

## THE ROOM WHERE IT HAPPENS

A GUIDE TO THE EU BODIES AND REGULATORS THAT MATTER  
TO BUSINESS IN THE BREXIT NEGOTIATIONS

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## Executive summary

*How the UK and EU manage rules and regulation together after Brexit will be key to a successful future economic relationship. The role of the EU bodies that create, monitor and enforce these rules will be an important part of the negotiations to come, as well as one of the most complex. For business, there are some areas where the UK could regain sovereignty over regulation and leave these bodies. In other areas, integration with both the rules and the bodies is crucial for the UK's competitiveness and influence on the global stage, as well as control over its future.*

When talks on the UK's future economic relationship with the EU begin, negotiators face a monumental task in untangling 40 years of integration. Finding a new way to manage the relationship between the UK's rules and the EU single market as both evolve will be one of the most challenging areas to tackle in the coming months of talks. There will be tough decisions and compromises to make, and negotiators must put jobs and living standards first when making those calls.

Getting regulation right will bring the UK and the EU one step closer to securing "frictionless trade". Failure to do so would create unnecessary barriers for firms doing business between the UK and its largest partner. For companies of all sizes and sectors, getting regulation wrong would mean additional costs, delays and staffing requirements. Overall, it would lead to a less competitive UK with lower productivity and living standards. That makes the future of rules and regulation key to a Brexit that works for jobs.

One crucial part of the negotiation on rules is the UK's future relationship with a range of EU agencies and forums, where it currently helps contribute to the creation, implementation, monitoring, enforcement and – at times – revision of rules. This is something that the EU does constantly, but not just through the European Parliament and the Commission. A multitude of these bodies and agencies take the lead on technical changes, and allow rule-makers to cooperate so businesses can work more effectively across borders. As part of negotiations, it must be decided whether the UK continues to have some involvement in these bodies and what form that involvement should take.

Business believes that where it is sensible and practical to do so, the UK Government is right to repatriate rules from the EU as part of regaining sovereignty. That will mean more responsibility for some UK authorities, to ensure they can manage new rules effectively and fairly. If this increased responsibility is matched by increased resource, businesses support the UK taking control and leaving the relevant bodies in these areas.

But in other areas, like chemicals, product standards and aviation, UK businesses will continue to have to apply EU rules to trade – no matter what deal is struck. In many of these areas, the EU leads the world, and the UK's voice is lifted across the globe when it works hard to set the standard with EU partners. Where this is the case, businesses want to see the UK retain full participation in the bodies that set these rules, to have as much control as possible over the economy's future direction.

Based on thousands of conversations the CBI has had with companies in the 18 months since the UK's vote to leave the EU, this report brings businesses' views to the negotiating table on these different areas.

## Introduction

### Why does regulation matter?

When done well, regulation acts as an enabler for business and consumers, ensuring high quality and safe products and goods that companies can use in an increasingly global world to make trade and supply chains less complex. When regulation is set on an international scale, it works to keep costs down for businesses of all sectors and sizes by ensuring that firms only have to design factories and processes to a single set of rules. It also protects the market against low quality and potentially faulty products.

The EU has had a very significant role in setting high quality regulation for business that applies across its Member States, ensuring that every business works to the same standards and making trade across Europe simpler and lower cost. This is due to the power of the EU to convene across borders, enabling technical expertise from across the EU to come together and collaborative, pooling evidence to form policy and set regulation. While EU rules are not always perfect, there are continuous opportunities to improve them through many forums that draw from this collective knowledge base, where Member States can work together to influence it and make it work for all parties.

### How does it work at the moment?

There are three main institutions which design EU law: the European Commission, European Parliament, and Council of the European Union, normally called the Council. For most rules, the Commission makes initial proposals, and undertakes an impact assessment and consultation. The European Parliament and Council then make their own changes to the proposal before coming together to agree on the final text of the legislation.

Those rules can take one of two forms: a regulation or a directive. Regulations are legally-binding in full on Member States once they enter into force while directives must be written into national law in each country, meaning that in practice they allow for flexibility in terms of how they are applied.

However, that is not the end of the end of story. Just as the UK has 462 public bodies – including 40 executive agencies and 399 non-departmental public bodies<sup>1</sup> – the EU has a number of bodies which complement the legislative process. Their functions are highly varied, but can include a combination of: support for the policy- and decision-making processes, pooling technical expertise across nations, facilitating dialogue and cooperation, supervisory functions and certification tasks, and assessing and communicating emerging threats. These bodies' structures can also take many different forms. This paper will cover two of the most pertinent types of bodies for business: EU agencies and industry forums.

### EU Agencies

The EU has over 40 formal agencies which it has created to fulfil certain day to day functions, that the three institutions cannot manage alone. These include agencies like the European Defence Agency which are established under the EU's Common Security and Defence Policy. It also includes a number of executive agencies which are set up for a limited period of time to manage specific tasks related to EU programmes. The Executive Agency for Small and Medium-sized enterprises is one of these, and has a wide-ranging remit, from co-ordinating several parts of the Horizon2020 research programme related to SMEs, to the SME-relevant parts of the European Maritime and Fisheries Fund and the EU programme for the Environment and Climate action.

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<sup>1</sup> Cabinet Office, [Public Bodies 2016](#)

The 34 decentralised agencies of the EU have a unique role in pooling expertise from across Europe and developing, influencing, interpreting and enforcing regulation. They are established for an indefinite period and are located across the EU. National authorities – including both national and devolved Government departments, public bodies, and industry groups – are members of these agencies and contribute to shaping rules within the agencies' remit.

### Industry Forums

There are a range of industry forums that fall outside of the EU's definition of agencies, but which function in ways that are similar to those of the EU agencies. These industry forums are often associated with the EU but not directly linked, but that does not make them any less important to businesses. There are a huge range of industry forums with relation to the EU and this paper will not cover them all. Instead this paper will focus on the industry forums which many companies have highlighted as relevant to doing business in the UK.

### However there are many other ways that the UK and EU work together that matter

There are also other kinds of programmes, ways of making rules, and forums in which the UK works together with the EU which are vital for business and the future of which will be decided in the negotiations.

### The UK's role in Future Framework Programmes will be crucial

Agreeing a deal for the UK to play a leading role in future EU research and innovation framework programmes after Brexit is important, to provide clarity and certainty for the science and research base in Europe and here in the UK. In *Collaboration on sciences and innovation paper*<sup>2</sup>, the Government recognised the value and need of cross border collaboration with EU partners, however it was a first step. Business wants to see the strong ties we have with our European partners to remain in place with a deal that works for both sides. With science and innovation increasingly becoming globalised, the UK's role as a leading global scientific power is at risk without an agreement.

### Businesses across sectors need to know the UK's future relationship with Euratom

As part of the Article 50 process, the Government plans to withdraw from the Euratom Treaty, which provides the legal framework for civil nuclear power generation and radioactive waste management across the EU. Euratom membership has provided significant benefits for its members including a common EU market in nuclear materials, equipment, technology, and services, as well as the provision of "nuclear safeguards" arrangements, and funding of nuclear R&D programmes. Without either continued membership of Euratom, or new agreements that replicate the benefits of the Euratom treaty, the UK will not, for example, be able to import or export nuclear fuels or trade key components and services with the EU and other nuclear markets.

### There are many complex areas of rules which are not covered by EU agencies

A number of highly regulated sectors such as automotive and cosmetics are overseen by frameworks that are not covered by specific agencies, and if the UK is to continue to be involved in the EU's rules in these industries, a way of securing control will be important there too.

These areas are all important to CBI members – but this report focuses on EU agencies and bodies, which are one part of the complex puzzle on the negotiating table.

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<sup>2</sup> Collaboration on science and innovation, a future partnership paper, UK Government (September 2017)

## What should the UK try and achieve?

Once the UK leaves the EU, it will automatically also leave the institutions which are primarily responsible for designing EU rules. The UK will cease to have a presence in the Commission, lose its participation and voting rights in the Council, and its 73 Members of the European Parliament will have to find new jobs. That will result in a loss of UK influence over rules that will still affect British companies trading with the EU, as well as their supply chains.

Businesses believe that, where it is sensible and practical to do so, the UK Government is right to repatriate regulation and regulatory authority from the EU to UK bodies as part of regaining sovereignty. It is right that this involves an increase in responsibility of some UK bodies, and potentially even the establishment of new ones, to ensure the smooth running of the UK's regulatory framework.

Yet a close future relationship between UK and EU rules is key to the success of Brexit. Achieving the ambition of close-to-frictionless trade will require an unprecedented level of regulatory co-operation between the UK and the EU in many areas.

At present, membership of the EU single market means that UK companies only have to comply with one set of rules to trade with 27 other Member States as well as the EEA countries. Once the UK has left the EU, if not negotiated otherwise, companies will face two or more sets of rules in order to trade – as in some circumstances, devolution will mean companies will have to comply with the differing rules of each of the UK's devolved nations as well as the EU's rules. Additionally, in some circumstances particularly in the services sector, if not negotiated otherwise the UK will have to comply with the rules of each nation state it operates in rather than having an automatic right to function in each one.

Adding this further complexity to business operations will leave UK industry less competitive in the global marketplace. Firms will be forced to hire or purchase the services of additional people to do low productivity roles ensuring compliance. Additional unnecessary costs will also come in the form of multiple sets of licenses and sets of requirements, and extend delays. The companies most affected by this will be small firms, and there is a real risk they may be discouraged from engaging directly in trade altogether as they do not necessarily have the resources to navigate these complexities that are already a challenge.

And the reality is that, even without a deal, British companies and their supply chains will continue to have to meet EU rules and standards in order to trade, particularly where the EU is a global leader and sets the bar – not just for Europe, but for the world.

In many areas, it is therefore vital that there is cooperation between the UK and EU's rules after Brexit. The form this cooperation takes is still to be discussed. But if UK industry is to be integrated in such a way, it is also important that the UK is also involved in the policy-making, monitoring and enforcement of rules that affect it. EU bodies provide a crucial venue for this to take place, as well as a way for UK industry to learn from best practice across borders.

## How to understand the value of EU bodies

In the mapping of the 34 decentralised agencies and five industry forums, there were several factors that this report takes into consideration in the evaluation and prioritisation of the bodies:

- Significance of barriers/complexity of regulation/effect on competitiveness if not involved
- Relevance to our trading relationship
- Balance of power between Commission and agency
- Balance of power between EU and international rules
- Ability of agency to influence internationally

Firstly, the extent of the relevance that the regulatory framework that the agency oversees has to the UK economy was one of the most important considerations. Regulatory barriers will present one of the most significant challenges for trade to UK business post-Brexit. The CBI's recent analysis [Sector By Sector: The Trade Costs Of "No Deal"](#), found evidence that in the case of a no-deal scenario where the UK were trading under Most Favoured Nations conditions, the sectors that would be most affected by regulatory barriers include aerospace, chemicals, food & drink, pharmaceuticals, financial services and telecoms.

This is especially stark in the chemicals and food & drink sectors, where academic research suggests that non-tariff costs for exporters could be several times higher than costs of any new tariffs as a result of the need to comply with customs procedures and regulations. These sectors correspond with the most highly regulated industries in addition to being among the sectors that trade the most and have the most highly integrated supply chains across the EU.

Secondly, the functions of the agencies often differ from each other: some are considerably more powerful than others. While some have significant weight in setting the policy for regulation as well as implementation and monitoring of it, others act in an advisory capacity to the Commission who instead have the power to implement and monitor the regulatory framework.

For other bodies, international regulatory forums are highly significant in setting the rules and though the UK agency has individual representation at these forums, its voice is amplified by also being represented by the corresponding EU body.

**Through consultation with members since the referendum, the CBI has constructed a scale, indicating the significance of different kinds of agencies and industry forums to business.**

**1. World leading bodies where continued UK involvement is economically crucial, fiscally sensible, and boosts the UK's global influence**

There are a number of bodies which the UK is a member of as a result of its EU membership where continued involvement is vital. These bodies are world leading and utterly unique, setting precedent and policy at an international level - not just an EU one. The UK's voice is lifted as a result of its involvement in these organisations, and that has competitive benefits in terms of UK industry's reach across the world.

