

<p>Title: The Electronic Identification and Trust Services for Electronic Transactions) Regulations 2016</p> <p>PIR No: N/A</p> <p>Original IA/RPC No: N/A</p> <p>Lead department or agency: Department for Digital, Culture, Media and Sport</p> <p>Other departments or agencies:</p> <p>Contact for enquiries: Michael Animashaun (michael.animashaun@dcms.gov.uk)</p>	Post Implementation Review
	Date: 17/06/2021
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 22/07/2016
	Recommendation: Keep
RPC Opinion: N/A (as the net cost to business is under £5m)	

1. What were the policy objectives of the measure?

The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (EITSET Regulations) were necessary to implement the supervisory body, enforcement and penalty regime requirements of Regulation (EU) 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions (OJ No L 257, 28.8.2014, p73) (“the eIDAS Regulation”). This repealed the 1999/93/EU Directive (“the 1999 Directive”) on a Community framework for electronic signatures. The eIDAS Regulation was directly applicable in the UK under EU law at the time.

Whilst the 1999 EU Directive made provision for the use of electronic signatures cross-border, it did not do so for secure cross-border and cross-sector electronic transactions in general. In response to this, the eIDAS Regulation expanded the scope of the 1999 Directive to enable secure and seamless electronic cross-border transactions between businesses, citizens and administrations. It aimed to enhance trust in electronic transactions by providing a common foundation for secure and seamless electronic interaction between citizens, businesses and public authorities, thereby increasing the effectiveness of public and private online services, electronic business and electronic commerce in the EU. It also introduced a regime for the mutual recognition of electronic signatures, electronic seals, electronic time-stamping and acceptance of electronic documents and website authentication. This was supported through a governance framework for trust services that included supervisory bodies, conformity assessment bodies and trusted lists for trust service providers in Member States.

Given the overlap between the functions of the supervisory body under the eIDAS Regulation and that of the Information Commissioner’s Office (ICO) under the Data Protection Act 1998 (DPA), the approach taken to implementation of the Regulations in 2016 was to designate the ICO as the supervisory body and to modify the ICO’s existing powers under the DPA 1998 and apply them for the purpose of enforcing the EITSET Regulations.

Subsequently, EITSET (Amendment etc.) (EU Exit) Regulations 2019 amended Regulation (EU) No 910/2014 in preparation for EU exit. This removed the mutual recognition and interoperability framework for electronic identity schemes as the reciprocal arrangements were no longer appropriate. The 2019 Regulation did, however, preserve the regulatory framework for UK trust services and ensured that EU products and services would continue to be available for use in the UK.

In particular, the function of the ICO as the supervisory body for trust services in the UK was retained, though obligations to share information and provide other forms of assistance to the

ICO's EU counterparts were replaced with a power to share information in the interests of effective regulation or supervision of trust services.

The requirements for this Post Implementation Review were also amended by the 2019 Regulations and the scope thus reduced to assessing whether the role of the ICO under the EITSET Regulations as the supervisory body for trust services had been met and assessing the effectiveness of the enforcement actions available for it to take.

2. What evidence has informed the PIR?

The PIR follows on from the 2018 De Minimis Assessment (DMA), which was carried out at the pre-implementation stage of the 2019 EU Exit Regulations process and used to inform policy decisions by evaluating the expected policy implications of the proposals at the time. It was a piece of light touch analysis focused on secondary quantitative desk research. No primary research was undertaken at this stage to understand the impact of the regulation prior to 2018. The DMA has provided an understanding of the methodology required to undertake the cost benefit analysis of the EITSET Regulations.

The research aimed at updating the data used in the DMA's methodology, focusing on remaining as close as possible to the original methodology for consistency purposes whilst improving it where possible.

