incorporated in the following amended form:

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>1. Financial Services and Markets Act 2000</p> <p>[Prospectus Directive – Equivalence of prospectuses – Art. 20(3)]²⁰</p>	<p>(a) Prospectuses of issuers having their registered office in the relevant third country that have been drawn up in accordance with national law or practices or procedures in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as third country prospectuses drawn up in accordance with national law, practices or procedures of a third country which may be submitted for approval by the FCA in accordance with the relevant provisions made in the prospectus rules* for issuers incorporated in [non- EEA States]/[third countries] for approval of that document as a prospectus pursuant to section 84(6) of the Financial Services and Markets Act 2000 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «prospectus rules» means the prospectus rules within the meaning of section 73A(4) of the Financial Services and Markets Act 2000.</p>	<p>(i) The third country's legal or supervisory regime, procedures or practices ensure that the third country prospectuses referred to in point (a) are drawn up in an equivalent manner to international standards set up by international securities commission organisations, including the IOSCO disclosure standards.</p>
<p>2. Financial Services and Markets Act 2000; Regulation (EC) No 1569/2007 (as implemented by the Act); Regulation 1606/2002 (as implemented by the Act)²²</p> <p>[Prospectuses – 3rd country GAAP with IFRS]</p>	<p>(a) The generally accepted accounting standards of the relevant third country that have been applied to historic financial information prepared by third country issuers (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [accounting standards equivalent with IFRS adopted pursuant to Regulation 1606/2002 (as implemented by the Act)] / [accounting standards equivalent with IFRS adopted pursuant to Regulation (EC) No 1126/2008 (as implemented by the Act)] / [accounting standards equivalent with the IFRS specified in any order made by the [Treasury] under the Act for the purposes of this provision]*, with the effect that such third country issuers shall be able to present their historical financial information in accordance with the relevant third country's generally accepted accounting standards for the purposes of the prospectus rules** (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* NOTE: In some equivalence provisions it is not possible to confirm precisely how criteria for equivalence provisions which are prescribed under regulations or delegated regulations will be implemented into UK law. Various options are therefore set out, including options for relevant requirements to be set by UK secondary legislation.</p> <p>** In this row the term «prospectus rules» means the prospectus rules within the meaning of section 73A(4) of the Financial Services and Markets Act 2000.</p>	<p>(i) The third country ensures that the accounting standards applicable to the historical financial information prepared by issuers in that third country referred to in point (a) are equivalent to the requirements applicable to financial statements referred to in Article 2 of Regulation (EC) No 1569/2007 (as implemented by the Act) / [IFRS adopted pursuant to Regulation (EC) No 1126/2008 (as implemented by the Act)] / [accounting standards equivalent with the IFRS specified in any order made by the [Treasury].</p>
<p>3. Financial Services and Markets Act 2000; Regulation (EC) No 1569/2007 (as implemented by the Act); Regulation (EC) No 1126/2006 (as implemented by the Act)</p> <p>[Transparency Directive: 3rd country GAAP with IFRS, Art. 23(4), Sub-para 3]</p>	<p>(a) Generally accepted accounting standards of the relevant third country used by issuers whose registered head office is situated in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as accounting standards equivalent to [IFRS adopted pursuant to Regulation (EC) No 1126/2006 (as implemented by the Act)] / [the IFRS specified in any order made by the [Treasury] under the Act for the purposes of this provision], with the effect that the third country accounting standards ensure the equivalence of information requirements for the purposes of the transparency rules* (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «transparency rules» means the transparency rules within the meaning of section 89A(5) of the Financial Services and Markets Act 2000.</p>	<p>(i) The third country ensures that the accounting standards applicable to the third country entities referred to in point (a) meet the requirements of [Article 2 of Regulation (EC) No 1569/2007 (as implemented by the Act)] / [IFRS adopted pursuant to Regulation (EC) No 1126/2008 (as implemented by the Act)] / [the IFRS specified in any order made by the [Treasury] under the Act for the purposes of this provision] in all equivalent respects.</p>

73 NOTE: The annexes of the Equivalence Regulation have been set out in amended form for ease of reference and due to the complex mapping process that will be required to set out the UK's own implementation of each of the equivalence recognition provisions contained in the Equivalence Regulation.

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>4. Financial Services and Markets Act 2000</p> <p>[General transparency requirements]</p>	<p>(a) Information requirements of the relevant third country which are applicable to issuers whose registered head office is situated in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as requirements that, by reason of the domestic law, regulations, administrative provisions, or of the practices or procedures based on the international standards set by international organisations, the third country where the issuer is situated, ensure the equivalence of the information requirements applicable under, and for the purposes of, the transparency rules* (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term 'transparency rules' means the transparency rules within the meaning of section 89A(5) of the Financial Services and Markets Act 2000.</p>	<p>(i) The third country information requirements applicable to issuers with their registered head office in that third country as referred to in point (a) applicable to issuers in that third country are equivalent to the international standards set by international organisations which correspond to the information requirements provided by the transparency rules.</p>
<p>5. Reports on Payments to Governments Regulations 2014</p> <p>[Country by country reporting]</p>	<p>(a) Third-country reporting requirements applicable to undertakings which are subject to the Reports on Payments to Government Regulations 2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as equivalent reporting requirements* for the purposes of regulations 12 and 13 of the Reports on Payments to Governments Regulations 2014 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «equivalent reporting requirements» means equivalent reporting requirements within the meaning of regulation 2(1) of the Reports on Payment to Governments Regulations 2014.</p>	<p>(i) The legal and/or supervisory regime, practices or procedures of the third country ensure that the third country reporting requirements referred to in point (a) are equivalent to the requirements of the Reports on Payments to Governments Regulations 2014.</p>
<p>6. Regulation (EC) No 1060/2009 (as implemented by the Act)</p> <p>[Credit Rating Agencies: Equivalence]</p>	<p>(a) Credit ratings related to entities established, or financial instruments issued, in the relevant third country that are issued by entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) by entities authorised as, or to operate, a credit rating agency shall be treated under the law of the United Kingdom as subject to a legal and supervisory framework of a third country in respect of which an equivalence decision has been adopted, as referred to in Regulation (EC) No 1060/2009 (as implemented by the Act), stating that the legal and supervisory framework of the relevant third country meets the relevant requirements of Regulation (EC) No 1060/2009 (as implemented by the Act), with the effect that such third country entities may apply for certification pursuant to Regulation (EC) No 1060/2009 (as implemented by the Act) (and subject to any specific conditions under the particular recognition decision or mutual recognition agreement).</p>	<p>(i) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) are subject to binding rules equivalent to [those set out in Articles 6 to 12 and Annex I of Regulation (EC) No 1060/2009 (as implemented by the Act), with the exception of Articles 6a, 6b, 8a, 8b, 8c and 11a, point (ba) of point 3 and points 3a and 3b of Section B of Annex I of Regulation (EC) No 1060/2009 (as implemented by the Act)] / [those specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) The third country's legal and/or regulatory regime applicable to the third country entities referred to in point (a) prevents interference by the supervisory authorities and other public authorities of that third country with the content of credit ratings and methodologies.</p> <p>(iii) A cooperation agreement is in place or will be put in place between the relevant third country and [FCA] specifying at least the matters [referred to in Regulation (EC) No 1060/2009 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>7. Companies Act 2006</p> <p>[Statutory Audit: Adequacy of audit framework: section 1253D]</p>	<p>(a) The relevant competent authorities of specified third countries (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as approved third country competent authorities within the meaning of section 1253D(2) of the Companies Act 2006 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The relevant third country authorities have entered into or will enter into arrangements with the Secretary of State in accordance with section 1253E of the Companies Act 2006.</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>8. Companies Act 2006</p> <p>[Statutory Audit: Equivalence of audit framework: section 1221(1)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate as, an auditor shall be treated under the law of the United Kingdom as persons which the Secretary of State has declared are to be regarded as holding an approved third country qualification pursuant to section 1221 of the Companies Act 2006 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>9. Regulation (EU) No 648/2012 (as implemented by the Act)</p> <p>[EMIR: central bank exemption: Art. 1(6)]</p>	<p>(a) Entities established in the relevant third country and operating as a central bank or public body charged with or intervening in the management of the public debt in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as a third country entity [with respect to which a delegated act has been adopted pursuant to paragraph 6 of Article 1 of Regulation (EU) No 648/2012 (as implemented by the Act), with the effect that the list set out in paragraph 4 of Article 1 of Regulation (EU) No 648/2012 (as implemented by the Act) shall be regarded as being amended accordingly] / [to which Regulation (EU) No 648/2012 (as implemented by the Act) does not apply]* (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* NOTE: In some equivalence provisions there are various structuring options relevant for the rights/entitlements that are granted to the relevant third country entity after an equivalence provision is granted. This is often due to the «benefit» of the equivalence provision (once granted) being rooted in an EU regulation for which there may not be a corresponding UK implementing instrument (and so will presumably be grandfathered).</p>	
<p>10. [Regulation (EU) No 648/2012 (as implemented by the Act)] / [Financial Services and Markets Act 2000; Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001/995]</p> <p>[EMIR: regulated markets]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a regulated market shall be treated under the law of the United Kingdom as [third-country markets subject to legally binding requirements in respect of which an implementing act, as referred to in Article 2a of Regulation (EU) No 648/2012 (as implemented by the Act), determining that such requirements are equivalent to the requirements laid down in Title III of Directive 2004/39/EC] / [third country markets subject to requirements equivalent to the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision and such third country entities are subject to effective supervision and enforcement in that third country on an ongoing basis] / [third country markets subject to requirements equivalent to the recognition requirements contained in the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001/995 applicable to bodies seeking a recognition under section 287 of the Financial Services and Markets Act 2000 and regulation 4 of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001/995], with the effect that such third country markets are considered to be equivalent to a regulated market for the purposes of the definition of OTC derivatives pursuant to Article 2a(1) of Regulation (EU) No 648/2012 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third-country entities referred to in point (a) binding requirements which are equivalent to [Title III of Directive 2004/39/EC] / [the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision] / [the recognition requirements laid down in regulation 4 of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001/995 applicable to bodies in respect of which a recognition order has been made under section 290(1)(a) of the Financial Services and Markets Act 2000].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>11. Regulation (EU) No 648/2012 (as implemented by the Act)</p> <p>[EMIR: transaction requirements: Art. 13]</p>	<p>(a) Requirements of the third country's legal, supervisory and/or enforcement regime corresponding to any of the requirements laid down in Articles 4, 9, 10 and 11 of Regulation (EU) No 648/2012 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as legal, supervisory and enforcement arrangements in respect of which an implementing act as referred to in Article 13(2) of Regulation (EU) No 648/2012 (as implemented by the Act) declaring that the requirements set out in Article 13(2) have been met, with the effect that, counterparties entering into a transaction subject to Regulation (EU) No 648/2012 (as implemented by the Act) shall be deemed to have fulfilled the obligations [contained in Articles 4, 9, 10 and 11 of Regulation (EU) No 648/2012 (as implemented by the Act) where at least one of the counterparties is established in that third country, as referred to in Article 13(3) of Regulation (EU) No 648/2012] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal, supervisory and/or supervisory regime applies requirements which are equivalent to [any of those laid down in Articles 4, 9, 10 and 11 of Regulation (EU) No 648/2012 (as implemented by the Act)] / [those specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) The third country requirements referred to in point (i) are effectively applied and enforced in an equitable and non-distortive manner so as to ensure equivalent effective supervision and enforcement in that third country.</p>
<p>12. [Regulation (EU) No 648/2012 (as implemented by the Act)] [Financial Services and Markets Act 2000; Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001]</p> <p>[EMIR: CCPs: Art. 25(6)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a CCP shall be treated under the law of the United Kingdom as being subject to legal and supervisory arrangements in respect of which an implementing act, as referred to in Article 25(6) of Regulation (EU) No 648/2012 (as implemented by the Act), determining that legal and supervisory arrangements in that third country ensure that a CCP authorised in that third country comply with legally binding requirements which are equivalent to the recognition requirements laid down in Title IV of Regulation (EU) No 648/2012 (as implemented by the Act), that CCPs are subject to effective supervision and enforcement in that third country on an ongoing basis, and that the legal framework of that third country provides for an effective equivalent system for the recognition of CCPs authorised under third-country legal regimes, with the effect that [such third country entities are treated under the law of the United Kingdom as third country central counterparties pursuant to section 285(1)(d) of the Financial Services and Markets Act 2000] / [such third country entities are able to apply to the Bank of England for recognition to provide certain clearing services or activities in the United Kingdom as a recognised central counterparty pursuant to section 288(1) of the Financial Services and Markets Act 2000] / [as having satisfied the recognition requirements applicable to clearing houses pursuant to Parts III and IV of the schedule to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 and may accordingly apply to the Bank of England for recognition pursuant to section 288(1A) of the Financial Services and Markets Act 2000] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements which are equivalent to [the requirements laid down in Title IV of Regulation (EU) No 648/2012 (as implemented by the Act)] / [the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) An appropriate cooperation mechanism has been established or will be established between the relevant competent authorities of the third country and the [FCA] which specifies, at least, the matters referred to in [Article 7(a) to 7(d) of Regulation (EU) No 648/2012 (as implemented by the Act)] / [any order made by the [Treasury] under the Act for the purposes of this provision].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>13. Regulation (EU) No 648/2012 (as implemented by the Act) [EMIR: trade repositories: Art. 75]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a trade repository shall be treated under the law of the United Kingdom as [being subject to legal and supervisory arrangements in respect of which an implementing act, as referred to in Article 75(1) of Regulation (EU) No 648/2012 (as implemented by the Act), determining that the legal and supervisory arrangements of the third country meet the conditions at Articles 75(1)(a) to 75(1)(c) of Regulation (EU) No 648/2012 (as implemented by the Act), with the effect that such third country entities may apply for recognition by the [FCA], as referred to in Articles 77(1) and 77(2) of Regulation (EU) 2015/2365 (as implemented by the Act)] / [having the same rights as trade repositories registered with the [FCA] pursuant to Chapter I of Title VI of Regulation (EU) No 648/2012 (as implemented by the Act)] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal or supervisory regime applies to the third country entities referred to in point (a) equivalent requirements as those laid down in [Regulation (EU) No 648/2012 (as implemented by the Act)] / [any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) A cooperation agreement is in place or will be in place between the United Kingdom and the relevant third country authorities providing for the access described in [Article 75(2) of Regulation (EU) No 648/2012 (as implemented by the Act)] / [any order made by the [Treasury] under the Act for the purposes of this provision], and specifying, at least the matters listed in [Article 75(3)(a) and 75(3)(b) of Regulation (EU) No 648/2012 (as implemented by the Act)] / [any order made by the [Treasury] under the Act for the purposes of this provision].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>14. Regulation (EU) No 909/2014 (as implemented by the Act) [CSDR: Art. 25(9)]</p>	<p>(a) Entities supervised in a third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a central securities depository shall be treated under the law of the United Kingdom as [being subject to legal and supervisory arrangements in respect of which an implementing act has been adopted, as referred to in Article 25(9) of Regulation (EU) No 909/2014 (as implemented by the Act) (notwithstanding the effect of Article 69(3) of Regulation (EU) No 909/2014 (as implemented by the Act)), determining that the legal and supervisory arrangements of the third country ensure that CSDs authorised in that third country comply with legally binding requirements equivalent to the requirements laid down in Regulation (EU) No 909/2014 (as implemented by the Act), that CSDs are subject to effective supervision, oversight and enforcement in that third country on an ongoing basis and that the legal framework of that third country provides for an effective equivalent system for the recognition of CSDs authorised under third-country legal regimes, with the effect that (notwithstanding the effect of Article 69(3) of Regulation (EU) No 909/2014 (as implemented by the Act) such third country entities able to apply to the [FCA] for recognition as referred to in Article 25(2) of Regulation (EU) No 909/2014 (as implemented by the Act), and be recognised as able to provide the services (including by establishing a branch in the United Kingdom) referred to in Article 25(2) of Regulation (EU) No 909/2014 (as implemented by the Act)] / [having the same rights as a CSD authorised by the [FCA] pursuant to Article 18(1) (and, if relevant, Article 54) of Regulation (EU) No 909/2014 (and able to provide the relevant services* in the United Kingdom that it is authorised to in the relevant third country) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term 'relevant services' means [the core services listed in the Annex of Regulation (EU) No 909/2014 (as implemented by the Act)] / [the services specified in any order made by the Treasury under the Act for the purposes of this provision].</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements which ensure that the third country entities referred to in point (a) are subject to effective authorisation, supervision and oversight or, if the securities settlement system is operated by a central bank, oversight, ensuring full compliance with the prudential requirements applicable in that third country.</p> <p>(ii) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) comply with requirements which are in effect equivalent to the requirements [laid down in Regulation (EU) No 909/2014 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision], taking into account the internationally agreed CPSS-IOSCO standards so far as they do not conflict with [Regulation (EU) No 909/2014 (as implemented by the Act)] / [any requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(iii) The third country's legal or supervisory regime provides for an effective equivalent system for the recognition of CSDs authorised under third-country legal regimes.</p> <p>(iv) The third country entities referred to in point (a) are permitted under the legal regime of the third country, if necessary, to take the necessary measures to allow their users to comply with provisions of the law of the United Kingdom to provide central securities depository services, including the law [referred to in the second subparagraph of Article 49(1) of Regulation (EU) No 909/2014 (as implemented by the Act)] / [of the United Kingdom]. (v)</p> <p>(v) A cooperation agreement is in place or will be put in place with the responsible third-country authorities meeting [the requirements, at least, of Article 25(7) and Articles 25(10) of Regulation (EU) No 909/2014 (as implemented by the Act)] / [requirements, at least, specified any order made by the [Treasury] under the Act for the purposes of this provision].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>15. Regulation (EU) 2015/2365 (as implemented by the Act) [SFTR: central banks: Art. 2(4)]</p>	<p>(a) Entities established in the relevant third country and operating as a central bank or public body charged with or intervening in the management of public debt in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [a third country entity with respect to which a delegated act has been adopted pursuant to paragraph 4 of Article 2 of Regulation (EU) 2015/2365 (as implemented by the Act), with the effect that the list set out in paragraph 2 of Article 2 of Regulation (EU) 2015/2365 (as implemented by the Act) shall be treated as if it had been amended accordingly] / [third country entities to which Articles 4 and 14 of Regulation (EU) 2015/2365 (as implemented by the Act) do not apply] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>16. Regulation (EU) 2015/2365 (as implemented by the Act) [SFTR: trade repositories: Art. 19]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a trade repository shall be treated under the law of the United Kingdom as [being subject to legal and supervisory arrangements in respect of which an implementing act has been adopted, as referred to in Article 19(1) of Regulation (EU) 2015/2365 (as implemented by the Act), determining that the legal and supervisory arrangements of the third country meet the conditions at Articles 19(1)(a) to (d) of Regulation (EU) 2015/2365 (as implemented by the Act), with the effect that such third country entities may apply to the [FCA] for recognition as a trade repository, as referred to in Articles 19(3) and 19(4) of Regulation (EU) 2015/2365 (as implemented by the Act)] / [having the same rights as a trade repository registered by the [FCA] pursuant to Article 5 of Regulation (EU) 2015/2365 (as implemented by the Act)] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal or supervisory regime applies to the third country entities referred to in point (a) equivalent requirements as those [laid down in Regulation (EU) 2015/2365 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) The third country's legal or supervisory regime applies to the third country entities referred to in point (a) legally binding and enforceable obligations under the legal regime of the third country to give direct and immediate access to trade repository data to the relevant authorities referred to in [Article 12(2) of Regulation (EU) 2015/2365 (as implemented by the Act)] / [any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(iii) The relevant recognition decision or mutual recognition agreement specifies the relevant third-country authorities that are entitled to access data on SFTs held in trade repositories established in the United Kingdom.</p> <p>(iv) Cooperation arrangements are in place or will be put in place between the United Kingdom and the relevant third country authorities specifying, at least the matters [listed at Article 19(5) (b)(i) and 19(5)(b)(ii) of Regulation (EU) 2015/2365 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>17. Regulation (EU) 2015/2365 (as implemented by the Act) [SFTR: transaction requirements: Art. 21]</p>	<p>(a) The legal, supervisory and/or enforcement arrangements of the relevant third country corresponding to the requirements laid down in Article 4 of Regulation (EU) 2015/2365 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as arrangements in respect of which an implementing act has been adopted, as referred to in Article 21(1) of Regulation (EU) 2015/2365 (as implemented by the Act), determining that the legal, supervisory and/or enforcement arrangements of that third country satisfy the requirements set out in Article 21(1)(a) to (b) of Regulation (EU) 2015/2365 (as implemented by the Act), with the effect that where counterparties enter into a transaction subject to Regulation (EU) 2015/2365 (as implemented by the Act) and at least one of the counterparties is established in the relevant third country and the counterparties have complied with the obligations of that third country in relation to that transaction, the counterparties to the transaction shall be deemed to have fulfilled the requirements [laid down in Article 4 of Regulation (EU) 2015/2365 (as implemented by the Act), as referred to in Article 21(2) of Regulation (EU) 2015/2365 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The legal, supervisory and/or enforcement arrangements of the third country referred to in point (a) are equivalent to the requirements laid down in [Article 4 of Regulation (EU) 2015/2365 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) The legal, supervisory and/or enforcement arrangements of the third country referred to in point (a) ensure that the entities [referred to in Article 12(2) of Regulation (EU) 2015/2365 (as implemented by the Act) (as implemented by the Act) have either direct access to the details on securities financing transactions data pursuant to Article 19(1) of Regulation (EU) 2015/2365 (as implemented by the Act) or indirect access to the details on securities financing transactions pursuant to Article 20 of Regulation (EU) 2015/2365 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>18. [Regulation (EU) 2016/1011 (as implemented by the Act)] / [Financial Services and Markets Act 2000] [Benchmarks: Requirements for benchmark administrators: Art. 30(2)]</p>	<p>(a) Entities authorised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a benchmark administrator in the third country shall be treated under the law of the United Kingdom as [entities and benchmarks subject to a third country's legal framework and supervisory practice in respect of which an implementing decision has been adopted, as referred to in Article 30(2) of Regulation (EU) 2016/1011 (as implemented by the Act), stating that the legal framework and supervisory practice of that third country meets the requirements listed in Article 30(2)(a) and (b) of Regulation (EU) 2016/1011 (as implemented by the Act)] / [entities with the same rights as persons authorised to carry out the regulated activities contained in article 63O of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001] / [having the same rights as an administrator authorised and registered by the [FCA] pursuant to Title VI of Regulation (EU) 2016/1011 (as implemented by the Act)] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country entities referred to in point (a) are subject to a legal framework and supervisory practice which ensures compliance with the IOSCO principles for financial benchmarks, or where applicable, with the IOSCO principles for PRAs.</p> <p>(ii) A cooperation agreement is in place or will be put in place with the relevant third country competent authorities specifying at least the matters [listed in Article 30(4)(a) to 30(4) (c) of Regulation (EU) 2016/1011 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>