The rules that these bodies govern and develop are of significant economic importance to the UK, and in many instances UK businesses will have to abide by these rules whatever the deal agreed. Many of the sectors most involved in these bodies are those estimated to face the most significant non-tariff barriers to trade if the UK does not strike a comprehensive deal with the EU, and are therefore priorities for regulatory cooperation.

Replicating the functions of these bodies at a UK-level would either be impossible or at a very high cost.

For all these reasons, these bodies are an absolute priority for continued UK involvement on current or close-to-current terms, and include:

- The Agency for the Cooperation of Energy Regulators
- The Article 29 Working Party
- The European Aviation Safety Agency
- The European Chemicals Agency
- The European Committee for Standardization
- The European Committee for Electrotechnical Standardization
- The European Food Safety Authority
- The European Medicines Agency
- The European Network of Transmission System Operators
- The European Payments Council

**2. Highly complex bodies where industry is seeking a unique solution**

In areas which have a very high area of complex, detailed and rapidly changing regulation, the UK and EU may wish to set out a new way of making and monitoring regulation over time. The financial services industry has put forward proposals for a new forum for monitoring alignment on an ongoing basis, maintaining a close relationship with:

- The European Banking Authority
- The European Insurance and Occupational Pensions Authority
- The European Securities and Markets Authorities
- The European Systemic Risk Board

### **3. Significant bodies where, if the UK is to be part of the rules they govern, UK involvement is important to industry**

These bodies have responsibility for important rules that matter to business, but whether or not UK firms will continue to have to abide by these rules after Brexit is a matter for negotiation. These bodies are very active and productive in their specific areas of rule-making and enforcement, and if the UK is to continue to be part of the frameworks they relate to, then involvement within those bodies will be important. If not, businesses are keen to support the Government's efforts to repatriate these powers to ensure the UK's legal framework operates well and efficiently.

These bodies are a priority for continued UK involvement if the UK continues to be part of the regulatory frameworks in this area, and include:

- The Body of European Regulators for Electronic Communication
- The European Environment Agency
- The European Maritime Safety Agency
- The European Regulators Group for Audio-visual Media Services
- The European Union Intellectual Property Office

### **4. Bodies that are not strongly linked to trade where businesses can support the UK's departure**

There are a range of bodies which the UK is currently a member of that are not strongly linked to trade. This includes bodies which manage areas of regulation that can very feasibly be managed at domestic-level, and where this is therefore a strong case for repatriation. It also includes bodies which manage areas of regulation which are set predominately at an international level, where the EU bodies predominantly fulfil the purpose of nuancing and providing guidance for member states.

For both of these reasons, businesses can support the UK's departure from these bodies, and they include:

- ENISA
- Eurofound
- The European Information Agency for Occupational Safety and Health
- The European Institute of Gender Equality

### **5. Not CBI member priorities**

There are a vast number of bodies of limited economic relevance, which are not priorities for CBI members. This paper therefore does not comment or provide any judgement on whether continued UK involvement of any form in these bodies is important for negotiators to consider. While these bodies of limited economic relevance include the Translation Centre for the Bodies of the European Union – for which there would be appear to be limited UK impetus for a continued relationship with – they also include Europol, where clearly there is a strong case to support further cooperation between the UK and the EU. These are detailed in the annex and the CBI does not put any judgement on their benefit or otherwise.

## 1. World leading bodies where UK involvement is economically crucial, fiscally sensible, and boosts the UK's global influence

*These world-class bodies are top priorities for business. The fullest participation possible is vital, as these bodies shape and monitor the rules that supervise some of the most highly regulated trading sectors, those that will face the most significant non-tariff barriers to trade post-Brexit unless negotiated otherwise. Involvement in these bodies will ensure the UK has control over the rules its businesses will have to abide by whatever the Brexit deal, and provide a leading platform for the UK to influence rules not only in Europe but on a global basis.*

### 1.1 The Agency for the Cooperation of Energy Regulators

**Energy regulation is highly complex and being part of ACER helps the UK manage its relationship with the EU regulatory framework**

The **Agency for the Cooperation of Energy Regulators (ACER)** was established in 2010-11 to help ensure the EU's Internal Energy Market (IEM) functions properly, both for electricity and gas. As a decentralised European agency, it has multiple responsibilities but its most important one is providing a place where European energy regulators (including the UK's energy regulator Ofgem) can cooperate and design rules together, which the EU institutions then implement across Europe. ACER's cross-border position also means that it can monitor the European markets in electricity and gas in a unique way, and advise on what changes are needed.



Continued UK-EU co-operation on energy is important because energy is fundamentally a cross-border issue: the UK is physically connected to Europe through sub-sea pipes and wires, and Northern Ireland and the Republic of Ireland operate an all-island single electricity market. Non-EU markets provide none of the UK's electricity import a large percentage of its gas.

The UK Government has already stated its intention to participate in the IEM and to continue with the planned expansion of interconnectors with Europe. Businesses welcomed this announcement, because the continued participation of the UK in transparent, integrated and liberalised European gas and electricity markets will benefit both businesses and consumers, through higher competition. The UK's participation in the IEM is also welcome because it will increase security of supply and contribute to safe and stable provision of gas and electricity to British consumers.

The CBI wishes to see steps to secure barrier-free access arrangements between the UK and the Internal Energy Market (IEM) based on a level playing field approach, avoiding tariff and non-tariff barriers. However, it will be important to ensure that the UK maintains reasonable influence over the system, rules and regulations, and does not become a "rule-taker". If the UK is to continue in the IEM, and even if it does not, EU energy policy will affect the UK in the future, and as such the UK must ensure maximum engagement and influence in ACER.

Through ACER, the UK's influence on the development of Europe's gas and electricity markets has been considerable. One example of this is the EU's gas target model which has been based on the shape and structure of the UK gas market. Ofgem does its influencing in ACER through

involvement in committees that help shape binding rules, and the placement of British experts within Ofgem’s Markets and SG&G (gas and electricity) teams in working groups and taskforces at ACER, where they provide input and lead on policy developments.

*“Maintaining a voice on energy regulation for the UK though ACER is vital for the UK’s energy providers to remain competitive.”*

**UK energy company, 25,000 employees**

**Recommendation**

To remain a significant player within the IEM, the UK Government should seek continued influence within ACER. Until December 2017, there was no precedent for membership of ACER for non-EU member states, but the National Regulatory Agency of Montenegro has just been granted permission to send experts to ACER’s working groups. The CBI wishes to see steps to secure barrier-free access arrangements between the UK and the (IEM) based on a level playing field approach, avoiding tariff and non-tariff barriers. The UK’s continued participation should therefore be part of the negotiations, and would allow the UK to continue to influence internationally on behalf of UK industry. It would also prevent divergence in terms of regulatory oversight in the long-run, thereby making cross-border trade more efficient and keeping energy prices low for consumers.

**1.2 The Article 29 Working Party**

**In a world where data knows no national boundaries, the EU and UK must work together to establish truly global standards**

The **Article 29 Working Party** is the data protection committee established by Article 29 of Directive 95/46/EC. It acts as a platform to give independent advice on data protection matters to the European Commission as well as helping in the development of harmonised policies for data protection in the EU Member States. Representatives of the national supervisory authorities in the Member States sit on the Working Party. The Information Commissioner’s Office (ICO), the UK’s independent body to uphold information rights, is the UK representative.



The UK is a leading digital economy that benefits from the free flow of data. Digitally enabled trade contributed over £145bn in 2015 and the UK is a global leader in cross border data flows, responsible for 11.5% of all data transferred globally, three-quarters of which is between the UK and the EU.

Through the Article 29 Working Party (soon to be renamed as the European Data Protection Board), the ICO helped shaped the General Data Protection Regulation (GDPR), which is due to be applied across all EU member states – including the UK – from May 25th, 2018. The purpose of GDPR is to harmonise data protection rules and reflect advances in the digital economy over the past two decades. The territorial scope of GDPR means that, to continue to trade with and process

EU citizen data, the UK will need to comply with the regulation in some form after leaving the EU and so influence is therefore important.

The UK's membership of the Article 29 Working Party also helps lift the UK's voice globally, as the EU has a key role in influencing policy on data on a global scale. It is in the UK's interest to be involved in world-leading policy-making forums like this. 11 countries including Canada, Israel, New Zealand and Uruguay have adopted European-equivalent standards of data protection, designed by the Article 29 Working Party, to ensure free flow of data.

*“The ICO has been a pragmatic and influential voice in the Article 29 Working Party since it was launched, and it is critical that the UK retains some sort of status in terms of the EDPB post Brexit. In order to preserve and maintain this influence, the Government should seek to secure a continuing role for the ICO with the EDPB.”*

### **UK Oil and gas company, 90,000 global employees**

#### **Recommendation**

To ensure the continued success of the UK's data-enabled economy and protect the free flow of data, the UK must strive to be involved with the Article 29 Working Party post-Brexit. Every company in every sector uses data, and the Article 29 Working Party will play a crucial role in shaping the future data framework that will affect UK businesses and how they engage with suppliers and customers.

The Article 29 Working Party has representatives from Norway, Iceland and Liechtenstein as well as the Member States, setting out the potential for the UK's continued involvement, possibly as an “observer”. This is in line with the UK government's position, as set out in their position paper on the “the exchange and protection of personal data” that the UK will be negotiating continued involvement of the ICO with European data protection authorities.

### **1.3 The European Aviation Safety Agency**

**For both the aerospace and aviation sectors, EASA acts as a crucial agency that enables a global industry to be competitive**

The **European Aviation Safety Agency (EASA)** is a unique technical agency, responsible for the rules and regulations on airports, airlines, aerospace manufacturers and related maintenance and repair operations (MRO). It works with its members to shape EU rules as well as to enforce them. Aviation is highly integrated, and in some areas EASA has sole competence, including over airworthiness where it is responsible for licensing planes and parts for use for the whole EU market – all these procedures happen at EASA level, which means processes are much more efficient. EASA also allows a forum for experts to come together, and provide oversight and support to the national civil aviation authorities where competence is shared, including in the areas of Air Operations and Air Traffic Management. It has 840 staff members and is based in Cologne.

The UK is currently a highly influential member of EASA. The UK has the largest aviation and aerospace market in Europe, and plays a significant role in technical working groups and regulation-setting committees. The UK's Civil Aviation Authority (CAA) and the Department of Transport sit on the EASA Management Board which sets standards for the entire EEA. It is estimated that UK representatives contribute to 2/3rds of European safety rulemaking<sup>3</sup>, with France the other dominant player in this space.



Membership of EASA also enhances the UK's influence on the international stage. The only body with similar global reach and importance to EASA's is the US's Federal Aviation Administration (FAA). The EASA has an active programme of work with other international aviation organisations and regulators and through initiatives like the EU safety list and Third Country Operators authorisations, the weight of EASA drives up global standards in aviation safety. CBI members that have worked with both the EASA and FAA report that the European body is often the more innovative, especially in emerging technologies, making it even more relevant to UK business.

Being able to influence policy in this group has competitive advantages for UK industry. On a global scale, EASA encourages standards in the image of UK industry, meaning that UK technologies are a step ahead of others. In practice, that means when standards and advice has to change in other countries, they look to the UK as a source of best practice. The UK is first to be ready to sell its goods and services, getting a foothold in international markets adapting to changes that it has helped design.

The other benefit of EASA comes from the rules it governs, which create direct and significant efficiency saving for industry in being able to operate at scale. As a member of the aviation frameworks governed by EASA, UK airlines, airports and aerospace manufacturers only have to seek one set of licenses for parts and planes instead of two. These licenses are already extensive – and rightly so, given their importance – but multiplying that burden will make UK industry less competitive.

There will also be indirect costs to UK industry – for example, customers are less likely to utilise the UK's extensive MRO businesses as repairs will not automatically be to standards needed for use in Europe, and the complex supply chains related to these – where parts cross borders multiple times for expert attention – will be disrupted.