For this PIR, the following data sources were used to quantitatively analyse the direct costs to businesses which arose from the implementation of the legislation:

- **Digital Identity Survey:** A 2019 survey run by DCMS to gather information on digital identity use and its relevance for businesses in Great Britain, this is the latest available data. Specifically, the PIR uses the percentage of firms that answered "Yes" to "*Thinking about any transactions that your business has within the EU (including within the UK)... Does your business ever use digital signatures?*" The low and high estimates were calculated as a lower bound of 20% and upper bound of 30% of the central estimate respectively, in line with the DMA methodology.
- **E-commerce and ICT activity:** "*Annual data on e-commerce sales and how businesses are using the internet.*" The most up to date data is from 2019, this does not impact the estimated costs as this variable is not expected to change significantly over a short period of time. The data source splits the data by business size. The PIR uses the "*proportion of UK businesses with internet access*" and the "*proportion of UK businesses with a website*" as the central and lower estimates respectively. The upper estimate was calculated by inflating the central estimate by 10%, this was an assumption taken by DCMS.
- **UK business: activity, size and location, 2020:** "*The data contained in these tables are numbers of enterprises and local units produced from a snapshot of the Inter-Departmental Business Register (IDBR) taken on 13 March 2020.*" The PIR uses the data regarding the "number of VAT and/or PAYE based enterprises by employment size bands". The DMA uses the same data source but measures "local units". DCMS decided to change this data source because multiple local units under common ownership are called an "Enterprise". As this CBA is attempting to calculate familiarisation costs, DCMS has worked on the assumption that familiarisation costs are not repeated across local units so the PIR considers the number of UK enterprises instead.
- **Time it takes a member of the legal team to understand the legislation (in hours):** The central estimate was taken from the DMA. The PIR used a 50% reduction and a

100% increase on the central estimate as the lower and upper estimates respectively. These are standard assumptions made by DCMS.

- **Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2020:** *“Annual estimates of paid hours worked and earnings for UK employees by sex, and full-time and part-time, by four-digit Standard Occupational Classification 2010.”* Whilst the DMA used data for the median hourly wage of all employees for the activities of head office, the PIR uses data for solicitors only. The new methodology moves away from the original wage data source because we believe using the median hourly wage of solicitors leads to a more precise estimation of the familiarisation costs. The PIR methodology includes an overhead charge of 22% of the median hourly wage. This accounts for costs related to the employees, in addition to the wage costs, such as telephone, heating or electricity. The DMA methodology does not mention accounting for overhead charges.

3. Assessment of the DMA methodology

Overall assessment costs and benefits

The PIR modelling is in line with the methodology used to calculate the transition costs to familiarise with the legislation from the 2018 DMA. These were the only direct costs to businesses that have been identified.

The PIR carries out the calculations using the data sources mentioned above and estimates the total familiarisation cost to business of applying the 2016 Regulations in the first year to be between £3.1m and £43.7m, with a central estimate of £15.3m (in 2018 prices). Over a 10 year appraisal period, the central estimate equates to an **EANDCB of c. £2.1m** (2018 prices, 2016 present value).

Having reviewed the DMA familiarisation costs, the PIR found that the familiarisation costs have been overestimated in the DMA.

Table 1: PIR cost calculations

Variable	Low estimate	Central estimate	High estimate
% of firms with IT using e-signatures ¹	18.9%	23.6%	30.7%
% businesses with IT	45.2%	90.3%	99.3%
Number of businesses	2,749,700	2,749,700	2,749,700
Number of businesses with IT using e-signatures ²	235,101	587,103	839,557
Time it takes a member of the legal team to understand the legislation (in hours) ³	0.5	1	2

¹ The low and high estimates have been calculated in line with the DMA.

² Number of businesses with IT using e-signatures = % business with IT * Number of businesses * % businesses with IT that use e-signatures

³ Assumptions have been made to calculate the low and high estimates.

Median hourly wage of a member of the legal team (£), incl. overheads e (22%) ⁴	28.1	28.1	28.1
Total cost to business (NPV), 2018 prices	£3.1m	£15.3m	£43.7m
EANDCB, 2016 present value	£0.4m	£2.1m	£5.9m⁵

The 2018 DMA did not identify annual direct costs to business as no private UK trust service providers were currently meeting the eIDAS conditions for the provision of qualified trust services before the UK departed from the EU. Instead, the DMA identified direct costs to business in terms of transition costs. Such costs reflect the time it takes for businesses to understand the new legislation, thus these are one-off familiarisation costs.

The DMA estimated the total cost to business in the first year to be between £16m and £37m, with a central estimate of £25m. Over a 10 year appraisal period, the central estimate equates to an EANDCB (Equivalent Annual Net Direct Cost to Business) of c.£2.9m (2018 prices, 2016 present value⁶).