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<p>19. [Regulation (EU) 2016/1011 (as implemented by the Act)] / [Financial Services and Markets Act 2000] [Benchmarks: Requirements for benchmark administrators: Art. 30(3)]</p>	<p>(a) Specific entities authorised as, or to operate, a benchmark administrator or benchmarks or families of benchmarks (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) that are subject to specific binding requirements in the relevant third country shall be treated under the law of the United Kingdom as [specific administrators or specific benchmarks or families of benchmarks subject to binding requirements in that third country in respect of which an implementing decision has been adopted, as referred to in Article 30(3) of Regulation (EU) 2016/1011 (as implemented by the Act), stating that the binding requirements in that third country meet the requirements of Article 30(3)(a) of Regulation (EU) 2016/1011 (as implemented by the Act) and that such specific administrators or specific benchmarks or families of benchmarks are subject to supervision and enforcement meeting the requirements of Article 30(3)(b) of Regulation (EU) 2016/1011 (as implemented by the Act)] / [entities (or benchmarks or families of benchmarks administered by entities) with the same rights as persons authorised to carry out the regulated activities contained in Article 630 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions)] / [entities (and benchmarks or families of benchmarks administered by entities) having the same rights as an administrator authorised and registered by the [FCA] pursuant to Title VI of Regulation (EU) 2016/1011 (as implemented by the Act)] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The specific third country entities, benchmarks or families of benchmarks referred to in point (i) are subject to a legal framework and/or supervisory practice which ensures compliance with the IOSCO principles for financial benchmarks or, where applicable, with the IOSCO principles for PRAs.</p> <p>(ii) A cooperation agreement is in place or will be put in place with the relevant third country competent authorities specifying [at least the matters listed in Article 30(4)(a) to 30(4)(c) of Regulation (EU) 2016/1011 (as implemented by the Act)] / [at least the matters specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>20. Regulation (EU) No 236/2012 (as implemented by the Act) [Short selling: market makers: Art. 17(2)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a market, shall be treated under the law of the United Kingdom as [subject to legally binding requirements in respect of which a decision, as referred to in Article 17(2) of Regulation (EU) 236/2012 (as implemented by the Act), determining that the legal and supervisory framework of the third country, for the purposes of the exemption set out in Article 17(1) of Regulation (EU) No 236/2012 (as implemented by the Act), is equivalent to the requirements under Title III of Directive 2004/39/EC, under Directive 2003/6/EC and under Directive 2004/109/EC] / [entities which are not subject to [Articles 5, 6, 7, 12, 13 and 14 of Regulation (EU) No 236/2012 (as implemented by the Act)] / [the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision]] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure that the third country entities referred to in point (a) have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure a high level of investor protection by subjecting security issuers to periodic and ongoing information requirements.</p> <p>(iii) The third country's legal regime applies to the entities referred to in point (a) equivalent requirements which ensure market transparency and integrity by preventing market abuse in the form of insider dealing and market manipulation.</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>21. Regulation (EU) No 596/2014 (as implemented by the Act) [MAR: Exemption for monetary and public debt management activities: Art. 6(5)]</p>	<p>(a) Public bodies and/or central banks established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [third country public bodies and central banks in respect of which a delegated act, as referred to in Article 6(5) of Regulation (EU) No 596/2014 (as implemented by the Act), with the effect that the exemption referred to in Article 6(1) of Regulation (EU) 596/2014 (as implemented by the Act) is extended to those third country public bodies and/or central banks] / [third country public bodies and/or central banks which are not subject to Regulation (EU) No 596/2014 (as implemented by the Act) / [the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision]] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>22. Regulation (EU) No 596/2014 (as implemented by the Act) [MAR: Climate policy/emissions: Art. 6(6)]</p>	<p>(a) Public bodies established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [third country public bodies in respect of which a delegated act has been adopted, as referred to in Article 6(6) of Regulation (EU) No 596/2014 (as implemented by the Act), with the effect that the exemption referred to in Article 6(3) of Regulation (EU) No 596/2014 (as implemented by the Act) is extended to such third country public bodies] / [public bodies which are not subject to Regulation (EU) No 596/2014 (as implemented by the Act) / [the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision]] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country has entered into or will enter into an agreement with the United Kingdom [pursuant to Article 25 of Directive 2003/87/EC (as implemented by the Act)] / [meeting the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>23. Regulation (EU) No 600/2014 (as implemented by the Act) [MiFIR: Central banks: Art. 1(9)]</p>	<p>(a) Entities established in the relevant third country and operating as a central bank in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [a third country entity with respect to which a delegated act has been adopted to extend the scope of paragraph 6 of Article 1 of Regulation (EU) No 600/2014 (as implemented by the Act), as referred to in paragraph 9 of Article 1 of Regulation (EU) No 600/2014 (as implemented by the Act), with the effect that the scope of paragraph 6 of Article 1 of Regulation (EU) No 600/2014 (as implemented by the Act) shall be extended accordingly] / [third country entities which are not subject to [the requirements of Articles 8, 10, 18 and 21 of Regulation (EU) No 600/2014 (as implemented by the Act)] / [the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>24. [Directive 2014/65/EU (as implemented by the Act),] Regulation (EU) No 600/2014 (as implemented by the Act)</p> <p>[MiFIR/MiFID: Trading venues trading obligation: financial instruments: Art. 23 MiFIR/25(4) (a) MiFID]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a regulated market shall be treated under the law of the United Kingdom [as being subject to a legal and supervisory framework of a third country in respect of an equivalence decision that has been adopted as referred to in the third and fourth subparagraphs of Article 25(4)(a) of Directive 2014/65/EU (as implemented by the Act) stating that a regulated market in that third country complies with legally binding requirements which are equivalent to the requirements resulting from Regulation (EU) No 596/2014 (as implemented by the Act), from Title III of Directive 2014/65/EU (as implemented by the Act), from Title II of Regulation (EU) No 600/2014 (as implemented by the Act) and from Directive 2004/109/EC (as implemented by the Act), and regulated markets in that third country are subject to effective supervision and enforcement] / [as being equivalent third-country trading venues for the purposes of Article 23(1) of Regulation (EU) No 600/2014 (as implemented by the Act)] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent standards which ensure that such entities have clear and transparent rules regarding the admission of securities to trading so that such securities are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure that security issuers are subject to periodic and ongoing information requirements ensuring a high level of investor protection.</p> <p>(iii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure market transparency and integrity by the prevention of market abuse in the form of insider dealing and market manipulation.</p>
<p>25. [Directive 2014/65/EU (as implemented by the Act),] Regulation (EU) No 600/2014 (as implemented by the Act)</p> <p>[MiFIR: Trading venues trading obligation: financial instruments: Art. 28(4) MiFIR]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a trading venue shall be treated under the law of the United Kingdom as [being subject to legally binding requirements in respect of a decision that has been adopted, as referred to in Article 28(4) of Regulation (EU) 600/2014 (as implemented by the Act), determining that those requirements are equivalent to the requirements for the trading venues referred to in paragraph 1(a), (b) or (c) of Article 28(4) of Regulation (EU) 600/2014 (as implemented by the Act), resulting from Regulation (EU) 600/2014 (as implemented by the Act), Directive 2014/65/EU (as implemented by the Act), and Regulation (EU) No 596/2014 (as implemented by the Act), and such third country entities are subject to effective supervision and enforcement in the third country] / [being equivalent third-country trading venues for the purposes of Article 28(1)(d) of Regulation (EU) 600/2014 (as implemented by the Act)] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime provides for an effective equivalent system for the recognition of trading venues authorised under Directive 2014/65/EU (as implemented by the Act) to admit to trading or trade derivatives declared subject to a trading obligation in that third country on a non-exclusive basis.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent standards which ensure that such entities have clear and transparent rules regarding the admission of financial instruments to trading so that such financial instruments are capable of being traded in a fair, orderly and efficient manner, and are freely negotiable.</p> <p>(iii) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure that issuers of financial instruments are subject to periodic and ongoing information requirements ensuring a high level of investor protection.</p> <p>(iv) The third country's legal or supervisory regime applies to the entities referred to in point (a) equivalent requirements which ensure market transparency and integrity by the prevention of market abuse in the form of insider dealing and market manipulation.</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>26. Regulation (EU) No 600/2014 (as implemented by the Act)</p> <p>[MiFID/MiFIR: derivatives: trade execution and clearing obligations: Art. 33]</p>	<p>(a) Certain requirements of the third country's legal or supervisory regime corresponding to the requirements laid down in Articles 28 and 29 of Regulation (EU) No 600/2014 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as legal, supervisory and enforcement arrangements in respect of which an implementing act has been adopted, as referred to in Article 33(2) of Regulation (EU) No 600/2014 (as implemented by the Act), with the effect that counterparties entering into a transaction subject to Regulation (EU) No 600/2014 (as implemented by the Act) shall be deemed to have fulfilled the obligations contained in Articles 28 and 29 of Regulation (EU) No 600/2014 (as implemented by the Act) where at least one of the counterparties is established in that third country, as referred to in Article 33(3) of Regulation (EU) No 600/2014 (as implemented by the Act), and the counterparties are in compliance with those legal, supervisory and enforcement arrangements of the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime requirements referred to in point (a) are equivalent to those laid down in Articles 28 and 29 of Regulation (EU) No 600/2014 (as implemented by the Act).</p> <p>(ii) The third country requirements referred to in point (a) are effectively applied and enforced in an equitable and non-distortive manner so as to ensure equivalent effective supervision and enforcement in that third country.</p>
<p>27. Regulation (EU) No 600/2014</p> <p>[MiFIR: trading venues for the purposes of clearing access: Art. 38(1)-(3)]</p>	<p>(a) The third country entities referred to in row 25 of this table shall (where that row is included as an agreed equivalence recognition and subject to any specific conditions) be treated under the law of the United Kingdom as third country trading venues subject to a legal and supervisory framework in respect of which a decision has been adopted, as referred to in Article 38(3) of Regulation (EU) No 600/2014 (as implemented by the Act), stating that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues in that third country, with the effect that such third country trading venues are able to make use of [the access rights in Articles 35 to 36 of Regulation (EU) No 600/2014 (as implemented by the Act), as referred to in Article 38(1) of Regulation (EU) No 600/2014 (as implemented by the Act)] / [access rights specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory framework meets the requirements [of Article 38(3) of Regulation (EU) No 600/2014 (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>28. Regulation (EU) No 600/2014 (as implemented by the Act)</p> <p>[MiFIR: trading venues for the purposes of clearing access: Art. 38(1)-(3)]</p>	<p>(a) The third country entities referred to in row 12 of this table shall (where that row is included as an agreed equivalence recognition and subject to any specific conditions) be treated under the law of the United Kingdom as third country CCPs subject to a legal and supervisory framework in respect of which a decision has been adopted, as referred to in Article 38(3) of Regulation (EU) No 600/2014 (as implemented by the Act), determining that the legal and supervisory framework of the third country is considered to provide for an effective equivalent system for permitting CCPs and trading venues authorised under foreign regimes access to CCPs and trading venues in that third country, with the effect that such third country CCPs are able to make use of the [access rights in Articles 35 to 36 of Regulation (EU) No 600/2014 (as implemented by the Act), as referred to in Article 38(1) of Regulation (EU) No 600/2014 (as implemented by the Act)] / [access rights specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory framework meets [the requirements of Article 38(3) of Regulation (EU) No 600/2014 (as implemented by the Act)] / [requirements specified by any order made by the [Treasury] under the Act for the purposes of this provision].</p>