*“As a truly international sector with mobile assets, it makes sense for safety regulation to be led at the European level. Our collective expertise has made the UK highly influential and helped to generate good regulation.”*

**UK aviation company, 9000 employees**

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<sup>3</sup> ADS, Brexit Briefing: Membership and Influence over Aviation Safety Regulations

## Recommendation

The UK should seek to remain a full voting member of EASA to ensure that UK can maintain and promote its influence in aviation on a global scale, and avoid significant costs on industry that would directly affect UK businesses' competitiveness. The UK business community supports the Government's moves to achieve this recently, since the Secretary of State for Transport Chris Grayling stated that the government will be seeking to continue participation with EASA in the new regulatory relationship because of the importance that the agency has to the UK economy.

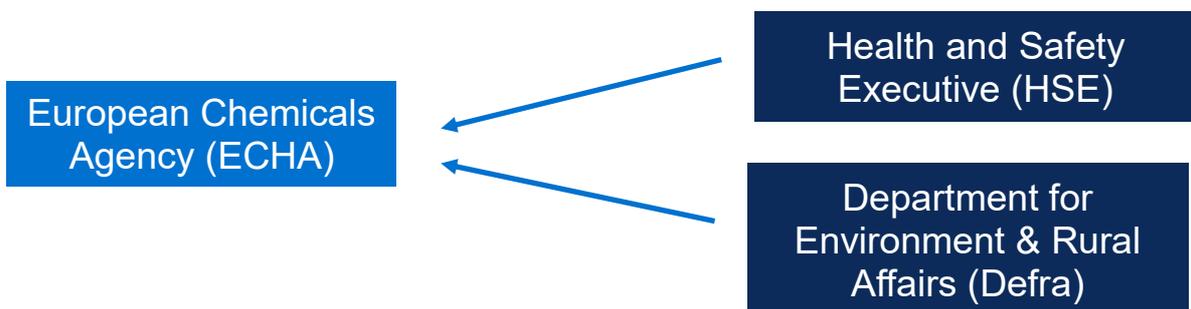
## 1.4 The European Chemicals Agency

**Chemicals regulation is one of the most complex, and as UK businesses will have to comply by EU rules post-Brexit, influence over them matters**

The **European Chemicals Agency (ECHA)** has responsibility for managing one of the most complex areas of industry regulation – the handling of chemicals and biocides. Because of the hazards involved in chemicals handling, regulation in this area is detailed and constantly evolving. ECHA has responsibility for 4 pieces of EU regulation - REACH, Classification, Labelling and Packaging (CLP), Biocidal Products (BPR) and Prior Informed Consent (PIC). Under this regulatory framework it processes files on chemicals from industry and ensures compliance across Europe, focusing on the most hazardous substances crossing borders.

This agency and these rules affect a huge range of industries: manufacturers of all sectors use chemicals as raw material and intermediates, with examples as diverse as adhesives, artificial limbs, automotive parts, cosmetics, dialysis machines, food packaging, military helmets, inks, pesticides, sports equipment, solar panels, window frames and more.

The UK's membership of the ECHA allows it to input a pragmatic and risk-based approach to chemicals regulation in the EU. The Health and Safety Executive (HSE) is the UK's competent national authority for REACH, CLP and BPR, while the HSE and Defra have shared competence for PIC. The HSE (and Defra where relevant) sits on the ECHA's four governing committees that review risk, evaluations, authorisations and restrictions. As many UK businesses trading with the EU will continue to have to abide by these rules, input from the HSE and Defra in this forum will continue to be important.



The UK's involvement in the ECHA also helps lift its voice beyond Europe, as the ECHA has a role in disseminating best practice internationally. It is a strong voice in the OECD's Environment, Health and Safety Programme, promoting global harmonisation of commonly accepted practices. The ECHA has a particular focus on cooperating with the regulatory agencies of Australia, Canada, Japan and the United States to exchange information, best practice and knowledge. Cooperating with the OECD, the ECHA developed IUCLID, a software which records, stores, maintains and exchanges data on hazard properties of chemical substances. Information submitted to IUCLID has to be in a format that meets the specifications laid out in REACH. The OECD Secretariat, the US

Environmental Protection Agency and the Japanese Ministry of Economy, Trade and Industry all use this system, creating a very direct way in which the EU has influenced non-EU countries to harmonise processes internationally and create global efficiencies.

The complexity of regulation of chemicals is such that operating at a pan-European level allows for efficiencies for both the regulator and industry. REACH is a good example of this, as the most complex of the regulations the ECHA has responsibility for – of the 600 staff members employed by the ECHA, approximately 200 work on REACH. This regulation is 850 pages long, took 7 years to draft and 11 years to implement. The regulation references the ECHA over 500 times, the European Commission around 200 times and other regulators around 100 times.

### **Case study: chemicals in the aerospace sector**

Chemicals are used in the production across the supply chains in the aerospace sector and as a result have to be REACH compliant. The departure of the UK from the ECHA and the REACH framework, would have an enormous impact on the sector's highly integrated supply chains across the EU and UK.

Unless negotiated otherwise, aerospace business based in the EU or UK who are users of registered chemicals will become importers once the UK leaves the EU. This would mean that access to new chemicals without Registrations and Authorizations would be disrupted, affecting the movement of products used across the industry and increasing the burden and cost to business.

As part of this pan-European framework, the UK chemicals industry has become highly integrated within European supply chains. Were the UK to leave this system of rules, UK businesses would face a serious competitive disadvantage from having to comply with a UK version of REACH in addition to the European version in order to import and export. The compliance costs of this would be high. There is real precedent for this: because the ECHA is recognised as setting the gold standard in chemicals regulation, some multinational companies adopt REACH despite not exporting to the EU, to bring their own compliance to the strongest standard.

*“Avoiding a regulatory cliff-edge post-Brexit is key for our business, therefore finding a way to maintain access to and working with agencies such as ECHA is vital. Also highly important will be UK authorities, such as HSE, continuing to both work with, and have influence with, the EU.”*

**European chemicals company, 50,000 employees**

### **Recommendation**

CBI members across the sectors and throughout the supply chains believe it is in the UK's interest to remain within the ECHA and its associated regulatory frameworks. Businesses have faced challenges as these rules have been developed: they are burdensome and, at their introduction, costly to implement. However, on balance, as the ECHA is world leading and UK business will be subject to them anyway, influence and involvement in this forum matters. There is precedent for non-EU member state involvement in the ECHA: Norway, Iceland and Lichtenstein all have observer status.

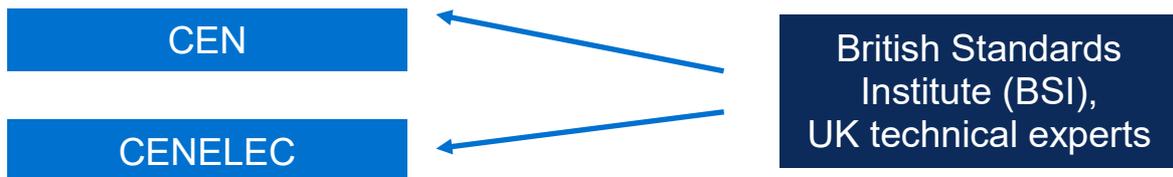
## 1.5 The European Committee for Standardization and European Committee for Electrical Standardization

**Involvement in European standard setting allows the UK to boost its influence across borders, not just in Europe but across the globe**

The **European Committee for Standardization (CEN)** and the **European Committee for Electrotechnical Standardization (CENELEC)** are European standards organizations. They are not EU agencies or institutions, but they are officially recognised by the EU as European standards bodies, alongside the **European Telecommunications Standards Institute (ETSI)**. The UK's membership of these industry forums thus far is a result of its membership of the EU.

Membership of CEN and CENELEC supports the competitiveness of UK industry, in manufacturing in particular. These organisations ensure one agreed product standard is adopted on any particular issue across their 34 member countries identically, and that any national standards which conflict with this European standard are withdrawn. This process reduces technical barriers to trade, enables international interoperability, and lowers production cost – around 160,000 different national standards have been withdrawn as a result of the creation of around 19,000 European standards<sup>4</sup>. This process does not stop the UK having British standards, indeed there are 39,196 British standards in existence<sup>5</sup>. Instead, it encourages the spread of these standards across borders.

The UK plays a major role in the governance, strategy and policy of CEN and CENELEC, which it uses to build European standards that have been designed by UK industry. This influence is through the British Standards Institution (BSI), which has permanent representation on the executive boards of both CEN and CENELEC, as well as the technical and administrative boards which set how the organisations function, examine proposals, organise technical liaison, rule upon appeals and impose obligations as required on other national bodies. As the BSI is a world-leader in developing standards, it has a robust record in encouraging CEN and CENELEC to take up British-designed standards as pan-European. As UK industry has both designed and often already adopted these standards, this directly influences market access conditions for products on a multinational scale.



However, the influence of CEN and CENELEC is not limited to Europe: through its membership of these groups, the UK can multiply its voice on the global stage at the International Organization for Standardization (ISO) and the International Electrical Commission (IEC). CEN and CENELEC often adopt ISO and IEC standards as European, with adaptations for the European market. The UK, through BSI, is already a highly influential member of these international bodies, as a participating member of 174 technical committees at the IEC, behind only Germany at 180, China at 180 and Japan at 179 – and as the most active member of ISO, with participation at 743 technical committees. However, CEN and CENELEC are another route for influence on this stage, as CENELEC and IEC have a formal cooperation agreement where all CENELEC standards are automatically submitted to the IEC for consideration of adoption. Similarly, there is a formal cooperation agreement between CEN and ISO.

<sup>4</sup> BSI Group, [European standards and the UK](#)

<sup>5</sup> BSI Group, [Facts and Figures](#)

Membership of CEN and CENELEC also has indirect economic benefits on the international stage. As the UK drives and adopts European standards before the rest of the world does, UK industry develops expertise in advance of global competitors. When other countries do adopt these standards, for example in their public procurement contracts, UK companies can demonstrate compliance ahead of domestic businesses in these geographies, and have an advantage in securing those contracts. Similarly, UK industry can sell its services to help businesses adopting those standards to adjust, based on experience gained through advance adoption.

*“There will be no benefits from the UK diverging from European standards, having the ability to apply a single set of standards to their products enables businesses to reduce their costs.”*

### **UK Machinery manufacturer, 200 employees**

#### **Recommendation**

CBI members wish to see the UK make a policy decision to retain full membership of CEN and CENELEC after it leaves the EU, and to see the single standard model continue to be supported. A technical amendment to the statutes of both CEN and CENELEC may be required to achieve this. There is precedent for non-EU member state involvement in these bodies – the EU28, Iceland, Norway, Switzerland, Macedonia, Turkey and Serbia are full members of CEN and CENELEC – but the UK must aim for full membership.

CBI members acknowledge that this comes with a choice relating to the UK’s priorities in international trade: there are some countries like the US that operate a different standards model. This is a factor in trade negotiations. However, the EU is the UK’s largest trading partner and businesses are well integrated in pan-European supply chains. Continued involvement in CEN and CENELEC is therefore a choice business wishes to make.

## **1.6 The European Food Safety Authority**

**Food safety issues do not respect national borders – it is vital the UK continues to work with the EU on these issues to minimise risk.**

The **European Food Safety Authority** (EFSA) is the EU agency for food standards and safety that operates autonomously from the European institutions. EFSA is responsible for the science of food safety, undertaking risk assessments, advising on best practice implementation of food safety, and communicating scientific findings to the public. EFSA does not directly build policy on food safety, but it produces scientific opinions and advice for the institutions and businesses, and this then forms the basis for European policies and legislation. Its remit covers food and feed safety, nutrition, animal health and welfare and plant protection and health. EFSA puts a strong emphasis on scientific cooperation across borders to ensure the minimization of any risk to food across Europe.