Table 2: Review of 2018 DMA cost calculations

Variable	DMA methodology (central estimate)	PIR methodology (central estimate)
% of firms with IT using e-signatures	63%	23.6% ⁷
% businesses with IT	83%	90.3%
Number of businesses	Unknown, possibly 2,709,595 ⁸	2,749,700
Number of businesses with IT that use e-signatures	1,416,847 ⁹	587,103
Time it takes a member of the legal team to understand the legislation (in hours)	1	1
Median hourly wage of a member of the legal team (£)	17.59	28.1 ¹⁰
Total cost to business (NPV),	£25m	£15.3m

⁴ These values are in 2020 prices. The median hourly wage and overhead charge are £23.04 and £5.01 respectively.

⁵ The EANDCB of the high estimate is above £5m. However, a less detailed analysis without independent scrutiny is still appropriate as the EANDCB of the central estimate is below the threshold.

⁶ The EANDCB has been adjusted to the year benefits began (2016).

⁷ For medium-large businesses and small-micro firms this data point is 54% and 23% respectively. Therefore, the average for all UK businesses is sharply driven down by the large number of SMEs.

⁸ Due to the source to the link in the DMA being broken DCMS could not trace back the exact number used to calculate the number of businesses with it. We expect it to be roughly 2,709,595 as $1,416,847 / 0.83 / 0.63 = 2,709,595$.

⁹ This value is mentioned in the DMA as the central estimate for the number of UK firms using e-signatures.

¹⁰ Includes overhead charge (22% of median hourly wage).

2018 prices		
EANDCB, 2016 prices	£2.9m	£2.1m

As table 2 shows, the fall in the estimated familiarisation cost shown in the PIR is driven by a lower estimate of the percentage of firms using e-signatures.

At the time the DMA was written, the most suitable figure for this estimation was the proportion of EU27 businesses with IT that used e-signatures in 2008 (25%). Therefore, the data used in the DMA was calculated by forecasting that figure to 2018. The data used in the PIR is considered to be a more accurate estimation as it comes from a survey distributed to businesses in GB in 2019. Thus, it is a more accurate representation of the current relevance of e-signatures in the UK¹¹.

The EANDCB is £2.1m in the PIR and £2.9m in the DMA. This shows that the rise in the estimated median wage does not outweigh the fall in the estimated percentage of firms using e-signatures.

Therefore, **DCMS estimates that the overall direct cost to business over the five years since the Regulations were introduced has been lower than predicted in the DMA.**

Small and Micro Businesses Analysis (SaMBA)

According to the DMA, smaller businesses were expected to suffer to a greater extent overall from the 2016 Regulations, but not in a significantly disproportionate way relative to larger UK businesses.

The greater negative effect on smaller businesses is caused by the fact that the transition costs are unrelated to the size of the business, but instead are associated with the legal cost of familiarising with the new legislation. DCMS calculated the total direct cost to micro-small business to be between £2.9m and £41.3m, with a central estimate of £14.4m in 2018 prices. Over a 10 year appraisal period, the central estimate equates to an **EANDCB of c. £2m** (2018 prices, 2016 present value).

Although the EANDCB for all businesses and for SaMBA are similar, the familiarisation costs faced by small and micro UK firms are likely to be greater relative to business revenue. However, as this is a small regulation, the total cost to micro-small business is still relatively low.

Furthermore, as pointed out in the DMA, smaller businesses tend to have less legal expertise relative to larger firms. This may be because, for instance, they are unlikely to have a dedicated legal team. Although this further challenge cannot be monetised, it makes it harder for them to familiarise with the new regulation, potentially leading to further costs (e.g. time it takes the business owner to hire a lawyer).

The DMA however points out that the potentially disproportionate negative impact is mitigated by the fact that small businesses are less likely to use e-signatures. The Digital Identity survey carried out by DCMS in 2019 shows that 23% of micro and small businesses use e-signatures. This is significantly lower than the percentage of medium-large firms using e-signatures (54%).

The regulation places no barriers that may harm the uptake of e-signatures by small-medium firms. Therefore, the low uptake may be driven by the nature of SMEs, such as lower

¹¹ For the purpose of this analysis DCMS assumes that the proportion of UK businesses using e-signatures is the same as the proportion of GB businesses using e-signatures.

bureaucratic costs that may encourage larger firms to use e-signatures instead, rather than the regulation itself.

Overall, the PIR agrees with what was estimated in the DMA. Although there is evidence to believe that micro-small businesses have been disproportionately affected by the regulation, they are not significantly harmed due to the small scope of the regulation and the low take-up by SMEs.