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<p>29. Regulation (EU) No 600/2014 (as implemented by the Act)</p> <p>[MiFIR: trading venues for the purposes of clearing access: Art. 38(1)-(3)]</p>	<p>(a) Entities established in the relevant third country and authorised as, or to operate, a CCP or trading venue (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as third country CCPs and trading venues subject to a legal and supervisory framework in respect of which a decision has been adopted under Article 38(3) of Regulation (EU) No 600/2014 (as implemented by the Act), with the effect that such third country CCPs and trading venues may request a license and make use of [access rights in accordance with Article 37 of Regulation (EU) No 600/2014 (as implemented by the Act), as referred to in Article 38 of Regulation (EU) No 600/2014 (as implemented by the Act)] / [access rights specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory framework meets [the requirements of Article 38(3) of Regulation (EU) No 600/2014 (as implemented by the Act)] / [the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>30. Regulation (EU) No 600/2014 (as implemented by the Act); Financial Services and Markets Act 2000; Financial Services and Markets Act 2000 (Regulated Activities) Order 2001]</p> <p>[MiFIR: investment firms providing services to EU professional client and eligible counterparties: Art. 47]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) as, or to operate, an investment firm shall be treated under the law of the United Kingdom, as [third country investment firms subject to legal and supervisory arrangements ensuring that the third country investment firms comply with legally binding prudential and business conduct requirements which have equivalent effect to the requirements set out in Regulation (EU) No 600/2014 (as implemented by the Act), in Directive 2013/36/EU (as implemented by the Act) and in Directive 2014/65/EU (as implemented by the Act) and in the implementing measures adopted under Regulation (EU) No 600/2014 (as implemented by the Act), Directive 2013/36/EU (as implemented by the Act) and Directive 2014/65/EU (as implemented by the Act) and that the legal framework of that third country provides for an effective equivalent system for the recognition of investment firms authorised under third-country legal regimes which meet the conditions at Article 47(1) (a) to (e) of Regulation (EU) No 600/2014 (as implemented by the Act), with the effect that such third country firms may provide investment services or perform investment activities (with or without ancillary services) to eligible counterparties and to professional clients within the meaning of Section I of Annex II of Directive 2014/65/EU (as implemented by the Act) by applying for registration by the [FCA], as referred to in Article 46 of Regulation (EU) No 600/2014 (as implemented by the Act)] / [having the same rights to carry out the relevant specified activities* in relation to the relevant specified investments** which a person having authorisation under Part 4A of the Financial Services and Markets Act 2000 would have in relation to eligible counterparties and to professional clients] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «relevant specified activities» means the activities which the Financial Services and Markets Act 2000 (Regulated Activities Order) 2001 specifies for the purposes of section 22 of the Financial Services and Markets Act 2000 and which have been designated in the particular recognition decision or mutual recognition agreement as corresponding to the particular authorisations that third country investment firms may hold in the relevant third country.</p> <p>** In this row the term «relevant specified investments» means the investments which the Financial Services and Markets Act 2000 (Regulated Activities Order) 2001 specifies for the purposes of section 22 of the Financial Services and Markets Act 2000 and which have been designated in the particular recognition decision or mutual recognition agreement as corresponding to the particular authorisations that third country investment firms may hold in the relevant third country.</p>	<p>(i) The third country's legal and/or supervisory arrangements apply to the entities referred to in point (a) legally binding prudential and business conduct requirements meeting [the conditions listed at Article 47(1)(a)-(e) of Regulation (EU) No 600/2014 (as implemented by the Act)] / [the conditions specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) Cooperation arrangements are in place or will be put in place with the relevant third country specifying at least [the matters listed at Article 47(2)(a) to (c) of Regulation (EU) No 600/2014 (as implemented by the Act)] / [the matters specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>31. Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[CRR: Credit institutions, investment firms: Art. 107(4)]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, a third-country investment firm, third country credit institutions, or third country clearing houses or exchanges shall be treated under the law of the United Kingdom as [entities subject to prudential supervisory and regulatory requirements in that third country with respect to a decision has been adopted, by way of an implementing act, as referred to in Article 107(3) of Regulation (EU) No 575/2013 (as implemented by the Act), determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom, as referred to in Article 107(4) of Regulation (EU) No 575/2013 (as implemented by the Act)] / [entities subject to equivalent prudential supervisory and regulatory requirements in that third country for the purposes of the requirements applicable in the United Kingdom specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>32. Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[CRR: exposures to government bodies: Art. 114-116]</p>	<p>(a) Entities established and supervised in the relevant third country which correspond to a central government or central bank (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [entities subject to supervisory and regulatory arrangements with respect to which a decision has been adopted by way of an implementing act, as referred to in Article 114(7) of Regulation (EU) No 575/2013 (as implemented by the Act), determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom, as referred to in Article 114(7) of Regulation (EU) No 575/2013 (as implemented by the Act)] / [entities subject to equivalent prudential supervisory and regulatory requirements in that third country for the purposes of the requirements applicable in the United Kingdom specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>33. Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[CRR: exposures to government bodies: Art. 114-116]</p>	<p>(a) Entities established and supervised in the relevant third country which correspond to a regional government or local authority (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [entities subject to supervisory and regulatory arrangements with respect to which a decision has been adopted by way of an implementing act, as referred to in Article 115(4) of Regulation (EU) No 575/2013 (as implemented by the Act), determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom] / [entities subject to prudential supervisory and regulatory requirements in that third country which are at least equivalent to those applied in the United Kingdom for the purposes of the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>34. Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[CRR: exposures to government bodies: Art. 114-116]</p>	<p>(a) Entities established and supervised in the relevant third country which correspond to a public sector entity (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as entities subject to supervisory and regulatory arrangements with respect to which a decision has been adopted by way of an implementing act, as referred to in Article 116(5) of Regulation (EU) No 575/2013 (as implemented by the Act), determining that those third country entities are subject to supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom] / [entities subject to prudential supervisory and regulatory requirements in that third country which are at least equivalent to those applied in the United Kingdom for the purposes of the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>35. Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[CRR: Credit institutions: Art. 142]</p>	<p>(a) Entities corresponding to large financial sector entities (or subsidiaries* of such entities) that are supervised and regulated in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as entities subject to supervisory and regulatory arrangements with respect to which a decision has been adopted via an implementing act, as referred to in Article 142(2) of Regulation (EU) No 575/2013 (as implemented by the Act), determining that those third country entities were subject to supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom / [entities subject to prudential supervisory and regulatory requirements in that third country which are at least equivalent to those applied in the United Kingdom for the purposes of the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* The term «subsidiary» in this row means a subsidiary within the meaning of Article 4(16) of Regulation (EU) No 575/2013 (as implemented by the Act).</p>	
<p>36. Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[CRR: Investment firms: Art. 142]</p>	<p>(a) Entities corresponding to large financial sector entities (or subsidiaries* of such entities) that are supervised and regulated in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as entities subject to supervisory and regulatory arrangements with respect to which a decision has been adopted via an implementing act, as referred to in Article 142(2) of Regulation (EU) No 575/2013 (as implemented by the Act), determining that those third country entities were subject to supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom / [entities subject to prudential supervisory and regulatory requirements in that third country which are at least equivalent to those applied in the United Kingdom for the purposes of the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* The term «subsidiary» in point (a) of this row shall have the meaning given to subsidiary in point 16 of Article 4(1) of Regulation (EU) No 575/2013 (as implemented by the Act).</p>	

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<p>37. Directive 2009/138/EC (as implemented by the Act)</p> <p>[Solvency II: third country reinsurance activity: Art. 172]</p>	<p>(a) The solvency regime of the relevant third country that applies to undertakings with head offices in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as a third country solvency regime in respect of which a delegated act has been adopted, as referred to in Article 172(2) of Directive 2009/138/EC (as implemented by the Act), determining that the solvency regime of the third country that applies to reinsurance activities of undertakings with head offices in that third country is equivalent to that laid down in Title I of Directive 2009/138/EC (as implemented by the Act).</p>	<p>(i) The solvency regime of the third country applies to the reinsurance activities of undertakings with head offices in the third country referred to in point (a) equivalent legally binding requirements [to those applicable in the United Kingdom under Title I of Directive 2009/138/EC (as implemented by the Act)] / [specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>38. [Directive 2009/138/EC (as implemented by the Act)]; Solvency 2 Regulations 2015]</p> <p>[Solvency II: EU insurers in third countries: solvency rules: Art. 227]</p>	<p>(a) The supervisory and solvency regime of the relevant third country that is applicable to insurance and reinsurance undertakings with head offices in that third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions), shall be treated under the law of the United Kingdom as a third country supervisory regime in respect of which a delegated act has been adopted, as referred to in Article 227(4) of Directive 2009/138/EU (as implemented by the Act), determining that the supervisory regime of that third country is equivalent to that laid down in Title I, Chapter VI, of Directive 2009/138/EU (as implemented by the Act), and with the effect that such third country head offices are treated as being subject to authorisation and a solvency regime at least equivalent to that laid down in Title I, Chapter VI, of Directive 2009/138/EU (as implemented by the Act), as referred to in the second paragraph of Article 227(1) of Directive 2009/138/EU (as implemented by the Act) [including for the purposes of regulation 19 of the Solvency 2 Regulations 2015].</p>	<p>(i) The supervisory and solvency regime of the third country applies to the reinsurance or insurance undertakings with head offices in the third country referred to in point (a) equivalent legally binding requirements to [those applicable under Title I, Chapter VI of Directive 2009/138/EC (as implemented by the Act) and such insurance and reinsurance undertakings are subject to authorisation in that third country] / [those specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p>
<p>39. Directive 2009/138/EC (as implemented by the Act)]; Solvency 2 Regulations 2015]</p> <p>[Solvency II: third country insurers: group supervision: Art. 260]</p>	<p>(a) The prudential regime of the relevant third country which applies to parent undertakings with head offices in that third country of insurance and reinsurance undertakings (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated as a prudential regime, in respect of which a delegated act has been adopted, as referred to in Article 260(3) of Directive 2009/138/EU (as implemented by the Act), determining that the third country prudential regime is equivalent to that laid down in Title III of Directive 2009/138/EU (as implemented by the Act) at the level of the group of insurance and reinsurance undertakings referred to in Article 213(2)(a) and (b) of Directive 2009/138/EU (as implemented by the Act), including for the purposes of regulations 35 and 36 of the Solvency 2 Regulations].</p>	<p>(i) The prudential regime of the third country applies to the reinsurance or insurance undertakings with head offices in the third country referred to in point (a) equivalent legally binding requirements to [those applicable under Title III of Directive 2009/138/EC] / [those specified in any order made by the [Treasury] under the Act for the purposes of this provision] and such entities are subject to authorisation in that third country.</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>40. Directive 2011/61/EU (as implemented by the Act); Alternative Investment Fund Managers Regulations 2013</p> <p>[Funds – Non-UK AIFMs managing UK AIFs or marketing AIFs in the UK; UK AIFMs managing Non-UK AIFs]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as an AIFM shall be treated under the law of the United Kingdom as [able to acquire prior authorisation by the [FCA] as referred to in Article 37(1) of Directive 2011/61/EU (as implemented by the Act) and regulation 5A of the Alternative Investment Fund Managers Regulations 2013] / [having the same rights as a firm authorised under Part 4A of the Financial Services and Markets Act 2000 to carry out the specified activity of managing an AIF pursuant to article 51ZC and the additional activities included in the activity of managing an AIF pursuant to Schedule 7 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Certain requirements of the relevant third country's legal and supervisory regime applicable to the third country entities referred to in point (a) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as [meeting the requirements listed in Article 37(2) of Directive 2011/61/EU (as implemented under the Act), with the effect that the third country entities referred to in point (a) shall not be under any obligation to comply with a provision of Directive 2011/61/EU (as implemented under the Act) to the extent that it is incompatible with the third country requirement] / [meeting the requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision, with the effect that the third country entities referred to in point (a) shall not be under any obligation to comply with those requirements to the extent that is incompatible with the third country requirement] / [provisions falling within regulations 5A(4) and (6) of the Alternative Investment Fund Managers Regulations 2013 when these provisions are in effect] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(c) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as an AIF shall be treated under the law of the United Kingdom as [meeting the requirements listed in Article 35(2) of Directive 2011/61/EU, with the effect that AIFMs shall be able to submit a notification to the [FCA] in respect of each non-UK AIF* that it intends to market, as referred to in Article 35(3) of Directive 2011/61/EU (as incorporated by the Act)] and regulation 54 of the Alternative Investment Funds Regulations 2013] / [AIFs which AIFMs may make applications for under regulation 54 of the Alternative Investment Fund Managers Regulations 2013 to be marketed in the United Kingdom] (as further detailed in the particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term 'non-UK AIF' means an AIF which is not authorised or registered in the UK under the Alternative Investment Funds Regulations 2013 or which has its registered office and/or head office in the United Kingdom but is not authorised or registered in the UK under the Alternative Investment Funds Regulations 2013. [NOTE: Reference is subject to confirmation on how the «Non-EU AIF» concept will be transposed into UK law.]</p>	<p>(i) Cooperation arrangements are in place or will be put in place between the [FCA] and the supervisory authorities of the third country in which the applicant has its registered office that allow an efficient exchange of information that enables the [FCA] and any other relevant competent authority to carry out their duties in accordance with [Directive 2011/61/EU (as implemented by the Act)] / [the Alternative Investment Fund Managers Regulations 2013].</p> <p>(ii) The third country in which the applicant has its registered office is not listed as a Non-Cooperative Country and Territory by the Financial Action Task Force.*</p> <p>(iii) An agreement is in place or will be put in place with the third country which fully complies with the Model Tax Convention on Income and on Capital and ensures an effective exchange of information on tax matters, including any multilateral tax agreements.</p> <p>(iv) The third country's legal and supervisory regime does not prevent the effective exercise by the [FCA] of its supervisory functions.</p> <p>* In this row, «Non-Cooperative Country and Territory» and «Financial Action Task Force» have the same meaning as used in regulation 5A of the Alternative Investment Fund Managers Regulations 2013 (SI 2013/1773) when that regulation is in effect.</p>
<p>41. Directive 2011/61/EU (as implemented by the Act)</p> <p>[AIFM third country depository]</p>	<p>Entities established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a depository shall be treated under the law of the United Kingdom as depositories established in a third country subject to prudential regulation and supervision in respect of which an implementing act has been adopted, as referred to in the final subparagraph of Article 21(6) of Directive 2011/61/EU (as implemented by the Act), stating that prudential regulation and supervision of the third country has the same effect as the law of the United Kingdom and is effectively enforced.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent prudential regulation and supervision as applied to depositories in the United Kingdom.</p>

(b) Annex II of the Regulation is incorporated in the following amended form:

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>1. Financial Services and Markets Act 2000</p> <p>[Investment services/business]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to carry out activities corresponding to investment services and activities (with or without ancillary services) shall be treated under the law of the United Kingdom as having the same rights as persons authorised to carry out the relevant regulated activities under Part 4A of the Financial Services and Markets Act 2000, with the effect that such third country entities shall be able to provide such regulated activities within the United Kingdom either by establishing a branch* in the United Kingdom or by providing such services as referred to in Articles 34 and 35 of Directive 2014/65/EU (as implemented by the Act) within the United Kingdom (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* The term 'branch' in this row means a branch within the meaning of point (30) of Article 4(1) of Directive 2014/65/EU (as implemented by the Act).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) requirements which are equivalent to those applicable to persons authorised to carry out the relevant regulated activities under Part 4A of the Financial Services and Markets Act 2000.</p>
<p>2. Financial Services and Markets Act 2000</p> <p>[Systematic internalisers]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to operate as, or to operate, a systematic internaliser shall be treated under the law of the United Kingdom as having the same rights as systematic internalisers authorised under the Financial Services and Markets Act 2000 and regulated by the FCA, with the effect that such third country entities shall have the rights as a systematic internaliser authorised under the Financial Services and Markets Act 2000 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the entities referred to in point (a) requirements which are equivalent to those applicable to systematic internalisers authorised under the Financial Services and Markets Act 2000.</p>
<p>3. Financial Services and Markets Act 2000</p> <p>[AIFM delegation]</p>	<p>(a) Undertakings established in and supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as third country undertakings authorised under the Financial Services and Markets Act 2000 to carry out portfolio management and/or risk management activities under article 51ZC of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 to whom AIFMs may delegate portfolio management or risk management (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) A cooperation agreement is in place with the third country authorities with responsibility for supervising the third country undertakings referred to in point (a) for the purposes of enabling monitoring and supervising of the third country undertaking.</p>
<p>4. Financial Services and Markets Act 2000</p> <p>[AIFM third country depository]</p>	<p>(a) Entities established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and supervised in that third country shall be treated under the law of the United Kingdom as depositories authorised under the Financial Services and Markets Act 2000 as, or to operate, a depository under article 51ZD of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and established in a third country subject to prudential regulation and supervision that has the same effect as that in the United Kingdom (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) equivalent prudential regulation and supervision as applied to depositories in the United Kingdom authorised under the Financial Services and Markets Act 2000.</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>5. Regulation (EC) No 1060/2009 (as implemented by the Act)</p> <p>[Credit Rating Agencies]</p>	<p>(a) Credit ratings issued by entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a credit rating agency shall be treated under the law of the United Kingdom as credit ratings which may be used by credit institutions, investment firms, insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision, management companies, investment companies, alternative investment fund managers and central counterparties for regulatory purposes, as referred to in Article 4(1) of Regulation (EC) No 1060/2009 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) are subject to binding rules equivalent to those set out in [Articles 6 to 12 and Annex I of Regulation (EC) No 1060/2009 (as implemented by the Act), with the exception of Articles 6a, 6b, 8a, 8b, 8c and 11a, point (ba) of point 3 and points 3a and 3b of Section B of Annex I of Regulation (EC) No 1060/2009 (as implemented by the Act)] / [any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(ii) The third country's regulatory regime applicable to the third country entities referred to in point (a) prevents interference by the supervisory authorities and other public authorities of that third country with the content of credit ratings and methodologies.</p> <p>(ii) A cooperation agreement is in place between the relevant third country and the FCA specifying at least [the matters referred to in Article 5(7)(a) and (b) of Regulation (EC) No 1060/2009 (as implemented by the Act)] / [requirements as specified for the purposes of this provision in an order made by the Treasury pursuant to the Act]].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>6. Directive 2013/36/EU (as implemented by the Act), Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[Credit institution activities]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a credit institution shall be treated under the law of the United Kingdom as having the same rights as credit institutions authorised by the PRA, with the effect that such third country entities shall be able to carry out the activities listed in Annex I of Directive 2013/36/EU (as implemented by the Act) for which the third country entity is authorised within the United Kingdom either by establishing a branch* or by carrying out such activities (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a financial institution shall be treated under the law of the United Kingdom as having the same rights as [an authorised person with permission to carry out the regulated activities specified in an order made by the Treasury for the purposes of this provision], with the effect that such third country entities shall be able to carry out such activities within the United Kingdom either by establishing a branch or by carrying out such activities (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* The term «branch» in this row means a branch within the meaning of Article 4(17) of Regulation (EU) 575/2013 (as implemented by the Act).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities as referred to in point (a) requirements that are equivalent to those that are required to be applied to credit institutions authorised by the PRA.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the third country entities as referred to in point (b) requirements that correspond and are equivalent to those requirements contained in [Articles 34(1)(a) to 34(1)(b) of Directive 2013/36/EU (as implemented by the Act)] / [requirements specified in any order made by the [Treasury] under the Act for the purposes of this provision].</p> <p>(iii) The third country's legal regime applies to the third country entities referred to in point (a) [requirements that are equivalent to those applied to credit institutions pursuant to the Financial Services and Markets Act 2000 and Directive 2013/36/EU (as implemented by the Act)] / [[requirements specified in any order made by the Treasury for the purposes of this provision pursuant to the Act,] where such entities are authorised in that third country to carry out deposit taking activities].</p> <p>(iv) Where the third country entities referred to in point (a) or (b) are authorised in the relevant third country to carry out activities corresponding to the investment services and activities listed in points (3) and (6) of Section A of Annex I of Directive 2014/65/EU (as implemented by the Act), the third country's legal or supervisory regime applies requirements which are equivalent to those applicable under Part 6 of Regulation (EU) No 575/2013 taking into account the nature, scale and complexity of the third country entity's activities / [[requirements specified in any order made by the Treasury for the purposes of this provision pursuant to the Act,] where such entities are authorised in that third country to carry out deposit taking activities].</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>7. Regulation (EU) 2015/751 (as implemented by the Act)</p> <p>[Interchange Fees]</p>	<p>(a) The provisions of Regulation (EU) 2015/751 (as implemented by the Act) shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) be extended to apply to card-based payments transactions carried out between the United Kingdom and the relevant third country, where both the payer's payment service provider* and the payee's payment service provider are, respectively, located in either the United Kingdom or the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Payment service providers, processing entities, payment card schemes, issuers, acquirers and other technical service providers located in the United Kingdom shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) be subject to the same requirements contained in Regulation (EU) 2015/751 (as implemented by the Act) when carrying out card-based payment transactions with payment services providers, payers, payees and/or consumers** located in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* In this row the term «payment service provider» has the meaning given to payment service provider in Article 2(24) of Regulation (EU) 2015/751 (as implemented by the Act). **The term «consumer» in this row means a consumer within the meaning of Article 2(3) of Directive 2008/48/EC (as implemented by the Act).</p>	<p>(i) The third country's legal and/ or supervisory regime applies to payment service providers, processing entities, payment card schemes, issuers, acquirers and other technical service providers located in that third country, reciprocal and equivalent requirements to those [applied by Regulation (EU) 2015/751 (as implemented by the Act)] / [specified in any order made by the Treasury pursuant to the Act for the purposes of this provision].</p>
<p>8. Directive 2008/48/EC (as implemented by the Act), Directive 2014/17/EU (as implemented by the Act)</p> <p>[Mortgage Lending; Consumer Credit; Mortgage Providers]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to operate as, and carry out the activities of, a creditor or credit intermediary in relation to credit agreements* with consumers shall be treated under the law of the United Kingdom as complying with [the requirements applicable under Directive 2008/48/EC (as implemented by the Act)] / [requirements specified by the Treasury in any order made pursuant to the Act for the purposes of this provision] by complying with the corresponding third country requirements (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) applicable to creditors or credit intermediaries in that third country in relation to credit agreements with consumers (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to operate as, and carry out activities in relation to credit agreements within the scope of Article 3 of Directive 2014/17/EU (as implemented by the Act) (including ancillary services**) of a creditor, credit intermediary, tied credit intermediary, or appointed representative shall be treated under the law of the United Kingdom as able (subject to the terms of the mutual recognition agreement) to carry out such activities in relation to credit agreements, with consumers in the United Kingdom, including by establishing a branch (subject to the terms of a specific mutual recognition agreement), by complying with the corresponding equivalent third country requirements (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions), instead of the requirements [of Directive 2014/17/EC] / [of any order made by the Treasury pursuant to the Act for the purposes of this provision] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(d) Entities referred to in point (a) and (b) of row 6 of this table, may be included in the third country entities referred to in points (a) and (b), and subject to the terms of any relevant recognition decision or mutual recognition agreement which contains the equivalence recognition provision at row 6 of this table as an agreed equivalence provision (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/ or supervisory regime applies to the third country entities referred to in points (a) and (b) requirements that are equivalent to those applied by [Directive 2008/48/EC (as implemented by the Act) and Directive 2014/17/EU (as implemented by the Act)] / [any order made by the Treasury pursuant to the Act for the purposes of this provision].</p> <p>* The term «credit agreements» in this point (a) means a credit agreement that is not excluded from Directive 2008/48/EC (as implemented by the Act) pursuant to Article 2(2) and 2(2a) of Directive 2008/48/EC (as implemented by the Act). ** The term «ancillary services» in this point (b) means ancillary services within the meaning of Article 4(4) of Directive 2014/17/EU (as implemented by the Act).</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>9. Financial Services and Markets Act 2000</p> <p>[Regulated Markets]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a regulated market in that third country shall be treated under the law of the United Kingdom as having the same rights as a regulated market authorised as a recognised investment exchange authorised by the FCA in accordance with section 290(1) of the Financial Services and Markets Act 2000, with the effect that (subject to the terms of the recognition decision or mutual recognition agreement) such a third country market or market operator shall be able to exercise the same rights that a regulated market would be able to in the United Kingdom under Directive 2014/65/EU (as implemented by the Act) and Regulation (EU) 600/2014 (as implemented by the Act), by complying with the equivalent legal and supervisory requirements of the third country instead of requirements applicable to a regulated market pursuant to Directive 2014/65/EU (as implemented by the Act) or Regulation (EU) No 600/2014 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement).</p>	
<p>10. Financial Services and Markets Act 2000</p> <p>[Data Service Providers]</p>	<p>(a) Entities supervised in a third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a data services provider (including an ARM, CTP or ARM) shall be treated under the law of the United Kingdom as having the same rights as a data reporting services provider authorised by the FCA in accordance with the [Financial Services and Markets Act 2000 (Data Reporting Services) Regulations 2016], with the effect that such third country entities shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) be able to exercise the same rights that an authorised data reporting services provider would have under the [Financial Services and Markets Act 2000 (Data Reporting Services) Regulations 2016], by complying with the equivalent legal and supervisory requirements of the third country instead of the requirements applicable to a data reporting services provider pursuant to the [Financial Services and Markets Act 2000 (Data Reporting Services) Regulations 2016].</p>	
<p>11. Financial Markets and Insolvency (Settlement Finality) Regulations 1999</p> <p>[Payment & Securities Settlement Services]</p>	<p>(a) Formal arrangements established in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) which would constitute a designated system* (but for being governed by the law of the third country), shall be treated under the law of the United Kingdom as if they were systems that have been designated under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, with the effect that the protections applicable to systems, participants and collateral security implemented by the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 in accordance with Directive 98/26/EC (as implemented by the Act) shall be extended (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) to such third country systems.</p> <p>* The term «designated system» in this row means a designated system within the meaning of paragraph 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999.</p>	<p>(i) The third country's legal system provides reciprocal and equivalent protections as provided in [Directive 98/26/EC (as implemented by the Act)] / [the Financial Markets and Insolvency (Settlement Finality) Regulations 1999] to systems, participants and collateral security.</p>

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<p>12. Directive 2009/65/EC (as implemented by the Act), Financial Services and Markets Act 2000</p> <p>[UCITS Funds]</p>	<p>(a) Undertakings or investment companies established and supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised in a manner corresponding to UCITs (but for being established in a third country) shall be treated under the law of the United Kingdom as having the same rights as UCITs managed by a management company authorised under the Financial Services and Markets Act 2000 to carry out the activity of managing UCITs pursuant to article 51ZA of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or a UCITs open-ended investment company authorised pursuant to the Open-Ended Investment Companies Regulations 2001 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a management company shall be treated under the law of the United Kingdom as having the same rights as a person authorised by the FCA to carry out the activity of managing UCITs and/or establishing and operating a collective investment scheme pursuant to articles 51ZA and 51ZE of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and able to provide such services or to establish a branch* in the United Kingdom (as implemented by the Act).</p> <p>* The term «branch» in this row means a branch within the meaning of point (g) of Article 2(1) of Directive 2009/65/EC (as implemented by the Act).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country undertakings referred to in point (a) requirements that are equivalent to those applied to UCITs managed by management companies authorised to manage UCITs pursuant to Article 51ZA of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or UCITs investment companies authorised pursuant to the Open-Ended Investment Companies Regulations 2001.</p> <p>(ii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (b) requirements that are equivalent to management companies authorised to manage UCITs pursuant to Article 51ZA of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.</p> <p>(iii) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (b) requirements that are equivalent to those referred to in Article 6(4) of Directive 2009/65/EC (as implemented under the Act), where such third country entities are authorised in that third country to carry out the services referred to in Article 6(3) (a) and (b) of Directive 2009/65/EC (as implemented by the Act).</p>
<p>13. Directive 2009/65/EC (as implemented by the Act)</p> <p>[UCITs delegation of management]</p>	<p>(a) Where a management company delegates functions to a third-country undertaking pursuant to Article 13 of Directive 2009/65/EC (as implemented by the Act) and such a mandate involves investment management, the requirement that cooperation between the supervisory authorities concerned must be ensured shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) in the law of the United Kingdom be deemed to have been satisfied for the purposes of Article 13(1)(d) of Directive 2009/65/EC (as implemented by the Act).</p>	<p>(i) A cooperation agreement for the purposes of monitoring the compliance of the management company with the requirements of Directive 2009/65/EC (as implemented by the Act) is in place with the relevant third country supervisory authorities.</p>

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<p>14. Directive 2009/138/EC (as implemented by the Act), Financial Services and Markets Act 2000</p> <p>[Direct Insurance & Reinsurance]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, an insurance undertaking and/or reinsurance undertaking, shall be treated under the law of the United Kingdom as having the same rights as [a person authorised by the FCA or PRA to carry out the relevant regulated activities under Part 4A of the Financial Services and Markets Act 2000 in relation to contracts of insurance] / [an insurance undertaking authorised pursuant to Article 14 of Directive 2009/138/EC (as implemented by the Act)], with the effect that such third country entities shall be [able to insure the classes of insurance listed at Part A of Annex I and Annex II of Directive 2009/138/EC (as implemented by the Act) (including ancillary risks) and/or carry out reinsurance within the United Kingdom, either by establishing a branch* or providing services as an insurance undertaking, as referred to in Article 15(1) of Directive 2009/138/EC (as implemented by the Act)] / [able to carry out the relevant regulated activities in relation to contracts of insurance in the United Kingdom pursuant to Part 4A of the Financial Services and Markets Act 2000] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* The term «branch» in this row means a branch within the meaning of Article 162(3) of Directive 2009/138/EC (as implemented by the Act), with Article 13(1) being construed as a reference to the third country that has authorised the third country undertaking as an insurance undertaking.</p>	<p>(i) The legal and/or supervisory regime of the third country applies to the third country entities referred to in point (a) requirements that are equivalent to [those applied to insurance undertakings or reinsurance undertakings authorised under Article 14 of Directive 2009/138/EC] / [those applied to persons authorised to carry out the relevant regulated activities in relation to contracts of insurance pursuant to Part 4A of the Financial Services and Markets Act 2000].</p>
<p>15. Regulation (EU) No 575/2013 (as implemented by the Act)</p> <p>[Life insurance, eligible collateral]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised to provide life insurance shall be treated under the law of the United Kingdom as being subject to supervision by a competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom, as referred to in Article 212(2)(j) of Regulation (EU) No 575/2013 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	<p>(i) The third country's legal and/or supervisory regime ensures that the third country entities referred to in point (a) are subject to requirements which are equivalent to companies providing life insurance that are subject to Directive 2009/138/EC (as implemented by the Act).</p>
<p>16. Directive (EU) 2016/97 (as implemented by the Act), Financial Services and Markets Act 2000</p> <p>[Insurance Mediation]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, an insurance intermediary, a reinsurance intermediary and/or an ancillary insurance intermediary shall be treated under the law of the United Kingdom as having the same rights as [persons authorised by the FCA or PRA to carry out the relevant regulated activities in relation to contracts of insurance pursuant to Part 4A of the Financial Services and Markets Act 2000] / [insurance, reinsurance and ancillary insurance undertakings registered pursuant to Article 13(1) of Directive (EU) 2016/97 (as implemented by the Act)], with the effect that such third country entities shall be able to [carry on insurance and/or reinsurance distribution, or insurance distribution on an ancillary basis as described in point (4) of Article 2(1) of Directive (EU) 2016/97 (as implemented by the Act) within the United Kingdom by establishing a branch* or by providing such services, as referred to in Articles 4 and 6 of Directive (EU) 2016/97 (as implemented by the Act)] / [carry on the relevant regulated activities in relation to contracts of insurance in the United Kingdom pursuant to Part 4A of the Financial Services and Markets Act 2000] (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>* The term «branch» in this row means a branch within the meaning of point (12) of Article 2(1) of Directive (EU) 2016/97 (as implemented by the Act) with the reference to the intermediary's home Member State being construed as the third country that the intermediary is authorised by.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements that are equivalent to those that are applicable to [insurance, reinsurance and ancillary insurance intermediaries registered pursuant to Article 3 of Directive (EU) 2016/97 (as implemented by the Act)] / [persons authorised to carry out the relevant regulated activities in relation to insurance contracts pursuant to Part 4A of the Financial Services and Markets Act 2000].</p>

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<p>17. Electronic Commerce (EC Directive) Regulations 2002/2013, Electronic Commerce Directive (Financial Services and Markets) Regulations 2002/1775</p> <p>[E-Commerce]</p>	<p>(a) The provisions of the Electronic Commerce (EC Directive) Regulations 2002/2013 and Electronic Commerce Directive (Financial Services and Markets) Regulations 2002/1775 shall (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) be treated under the law of the United Kingdom as extending applicable rights to persons and entities located in the relevant third country including those corresponding to service providers, consumers*, and recipients of the e-society service.</p> <p>* In this row the term «consumer» means a consumer within the meaning of Article 2(e) of Directive 2000/31/EC (as implemented by the Act).</p>	<p>(i) The third country's legal system provides reciprocal and equivalent rights and protections to persons and entities located in the United Kingdom as provided in the Electronic Commerce (EC Directive) Regulations 2002/2013 and Electronic Commerce Directive (Financial Services and Markets) Regulations 2002/1775.</p>
<p>18. Electronic Money Regulations 2011/99</p> <p>[Electronic money services, electronic money institutions]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or operating, an electronic money institution shall be treated under the law of the United Kingdom as having the same rights as electronic money institutions granted authorisation pursuant to the Electronic Money Regulations 2011/99, with the effect that such third country entities shall be able to pursue the activity of issuing electronic money within the United Kingdom, either by establishing a branch* or by providing such services (including the services referred to in Article 18 of Directive (EU) 2015/2366) (as implemented by the Act), as referred to in Article 28 of Directive (EU) 2015/2366 (as implemented by the Act) applying to electronic money institutions mutatis mutandis pursuant to Article 3(1) of Directive 2009/110/EC (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Point (a) does not prejudice the ability of the third country entities referred to in point (a) or (b) of row 6 of this table that are authorised in the relevant third country to carry out activities corresponding to «issuing electronic money» (as referred in Annex I of Directive 2013/36/EU), where any relevant recognition decision or mutual recognition agreement has included the equivalence recognition provision at row 6 of this table.</p> <p>* In this row the term «branch» means a branch within the meaning of Article 4(39) of Directive (EU) 2015/2366 (as implemented by the Act).</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements that are equivalent to those that are required to be applied to electronic money institutions authorised pursuant to the Electronic Money Regulations 2011/99.</p>
<p>19. Payment Services Regulations 2009/209</p> <p>[Payment Services]</p>	<p>(a) Entities supervised in the relevant third country (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) and authorised as, or to operate, a payment institution shall be treated under the law of the United Kingdom as having the same rights as a payment institution authorised pursuant to the Payment Services Regulations 2009/209, with the effect that such third country entities shall be able to provide and execute payment services (including the services referred to in Article 18 of Directive (EU) 2015/2366 (as implemented by the Act)) throughout the United Kingdom, either by establishing a branch* or providing such services (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Point (a) does not prejudice the ability of the third country entities referred to in point (a) of row 6 of this table that are authorised in the relevant third country to carry out activities corresponding to those carried out by electronic money issuers** where any relevant recognition decision or mutual recognition agreement has included the equivalence recognition provision at row 6 of this table.</p> <p>(c) Point (a) does not prejudice the ability of the third country entities referred to in point (a) or (b) of row 18 of this table that are authorised in the relevant third country to carry out activities corresponding to «issuing electronic money» (as referred in Annex I of Directive 2013/36/EU (as implemented under the Act), where any recognition decision or mutual recognition agreement has included the equivalence recognition provision at row 18 of this table.</p>	<p>(i) The third country's legal and/or supervisory regime applies to the third country entities referred to in point (a) requirements which are equivalent to those which are required to be applied to payment institutions authorised pursuant to the Payment Services Regulations 2009/209.</p> <p>* In this row the term «branch» means a branch within the meaning of Article 4(39) of Directive (EU) 2015/2366 (as implemented by the Act).</p> <p>** In this point the term «electronic money issuers» means an electronic money issuer as defined in Article 2(1) of the Electronic Money Regulations 2011/99.</p>