Members of EFSA have a significant role in setting EFSA’s agenda and therefore the EU’s approach to food safety. The body has two forums through which Member States engage:

- The primary forum is EFSA’s Advisory Forum. It comprises representatives from the national food safety authorities of the 28 EU Member States, plus Iceland and Norway and observers from Switzerland and the EU candidate countries including Turkey.

- The secondary forum is called Focal Points. It acts as an interface between EFSA and national food safety authorities, research institutes and other stakeholders and takes place before the Advisory Forum. As with the Forum, this network comprises members from all 28 EU Member States, Iceland and Norway, as well as observers from Switzerland and EU candidate countries.

The UK has had a highly influential voice at EFSA, which has helped shape regulations in food safety that support UK industry as well as protecting consumers. The UK's main body for food safety is the Food Standards Agency (FSA) – representing England, Wales and Northern Ireland – which sits on both the Advisory Forum and Focal Points committees. Through these forums, the UK is regarded as a well-regarded, proactive contributor in providing evidence and input into EFSA knowledge base through scientific consultations. CBI members also report how membership of EFSA has meant the UK has had a voice in the room to change policy even within individual member states, as it is a place it can bring challenge when UK business has been treated unfairly or in ways that contravene the rules.



Memberships of EFSA also strengthens the UK's voice on the international food safety stage. The international standards for food and agricultural products are set by Codex Alimentarius. Codex is jointly sponsored by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) and comprises more than 185 countries and 1 member organisation, the EU. Codex works with the UN member states and organisations – and the UK is represented as a single country by the Department of Environment, Food and Rural Affairs, with the FSA taking the lead on technical committees. However, the UK is also represented by the European Commission on issues that the EU regulates, where EFSA takes an advisory role. The UK's voice on food safety is therefore amplified at Codex through its membership of EFSA.

### Case study: applying to sell a regulated food product

EU rules mean that many food additives such as flavourings have to be assessed for safety. EFSA is the body that undertakes this risk assessment, in a thorough process that pools expertise across member states and industry in order to protect consumers.

- **Step 1:** Companies can get advice before submitting an application by accessing guidance documents, information sessions, industry roundtables and webinars organized by EFSA
- **Step 2:** The company submits an application
- **Step 3:** EFSA holds a hearing to review the application, led by experts from national food authorities (including the FSA) which sit on the appropriate working groups
- **Step 4:** EFSA submits a recommendation to the EU Commission which makes the final decision

UK food exporters will still have to go through this process after Brexit. The decision for negotiators is whether the UK is represented in the room when the recommendation is being put together.

After the UK leaves the EU, exporters will continue to have to abide by the food safety rules set by EFSA, and so influence over them is important. Trade with the EU is significant for the food and drink sector: the UK exported £9.9billion in agri-food goods in 2016, accounting for 71% of the value of the total export value for the sector in the year<sup>6</sup>. As many of the goods the sector produces are

<sup>6</sup> Food and Drink Federation, 2016 Export Statistics

perishable, trading with the nearest nations has always been a logical decision for business, and the building of one set of rules for 28 countries makes it simpler and lower the cost to do so.

But well beyond influence, EFSA also provides the UK with important information to support the mission of the FSA in protecting public health. By collecting and analysing data on issues across member states, EFSA can operate at a greater scale than FSA can alone, and so the UK has access to greater support and expertise on issues like avian influenza, pesticides and genetically modified organisms. It also provides businesses with guidance to support food safety, including on

*“Departure from EFSA and its regulations will make trade with the EU more complicated and at a higher cost to the business.”*

**UK Food and drink company, 100 employees**

**Recommendation**

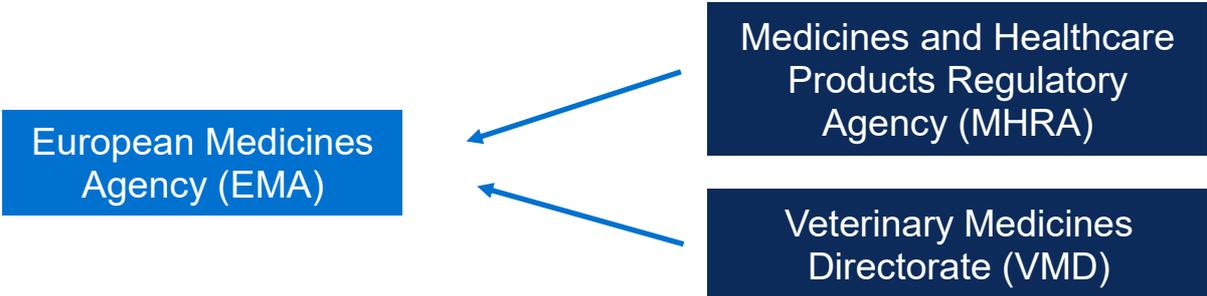
Maintaining involvement in EFSA is important so that the UK can continue to draw on cross-border expertise, as well as having influence over the rules UK companies will have to be subject to whatever the deal agreed. There is precedence for non-Member States to have involvement in EFSA: EEA and EU candidate countries as well as Turkey all sit on both the Advisory Forum and Focal Point committees with observer status, setting out a case for the UK to be able to continue participation with EFSA going forward.

**1.7 The European Medicines Agency**

**Access to the expertise in the EMA means patients get new medicines more quickly and more cheaply**

Unique among European agencies, the **European Medicines Agency (EMA)** is an effective network of national institutions with different aspects of expertise that work together to ensure safe licensing of medicines across Europe. It supports the development of medicines, is responsible for evaluating applications for medicines entering the market, monitoring the safety of medicines across their life cycle and disseminating information to professionals and patients. Thousands of medical professionals are involved in this process across the 50 competent authorities for human and veterinary medicines across the member states.

The UK plays a significant role in the EMA, which allows it to provide expertise and influence on the European and international stage. The UK’s Medicines and Healthcare Products Regulatory Agency (MHRA) and the Veterinary Medicines Directorate (VMD) in Defra are the national competent authorities (NCAs) representing the UK at the EMA.



The UK has 287 experts from these groups serving in the EMA's scientific committees, working parties and other groups, providing scientific expertise and performing inspections. This is second only to Germany in number, and is in addition to the 500+ experts currently based in the UK which are employed by the EMA. The Chief Executive of the MHRA sits on the EMA's management board.

Membership of the EMA network and its rules provides a competitive advantage to the UK's life sciences industry, as well as lower costs for consumers and the National Health Service, as it allows for more efficient pan-European operations. It also enables new medicines to be made available to UK patients early as part of global launches of new treatments. That's because the pan-European licenses issued by the EMA directly are effective for all its members, but also because the NCAs process applications for licensing of medicines at a domestic level and, through mutual recognition, those licenses are effective for the entirety of the EMA network. If those licenses are amended, they are amended automatically throughout the EU. This allows products to move unhindered through markets, and ensure that UK life sciences companies must only apply for one set of national licenses instead of one for the EU and one for the UK.

There are no comparable international alternatives that work in the same way as the network established by the EMA, and the UK benefits by being part of a world-leading club. Internationally, the EMA cooperates with many of the world's largest regulatory bodies outside the EU – driving cross-border cooperation on inspections and safety of medicines in the USA, Japan, Canada, Switzerland, Australia, New Zealand and Israel. This is not, however, to the same degree as EMA members cooperate with each other, and there are additional barriers to trade in medicines between the EEA and these nations.

*“The continued supply of safe and effective medical devices, medicines and healthcare products currently on the UK market will depend on continued alignment with European regulation.”*

**European pharmaceutical company, 3000 UK employees**

#### **Recommendation**

The UK should seek continued membership of the EMA and its rules to ensure its industry can remain competitive and efficient, prevent any barriers that delay patient access to medicines, and advance the UK's ambitions of influencing internationally. There is precedent for membership of the EMA for non-EU member states: Norway, Iceland and Lichtenstein have observer status at the EMA's Management Board and their experts participate equally to EU member states. The UK would benefit by making its views on the status of the EMA clear as soon as possible, as the EMA is actively putting in place measures to replace the UK's contribution in advance of Brexit.

### **1.8 The European Network of Transmission System Operators**

**ENTSO bodies have very important roles in simplifying the Internal Energy Market, and therefore keeping UK energy providers competitive**

The **European Network of Transmission System Operators (ENTSOs)** are industry forums which provide a platform for the organisations which manage electricity grids and gas networks (European transmission system operators or TSOs) to exchange questions and information about

the complex task of transporting energy. ENTSOs were established in 2009, with the aims of encouraging the energy markets to competitively lower prices for consumers, and ensuring information about energy and gas markets is made available in a more transparent and consistent way. The ENTSOs also develop and implement network codes – the rules which govern all cross-border electricity and gas market transactions and system operations. Those rules include establishing requirements for generators that connect to cross-country grids, calculating how much space each operator can use on lines that cross borders without endangering the system, and developing processes that will protect all European countries during emergencies. These processes can only take place effectively across borders.

### 1.8a ENTSO-E

ENTSO-E represents 43 electricity TSOs from 36 countries across Europe. ENTSO-E is central to the development of the Internal Energy Market (IEM), working with power system users, EU institutions, regulators and national governments on all technical, market and policy issues relating to TSOs and the European network.

As well as ensuring electricity policy is co-ordinated across Europe, there are 5 permanent regional groups within ENTSO-E. These Regional Groups ensure compatibility between system operations on the one side and market solutions and system development issues on the other. The regional groups are Continental Europe, Nordic, Baltic, Great Britain, and Ireland and Northern Ireland.

The UK has 4 TSOs within the Great Britain regional group: National Grid Electricity Transmission plc; System Operator for Northern Ireland Ltd (SONI); Scottish Hydro Electric Transmission plc; and Scott Power Transmission plc. But ENTSO-E is most important for the UK in the context of Ireland and Northern Ireland, which operate an all-island electricity market.

### 1.8b ENTSO-G

The role of ENTSO-G is to facilitate and enhance cooperation between national gas TSOs across Europe in order to ensure the development of a pan-European transmission system for gas and stimulate cross-border trade. It works to ensure the European gas network is managed and co-ordinated in an efficient way, and brings experts in industry together to ensure the rules that are developed to govern the market are technically sound.

There are currently 45 TSO Members and 2 Associated Partners from 26 European countries in ENTSO-G. TSOs who do not operate in an EU Member State can be part of the association as 'observers'. The UK currently has 4 TSOs within ENTSO-G: GNI (UK); Interconnector (UK) Ltd; National Grid Gas plc; and Premier Transmission Ltd.

Regulations on energy will be made in the EU after Brexit that the UK may need to be abide by, implement or react to, particularly in Northern Ireland, so having a say on the shape and nature of those rules will continue to be important. Once the UK ceases to have members of the European Parliament and Council, bodies such as the ENTSOs become some of the only ways the UK can formally influence rules and regulations on energy in the EU, and in relationships between the EU and other non-EU countries on its periphery.

*“With the loss of Council seats and MEPs in the normal EU legislative process, bodies such as the ENTSOs actually become even more important than they are now for the UK.”*

**European energy company, 15,000 UK employees**

## Recommendation

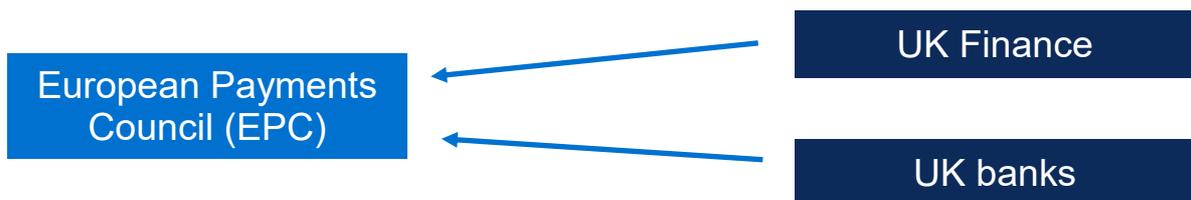
There is no reason to suggest that UK TSOs would be excluded from ENTSO-E and ENTSO-G after Brexit, but the UK Government will need to make a policy decision to support this. If possible, the UK should argue for full membership rather than the observer status of Ukraine and Moldova in ENTSO-G. In ENTSO-E, the UK TSOs will have voting powers on day-to-day activities, including approval of policy papers and public positions, but not on decisions covering proposals, methodologies, and implementing measures which can only be voted by TSOs from EU Member States.

## 1.9 The European Payments Council

### The easy transfer of payments between countries through the EPC and SPEA acts as a key enabler for business of all sizes

The European banking and payment industry comes together at the **European Payments Council (EPC)**, which is responsible for the Single Euro Payments Area (SEPA) project. SEPA establishes a single set of tools and standards that make cross-border payments in Euro as easy as national payments. It harmonises the way cashless euro payments are made across Europe and allows European consumers, businesses and public administrations to make and receive credit transfers, direct debit payments and card payments under the same basic conditions. This makes all cross-border electronic payments in Euro as easy as domestic payments.

UK industry has been a significant influencer in the EPC throughout the creation of SEPA, and has much to gain from influence over its future. With direct input from three British-based banks and the industry body UK Finance, and chairing 3 of the EPC's 11 governance bodies and working groups, the UK's financial services sector has been pioneering policy in this space, helping drive the creation of SEPA. If the UK can continue to be involved on an ongoing basis, it will drive new initiatives, with plans for a scheme for payments cards and a new framework for mobile payments already in development. These are areas in which the UK already has an advantage, and can export that advantage through the EPC.



There are many benefits for business, consumers and trade of involvement in SEPA. It creates a single system for both domestic and cross-border bank transfers. It allows cross-border transactions by direct debit. It allows citizens working or studying in another SEPA country to use an existing account in their home country to receive their salary or pay bills in the new country. It also ensures cheaper, safer and fast cross-border payments and more transparent pricing through its single set of payment schemes and standards.

SEPA itself is unique, with no international comparators, so there is no alternative the UK could join or create. While, if the UK left the EPC and SEPA, there are global alternatives for card payments, there are not global alternatives for credit transfers and direct debit payments that come close to being as efficient as SEPA. The alternative for credit transfers and direct debit payments is the SWIFT system which usually involves fees and take an average of 1-3 working days to be

processed. In contrast, the next stage in SEPA will allow these payments to be processed in 10 seconds or less, a system that some claim is modelled on the UK's Faster Payments Service.

*“Smaller companies like us particularly benefit from having access to SEPA as it makes payments much simpler and easier to navigate.”*

**UK technology company, 3000 employees**

**Recommendation**

To continue to benefit from SEPA and its future initiatives, UK industry believes the UK should seek to retain its seats at the EPC. There is precedent for this – SEPA covers EU member states automatically, but Iceland, Norway, Switzerland, Liechtenstein, Monaco and San Marino all also participate with an equal voice and standing in the policy making forums to EU members. However, non-EU SEPA members must be assessed by the EPC as having an EU-equivalent regulatory framework - which means continued involvement in SEPA depends significantly on the future UK-EU relationship model for financial services.

## 2. Highly complex bodies where industry is seeking a unique solution

*In areas which have a very high area of complex, detailed and rapidly changing regulation, the UK and EU may wish to set out a new way of making and monitoring regulation over time. The financial services industry has put forward proposals for a new forum for monitoring alignment on an ongoing basis*

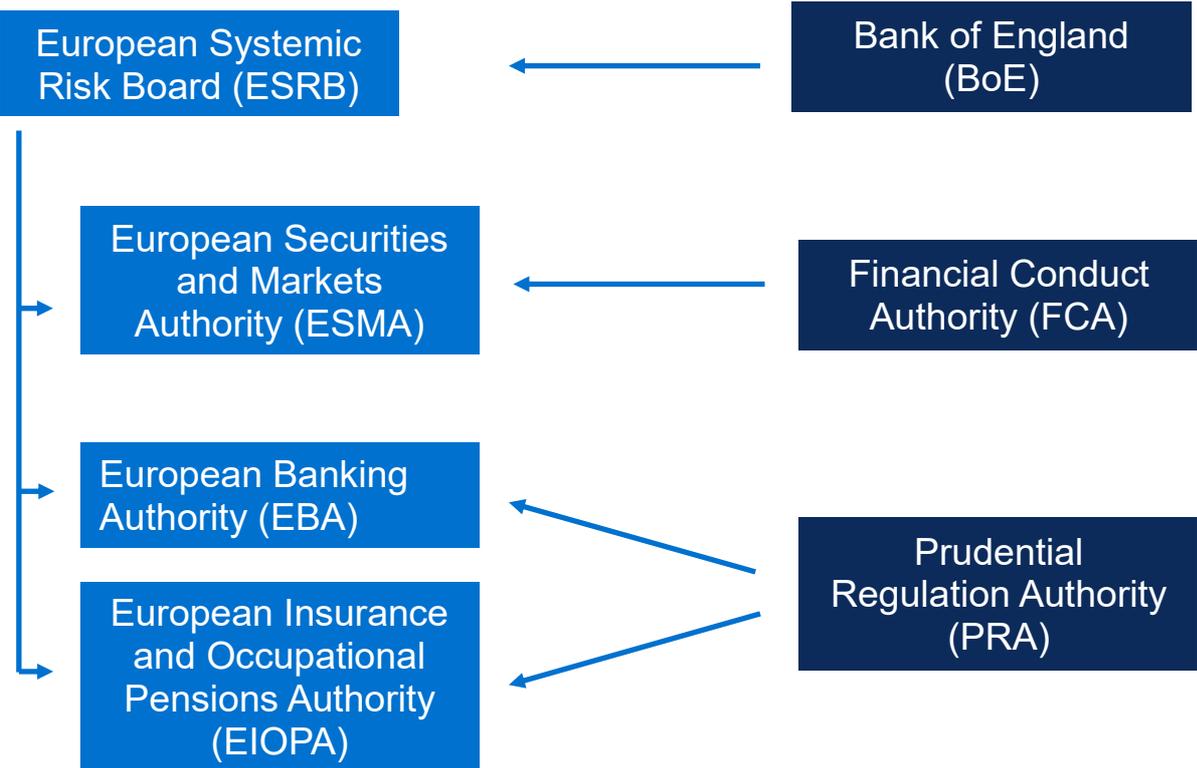
### 2.1 The European System of Financial Supervision

**With the UK operating as a leading provider of financial services across Europe, access to the EU’s regulatory framework will be extremely important in the new regulatory relationship – however, there will need to be new and creative ways of doing this**

Financial services is a highly global industry and the UK is a leading international hub for both financial services and capital markets, facilitating the flow of capital not only between Europe and the UK but globally. But financial services is one of the most highly regulated industries of all, both at the UK and EU levels. Consequently, there are several agencies of the EU that make up **the European System of Financial Supervision (ESFS)** that regulate and monitor the financial sector:

- **the European Securities and Markets Authorities (ESMA)**
- **the European Banking Authority (EBA)**
- **the European Insurance and Occupational Pensions Authority (EIOPA)**

The system is also includes the **European Systemic Risk Board (ESRB)** as well as the national competent authorities, such as the Bank of England which overlook the regulation in the individual Member States. Whilst the national component authorities remain in charge of supervising individual financial institutions, the objective of the European supervisory authorities is to improve the functioning of the internal market by ensuring appropriate, efficient and harmonised European regulation and supervision.



This complex and sophisticated system of regulation and supervision is already unique. Given the UK's prominence as leading provider in financial services, a unique solution for managing the relationship between the UK and EU in the industry may be required.

## 2.2 The European Securities and Markets Authority

The **European Securities and Markets Authority (ESMA)** is an independent EU Authority that aims to safeguard the stability of the European Union's financial system by enhancing the protection of investors and promoting stable and orderly financial markets.

It achieves this by: assessing risks to investors, markets and financial stability, completing a single rulebook for EU financial markets, promoting supervisory convergence and directly supervising credit rating agencies and trade repositories.

ESMA's main decision-making body is the Board of Supervisors, the members of the board make all policy decisions of the EMSA. All Member States have NCAs that are members of the board, the UK body represented is the Financial Conduct Authority (FCA) who has full voting rights on the board. Also on the Board are the European Commission and EEA country bodies' NCAs, but without voting rights.

## 2.3 The European Banking Authority

The **European Banking Authority (EBA)** is an independent EU Authority which aims to ensure effective and consistent prudential regulation and supervision across the European banking sector. Its overall objectives are to maintain financial stability in the EU and to safeguard the integrity, efficiency and orderly functioning of the banking sector. Established in 1995 in London, it was recently decided that it would be relocating to Paris as a result of the UK deciding to leave the EU.

The main task of the EBA is to contribute, through the adoption of Binding Technical Standards and Guidelines, to the creation of the European Single Rulebook in banking. The Single Rulebook aims to provide a single set of harmonised prudential rules for financial institutions throughout the EU, helping create a level playing field and providing high protection to depositors, investors and consumers. The Authority also plays an important role in promoting convergence of supervisory practices to ensure a harmonised application of prudential rules.

Additionally, the EBA is mandated to assess risks and vulnerabilities in the EU banking sector through, in particular, regular risk assessment reports and pan-European stress tests.

It is a powerful and important body, with the ability to investigate alleged incorrect or insufficient application of EU law by national authorities, take decisions directed at individual competent authorities or financial institutions in emergency situations and mediate to resolve disagreements between competent authorities in cross-border situations. It can also act as an independent advisory body to the European Parliament, the Council or the Commission

To perform these tasks, the EBA can produce a number of regulatory and non-regulatory documents including binding Technical Standards, Guidelines, Recommendations and reports.

Like EMSA, the main decision-making body is the Board of Supervisors, the members of the board make all policy decisions of the EBA, such as adopting draft technical standards, guidelines, opinions and reports as well as the final decision on the EBA's budget. All Member States are members of the board, with the PRA representing the UK also alongside NCAs from EEA and EFTA countries who do not have voting rights.

## 2.4 The European Insurance and Occupational Pensions Authority

Before and during the financial crisis in 2007 and 2008, the European Parliament called for a move towards more integrated European supervision in order to ensure a true level playing field for all actors at the level of the EU and to reflect the increasing integration of financial markets in the Union. As a result, the **European Insurance and Occupational Pensions Authority (EIOPA)** was established to play a role in reducing risk and severity of future financial crises.

EIOPA's main goals are:

- Better protecting consumers, rebuilding trust in the financial system.
- Giving greater protection to policyholders, pension scheme members and beneficiaries
- Ensuring a high, effective and consistent level of regulation and supervision taking account of the varying interests of all Member States and the different nature of financial institutions.
- Greater harmonisation and coherent application of rules for financial institutions & markets across the EU.
- Strengthening oversight of cross-border groups.
- Promote coordinated EU supervisory response.

EIOPA's role in maintaining the stability of the financial system, transparency of markets and financial products has been enormously important to the UK Financial Services sector and to the whole economy for the UK in keeping the UK's market competitive and an attractive place to invest.

As also with EMSA and EBA, the agency is governed by its Board of Supervisors, which integrates the relevant national authorities in the field of insurance and occupational pensions in each Member State. The PRA represents the UK in this forum, although it cedes the UK chair to the Pensions Regulator – the UK's regulator on work based DB and DC schemes – on issues around pensions. It also has non-voting members like the EBA and EMSA, as well as bodies from the EEA countries.

*“The sector is aligned in asking for the UK Government to seek an imaginative, new way of establishing regulatory co-operation for financial services.”*

### UK Insurance company, 9000 employees

#### Case study: The International Regulatory Strategy Group's (IRSG) proposal for financial services

Work on presenting a possible solution for continued reciprocal market access has been done in a recent IRSG report *A New Basis for Access to EU/UK Financial Services Post-Brexit*, which sets out the case for a Free Trade Agreement for financial services which will be underpinned by regulatory and supervisory cooperation. The IRSG proposes establishing a forum of regulatory alignment, which will be responsible for monitoring alignment on an ongoing basis as well as flagging any areas of potential divergence. It also proposes establishing a formal framework for supervision. This would determine the allocation of supervisory responsibility and structures for the supervision of individual firms based on the existing college of supervisors' regime. Dispute resolution is also necessary to achieve redress where alignment is deemed impossible. The IRSG proposes that this is dealt with by a separate judicial body that is independent of UK/EU courts. Such an approach offers a model of mutual market access that also enables some degree of regulatory flexibility to be pursued by the UK and the EU.