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>20. Banking Act 2009</p> <p>[Recognition of third country resolution proceedings]</p>	<p>(a) Third-country resolution proceedings applied by the authorities of the relevant third country pursuant to the third country's legal and/or supervisory regime to third-country institutions or third-country parent undertakings* (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall (subject to the terms of the specific mutual recognition agreement) be treated under the law of the United Kingdom as third-country resolution proceedings which are to be recognised under section 89H of the Banking Act 2009 and which shall be implemented with legal effect in the United Kingdom in accordance with section 89I of the Banking Act 2009.</p> <p>* In this row the terms «third-country institution» and «third-country parent undertaking» have the same meanings given to those terms in Part 1 of the Banking Act 2009.</p>	<p>(i) The third country's legal and/or supervisory regime applies equivalent principles to those applied in the United Kingdom under Part 1 of the Banking Act 2009 to the recovery and resolution of third-country institutions or a third-country parent undertaking.</p>
<p>21. Alternative Investment Fund Managers Regulations 2013/1773</p> <p>[ELTIFs]</p>	<p>(a) Undertakings supervised in the relevant third country and authorised as an ELTIF (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as having the same rights as ELTIFs authorised pursuant to the Alternative Investment Fund Managers Regulations 2013/1773 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Undertakings supervised in the relevant third country and authorised as, or to operate, a manager of an ELTIF (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as having the same rights as EU AIFMs authorised to manage ELTIFs pursuant to the Alternative Investment Fund Managers Regulations 2013/1773 (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	
<p>22. Regulation (EU) No 345/2013 (as implemented under the Act)</p> <p>[EuVECA]</p>	<p>(a) Undertakings supervised in the relevant third country and authorised as a qualifying venture capital fund (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as having the same rights as a qualifying venture capital fund authorised pursuant to Regulation (EU) No 345/2013 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(b) Undertakings supervised in the relevant third country and authorised as, or to operate, a manager of a qualifying venture capital fund (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as having the same rights as a manager of a qualifying venture capital fund authorised pursuant to Regulation (EU) No 345/2013 (as implemented by the Act) (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

RELEVANT UNITED KINGDOM LEGISLATION	DESCRIPTION OF EFFECT OF AGREED EQUIVALENCE RECOGNITION IN THE UNITED KINGDOM	ADDITIONAL EQUIVALENCE CRITERIA
<p>23. Regulation (EU) No 346/2013 (as implemented by the Act) [EuSEF]</p>	<p>Undertakings supervised in the relevant third country and authorised as a qualifying social entrepreneurship fund (as described in a particular precognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as having the same rights as a qualifying social entrepreneurship fund authorised pursuant to Regulation (EU) No 346/2013 (as implemented by the Act) (as described in a particular precognition decision or mutual recognition agreement and subject to any specific conditions).</p> <p>(c) Undertakings supervised in the relevant third country and authorised as, or to operate, a manager of a qualifying social entrepreneurship fund (as described in a particular recognition decision or mutual recognition agreement and subject to any specific conditions) shall be treated under the law of the United Kingdom as having the same rights as a manager of a qualifying social entrepreneurship fund authorised pursuant to Regulation (EU) No 346/2013 (as implemented by the Act) (as described in a particular precognition decision or mutual recognition agreement and subject to any specific conditions).</p>	

(c) Annex III of the Regulation is incorporated in the following amended form:⁷⁴

RELEVANT UNITED KINGDOM LEGISLATION	EXISTING RECOGNITION PROVISION
Directive 2003/71/EC (as implemented by the Act)	Article 20(3)
Commission Regulation (EC) No 809/2004 (as implemented by the Act)	Article 35
Directive 2004/109/EC (as implemented by the Act)	Article 23(4) sub-paragraph 3
Directive 2004/109/EC (as implemented by the Act)	Article 23(4)
Directive 2013/34/EU (as implemented by the Act)	Article 46
Regulation (EC) No 1060/2009 (as implemented by the Act)	Article 5(6)
Directive 2006/43/EC (as implemented by the Act)	Article 47(3)
Directive 2006/43/EC (as implemented by the Act)	Article 46(2)
Regulation (EU) No 648/2012 (as implemented by the Act)	Article 1(6)
Regulation (EU) No 648/2012 (as implemented by the Act)	Article 2a
Regulation (EU) No 648/2012 (as implemented by the Act)	Article 13(2)
Regulation (EU) No 648/2012 (as implemented by the Act)	Article 25(2)
Regulation (EU) No 648/2012 (as implemented by the Act)	Article 75(1)
Regulation (EU) No 909/2014 (as implemented by the Act)	Article 25(6)
Regulation (EU) 2015/2365 (as implemented by the Act)	Article 2(4)
Regulation (EU) 2015/2365 (as implemented by the Act)	Article 19(1)
Regulation (EU) 2015/2365 (as implemented by the Act)	Article 21(1)
Regulation (EU) 2016/1011 (as implemented by the Act)	Article 30(2)
Regulation (EU) 2016/1011 (as implemented by the Act)	Article 30(3)
Regulation (EU) No 236/2012 (as implemented by the Act)	Article 17(2)
Regulation (EU) No 596/2014 (as implemented by the Act)	Article 6(5)
Regulation (EU) No 596/2014 (as implemented by the Act)	Article 6(6)
Regulation (EU) No 600/2014 (as implemented by the Act)	Article 1(9)
Regulation (EU) No 600/2014 (as implemented by the Act)	Article 28(4)
Regulation (EU) No 600/2014 (as implemented by the Act)	Article 33(2)
Regulation (EU) No 600/2014 (as implemented by the Act)	Article 38
Regulation (EU) No 600/2014 (as implemented by the Act)	Article 47(1)
Directive 2014/65/EU (as implemented by the Act)	Article 25(4)(a)
Regulation (EU) No 575/2013 (as implemented by the Act)	Article 107(4)
Regulation (EU) No 575/2013 (as implemented by the Act)	Article 114(7)
Regulation (EU) No 575/2013 (as implemented by the Act)	Article 115(4)
Regulation (EU) No 575/2013 (as implemented by the Act)	Article 116(5)
Regulation (EU) No 575/2013 (as implemented by the Act)	Article 142(2)
Directive 2009/138/EC (as implemented by the Act)	Article 172(2)
Directive 2009/138/EC (as implemented by the Act)	Article 227(4) or 227(5)
Directive 2009/138/EC (as implemented by the Act)	Article 260(3) or 260(5)

74 NOTE: As per the approach taken in the Equivalence Regulation, Annex III is a list of equivalence provisions (and equivalence decisions made under them) which should become governed by the reformed processes of the Equivalence Regulation (as implemented under UK law), and if a mutual recognition agreement is entered into between the UK and any other third country, it should subsequently become governed under the procedural protections of the Bilateral Agreement under transitional provisions in the relevant mutual recognition agreement.



Appendix C
DRAFT
EU-UK BILATERAL
AGREEMENT

Appendix C DRAFT EU-UK BILATERAL AGREEMENT

PROPOSED STRUCTURE FOR AN EU-UK BILATERAL AGREEMENT

*Bilateral Agreement between the European Union and its
Member States, of the one part, and the United Kingdom of
Great Britain and Northern Ireland, of the other part*

RECITALS

The European Union and its Member States (the “**Union**”), of the one part, and the United Kingdom of Great Britain and Northern Ireland (the “**United Kingdom**”), of the other part (each of the Union and the United Kingdom being referred to hereafter as a “**Party**”, and hereafter referred to together as the “**Parties**”), resolve to:

FURTHER AND CONTINUE, their close historical, political and economic relationship;

CREATE a broad and comprehensive cross-border market for financial services products and services to be provided in a secure regulatory environment subject to the application of equivalent financial services regulation, supervision and enforcement;

BY formally recognising that equivalent standards

of financial services regulation, supervision and enforcement are applied by both Parties, which achieve the key regulatory outcomes of reducing systemic risks and (in a retail context) adequately ensure consumer protection, regardless of the particular manner or approach taken by either Party in achieving those key outcomes; AND

BY agreeing detailed terms and conditions under which each Party will recognise the financial services regime applied by the other Party as equivalent in achieving the key regulatory outcomes, and confirming the national legal effect that is granted as a result of the sector of financial services regulation of a Party that is agreed to be treated as equivalent to the standards of financial services regulation applied by the other Party in that same sector.

1. DEFINITIONS⁷⁵

01. ‘agreed equivalence recognitions’ means the recognitions which have been agreed in Article 3 and as further detailed in Schedule 1, whereby each Party confirms the sector of the financial services regulatory regime of the other party which is agreed to be equivalent and the national legal effect that is intended to result from the relevant equivalence recognition;

02. ‘Commission’ means the European Commission;

03. ‘disagreement on compliance’ has the meaning specified in Article 8.35;

04. ‘disagreement on suspension’ has the meaning specified in Article 8.35;

05. ‘DSU’ means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;

06. ‘equivalence change’ means a request to amend the legal effect of an agreed equivalence recognition or a request to supplement the agreed equivalence recognitions with further provisions or a request to remove a provision from the agreed equivalence recognitions;

07. ‘equivalent’ means requirements or standards applicable within the jurisdiction of a Party that are materially similar to the corresponding requirements or standards that are applied in the jurisdiction of

⁷⁵ NOTE: These definitions, as with the other provisions, are partial sketches of the structure of an EU-UK bilateral mutual recognition agreement, and are not intended to be exhaustive or conclusive. Appropriate definitions from GATS may be included by reference.

the other Party. Whether requirements or standards are equivalent shall be determined, primarily, upon whether the following outcomes are achieved, taking into account that alternative approaches achieving the same outcomes may legitimately be adopted and that legislation and regulation may address matters in different ways and still achieve the same outcome:

(a) there is, in a retail context, adequate protection for consumers, investors, deposit holders, policy holders and/or any other persons who may be owed a fiduciary or other similar duty;

(b) there is no significant risk of increased systemic risk in the market for financial services within the jurisdiction of a Party.

The fact that a specific standard or requirement is applicable in the jurisdiction of a Party shall not affect whether standards of the other Party are equivalent, unless the specific standard or requirement is also applied generally in relevant international standards, guidance, or conventions, or unless the outcomes listed in points (a) - (b) are not satisfied;

08. 'financial services' means [any service of a financial nature offered by a financial service supplier of a WTO Member. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services may include the following activities:

INSURANCE AND INSURANCE-RELATED SERVICES

(i) direct insurance (including co-insurance):

(A) life

(B) non-life

(ii) reinsurance and retrocession;

(iii) insurance intermediation, such as brokerage and agency;

(iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

BANKING AND OTHER FINANCIAL SERVICES (EXCLUDING INSURANCE)

(v) acceptance of deposits and other repayable funds from the public;

(vi) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(vii) financial leasing;

(viii) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(ix) guarantees and commitments;

(x) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(A) money market instruments (including cheques, bills, certificates of deposits);

(B) foreign exchange;

(C) derivative products including, but not limited to, futures and options;

(D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(E) transferable securities;

(F) other negotiable instruments and financial assets, including bullion.

(xi) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(xii) money broking;

(xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(xiv) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(xv) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services

advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

09. 'GATS' means the General Agreement on Trade in Services and the GATS Annex on Financial Services;

10. 'material' and 'materially' shall be interpreted primarily with reference to relevant international standards, guidance, conventions and agreements, any relevant technical guidance issued by international bodies or financial services markets associations;

11. 'New York Convention' means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards;

12. 'recognition conditions' has the meaning specified in Article 3.4;

13. 'recognition principles' has the meaning specified in Article 2.1;

14. 'Regulatory Committee' has the meaning specified in Article 5.1;

15. 'relevant private party' means any natural person

or legal entity (whether or not incorporated or otherwise established under the jurisdiction of either Party) which is entitled to the benefit of an agreed equivalence recognition as described in Schedule 1;

16. 'relevant regulatory development' means: (i) a proposed or new legislative development in either Parties' jurisdiction which, if proposed could, or if already effective does, alter the previously agreed legal effect in either Parties' jurisdiction of an agreed equivalence recognition; or (ii) a proposed or new legislative development in either Parties' jurisdiction which, if proposed could be, or if already effective is, relevant to determining whether the recognition conditions applicable to an agreed equivalence recognition remain satisfied;

17. 'Tribunal' means the tribunal established under Article 9;

18. 'UK recognition body' means the [description of representative body] which will represent the United Kingdom in all matters relating to this Agreement;

19. 'UNCITRAL Arbitration Rules' means the arbitration rules of the United Nations Commission on International Trade Law;

20. 'UNCITRAL Transparency Rules' means the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration;

21. 'Vienna Convention on the Law of Treaties' means the Vienna Convention on the Law of Treaties, concluded on 23 May 1969;

22. 'WTO Agreement' means the Marrakesh Agreement Establishing the World Trade Organisation, concluded on 15 April 1994.

2. EQUIVALENCE RECOGNITION PRINCIPLES

01. The following principles in this Article 2 are designated as 'recognition principles' for the purposes of governing the mutual recognition relationship established between the Parties under this Agreement and in accordance with the principles established in Article VII of the GATS.

02. The Parties' recognition of equivalence is intended to foster the expansion of trade in financial services by promoting regulatory convergence with international norms, reducing supervisory and prudential burdens, and increasing the choices of financial services and products available to customers and undertakings located in the Parties' jurisdictions.

GOOD FAITH

03. The Parties commit to acting in good faith in all matters relating to this Agreement and in making further legislative or regulatory developments within their respective jurisdictions which may have an effect on the agreed equivalence recognitions contained in this Agreement. This may include consulting and cooperating with the other Party in extending agreed equivalence recognitions to further sectors or areas of financial services where equivalence recognitions have not yet been agreed between the Parties.

TRANSPARENCY, OBJECTIVITY AND IMPARTIALITY

04. The Parties commit to applying the agreed equivalence recognitions that have been included pursuant to the terms of this Agreement in a reasonable, objective and impartial manner.

05. Each Party commits to ensuring that its laws, regulations, procedures, supervision, enforcement and judicial rulings which apply generally to the financial services businesses that are designated in Schedule 1 as being entitled to the agreed equivalence recognitions:

(a) are applied in a reasonable, objective and impartial manner;

(b) in the event of a proposed law, regulation or procedure, are published in advance with a reasonable opportunity for interested persons and the other Party to provide comment to the extent possible.

LEGAL EFFECT AND INCONSISTENT ACTS

06. The agreed equivalence recognitions are based on the Parties giving legal effect to the agreed equivalence recognitions (subject to any specific terms and conditions contained in Schedule 1 [and unless otherwise specified, on a reciprocal basis].

07. The Parties shall ensure that measures are not adopted in their respective jurisdictions which are inconsistent with the legal effect that the agreed equivalence recognitions are intended to have, as described in Article 3 and Schedule 1, unless the relevant change procedures contained in Article 10 have been complied with.

NON-DISCRIMINATION

08. Each of the Parties shall ensure that its laws, regulations, procedures, supervision, enforcement and judicial rulings do not subject financial services suppliers authorised by and/or established in another Party's jurisdiction to less favourable treatment than like financial services suppliers authorised by and/or established in its own jurisdiction [or like financial services suppliers authorised by and/or established in any other country].

09. In particular, the Parties shall ensure that there is no discrimination between natural or legal persons based on the official currency that is used in either Party's jurisdiction, or the currency that has legal tender in either Party's jurisdiction, where that natural or legal person is established.

EQUIVALENCE

10. The agreed equivalence recognitions are premised on the Parties achieving the same key regulatory outcomes, but not necessarily adopting the same approach or legal wording. Alternative approaches from those taken by one Party in reducing prudential risk or achieving other regulatory outcomes may legitimately be adopted within the framework of continuing equivalence, so long as the Party remains equivalent by achieving the same key regulatory outcomes.

ASSESSMENTS OF EQUIVALENCE

11. Any assessments of the equivalence of the whole, or any aspect of a Party's legal and/or supervisory financial services regime shall only consider material factors based primarily on relevant international standards.

12. Assessments of equivalence should only consider material factors based on relevant technical advice, including advice that the Parties may request from any relevant specialist national bodies (and any previously issued guidance from such bodies) and in a manner which is proportionate to the level and nature of access that is agreed under the agreed equivalence recognitions.

PRIVATE LAW REMEDIES

13. Unless specifically provided for in this Agreement

[in particular under Article 9], nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties pursuant to the terms of this Agreement [(this does not affect any other rights that persons other than the Parties may be entitled to under the domestic legal system of either Party on the grounds that a Party has adopted a measure or otherwise conducted itself in a manner that is inconsistent with this Agreement)].

CONTRACTUAL CONTINUITY

14. The Parties agree that neither the United Kingdom's withdrawal from the Union on [Date of Brexit] nor any other events or procedures in preparation for or consequent to such withdrawal shall:

(a) in itself constitute an event of default, termination event or frustrating event under any contracts entered into prior to [Date of Brexit]; or

(b) in relation to financial services, affect any rights (including market access rights) existing or accrued prior to [Date of Brexit], including but not limited to rights under:

(i) contracts entered into prior to [Date of Brexit] between or involving parties from the United Kingdom and/or the Union;

(ii) existing regulatory authorisations; and

(iii) the laws of the United Kingdom and/or the Union.

15. The Parties agree to enact legislation in their respective jurisdictions to give effect to Article 2.14 [prior to [Date of Brexit]].

COMPLIANCE WITH ARTICLE VII OF THE GATS

16. In compliance with Article VII:3 of the GATS, equivalence recognitions shall not be granted in a manner that would constitute a means of discrimination between any Party to this Agreement and any other WTO Member in the application of such Party's standards or criteria for the authorisation, licensing or certification of services suppliers, or a disguised restriction on trade in services.

17. In accordance with Article VII:2 of the GATS, the Parties shall afford adequate opportunity for other interested WTO Members to negotiate their accession to this Agreement or to negotiate agreements comparable to this Agreement.

18. In accordance with Article VII:4(b) of the GATS, each Party shall promptly inform the Council for Trade in Services when it adopts new equivalence recognition measures or significantly modifies existing ones under this Agreement.