**Recommendation**

The financial services industry is a heavily regulated, cross-border industry and flows in finance must continue in order to sustain jobs and growth across the UK and the rest of Europe. The three key agencies of the ESFS have significant international recognition as world class leading regulators that are highly influential in setting financial services policy and regulation.

However, while it is important for the UK to maintain a degree of regulatory alignment with the EU to enable cross-border access of financial services, it is also critical that the UK maintains a voice in the regulations that will apply on the sector, particularly those that could have an impact on its competitive position. In addition, the EU also benefits from the expertise of the UK's world-class regulatory regime and regulators, who have also helped shape the regulatory agenda at both the global and EU levels. However, the UK effectively becoming a "rule taker" or for UK regulators to only have an observer status membership of existing EU regulatory bodies could not be a satisfactory outcome for either the EU or the UK.

While continued participation with the regulatory agencies is a priority for the sector, the uniqueness of the financial services sector necessitates a different, more creative approach to the regulatory agencies and frameworks and the finding of a solution that would benefit both the EU and the UK.

### 3. Significant bodies where, if the UK is to be part of the rules they govern, UK involvement is important to industry

*These bodies have responsibility for important rules that matter to business, but whether or not UK firms will continue to have to abide by these rules after Brexit is a matter for negotiation. If UK businesses do have to implement rules in these areas, the UK should seek to negotiate participation in these bodies. If not, businesses are keen to support the Government's efforts to repatriate these powers to ensure the UK's legal framework operates well and efficiently.*

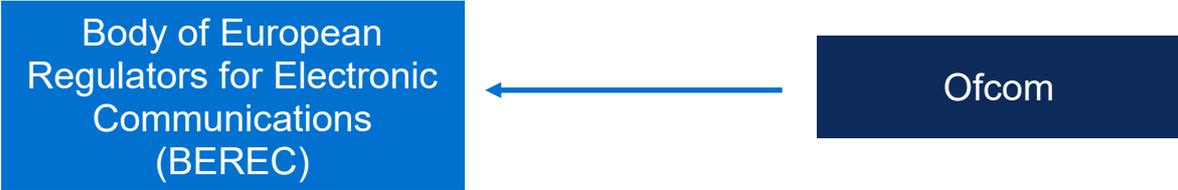
#### 3.1 The Body of European Regulators for Electronic Communications

**Continued participation with BEREC will be important if the UK agrees regulatory alignment on telecoms with the EU, and helpful in any event given BEREC's expertise**

The **Body of European Regulators for Electronic Communications (BEREC)** is a decentralised EU regulatory agency which works with National Regulatory Authorities (NRAs) in telecoms and the European Commission to ensure a consistent application of the EU rules for electronic communications.

BEREC gives advice to the European institutions and compliments at a European level the regulatory tasks performed at a national level by the NRAs. BEREC's major work includes providing opinions on cross-border disputes, disseminating best practices, assisting NRAs, advising the Commission, the European Parliament and the Council, and assisting the institutions and the NRAs in their relations with third parties. BEREC's guidance at a European level is set largely by the NRAs who provide expertise on the implementation of telecommunications policies in each Member State.

The UK NRA, Ofcom plays a leading role within BEREC, and this has been an important way in which the UK business voice can be heard on EU telecoms policy. Ofcom's Stephen Unger is currently one of BEREC's Vice-chairs. Ofcom leads on several key issues for the organisation including as co-chair of the Remedies expert working group. Ofcom expertise is widely respected and sought after by European partners. At the moment, Ofcom's influence is particularly important as the EU telecoms market is undergoing reform. BEREC will play an important role in influencing the development of these new rules, including on the Commission's review of the NRAs decisions to address market failures and the wider formation of the Electronic Communications Code.



Membership of BEREC has also benefited UK businesses through its coordination role: by working to ensure consistency for pan-European operators, it minimises compliance costs. And as acting for a platform for international cooperation and pooling of expertise, BEREC has also helped support Ofcom to learn from regulatory best practice in the EU27. Recently, BEREC has provided Ofcom and other NRAs with guidance on adopting new rules on roaming in the most effective way possible, and on ensuring businesses are compliant with net neutrality rules.

*“BEREC acts as a useful forum for sharing international regulatory best practice and ensuring consistent, proportionate regulation. Ofcom has been a driving force within BEREC.”*

**UK telecoms company, 100,000 employees**

### **Recommendation**

Given the value of Ofcom’s participation and current level of involvement within BEREC, the UK could seek to retain an active role for Ofcom – particularly if it seeks “to ensure UK telecoms companies can continue to trade as freely as possible with the EU”, as laid out in the Government’s February White Paper on Brexit. CBI members are broadly supportive of the UK continuing to align with the proposed objectives of the Electronic Communications Code reforms beyond Brexit.

An active role for Ofcom within this EU body would allow the UK to continue to influence EU policies and legislation that will continue to affect UK companies operating across Europe and vice versa beyond Brexit, and allow Ofcom to access BEREC’s expertise. There is precedent for this: 9 countries from Albania to Turkey are observer members.

For some businesses, repatriation of telecoms policy would create additional barriers to doing business, but for others it would not. Whatever the new relationship between UK and EU telecoms rules, it will be important for the UK to provide domestic successors to take over the important policy and oversight roles currently carried out in tandem by the EU Commission, to give firms certainty and recourse to challenge decisions where necessary.

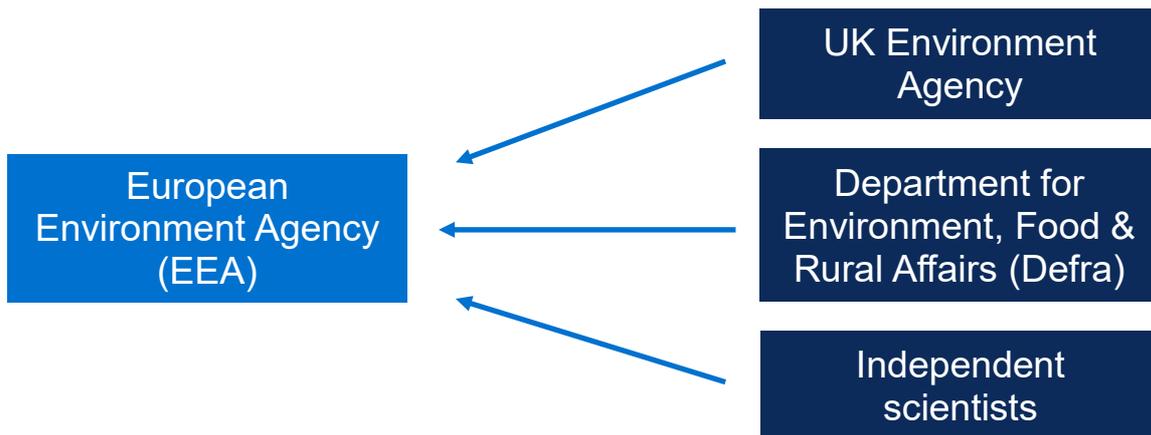
## **3.2 The European Environment Agency**

**The EEA acts as a strong research forum on environmental regulation for member countries by assembling expertise and acting as a single convener of advice across the UK’s nations**

The **European Environment Agency (EEA)** is a decentralised agency that provides information on the environment for organisations that develop, adapt, implement and evaluate EU environmental policy, as well as the general public. While it does not make the EU’s environmental rules itself, the EEA gathers data and provides assessments on a wide range of topics related to the environment such as air and climate, nature, sustainability and well-being, and economic sectors. This information is then used by the EU institutions to support policymaking.

The EEA’s main mandate is to help member and cooperating countries make informed decisions about improving the environment, integrating environmental considerations into economic policies and moving towards sustainability. Environmental policy and research is hugely important to businesses across the economy, as it is relevant to every office building and factory – but the agricultural, energy, manufacturing and transport industries all have particular interests in the future of the UK’s relationship with the EEA.

The UK is represented at the EEA by the UK Environment Agency, and the Department for Environment, Food and Rural Affairs (Defra). These organisations sit on the EEA’s Management Board, which sets the strategic direction of the body, and are eligible to be elected to the EEA’s 8-person Bureau which makes executive decisions. Currently, with a fifth of the seats, the UK has greater representation than any other member of the EEA on its 20-person scientific committee, which provides expert advice.



The EEA's main strengths come from the collaboration it can conduct at international level, with business, civil society, and the scientific and academic community – which it would be difficult for the UK to replicate on its own. Much of this takes place through the European Environmental Information and Observation Network (Eionet), where around 1,500 experts from around 400 different bodies across 39 countries work together to build environmental assessments on issues like air pollution and biodiversity, to inform policy-making on national, European and global levels. An over-arching body providing guidance and support is particularly important for the UK, where much environmental policy is devolved to the Northern Ireland Executive and the Scottish and Welsh Governments.

*“The departure of the UK from the EEA could result in restricted access for British based businesses to the internal energy market, which would have huge ramifications for the energy sector.”*

### European energy company, 7000 employees

#### Recommendation

There is a strong scientific case for remaining a member of the EEA, to benefit from collaboration at an international level which the UK cannot replicate alone. There is also a strong business case if the UK continues to directly implement the EU's environmental rules after its exit from the EU, but this is a matter for negotiation.

There is precedent for this: membership of the EEA is not limited to EU membership. It currently has 33 member countries and six cooperating countries, this include the 28 EU Member States together with Iceland, Liechtenstein, Norway, Switzerland and Turkey as well as six West Balkan countries. Turkey, Switzerland and the EEA countries can all sit on the Management Board and Bureau. This paves the way for continued UK participation with the agency without any significant difficulties.

If the UK is to leave the EU's framework for environmental rules, business will need to be involved in building new ways of managing environmental regulation across the devolved nations, to avoid barriers to doing business in the UK single market.

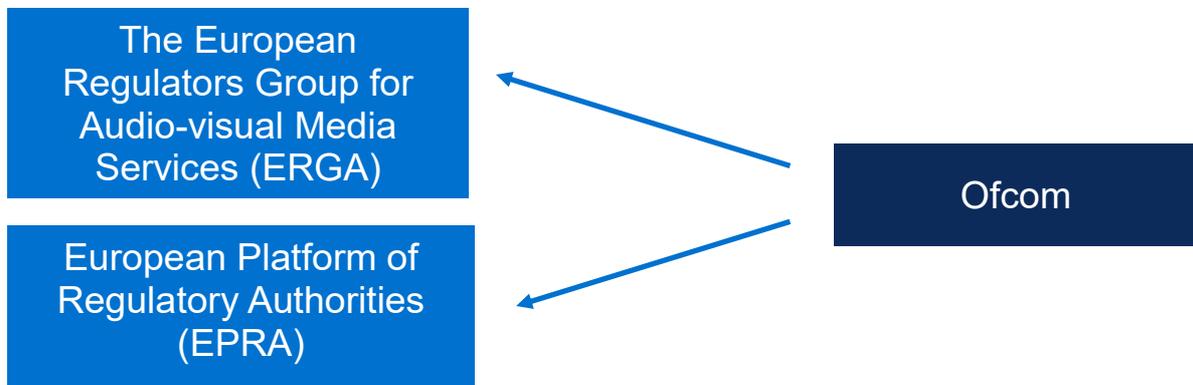
### 3.3 The European Regulators Group for Audio-visual Media Services

**For the UK’s broadcasting and media sector to remain as one of the strongest in the world, the UK must continue to shape the EU regulatory framework**

The UK is a European leader in broadcasting. 4 times as many TV channels and more than twice as many on-demand services are based in the UK, compared to its closest European competitor<sup>7</sup>. Of the 1,389 TV channels based in the UK, 758 use the UK as a launchpad into other markets – namely the EU. Broadcasters can do this through a type of broadcasting passport, established through a rule called the EU’s Audio-visual Media Services Directive (AVMSD). Similar in concept to the financial services passport, TV channels have to have a base within the EU in order to broadcast within it, but a TV channel licensed for broadcast in one EU member state automatically has permission to broadcast into any other. To retain the right to broadcast for these 758 TV channels, the UK would have to negotiate continued involvement in the AVMSD framework. However, AVMSD affects a broad range of industries including advertising, digital platforms like Google and Facebook, and publishers of newspapers.

If the UK is to remain a part of AVMSD, influence over its development is important – particularly because the Directive is undergoing revision at the moment. The EU institutions are currently debating a range of changes, including rules for new technologies like Netflix, safeguards for children watching TV, and combating racial and religious hatred.

One of the bodies through which the UK could seek to maintain some influence over AVMSD as it is adapted is the **European Regulators Group for Audio-visual Media Services (ERGA)**. This is a forum for high-level representatives of national regulatory authorities (NRAs) in broadcast to provide advice to the Commission on the implementation of AVMSD. Ofcom is the UK’s representative on ERGA.



UK businesses also benefit indirectly from the co-ordination that takes place between broadcast regulators at ERGA. The body acts as a forum where NRAs can discuss how to implement AVMSD in a consistent way, and share experiences and good practices which benefit businesses, particularly those that operate on a cross-border basis.

However, ERGA is not the only organisation at which NRAs can cooperate: Ofcom is also a member of the **European Platform of Regulatory Authorities (EPRA)**. This is a significantly longer-standing organisation, having been established in 1995. It also has a much wider scope than ERGA, the members of which are only member states – it comprises 52 regulatory authorities from 46 countries as members as well as the European Commission and the Council of Europe who have observer status.

<sup>7</sup> European Audiovisual Observatory, [Audiovisual Services in Europe](#)

*“If the UK continues to operate within the AVMSD framework, it is hugely important for the UK to continue to have some influence in the rules that are set.”*

### UK broadcasting company, 6000 employees

#### Recommendation

If the UK continues to be a part of AVMSD to allow TV channels to continue broadcasting into the EU, influence over it as it develops is important. ERGA would provide a good forum through which to do this, however the bulk of the work that is undertaken on AVMSD takes place in the EU institutions, so ERGA may not be sufficient in itself.

The wider benefits of ERGA in terms of cooperation between NRAs can feasibly be replicated by Ofcom’s continued membership of EPRA, which should not be affected by the UK’s exit from the EU.

### 3.4 The European Union Intellectual Property Office

**For business to protect its Intellectual Property, the UK must ensure that it is able to do so internationally**

The **European Union Intellectual Property Office (EUIPO)** is responsible for managing the EU trade mark and the registered Community design. It also works with the IP offices of the EU Member States and international partners to offer a similar registration experience for trademarks and designs across Europe and the world.

The EUIPO works in partnership with national and regional EU IP offices, user groups, the European Commission, the European Parliament and other international organisations. It also cooperates heavily with national intellectual property offices of different EU Member States. This cooperation mainly happens through liaison meetings between the EUIPO and the EU’s IP national offices. Here common interests, best practice and guidelines are discussed and circulated.



The EUIPO also works with international partners outside the EU to try and drive international convergence on these important protections, so businesses can face fewer barriers to securing their property across the world. For example, the EUIPO works with the World Intellectual Property Organisation (WIPO) and the European Patent Organisation (EPO). Much of this work focuses on the creation of common IT platforms - common trade mark and design information and classification tools, such as TMview which provides information about trademarks across the world, DesignView which is a central hub for global registered designs, TMclass which helps businesses understand and use different classifications in this complex area and DesignClass which helps businesses translate product indications. These tools help spread consistency globally.

The EUIPO’s international work also supports EU businesses in enforcing their trademarks in global markets. Businesses value being able to draw on EUIPO’s additional protections and international weight to support their case when infringements occur.

However, the UK also has an independent role in influencing international intellectual property policies, as it is a member of the WIPO. The UK also has more power than the EUIPO or the EPO at the WIPO, as it is a full voting member of all the relevant standing committees, whereas the EU is classed as an observer intergovernmental organisation. In the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indicators – for example – the EU has membership without the right to vote, whereas the UK is a full member. This means that the UK is more influential within the institutions.

**Recommendation**

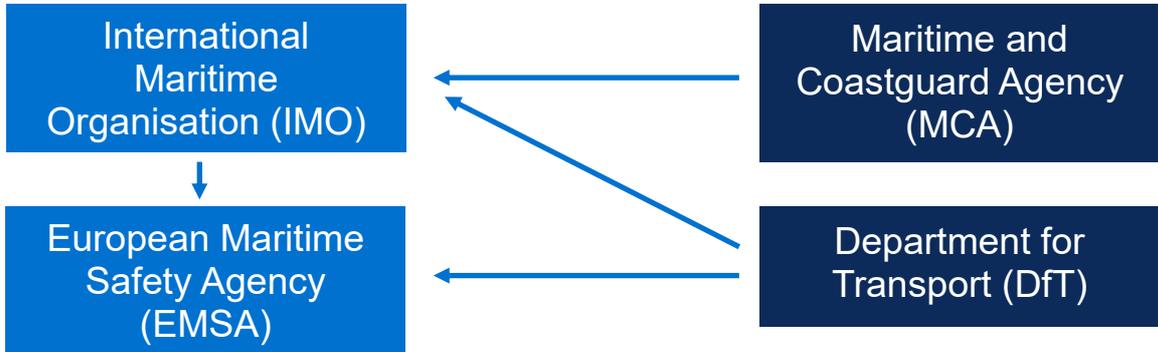
Unless negotiated otherwise, after Brexit the UK will leave the European trademarking system. There is a possibility that means that EU trademarks post-Brexit will cease to have effect in the UK. That means it is less important for the UK to continue to be a part of influencing that system. And while the EU is an effective player in international intellectual property, the UK has some greater opportunities than the EU to do so independently in some forums.

However, access to intellectual property rights at an international level is key for UK business staying competitive in an increasingly interconnected world. Continued participation for the UK with EUIPO is beneficial for the UK in providing a simple and easy method for business to obtain exclusive rights for trade mark and design protection throughout the EU Member States with just a single application, which has particularly benefitted SMEs. Negotiators should consider this in phase 2 of talks.

**3.5 The European Maritime Safety Agency**

**The UK already as a strong voice on setting international maritime regulation, however together with EMSA it could be even stronger**

The **European Maritime Safety Agency (EMSA)** is a decentralized agency that provides technical assistance and support to the European Commission and Member States in the development and implementation of EU legislation on maritime safety, pollution by ships and maritime security. It also provides advice to companies on a wide range of topics, from verifying ships’ CO<sub>2</sub> emissions to limiting sulphur content in marine fuels. In doing so, EMSA closely cooperates with the Member States’ maritime services. The Department for Transport represents the UK on EMSA’s administrative board.



Unlike many other EU agencies, EMSA has no major regulatory or legislative function. Its main role is to implement and monitors maritime policy, rather than to design it – though it does provide technical expertise to the EU Commission on issues like marine equipment, and UK business benefits from being in the room when these recommendations are being collated. But maritime law

is uniquely international – and while EMSA has regional responsibilities, the prime rule maker of maritime law is the International Maritime Organization (IMO). The IMO is a United Nations agency which has responsibility for the safety and security of shipping and the prevention of marine pollution by ships. It acts as the regulator at international level, and manages the Conventions that underpin maritime safety worldwide.

The EU has a significant role in the IMO, shaping global shipping regulations: the Council of Europe and European Commission are both involved in rule setting as Intergovernmental Organizations (IGOs) with agreements of cooperation with the IMO. EMSA research schemes help influence the decision making of the Commission and Parliament, and the policies they bring to the IMO – but it does not take the lead.

However, the UK also has a substantial role in the IMO, where it has been a member since 1949. The UK is a “category A” Council member at the IMO, recognised as a state with the largest interest in providing international shipping services, and given appropriate influence as a result. It is at the IMO that DfT and the UK’s Maritime and Coastguard Agency (MCA) do most of their work in shaping maritime regulation and law.

One other function that EMSA fulfils is in the co-ordination and management of the THETIS programme. This is a system which helps countries share information about the location of ships and the way they conform to standards, in order to carry out inspections in a co-ordinated way. This prevents ships from having to be inspected multiple times unnecessarily, with all the delays that entails, saving businesses money. There are 1,600 “users” of this system, which co-ordinate 18,000 inspections per year between them. It is likely that the UK will remain a part of this system, regardless of its membership of EMSA, as it serves the signatories of the Paris Memorandum on Port State Control, to which the UK is an independent signatory alongside Canada, Iceland, Norway and the Russian Federation.

*“UK shipping will continue to regularly call at EU ports. For this reason, conformity of EU standards will be required. Participation of EMSA will provide the UK with a stronger platform to influence such regulations.”*

### **International shipping and logistics company, 10,000 employees**

#### **Recommendation**

As EMSA will continue to be significant in the development of rules at the IMO, continued UK participation in EMSA would be beneficial for the UK economy, as a way of lifting the UK’s voice. But EMSA does have limited regulatory functions, and the UK could look to compensate for this loss of influence after leaving the EU and EMSA by increasing funding for the MCA, which industry reports already has challenges in resourcing. Creating further responsibilities for the agency without increasing resource could create greater challenges that may risk the operational capability of the organisation, including limiting growth in the UK flag registry and causing additional administrative costs for shipping businesses, alongside inefficient duplication of regulatory effort.

## 4. Bodies that are not strongly linked to trade where businesses support the UK's departure

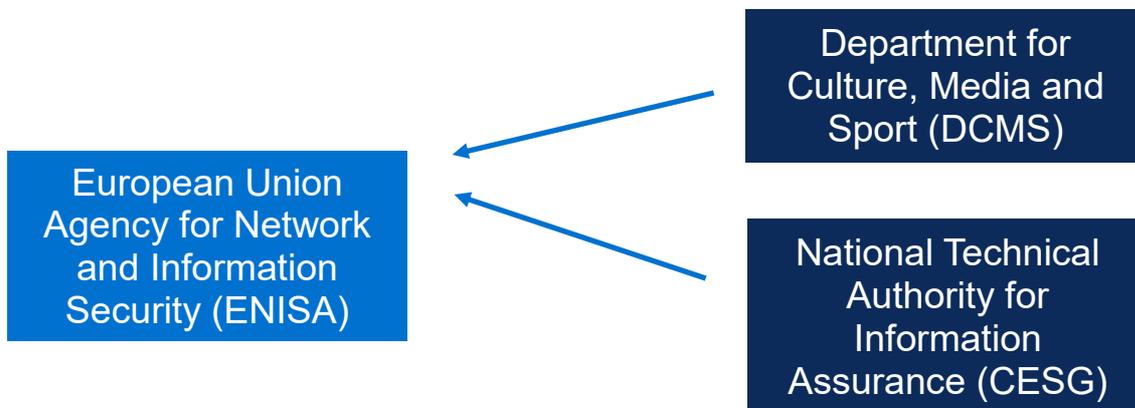
*These bodies provide advisory rather than regulatory services in areas of regulation that can very feasibly be managed at domestic-level, and therefore there is a strong case for the UK to bring them under domestic control. But these areas are important, and the UK must invest appropriately to manage them.*

### 4.1 The European Union Agency for Network and Information Security

**Network security is very important for business, however ENISA does not have any regulatory functions that necessitates the UK's continued participation**

The **European Union Agency for Network and Information Security (ENISA)** is the decentralised agency that acts as a centre of expertise for cyber security in Europe. ENISA is actively contributing to a high level of network and information security (NIS) within the EU and supports the development and implementation of the EU's policy and law on matters relating to NIS.

The governing committee that sets the agenda and budget of ENISA is the Management Board – consisting of representatives from EU institutions and Member States, The UK's representatives are from the Department of Culture, Media and Sport and National Technical Authority for Information Assurance (CESG), with EEA countries holding non-voting observer status.