3. AGREED EQUIVALENCE RECOGNITIONS

01. The Parties have agreed that the agreed equivalence recognitions shall consist of the equivalence recognitions, their corresponding legal effect in each Party's respective jurisdictions, and shall be subject to the recognition conditions, as detailed in Schedule 1 of this Agreement.

02. The Parties shall ensure that the agreed equivalence recognitions shall be fully implemented with legal effect within their respective legal systems for the benefit of the entities that have been designated as entitled to the relevant agreed equivalence recognitions in Schedule 1.

03. The agreed equivalence recognitions are intended to have the legal effect that is described in full detail in Schedule 1 and the Parties shall ensure that each provision shall have that legal effect subject to the terms and conditions (if any) specified in relation to a particular agreed equivalence recognition.

04. The 'recognition conditions' applicable to the agreed equivalence recognitions means:

(a) for the Union, the conditions listed in Article 3 of the [Equivalence Regulation], and any other additional conditions that have been

specified as applicable to the agreed equivalence recognitions detailed in Schedule 1; and

(b) for the United Kingdom, the conditions listed in Article 3 of the [Equivalence Regulation as incorporated into the law of the United Kingdom pursuant to the European Withdrawal Act 20[•] (Mutual Recognition Regulation) Order 20[•]], and any other additional conditions that have been specified as applicable to the agreed equivalence recognitions detailed in Schedule 1.

05. For the avoidance of doubt, the parties are required to observe principles of non-discrimination as established by the equivalence recognitions, which includes, but is not limited to the following grants of non-discriminatory market access:

(a) Each Party must permit the supply of a financial service from the territory of a Party into the territory of the other Party, as well as in the territory of one Party to a service consumer of the other Party;

(b) A Party shall not adopt or maintain, with respect to a financial services supplier of the other Party supplying services through commercial presence, on the basis of a regional subdivision or on the basis of its entire territory, a measure that:

(i) imposes limitations on:

(A) the number of financial services suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

(B) the total value of financial service transactions or assets in the form of numerical quota or the requirement of an economic needs test;

(C) the total number of financial service operations or the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;

(D) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding in financial institutions or the total value of individual or aggregate foreign investment in financial institutions; or

(E) the total number of natural persons that may be employed in a particular financial services sector or that a financial institution may employ and who are necessary for, and directly related to, the performance of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or

(ii) restricts or requires specific types of legal entity or joint venture through which a financial institution may perform an economic activity.⁷⁶

06. Provided it does not circumvent Article 3.5 above and is consistent with other provisions of this Agreement, either party may:

(a) impose terms, conditions, and procedures for the authorisation of the establishment and expansion of a commercial presence; and/or

(b) require a financial institution to supply certain financial services through separate legal entities if, under the law of the Party, the range of financial services supplied by the financial institution may not be supplied through a single entity.

4. COOPERATION AGREEMENTS

01. [The Parties shall take all reasonable steps to ensure the terms of the cooperation agreements contained in Schedule [•] are implemented within

their legal and regulatory regimes and/or shall otherwise ensure that the commitments made in those cooperation agreements are complied with.]⁷⁷

5. REGULATORY COMMITTEE

01. The Parties have agreed to establish a regulatory committee for the purposes of assisting and monitoring the mutual recognition relationship established under this Agreement (the “**Regulatory Committee**”).

the legal regime of either Party and issuing recommendations [where it deems necessary];

02. The Regulatory Committee’s roles shall consist of:

(a) [reviewing international developments, or developments within the Parties’ respective financial services regimes];

(e) [monitoring developments in the legal systems of either Party, and [where requested] making recommendations to the Commission or the UK recognition body, or initiating the mediation process where the Regulatory Committee believes there is a risk of breach of the terms of the Agreement and in particular the recognition conditions]; and

(b) [initiating the consultation process specified in Article 6 and issuing recommendations to the Commission and UK recognition body regarding the implementation of the terms of the Agreement, and coordinating developments and reforms in the legal regimes of the Parties];

(f) [participating in the consultation, mediation or dispute resolution processes of this Agreement in accordance with any relevant procedures established under, and the provisions of, this Agreement].⁷⁸

(c) [at its own initiative, or]where requested by the Commission or the UK recognition body, considering whether the terms of the Agreement are not satisfied or complied with, and issuing recommendations [or initiating the consultation process under Article 6 where the Regulatory Committee deems necessary];

03. The Regulatory Committee shall consist of [3] permanent members appointed by the United Kingdom and [3] permanent members appointed by the Union.

(d) [[at its own initiative, or]where requested by the Commission or the UK recognition body, considering whether proposed changes or reforms ought to be made to the respective legal regimes of either Party in accordance with developments in international standards or developments in

04. The Regulatory Committee’s permanent members shall elect a seventh member to carry out the functions of the chairperson of the Regulatory Committee, at its first meeting by mutual consent of the permanent members, and thereafter in accordance with any relevant internal procedures established by the Regulatory Committee.

05. The Regulatory Committee shall conduct itself by majority vote, and in the event of a tied vote, the chairperson shall cast the final binding vote.

⁷⁷ NOTE: A comprehensive range of detailed cooperation agreements will have to be negotiated amongst EU, member state and UK regulators. One key benefit of the enhanced equivalence structure is that extensive regulatory input, discussion and data sharing can be facilitated (if this is politically viable). Both parties will benefit from early visibility and coordination of regulatory developments.

⁷⁸ NOTE: Indicative possible roles for the Regulatory Committee.

⁷⁶ NOTE: finalised negotiated text must ensure compliance with non-discriminatory requirements of Art. VII, GATS.

06. The Regulatory Committee shall adopt its intended procedures initially by mutual consent of the permanent members, and subsequently in accordance with Article 5.5.

07. The Regulatory Committee's chairperson, permanent members and any other ancillary staff shall be chosen on the basis of appropriate experience in financial services law, regulation, practice or other relevant experience.

08. The Regulatory Committee shall meet [at least

every [•]] / [in accordance with its established procedures, as necessary] to carry out its duties.

09. The Regulatory Committee shall be able to request specialist technical, legal or other advice and employ ancillary additional staff if it considers necessary.

10. The costs of the Regulatory Committee shall be shared equally by the Parties.

11. [...] ⁷⁹

6. CONSULTATION AND COORDINATION⁸⁰

01. The UK recognition body shall notify the Commission [and the Regulatory Committee] promptly upon becoming aware of a relevant regulatory development.

02. The Union shall notify the UK recognition body [and the Regulatory Committee] promptly upon becoming aware of a relevant regulatory development.

03. A Party may submit a written request for consultations with the other Party regarding a relevant regulatory development, any dispute concerning the interpretation or application of the provisions of this Agreement, or for the purposes of the change mechanisms set out in Article 10.

04. The requesting Party shall transmit the request for consultation to the responding Party, and shall set out the reasons for the request for consultation, including, if relevant, the identification of the specific measure [or Party's conduct] at issue, the legal basis for the request, any complaint or any proposal relating to a request for consultation pursuant to the change mechanisms under Article 10.

05. Subject to Article 6.6, the Parties shall enter into consultations within [30] days of the date of receipt of the request by the responding Party.

06. In cases of urgency, including events of significant systemic risk to the financial services sectors of either of the Parties, consultations shall commence within [15] days of the date of receipt of the request by the responding Party.

07. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter through consultations. To this end, each Party shall:

(a) provide sufficient information to enable a full examination of the matter at issue;

(b) protect any confidential or proprietary information exchanged in the course of consultations as requested by the Party providing the information; and

(c) make available the personnel of its government agencies or other regulatory bodies who have expertise in, and the relevant authority to implement solutions which address, the matter that is the subject of the consultations.

08. Consultations are confidential and without prejudice to the rights of the Parties in proceedings under Article 8.

09. Consultations shall take place in the territory of the responding Party unless the Parties agree

otherwise. Consultations may be held in person or by any other means agreed between the Parties.

IMPLEMENTATION OF MUTUALLY AGREED SOLUTIONS

10. Where the Parties have concluded a mutually agreed solution, each Party shall take the measures necessary to implement the mutually agreed solution within any relevant agreed timeframe.

11. [A Party's request for consultation and the mutually agreed solution that arises in relation to a relevant regulatory development or an equivalence change may be the subject of consultations under this Article 6 but may not be the subject of mediation under Article 7 or the dispute settlement procedures under Article 8.] ⁸¹

ROLE OF THE REGULATORY COMMITTEE

12. [The Regulatory Committee may, if it decides necessary and in accordance with any internal procedures it prescribes for the purposes of this provision, submit a written request for consultations with the Parties.]

13. The Regulatory Committee may prescribe detailed procedures for the purposes of this Article 6[, including provisions regarding its involvement, if relevant, [in initiating and] assisting or otherwise participating in the consultation and coordination process.]

14. In accordance with Article VII:4(c) of the GATS, the Regulatory Committee shall promptly inform the Council for Trade in Services when it adopts new recognition measures or significantly modifies existing ones.

7. MEDIATION

01. A Party may initiate the mediation process with the other Party regarding [any matter arising under this Agreement] / [any matter falling within Article 8.2].

02. The Parties shall conduct themselves in good faith throughout the mediation process and provide sympathetic consideration to the relevant issues that have been raised by the initiating Party.

03. A Party may initiate the mediation process by providing a written notice for requesting mediation to the other Party [and the Regulatory Committee] with details of a proposed date, location and other administrative terms for the mediation process. The written notice must:

(a) identify the specific issue triggering the request for mediation;

(b) provide a statement of alleged consequences arising from the specified issue; and

(c) if relevant, propose a desired remedy or agreement that may be considered by the Parties at the conclusion of the mediation process.

04. The responding Party may agree to the dates, location and other administrative details for the mediation that have been proposed by the initiating Party or may respond with alternative proposals. The responding Party shall also inform the Regulatory Committee of its response.

05. The Party that wishes to initiate the mediation process shall confirm in writing to the other Party and the Regulatory Committee whether or not it has agreed to any alternative proposals submitted by the responding Party under Article 7.4.

06. The Parties shall make all reasonable efforts to agree on the date, location and other administrative details of the mediation. If this is not possible within [5] days of the written request to initiate

⁷⁹ NOTE: Additional details to be added as negotiated between the Parties.

⁸⁰ NOTE: The consultation provisions are based on CETA, which may provide an indication as to what is negotiable from an EU perspective.

⁸¹ NOTE: The consultation provision (and agreements arising out of it) is intended to be an informal venue for the Parties to reach an agreement on general matters relating to the administration of the recognition relationship prior to initiation of the formal dispute resolution phases (mediation and dispute resolution).

the mediation process being sent, the Regulatory Committee shall confirm the date, venue and other administrative terms of the mediation, which the Parties shall comply with.

07. The mediation process shall continue for an initial period of [30] days from the commencement date agreed by the Parties under Article 7.4 or 7.5 or confirmed by the Regulatory Committee under Article 7.6.

08. The Parties may by mutual agreement extend the mediation process [for a maximum duration of [•] days from the initial commencement date agreed by the Parties under Article 7.4 or 7.5 or confirmed by the Regulatory Committee under Article 7.6].

09. At the end of the initial period (or any agreed extension pursuant to Article 7.8) of the mediation process, the Parties shall: (i) reach a mutually agreed solution; or (ii) if a mutually agreed solution has not been reached by the date that the mediation process terminates, either Party may choose to initiate the dispute resolution process contained in Article 8.

10. The Regulatory Committee may initiate the mediation process and shall throughout the mediation

process assist and make recommendations to assist the Parties in reaching a mutually agreed solution.

11. A mutually agreed solution may be reached by the Parties describing the relevant terms and any commitments that have been agreed by the Parties in a document that refers to this Article 7.

IMPLEMENTATION OF MUTUALLY AGREED SOLUTIONS

12. Where the Parties have concluded a mutually agreed solution, each Party shall take the measures necessary to implement the mutually agreed solution within any relevant agreed timeframe.

13. Failure to implement the mutually agreed solution within any relevant agreed timeframes in accordance with the terms of the mutually agreed solution entitles either Party to initiate the dispute resolution process under Article 8 notwithstanding any other provision of this Agreement that might require the Party to undergo the consultation process under Article 6 or the mediation process under this Article 7 before initiating the dispute resolution process under Article 8.

8. DISPUTE RESOLUTION⁸²

01. The Parties shall, at all times, endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt to arrive at a mutually satisfactory resolution of any matter that might affect its operation [(including under the consultation process under Article 6 or the mediation process under this Article 7 before initiating the dispute resolution process under this Article 8)].

02. Except as otherwise provided in this Agreement, this Article 8 applies to any dispute concerning the interpretation or application of the provisions of this Agreement.

CHOICE OF FORUM

03. [Recourse to the dispute settlement provisions of this Article 8 is without prejudice to recourse to dispute settlement under the WTO Agreement or under any other agreement to which the Parties are party.]⁸³

04. Notwithstanding Article 8.3, if an obligation is materially similar in substance under this Agreement and under the GATS, or under any other agreement to which the Parties are party, a Party may not seek redress for the breach of such an obligation in the

two fora. In such case, once a dispute settlement proceeding has been initiated under one agreement, the Party shall not bring a claim seeking redress for the breach of the substantially similar obligation under the other agreement, unless the forum selected fails, for procedural or jurisdictional reasons to make findings on that claim.

05. For the purposes of Article 8.4:

(a) dispute settlement proceedings under the GATS are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the DSU;

(b) dispute settlement proceedings under this Article 8 are deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 8.7; and

(c) dispute settlement proceedings under any other agreement are deemed to be initiated by a Party's request for the establishment of a dispute settlement panel or tribunal in accordance with the provisions of that agreement.

06. Nothing in this Agreement shall preclude a Party from implementing the suspension of obligations authorised by the WTO Dispute Settlement Body. A Party may not invoke the GATS to preclude the other Party from suspending obligations pursuant to this Article 8.

REQUEST FOR THE ESTABLISHMENT OF AN ARBITRATION PANEL

07. Unless the Parties agree otherwise, if a matter referred to in Articles 6 or 7 has not been resolved within:

(a) [45] days of the date of receipt of the request for mediation; or

(b) [25] days of the date of receipt of the request for consultations for matters referred to in Article 6.6; or

(c) in the case the Parties have engaged in a mediation proceeding in accordance with Article 7, if a mutually agreed solution has not been agreed by the date the mediation process terminates in accordance with Article 7.9,

the requesting Party may refer the matter to arbitration by providing its written request for the establishment of an arbitration panel to the responding Party.

08. The requesting Party shall identify in its written request the specific measure at issue and the legal basis for the complaint, including an explanation of how such measure constitutes a breach of the provisions referred to in Article 8.2.

COMPOSITION OF THE ARBITRATION PANEL

09. The arbitration panel shall be composed of [three] arbitrators.

10. The Parties shall consult with a view to reaching an agreement on the composition of the arbitration panel within [10] working days of the date of receipt by the responding Party of the request for the establishment of an arbitration panel.

11. In the event that the Parties are unable to agree on the composition of the arbitration panel within the time frame set out in Article 8.10, either Party may request the chairperson of the Regulatory Committee, or the chair's delegate, to draw by lot the arbitrators from the list established under Article 8.16. One arbitrator shall be drawn from the sub-list of the requesting Party, one from the sub-list of the responding Party and one from the sub-list of chairpersons. If the Parties have agreed on one or more of the arbitrators, any remaining arbitrator shall be selected by the same procedure in the applicable sub-list of arbitrators. If the Parties have agreed on an arbitrator, other than the chairperson, who is not a national of either Party, the chairperson and other arbitrator shall be selected from the sub-list of chairpersons.

12. The chairperson of the Regulatory Committee, or the chair's delegate, shall select the arbitrators as soon as possible and normally within [five] working days of the request referred to in Article 8.11 by either Party. The chairperson of the Regulatory Committee, or the chair's delegate, shall give a reasonable opportunity to representatives of each Party to be present when lots are drawn.

13. The date of establishment of the arbitration panel shall be the date on which the last of the [three] arbitrators is selected.

⁸² NOTE: The dispute resolution provision included here is based on CETA, which may be an indication of what is negotiable from an EU perspective. As with the other provisions of the draft EU-UK recognition agreement these provisions are illustrative and necessarily are entirely subject to the bilateral negotiations between the EU and the UK.

⁸³ NOTE: CETA makes use of the WTO dispute resolution process, which may be a desirable option for the EU-UK recognition agreement. Consequential WTO references have been retained throughout this indicative EU-UK dispute resolution provision on this basis.

14. If the list provided for in Article 8.16 is not established or if it does not contain sufficient names at the time a request is made pursuant to Article 8.11, the [three] arbitrators shall be drawn by lot from the arbitrators who have been proposed by one or both of the Parties in accordance with Article 8.16.

15. Replacement of arbitrators shall take place only for the reasons and according to the procedure [prescribed by the Regulatory Committee for the purposes of this Article] / [prescribed by Schedule [•] of this Agreement].

LIST OF ARBITRATORS

16. The Regulatory Committee shall, at its first meeting after the entry into force of this Agreement, establish a list of at least [15] individuals, chosen on the basis of relevant experience in financial services law and regulation, objectivity, reliability and sound judgment, who are willing and able to serve as arbitrators. The list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals who are not nationals of either Party to act as chairpersons. Each sub-list shall include at least [five] individuals. The Regulatory Committee may review the list at any time and shall ensure that the list conforms with this Article 8.16.

17. The arbitrators must have specialised knowledge of international financial services law and regulation. The arbitrators acting as chairpersons must also have experience as counsel or panellist in dispute settlement proceedings on subject matters within the scope of this Agreement. The arbitrators shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties[, and shall comply with any code of conduct prescribed for the purposes of this Article by the Regulatory Committee].