ENISA works closely with Member States and the private sector to develop ideas on initiatives such as the pan-European Cyber Security Exercises and the development of National Cyber Security Strategies. ENISA also supports the implementation of the European Union's policy and law on matters relating to NIS. However, overall ENISA's role is focused on sharing expertise, collaborating directly with operational teams throughout the EU rather than implementing or monitoring regulation.

#### **Recommendation**

While ENISA's work on network and information security is very important, it is not directly economically relevant to the UK economy and does not act as a regulator, therefore not making it a key agency for the UK to continue participation with after it leaves the EU. Alongside DCMS and CESG, the primary UK agency for cybercrime and network security is the National Cyber Security Centre (NCSC), which operates as part of GCHQ. It is vital that the CESG and NCSC work together with business, government and international bodies like ENISA going into the future as cyber security is a transitional issue that will benefit from international collaboration.

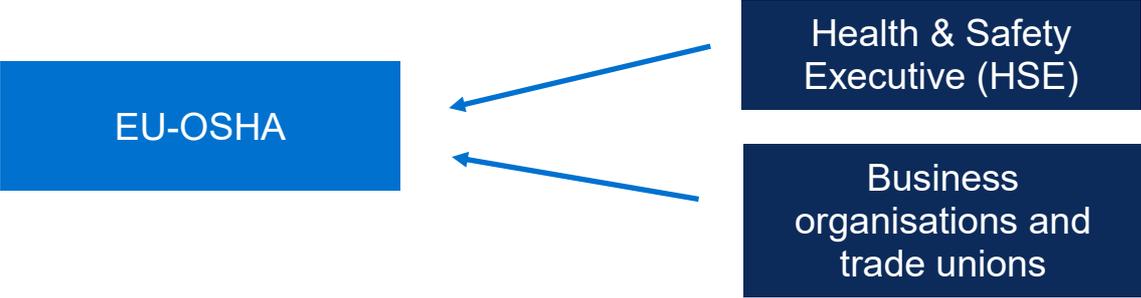
**4.2 The European Union Information Agency for Occupational Safety and Health (EU-OSHA), Eurofound and the European Institute of Gender Equality (EIGE)**

The three agencies are examples of bodies which advise on rules rather than enforce them. Such bodies are not necessary for trade and which UK business would support repatriation.

EU-OSHA, Eurofound and the European Institute of Gender Equality are three EU decentralized agencies that focus on the matters of health and safety, working conditions and gender equality. Though agencies of the EU, their functions are not to implement or monitor regulation but instead develop policy and advise the EU institutions on relevant matters.

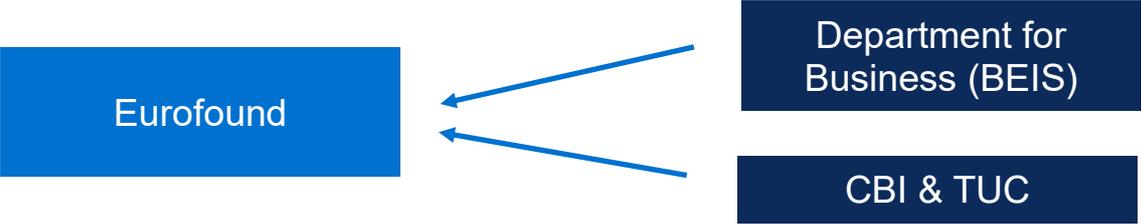
4.2a EU-OSHA is the European Union information agency for occupational safety and health. Its work contributes to the European Commission’s Strategic Framework for Safety and Health at work 2014-2020 and other relevant EU strategies and programmes. Its stated mission is to make European workplaces safer, healthier and more productive for the benefit of businesses, employees and governments and to improve working conditions in Europe. It runs campaigns, conducts research, develops risk prevention strategies for small business and works in partnership with governments, employers’ groups, workers’ organisations, EU bodies EU networks, and private companies.

Organisations from Member States and EEA countries sit on EU-OSHA’s Governance Board, which sets the Agency’s strategies and goals and holds the Director accountable. The organisations that represent the UK include the Health & Safety Executive (HSE), CBI, EEF, TUC and Unison.



4.2b Eurofound is the EU agency for the improvement of living and working conditions. It aims to support the objectives of the Europe 2020 strategy, which seeks to ensure that Europe achieves smart, sustainable and inclusive growth. Eurofound has six strategic areas where it aims to provide the knowledge to “achieve upward convergence of living and working conditions in the EU”. These are: working conditions and sustainable work, industrial relations, labour market change, quality of life and public services, the digital age and monitoring convergence in the EU.

It has a Governing Board on which organisations from Member States sit on and advising and influencing the agency’s agenda. Those from the UK are the Department for Business, Energy and Industrial Strategy (BEIS), the Trade Union Congress and the CBI.



**4.2c European Institute for Gender Equality (EIGE)** is the EU agency that aims to support better-informed policy-making and contribute to the promotion of gender equality in Europe. As with EU-OSHA and Eurofound, its function is not to implement or monitor regulation but instead delivering high-level expertise to the European Commission, the European Parliament, the Member States and candidate countries on gender quality. It has an advisory panel consisting of experts from Member States, employers and workers groups. The UK has a place on this group but it is currently vacant.

### **Recommendation**

Despite having the status of agencies, EU-OSHA, Eurofound and EIGE do not have any direct regulatory monitoring or implementation powers. In addition, the policy areas of health and safety, working conditions and gender equality – while extremely important - they do not underpin trade in the same way as data flows, traded goods and aviation. They do and do not require frequent technical level adjustments in the same way as chemical definition and product standards do. Withdrawal from these agencies as the UK leaves the EU could therefore have the support of UK business.

However, UK business supports continued high standards of employee welfare and working conditions, and understands that the concept of the ‘level playing field’ is important in negotiations. These agencies are very important and future cooperation and collaboration with them as well as other international forums will be vital for the UK to demonstrate to the rest of the world that it will remain committed to high standards.

The UK therefore should look to its domestic bodies that can expand their operations to incorporate increased functions such as research and policy development as well as monitoring that will be absorbed from the EU, such as HSE for the health and safety regulation.

So that the UK bodies are able to properly incorporate these extra regulatory responsibilities, they must have sufficient resource to scale up their operations. The CBI called for the UK Government to “commit to providing Government departments with the resource to make Brexit a success”<sup>8</sup> – this will be key for agencies in order to make full plans and preparations ahead of their expanding role. This resource must be made well in advance of the end of any transition period, so that domestic bodies have time available to recruit, retrain and redeploy staff to manage these expanded responsibilities.

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<sup>8</sup> CBI Autumn Budget Submission, 2017

## Conclusion

As negotiators approach the complex issue of the future economic relationship between the UK and the EU, one of the most important discussions will be about rules. The UK Government has set out two ambitions that matter when it comes to UK rules: to have control and to have “close-to-frictionless trade”. Business wants to help the Government achieve those aims, through the negotiation of a unique arrangement to manage the relationship between the UK’s rules and the EU single market.

Businesses support the UK regaining sovereignty from a number of bodies, such as the the European Union Agency for Network and Information Security and Eurofound. Here, the UK can leave both the EU framework of rules and the EU bodies that set them. If the UK is to repatriate the rules in these areas, businesses want to see responsibility matched by resource within domestic bodies, to ensure firms can continue to run effectively.

There are a number of areas where UK businesses will have to apply EU rules regardless of the deal struck – for example in necessarily cross-border industries like aviation, energy and chemicals. Where this is the case, the UK’s ability to control the rules that affect it is best served by remaining within the rules and within the bodies that set them. Negotiators should seek the fullest possible control here, as well as in areas where the EU leads the world and the UK’s influence on a global basis is best served by involvement – such as in data, product standards and payments.

And if, during negotiation, the UK and EU agree both sides are best served by continued application of EU rules in other areas – such as broadcasting, intellectual property and the environment – then the UK should seek to be involved in the bodies that create those rules.

The CBI’s research shows that there is already significant precedent for non-EU member state involvement in many of these agencies and forums, with a wide variety of countries playing a wide variety of roles in each one. And consultation with European businesses shows that they too value having the UK in the room in many of the bodies UK business is seeking involvement within: losing 287 British experts from the European Medicines Agency or a fifth of the independent British scientists on the European Environment Agency would have a significant impact. And in forums for industries as different as telecoms and chemicals, working with others to have a single set of rules implemented in a single way makes doing business across borders easier.

## Annex 1 – The 39 decentralised agencies and industry forums

World leading bodies	Highly complex bodies	Significant bodies where the UK involvement is important	Bodies that are not strongly linked to trade	Not CBI member priorities
The Article 29 Working Party	The European Banking Authority	The European Environment Agency	Eurofound	European Border and Coast Guard Agency (Frontex)
The European Aviation Safety Agency	The European Insurance and Occupational Pensions Authority	The Body of European Regulators for Electronic Communication	The European Information Agency for Occupational Safety and Health	European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA)
The European Chemicals Agency	The European Securities and Markets Authorities	The European Regulators Group for Audio-visual Media Services	The European Institute of Gender Equality	European Asylum Support Office (EASO)
The European Committee for Standardization	The European Systemic Risk Board	The European Maritime Safety Agency	ENISA	European Centre for Disease Prevention and Control (ECDC)
The European Committee for Electrical Standardization		The European Union Intellectual Property Office		European Centre for the Development of Vocational Training
The European Food Safety Authority				European Fisheries Control Agency
The European Medicines Agency				European GNSS Agency (GSA)
The European Payments Council				European Monitoring Centre for Drugs and Drug Addiction
The Agency for the Cooperation of Energy Regulators				European Union Agency for Law Enforcement Training (CEPOL)
The European Network of Transmission System Operators				European Police Office (Europol)
				European Public Prosecutor's Office
				European Union Agency for Railways (ERA)
				European Training Foundation
				European Union Agency for Fundamental Rights (FRA)
				The European Union's Judicial Cooperation Unit (Eurojust)
				Translation Centre for the Bodies of the European Union (CdT)

## Annex 2 - SECTOR-BY-SECTOR: The Trade Costs of "No Deal" Brexit

Sector	Average Most Favoured Nation import tariff (%)	Average Most Favoured Nation export tariff (%)	Indicative scenario of non-tariff barriers facing exporters to EU (tariff equivalent, %)
Aerospace and defence	2.6%	2.7%	11.1%
Agriculture, forestry and fishing	17.7%	16.4%	N/A
Chemicals (ex. Pharma)	3.8%	3.5%	15.1%
Electrical machinery	2.6%	2.0%	2.7%
Financial services	N/A	N/A	5.5%
Food, drink & tobacco	13.4%	10.3%	30.1%
Insurance	N/A	N/A	5.6%
Machinery and equipment	2.7%	1.8%	N/A
Metals and metal products	2.0%	2.3%	7.4%
Motor vehicles	9.0%	8.5%	11.7%
Non-motor vehicles transport	1.8%	1.3%	11.7%
Pharmaceuticals	0.0%	0.0%	6.4%
Post and telecoms	N/A	N/A	8.2%
Scientific or consumer goods	1.3%	1.6%	N/A
Textiles, clothing and footwear	10.4%	10.5%	9.6%

**Note:** Estimates of tariff equivalents for non-tariff barriers were derived from a study of the barriers facing US firms in exporting to the EU\*, which also included estimates of the share of such costs that could theoretically be reduced by negotiation. Weighting these reducible tariff equivalents by UK export share for each sector, we calculated that the average non-tariff cost could be as high as 13%. If the UK faced even half these costs, it would be equivalent to an additional tariff on goods exports of 6.5%, with the sector impact on different sectors under this latter assumption illustrated in the third column.

\* "Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis", Berden et al, European Commission (2009).

**Sources:** Heteroeconomics; HMRC; ITC; European Commission; CBI analysis.





For further information or a copy  
in large text format, contact:

Nicola Hetherington, policy adviser  
CBI  
T: 020 7395 8080  
E: [nicola.hetherington@cbi.org.uk](mailto:nicola.hetherington@cbi.org.uk)

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