INTERIM PANEL REPORT

18. The arbitration panel shall present to the Parties an interim report within [150] days of the establishment of the arbitration panel. The report shall contain:

- (a)** findings of fact; and
- (b)** determinations as to whether the responding Party has conformed with its obligations under this Agreement.

19. Each Party may submit written comments to the arbitration panel on the interim report, subject to any time limits set by the arbitration panel. After considering any such comments, the arbitration panel may:

- (a)** reconsider its report; or
- (b)** make any further examination that it considers appropriate.

20. The interim report of the arbitration panel shall be confidential.

FINAL PANEL REPORT

21. Unless the Parties agree otherwise, the arbitration panel shall issue a report in accordance with this Article 8.21 and Articles 8.22 and 8.23. The final panel report shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the basic rationale behind any findings and conclusions that it makes. The ruling of the arbitration panel in the final panel report shall be binding on the Parties.

22. The arbitration panel shall issue to the Parties [and to the Regulatory Committee] a final report within [30] days of the interim report.

23. Each Party shall make publicly available the final panel report, subject to any [agreement reached between the Parties as to confidential sections of the final panel report which shall not be made publicly available] / [procedures regarding the confidentiality of panel reports as agreed between the Parties for the purposes of this Article].

URGENT PROCEEDINGS

24. In cases of urgency, including those involving events of substantial systemic risk to the financial services sectors of either of the Parties, the arbitration panel and the Parties shall make every effort to accelerate the proceedings to the greatest extent possible. The arbitration panel shall aim at issuing an interim report to the Parties within [75] days of the establishment of the arbitration panel, and a final report within [15] days of the interim report. Upon request of a Party, the arbitration panel shall make a preliminary ruling within [10] days of the request on whether it deems the case to be urgent.

COMPLIANCE WITH THE FINAL PANEL REPORT

25. The responding Party shall take any measure necessary to comply with the final panel report. No later than [20] days after the receipt of the final panel report by the Parties, the responding Party shall inform the other Party [and the Regulatory Committee] of its intentions in respect of compliance.

REASONABLE PERIOD OF TIME FOR COMPLIANCE

26. If immediate compliance is not possible, no later than [20] days after the receipt of the final panel report by the Parties, the responding Party shall notify the requesting Party [and the Regulatory Committee] of the period of time it will require for compliance.

27. In the event of disagreement between the Parties on the reasonable period of time in which to comply with the final panel report, the requesting Party shall, within [20] days of the receipt of the notification made under Article 8.26 by the responding Party, request in writing the arbitration panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the other Party [and to the Regulatory Committee]. The arbitration panel shall issue its ruling to the Parties [and to the Regulatory Committee] within [30] days from the date of the request.

28. The reasonable period of time may be extended by mutual agreement of the Parties.

29. At any time after the midpoint in the reasonable period of time and at the request of the requesting Party, the responding Party shall make itself available to discuss the steps it is taking to comply with the final panel report.

30. The responding Party shall notify the other Party [and the Regulatory Committee] before the end of the reasonable period of time of measures that it has taken to comply with the final panel report.

TEMPORARY REMEDIES IN CASE OF NON-COMPLIANCE

31. If:

(a) the responding Party fails to notify its intention to comply with the final panel report under Article 8.25 or the time it will require for compliance under Article 8.26;

(b) at the expiry of the reasonable period of time, the responding Party fails to notify any measure taken to comply with the final panel report; or

(c) the arbitration panel on compliance referred to in Article 8.36 establishes that a measure taken to comply is inconsistent with that Party's obligations under the provisions referred to in Article 8.2, the requesting Party shall be entitled to take measures to suspend [any of the requesting Party's obligations under this Agreement [including the agreed legal effect of any of the agreed equivalence recognitions]] / [benefits in the financial services sector that have an effect corresponding to the measure complained of [including the agreed legal effect of any of the agreed equivalence recognitions]]⁸⁴. The [level] / [proportionality] of the suspension shall be assessed from the date of notification of the final panel report to the Parties.

32. Before suspending obligations, the requesting Party shall notify the responding Party [and the Regulatory Committee] of its intention to do so, including a description of the level of obligations it intends to suspend.

33. [Except as otherwise provided in this Agreement, the suspension of obligations (including the legal effect of an agreed equivalence recognition) may concern any provision referred to in Article 8.2 and shall be limited at a level proportionate to the nullification or breach of this Agreement caused by the violation.]⁸⁵

⁸⁴ NOTE: Remedies in the event of non-compliance by a responding Party could, potentially, be 'all-or-nothing' or made more specific to the measure complained of by implementing appropriate proportionality limits to suspensive actions the requesting Party shall be entitled to adopt.

⁸⁵ NOTE: Remedies in the event of non-compliance by a responding Party could, potentially, be 'all-or-nothing' or made more specific to the measure complained of by implementing appropriate proportionality limits to suspensive actions the requesting Party is entitled to adopt. If the requesting Party is obliged to suspend obligations proportionately, the following provisions set out a review process for assessing the proportionality of suspension action that is taken.

34. The requesting Party may implement the suspension [10] working days after the date of receipt of the notification referred to in Article 8.32 by the responding Party, unless a Party has requested arbitration under Articles 8.36 and 8.37.

35. A disagreement between the Parties concerning the existence of any measure taken to comply or its consistency with the provisions referred to in Article 8.2 (“**disagreement on compliance**”), or on the equivalence between the level of suspension and the nullification or impairment caused by the violation (“**disagreement on suspension**”), shall be referred to the arbitration panel.

36. A Party may reconvene the arbitration panel by providing a written request to the arbitration panel, the other Party [and the Regulatory Committee.] In case of a disagreement on compliance, the arbitration panel shall be reconvened by the requesting Party. In case of a disagreement on suspension, the arbitration panel shall be reconvened by the responding Party. In case of disagreements on both compliance and on suspension, the arbitration panel shall rule on the disagreement on compliance before ruling on the disagreement on suspension.

37. The arbitration panel shall notify its ruling to the Parties and to the Regulatory Committee accordingly:

(a) within [90] days of the request to reconvene the arbitration panel, in case of a disagreement on compliance;

(b) within [30] days of the request to reconvene the arbitration panel, in case of a disagreement on suspension;

(c) within [120] days of the first request to reconvene the arbitration panel, in case of a disagreement on both compliance and suspension.

38. The requesting Party shall not suspend obligations until the arbitration panel reconvened under Articles 8.36 and 8.37 has delivered its ruling. Any suspension shall be consistent with the arbitration panel’s ruling.

39. The suspension of obligations shall be temporary and shall be applied only until the measure found to be inconsistent with the provisions referred to in Article 8.2 has been withdrawn or amended so as

to bring it into conformity with those provisions, as established under Articles 8.41 and 8.42, or until the Parties have settled the dispute.

40. At any time, the requesting Party may request the responding Party to provide an offer for temporary compensation and the responding Party shall present such offer.

REVIEW OF MEASURES TAKEN TO COMPLY AFTER THE SUSPENSION OF OBLIGATIONS

41. When, after the suspension of obligations by the requesting Party, the responding Party takes measures to comply with the final panel report, the responding Party shall notify the other Party and the Regulatory Committee and request an end to the suspension of obligations applied by the requesting Party.

42. If the Parties do not reach an agreement on the compatibility of the notified measure with the provisions referred to in Article 8.2 within [60] days of the date of receipt of the notification, the requesting Party shall request in writing the arbitration panel to rule on the matter. Such request shall be notified simultaneously to the other Party and to the Regulatory Committee. The final panel report shall be notified to the Parties and to the Regulatory Committee within [90] days of the date of submission of the request. If the arbitration panel rules that any measure taken to comply is in conformity with the provisions referred to in Article 8.2, the suspension of obligations shall be terminated.

RULES OF PROCEDURE

43. The dispute settlement procedure under this Article 8 shall be governed by the rules of procedure for arbitration [prescribed by the [Regulatory Committee] for the purposes of this Article] unless the Parties agree otherwise.

GENERAL RULE OF INTERPRETATION

44. The arbitration panel shall interpret the provisions of this Agreement in accordance with customary rules of interpretation of public international law, including those set out in the Vienna Convention on the Law of Treaties. The arbitration panel shall also take into account relevant interpretations in reports of Panels and the appellate body adopted by the WTO Dispute Settlement Body.

RULINGS OF THE ARBITRATION PANEL

45. The rulings of the arbitration panel cannot add to or diminish the rights and obligations provided for in this Agreement.

MUTUALLY AGREED SOLUTIONS

46. The Parties may reach a mutually agreed solution to a dispute under this Article 8 at any time. They shall notify the [Regulatory Committee] and the arbitration panel of any such solution. Upon notification of the mutually agreed solution, the arbitration panel shall terminate its work and the proceedings shall be terminated.]

9. PRIVATE LAW REMEDIES⁸⁶

01. Without prejudice to the other rights and obligations of the Parties under Article 8, a relevant private party of one Party may submit to the Panel constituted under this Article 9 a claim that the other Party has breached its obligations under this Agreement by acting inconsistently with [the recognition principles or Articles 3, 7 or 8] where the relevant private party claims to have suffered loss or damage as a result of the alleged breach.

02. Claims under Article 9.1 may be submitted only to the extent that the action or inaction complained of relates to the existing business operations of the relevant private party.

03. The Panel shall not decide claims that fall outside the scope of Articles 9.1 and 9.2.

CONSULTATIONS

04. A dispute should as far as possible be settled amicably. Such a settlement may be agreed at any time, including after the claim has been submitted pursuant to Article 9.22. Unless the disputing parties agree to a longer period, consultations shall be held within [60] days of the submission of the request for consultations pursuant to Article 9.7.

05. Unless the disputing parties agree otherwise, the place of consultation shall be:

(a) London, if the measures challenged are measures of the United Kingdom; and

(b) Brussels, if the measures challenged are measures of the European Union.

06. The disputing parties may hold the consultations through videoconference or other means where appropriate.

07. The relevant private party shall submit to the other Party a request for consultations setting out:

(a) the name and address of the relevant private party;

(b) if there is more than one relevant private party, the name and address of each relevant private party;

(c) the provisions of this Agreement alleged to have been breached;

(d) the legal and the factual basis for the claim, including the measures at issue; and

(e) the relief sought and the estimated amount of damages claimed.

The request for consultations shall contain evidence establishing that, if applicable, the relevant private party owns or controls any undertakings on whose behalf the request is submitted.

⁸⁶ NOTE: The extent to which private law remedies are available under this agreement should be considered by the parties. This may prove controversial however. The following provisions set out a private law remedies procedure, available to private parties which are affected by breach of the recognition principles or the mediation and dispute resolution provisions e.g. by unilateral suspension of an agreed equivalence recognition in breach of the Agreement. Private law remedies are included for investor-state disputes in CETA, which has been used in part as a basis for these provisions. However, in contrast to CETA, this provision sets forth a classical arbitration system, rather than the standing tribunal system adopted under CETA.

08. The requirements of the request for consultations set out in Article 9.7 shall be met with sufficient specificity to allow the respondent to effectively engage in consultations and to prepare its defence.

09. A request for consultations must be submitted within:

(a) [one] year after the date on which the relevant private party first acquired or should have first acquired, knowledge of the alleged breach and knowledge that the relevant private party has incurred loss or damage thereby; or

(b) [one] year after a relevant private party ceases to pursue claims or proceedings before a tribunal or court under the law of a Party, or when such proceedings have otherwise ended and, in any event, no later than [10] years after the date on which the relevant private party first acquired or should have first acquired knowledge of the alleged breach and knowledge that the relevant private party has incurred loss or damage thereby.

10. A request for consultations concerning an alleged breach by the European Union shall be sent to the European Union.

11. A request for consultations concerning an alleged breach by the United Kingdom shall be sent to the UK recognition body.

12. In the event that the relevant private party has not submitted a claim pursuant to Article 9.22 within [one] year of submitting the request for consultations, the relevant private party is deemed to have withdrawn its request for consultations and, if applicable, its notice requesting a determination of the respondent, and shall not submit a claim under this Article 9 with respect to the same measures. This period may be extended by agreement of the disputing parties.

MEDIATION

13. The disputing parties may at any time agree to have recourse to mediation.

14. Recourse to mediation is without prejudice to the legal position or rights of either disputing party under

this Article 9 and is governed by the rules agreed to by the disputing parties.

15. The mediator is appointed by agreement of the disputing parties. The disputing parties may also request that the [Regulatory Committee] appoint the mediator.

16. The disputing parties shall endeavour to reach a resolution of the dispute within [60] days from the appointment of the mediator.

17. If the disputing parties agree to have recourse to mediation, Articles 9.9 and 9.12 shall not apply from the date on which the disputing parties agreed to have recourse to mediation to the date on which either disputing party decides to terminate the mediation. A decision by a disputing party to terminate the mediation shall be transmitted by way of a letter to the mediator and the other disputing party.

PROCEDURAL AND OTHER REQUIREMENTS FOR THE SUBMISSION OF A CLAIM TO THE TRIBUNAL

18. A relevant private party may only submit a claim pursuant to Article 9.22 if the relevant private party:

(a) delivers to the respondent, with the submission of a claim, its consent to the settlement of the dispute by the Tribunal in accordance with the procedures set out in this Article 9;

(b) allows at least [180] days to elapse from the submission of the request for consultations and, if applicable, at least [90] days to elapse from the submission of the notice requesting a determination of the respondent;

(c) has fulfilled the requirements related to the request for consultations;

(d) does not identify a measure in its claim that was not identified in its request for consultations;

(e) withdraws or discontinues any existing proceeding before a tribunal or court under domestic or international law with respect to a measure alleged to constitute a breach referred to in its claim; and

(f) waives its right to initiate any claim or proceeding before a tribunal or court under domestic or international law with respect to a measure alleged to constitute a breach referred to in its claim.

19. If the claim submitted pursuant to Article 9.22 is for loss or damage to an undertaking that the relevant private party owns or controls directly or indirectly, the requirements in Articles 9.18(e) and 9.18(f) apply both to the relevant private party and the relevant undertaking.

20. Upon request of the respondent, the Tribunal shall decline jurisdiction if the relevant private party or, as applicable, the relevant undertaking owned or controlled directly or indirectly by a relevant private party fails to fulfil any of the requirements of Articles 9.18 and 9.19.

21. The waiver provided pursuant to Articles 9.18(f) or 9.19 as applicable shall cease to apply:

(a) if the Tribunal rejects the claim on the basis of a failure to meet the requirements of Articles 9.18 or 9.19 on any other procedural or jurisdictional grounds;

(b) if the Tribunal dismisses the claim pursuant to Article 9.46 or Article 9.48; or

(c) if the relevant private party withdraws its claim, in conformity with the applicable rules under Article 9.23, within 12 months of the constitution of the division of the Tribunal.

SUBMISSION OF A CLAIM TO THE TRIBUNAL

22. If a dispute has not been resolved through consultations, a claim may be submitted under this Article 9 by:

(a) a relevant private party of a Party on its own behalf; or

(b) a relevant private party of a Party, on behalf of an undertaking which it owns or controls directly or indirectly.

23. Subject to the provisions of this Article 9 or as otherwise agreed by the disputing parties, the

arbitration shall be conducted under the UNCITRAL Arbitration Rules.

24. The rules applicable under Article 9.23 are those that are in effect on the date that the claim or claims are submitted to the Tribunal under this Article 9, subject to the specific rules set out in this Article 9.

25. The place of arbitration shall be determined in accordance with the same principles as the place of consultation under Article 9.5.

26. A claim is submitted for dispute settlement under this Article 9 when the notice under Article 3 of the UNCITRAL Arbitration Rules is received by the respondent.

27. Each Party shall notify the other Party of the place of delivery of notices and other documents by the relevant private parties pursuant to this Article 9. Each Party shall ensure this information is made publicly available.

PROCEEDINGS UNDER ANOTHER INTERNATIONAL AGREEMENT

28. Where a claim is brought pursuant to this Article 9 and another international agreement and:

(a) there is a potential for overlapping compensation; or

(b) the other international claim could have a significant impact on the resolution of the claim brought pursuant to this Article 9, the Tribunal shall, as soon as possible after hearing the disputing parties, stay its proceedings or otherwise ensure that proceedings brought pursuant to another international agreement are taken into account in its decision, order or award.

CONSENT TO THE SETTLEMENT OF THE DISPUTE BY THE TRIBUNAL

29. The respondent consents to the settlement of the dispute by the Tribunal in accordance with the procedures set out in this Article 9.

30. The consent under Article 9.29 and the submission of a claim to the Tribunal under this Article 9 shall satisfy the requirements of Article II of the New York Convention for an agreement in writing.

THIRD PARTY FUNDING

31. Where there is third party funding, the disputing party benefiting from it shall disclose to the other disputing party and to the Tribunal the name and address of the third party funder.

32. The disclosure shall be made at the time of the submission of a claim, or, if the financing agreement is concluded or the donation or grant is made after the submission of a claim, without delay as soon as the agreement is concluded or the donation or grant is made.

CONSTITUTION OF THE TRIBUNAL

33. The dispute shall be decided by a Sole Arbitrator, unless either of the disputing parties requests dispute resolution by a three-person Tribunal.

34. The Sole Arbitrator, if any, shall be appointed by agreement of the disputing parties. In the case of a three-person Tribunal, each disputing party shall nominate one arbitrator and the so nominated two arbitrators shall then jointly nominate the third and presiding arbitrator, who shall not be a national of either Party to this Agreement. In the event the disputing parties are unable to agree within [45 days] of submission of a claim in accordance with Section 9.28 on the Sole Arbitrator, or in the case of a three-person Tribunal the party-nominated arbitrators fail to jointly nominate the presiding arbitrator or if either disputing party fails to nominate its party-nominated arbitrator, each disputing party may request the Chairperson of the Regulatory Committee, or the chair's delegate, [to make the relevant appointment] / [to draw by lot the arbitrators from the list established under Article 8.16. In the case of the Sole Arbitrator and the chairperson of a three-person Tribunal, the arbitrator shall be drawn from the sub-list of chairpersons. If the disputing parties were unable to reach agreement on the two (non-presiding) arbitrators of a three-person Tribunal, one arbitrator shall be drawn from the sub-list of the responding Party and one arbitrator shall be drawn from the sub-list of the other Party to this Agreement. In the event the disputing parties have agreed on the chairperson as well as on one of the other two arbitrators, the remaining arbitrator shall be drawn from the sub-list of chairpersons. Articles 8.12 to 8.14 apply, *mutatis mutandis*, to this section.

ETHICS

35. The Members of the Tribunal shall be independent. They shall not be affiliated with any government. They shall not take instructions from any organisation, or government with regard to matters related to the dispute. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest. They shall comply with the International Bar Association Guidelines on Conflicts of Interest in International Arbitration. In addition, upon appointment, they shall refrain from acting as counsel or as party-appointed expert or witness in any pending or new dispute under this or any other international agreement.

36. If a disputing party considers that a Member of the Tribunal has a conflict of interest, it may invite the President of the International Court of Justice to issue a decision on the challenge to the appointment of such Member. Any notice of challenge shall be sent to the President of the International Court of Justice within [15] days of the date on which the composition of the division of the Tribunal has been communicated to the disputing party, or within [15] days of the date on which the relevant facts came to its knowledge, if they could not have reasonably been known at the time of composition of the division. The notice of challenge shall state the grounds for the challenge.

37. If, within [15] days from the date of the notice of challenge, the challenged Member of the Tribunal has elected not to resign from the division, the President of the International Court of Justice may, after receiving submissions from the disputing parties and after providing the Member of the Tribunal an opportunity to submit any observations, issue a decision on the challenge. The President of the International Court of Justice shall endeavour to issue the decision and to notify the disputing parties and the other Members [of the division][of the Tribunal] within [45] days of receipt of the notice of challenge. A vacancy resulting from the disqualification or resignation of a Member of the Tribunal shall be filled promptly.

38. Upon a reasoned recommendation from the President of the Tribunal, or on their joint initiative, the Parties, by decision of the Regulatory Committee, may remove a Member from the Tribunal where his or her behaviour is inconsistent with the obligations set out in Article 9.35 and incompatible with his or her continued membership of the Tribunal.

APPLICABLE LAW AND INTERPRETATION

39. When rendering its decision, the Tribunal established under this Article 9 shall apply this Agreement as interpreted in accordance with the Vienna Convention on the Law of Treaties, and other rules and principles of international law applicable between the Parties.

40. The Tribunal shall not have jurisdiction to determine the legality of a measure, alleged to constitute a breach of this Agreement, under the domestic law of a Party. For greater certainty, in determining the consistency of a measure with this Agreement, the Tribunal may consider, as appropriate, the domestic law of a Party as a matter of fact. In doing so, the Tribunal shall follow the prevailing interpretation given to the domestic law by the courts or authorities of that Party and any meaning given to domestic law by the Tribunal shall not be binding upon the courts or the authorities of that Party.

41. An interpretation of this Agreement adopted by the Regulatory Committee shall be binding on the Tribunal established under this Article 9. The Regulatory Committee may decide that an interpretation shall have binding effect from a specific date.

CLAIMS MANIFESTLY WITHOUT LEGAL MERIT

42. The respondent may, no later than [30] days after the constitution of the division of the Tribunal, and in any event before its first session, file an objection that a claim is manifestly without legal merit.

43. An objection shall not be submitted under Article 9.42 if the respondent has filed an objection pursuant to Article 9.48.

44. The respondent shall specify as precisely as possible the basis for the objection.

45. On receipt of an objection pursuant to Article 9.42, the Tribunal shall suspend the proceedings on the merits and establish a schedule for considering such an objection consistent with its schedule for considering any other preliminary question.

46. The Tribunal, after giving the disputing parties an opportunity to present their observations, shall at its first session or promptly thereafter, issue a decision or award stating the grounds therefor. In doing so, the

Tribunal shall assume the alleged facts to be true.

47. Articles 9.42, 9.45 and 9.46 shall be without prejudice to the Tribunal's authority to address other objections as a preliminary question or to the right of the respondent to object, in the course of the proceeding, that a claim lacks legal merit.

CLAIMS UNFOUNDED AS A MATTER OF LAW

48. Without prejudice to the Tribunal's authority to address other objections as a preliminary question or to a respondent's right to raise any such objections at an appropriate time, the Tribunal shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim, or any part thereof, submitted pursuant to Article 9.22 is not a claim for which an award in favour of the claimant may be made under this Article 9, even if the facts alleged were assumed to be true.

49. An objection under Article 9.48 shall be submitted to the Tribunal no later than the date the Tribunal fixes for the respondent to submit its counter-memorial.

50. If an objection has been submitted pursuant to Article 9.42 the Tribunal may, taking into account the circumstances of that objection, decline to address an objection submitted pursuant to Article 9.48.

51. On receipt of an objection under Article 9.48, and, if appropriate, after rendering a decision pursuant to Article 9.50, the Tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision or award on the objection stating the grounds therefor.

INTERIM MEASURES OF PROTECTION

52. The Tribunal may order an interim measure of protection to preserve the rights of a disputing party or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. The Tribunal shall not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 9.22. For the purposes of this Article, an order includes a recommendation.

DISCONTINUANCE

53. If, following the submission of a claim under this Article 9, the relevant private party fails to take any steps in the proceeding during [180] consecutive days or such period as the disputing parties may agree, the relevant private party is deemed to have withdrawn its claim and to have discontinued the proceeding. The Tribunal shall, at the request of the respondent, and after notice to the disputing parties, in an order take note of the discontinuance. After the order has been rendered the authority of the Tribunal shall lapse.

TRANSPARENCY OF PROCEEDINGS

54. The UNCITRAL Transparency Rules, as modified by this Agreement, shall apply in connection with proceedings under this Article 9.

55. The request for consultations, the agreement to mediate, the notice of intent to challenge a Member of the Tribunal, the decision on challenge to a Member of the Tribunal and the request for consolidation shall be included in the list of documents to be made available to the public under Article 3(1) of the UNCITRAL Transparency Rules.

56. Exhibits shall be included in the list of documents to be made available to the public under Article 3(2) of the UNCITRAL Transparency Rules.

57. Notwithstanding Article 2 of the UNCITRAL Transparency Rules, prior to the constitution of the Tribunal, the United Kingdom or the European Union as the case may be shall make publicly available in a timely manner relevant documents pursuant to Article 9.55, subject to the redaction of confidential or protected information. Such documents may be made publicly available by communication to the repository.

58. Hearings shall be open to the public. The Tribunal shall determine, in consultation with the disputing parties, the appropriate logistical arrangements to facilitate public access to such hearings. If the Tribunal determines that there is a need to protect confidential or protected information, it shall make the appropriate arrangements to hold in private that part of the hearing requiring such protection.

59. Nothing in this Article 9 requires a respondent to withhold from the public information required to be disclosed by its laws. The respondent should apply those laws in a manner sensitive to protecting from

disclosure information that has been designated as confidential or protected information.

INFORMATION SHARING

60. A disputing party may disclose to other persons in connection with the proceedings, including witnesses and experts, such unredacted documents as it considers necessary in the course of proceedings under this Article 9. However, the disputing party shall ensure that those persons protect the confidential or protected information contained in those documents.

61. This Agreement does not prevent a respondent from disclosing to officials of, as applicable, the European Union, Member States of the European Union and sub-national governments, such unredacted documents as it considers necessary in the course of proceedings under this Article 9. However, the respondent shall ensure that those officials protect the confidential or protected information contained in those documents.

NON-DISPUTING PARTY

62. The respondent shall, within [30] days after receipt or promptly after any dispute concerning confidential or protected information has been resolved, deliver to the non-disputing Party:

(a) a request for consultations, a notice requesting a determination of the respondent, a notice of determination of the respondent, a claim submitted pursuant to Article 9.22, a request for consolidation, and any other documents that are appended to such documents;

(b) on request:

(i) pleadings, memorials, briefs, requests and other submissions made to the Tribunal by a disputing party;

(ii) written submissions made to the Tribunal pursuant to Article 4 of the UNCITRAL Transparency Rules;

(iii) minutes or transcripts of hearings of the Tribunal, if available; and

(iv) orders, awards and decisions of the Tribunal; and

(c) on request and at the cost of the non-disputing Party, all or part of the evidence that has been tendered to the Tribunal, unless the requested evidence is publicly available.

63. The Tribunal shall accept or, after consultation with the disputing parties, may invite, oral or written submissions from the non-disputing Party regarding the interpretation of this Agreement. The non-disputing Party may attend a hearing held under this Article 9.

64. The Tribunal shall not draw any inference from the absence of a submission pursuant to Article 9.63.

65. The Tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on a submission by the non-disputing Party to this Agreement.

FINAL AWARD

66. If the Tribunal makes a final award against the respondent, the Tribunal may only award [monetary damages and any applicable interest];

67. Subject to Articles 9.66 and 9.70, if a claim is made under 9.22(b):

(a) an award of monetary damages and any applicable interest shall provide that the sum be paid to the undertaking which a relevant private party owns or controls directly or indirectly;

(b) an award of costs in favour of the relevant private party shall provide that it is to be made to the relevant private party; and

(c) the award [may] / [shall] provide that it is made without prejudice to a right that a person, other than a person which has provided a waiver pursuant to Article 9.18, may have in monetary damages or property awarded under a Party's law.

68. Monetary damages shall not be greater than the loss suffered by the relevant private party or, as applicable, the undertaking which a relevant private party owns or controls directly or indirectly, reduced by any prior damages or compensation already provided. For the calculation of monetary damages, the Tribunal shall also reduce the damages to take into account any repeal or modification of the measure.

69. The Tribunal shall not award punitive damages.

70. The Tribunal shall order that the costs of the proceedings be borne by the unsuccessful disputing party. In exceptional circumstances, the Tribunal may apportion costs between the disputing parties if it determines that apportionment is appropriate in the circumstances of the claim. Other reasonable costs, including costs of legal representation and assistance, shall be borne by the unsuccessful disputing party, unless the Tribunal determines that such apportionment is unreasonable in the circumstances of the claim. If only parts of the claims have been successful the costs shall be adjusted, proportionately, to the number or extent of the successful parts of the claims.

71. The Regulatory Committee shall consider supplemental rules aimed at reducing the financial burden on claimants who are natural persons or small and medium-sized enterprises. Such supplemental rules may, in particular, take into account the financial resources of such claimants and the amount of compensation sought.

72. The Tribunal[, the Regulatory Committee] and the disputing parties shall make every effort to ensure the dispute settlement process is carried out in a timely manner. The Tribunal shall issue its final award within [12] months of the date the claim is submitted pursuant to Article 9.22. If the Tribunal requires additional time to issue its final award, it shall provide the disputing parties the reasons for the delay.

INDEMNIFICATION OR OTHER COMPENSATION

73. A respondent shall not assert, and the Tribunal shall not accept a defence, counterclaim, right of setoff, or similar assertion, that a relevant private party or, as applicable, a locally established enterprise, has received or will receive indemnification or other compensation pursuant to an insurance or guarantee contract in respect of all or part of the compensation sought in a dispute initiated pursuant to this Article 9.

ENFORCEMENT OF AWARDS

74. An award issued pursuant to this Article 9 shall be binding between the disputing parties and in respect of that particular case.

75. Subject to Article 9.76, a disputing party shall recognise and comply with an award without delay.

76. A disputing party shall not seek enforcement of a final award until:

(a) [90] days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award; or

(b) enforcement of the award has been stayed and a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.

77. Execution of the award shall be governed by the laws concerning the execution of judgment or awards in force where the execution is sought.

78. A final award issued pursuant to this Article 9 is an arbitral award that is deemed to relate to claims arising out of a commercial relationship or transaction for the purposes of Article I of the New York Convention.

ROLE OF THE PARTIES

79. A Party shall not bring an international claim, in respect of a claim submitted pursuant to Article 9.22, unless the other Party has failed to abide by and comply with the award rendered in that dispute.

80. Article 9.79 shall not exclude the possibility of dispute settlement under Article 8 in respect of a measure of general application even if that measure is alleged to have breached this Agreement in respect of which a claim has been submitted pursuant to Article 9.22 and is without prejudice to Article 9.62.

81. Article 9.79 does not preclude informal exchanges for the sole purpose of facilitating a settlement of the dispute.

CONSOLIDATION

82. In the interest of facilitating the comprehensive resolution of related disputes and ensuring the

10. CHANGE MECHANISMS

AMENDED AND REPEALED LEGISLATION

01. Where the underlying national legislation relating

consistency of awards, and upon request of either disputing party, the Tribunal may consolidate the proceedings with any other proceedings initiated pursuant to Article 9.22 in relation to a claim or claims under this Agreement. The Tribunal shall not consolidate such proceedings, unless (i) it determines that there are issues of fact or law common to the two proceedings so that a consolidated proceeding would be more efficient than separate proceedings, and (ii) no party would be prejudiced as a result of such consolidation through undue delay or otherwise. In the case of conflicting rulings on this question by the Tribunals constituted in the proceedings subject to a request for consolidation, the ruling of the Tribunal in the first-filed of the proceedings subject to a request for consolidation shall control.

83. In the case of a consolidated proceeding, the arbitrator(s) in the consolidated proceeding shall be [the arbitrator(s) appointed for the first-filed of the consolidated proceedings] [appointed by the Regulatory Committee on the request of any of the disputing parties].

84. A relevant private party may withdraw a claim under this Article 9 that is subject to consolidation and such claim shall not be resubmitted pursuant to Article 9.22. If it does so no later than [15] days after receipt of the notice of consolidation, its earlier submission of the claim shall not prevent the relevant private party's recourse to dispute settlement other than under this Article 9.

85. At the request of a relevant private party, the Tribunal may take such measures as it sees fit in order to preserve the confidential or protected information of that relevant private party in relation to other relevant private parties. Those measures may include the submission of redacted versions of documents containing confidential or protected information to the other relevant private parties or arrangements to hold parts of the hearing in private.

to the agreed legal effect of an agreed equivalence recognition as detailed in Schedule [•] is, or is proposed to be, amended or repealed and replaced, either Party

may submit a written request initiating the consultation process under Article 6 to implement necessary changes to any affected parts of Schedule [•] to reflect the amended or repealed and replaced underlying national legislation. Such amendments will be promptly notified to the GATS Council on Trade in Services in accordance with Article VII:4(c) of the GATS.

02. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the consultation request through the consultation process under Article 6.

03. The change process described in Articles 10.1 to this Article 10.3 is intended to be used where the relevant underlying national legislation of either Party is amended

or repealed and replaced and the proposed changes to any affected parts of Schedule [•] do not materially affect the original intended legal effect of an agreed equivalence recognition in the relevant jurisdiction.

AMENDING, SUPPLEMENTING AND REMOVING EQUIVALENCE RECOGNITIONS

04. Where a Party wishes to initiate discussions relating to an equivalence change, it may submit a written request initiating the consultation process under Article 6 for the purposes of negotiating an equivalence change with the responding Party.

05. [...] ⁸⁷

11. SUSPENSIONS

01. The Parties may not suspend or alter the agreed legal effect of any agreed equivalence recognition as detailed and contained in Schedule [•] unless the suspension or alteration of the national legal effect of any agreed equivalence recognition is:

(a) pursuant to the mutual agreement of the Parties;

(b) in accordance with the change mechanisms specified in Article 10;

(c) in accordance with a mutually agreed solution that has been reached between the Parties in accordance with the consultation process specified in Article 6;

(d) in accordance with a mutually agreed solution that has been reached between the Parties in accordance with the mediation process specified in Article 7; or

(e) in accordance with the dispute resolution process specified in Article 8.

02. For legal certainty and stability, the Parties shall ensure that any national measures taken to suspend or alter the agreed legal effect of any agreed equivalence recognition as detailed and contained in Schedule 1 shall only take effect at the earliest [one year] after publication of the relevant national legal instrument [(subject to mutual agreement of the Parties or if required to comply with any panel ruling or report that is issued to the Parties pursuant to Article 8)].

12. AMENDMENTS TO THIS AGREEMENT

01. Amendments to this Agreement or any of its Schedules may only be made with the mutual written consent of the Parties.

⁸⁷ NOTE: If a stronger commitment from either Party to consider supplementing agreed equivalence recognitions is desired, additional provisions may be included here. The extent to which this is possible of course depends on the nature of the UK-EU relationship and bilateral negotiations relating to the framework for establishing new agreed equivalence recognitions.

Appendix C DRAFT EU-UK BILATERAL AGREEMENT

AGREED EQUIVALENCE RECOGNITIONS

Schedule I

Agreed equivalence recognition relating to: [•]

Relevant United Kingdom Legislation [•]	Relevant United Kingdom Legislation [•]
Description of legal effect in the United Kingdom [•]	Description of legal effect in the United Kingdom [•]
Conditions applicable to United Kingdom legal effect of agreed equivalence recognition [•]	Conditions applicable to United Kingdom legal effect of agreed equivalence recognition [•]
Description of category of Union undertakings entitled to the agreed equivalence recognition [•]	Description of category of Union undertakings entitled to the agreed equivalence recognition [•]

Agreed equivalence recognition relating to: [•]

Relevant Union Legislation Directive [•]	Relevant United Kingdom Legislation [•]
Description of legal effect in the Union [•]	Description of legal effect in the United Kingdom [•]
Conditions applicable to Union legal effect of agreed equivalence recognition [•]	Conditions applicable to United Kingdom legal effect of agreed equivalence recognition [•]
Description of category of United Kingdom undertakings entitled to the agreed equivalence recognition [•]	Description of category of Union undertakings entitled to the agreed equivalence recognition [•]



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