Wider impacts

The 2018 DMA highlighted that the legislation could also impact individuals that purchase electronic signatures, who would face familiarisation costs as well. However, there currently is no evidence to suggest that individuals have purchased e-signatures. For instance, the ICO informed us that it has experienced no queries from the public regarding electronic signatures since July 2020, when calls to the frontline “Business Advice Services” were first recorded.

The PIR agrees with the statement made in the DMA that, to the best of our knowledge, the negative wider impacts are negligible.

Benefits

The benefits were not monetised in the DMA, as it is difficult to pinpoint and attribute a monetary value to the direct benefits to businesses from being able to use digital signatures.

Due to the lack of market activity no benefits have been realised since the implementation of the regulation. Nevertheless, DCMS attempted to qualitatively estimate what benefits may arise when e-signature providers sign up in the future.

DCMS expects that in the post EU Exit landscape, the established supervisory framework will be crucial in creating a level playing field for trusted service providers through the expected growth of the Qualified Trust Service Provider list. Trusted service providers will be able to signal that they meet a certain set of specifications that ensure an adequate level of security and risk management in the provision of trust services. The enhanced trust and confidence in services offered by QTSPs will lead to an increase in the take up of services in the UK market.

Furthermore, if the legislation increases the uptake of e-signatures in the UK this may benefit organisations through reduced administrative, printing and shipping costs relative to traditional signatures.

As the EANDCB is less than £5m, this is a light-touch piece of analysis so will require a further attempt to quantify the benefits in the future.

4. To what extent have the policy objectives been achieved?

The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (EITSET) designates the Information Commissioner’s Office (ICO) as the supervisory body for chapter III of the eIDAS Regulation on trust services, and provides that it must carry out the tasks set out in Article 17 of the EU Regulation.

To assess whether the policy objectives under the EITSET Regulations have been achieved, we have considered whether the role of the ICO under the EITSET Regulations as the supervisory body for trust services has been fulfilled and the effectiveness of the enforcement actions available for it to take. In addition we have considered the ICO’s powers under the Data Protection act 2018, which were modified to apply for the purpose of enforcing the EITSET Regulations.

It is worth noting that the eIDAS Regulation was retained in UK domestic law. The amended UK eIDAS Regulation ensures that trust services continue to have the same domestic regulatory framework as they had before EU Exit day and to allow for EU trust services to continue to be used in the UK. The intention for trust services was to ensure continued recognition is possible, by allowing the technical standards and specifications in domestic law to mirror those in the EU.

Overall, due to the limited market development of qualified trust service providers (QTSP) in the UK since the implementation of the EITSET Regulations over the period and the resulting limited amount of supervisory activity in this sector, a more detailed evaluation of the objectives has not been possible. Despite this, the supervisory and enforcement framework established under the EITSET Regulations and subsequently revised under the EU Exit eIDAS Regulation remains robust, with the potential to stimulate market activity both domestically and on a cross-border basis.

A key part of future proofing the economy will be through digital transformation including growing the use of trust services across the UK economy. However, our view is that the full policy objectives have yet to be realised. As set out in the Government's 2020 Call for Evidence Response¹², we see the potential for growth in this area through the creation of the right environment for a seamless digital marketplace within the UK and across national borders, and which the current framework will facilitate. Trust services reduce the friction in fully and partially digital transactions. An increase in the use of trust services could encourage the use of smart contracts, or help reduce friction at the border by utilising qualified time stamps/seals and signatures. We will endeavour to undertake a further evaluation within a period not exceeding 5 years, when there has been a demonstrable increase in supervisory and enforcement activity in this area as the market place matures in the coming years.

5. Do the policy objectives remain appropriate and, if so, to what extent could they be achieved by a system that imposes less regulation?

Post EU exit the ICO continues to have responsibility for supervision of the trust services in the UK eIDAS Regulations. The ICO can grant and revoke qualified status for trust service providers established in the UK, approve or reject QTSPs, carry out audits and take enforcement action. An effective supervisory regime is critical to ensuring effective oversight of the legal framework for UK trust services. And this is key to maintaining and increasing confidence in the use of electronic transactions through mechanisms such as verifying the identity of businesses online and verifying the authenticity of electronic data e.g documents and signatures. This regulatory approach to trust services and standards will continue to be important if the UK has ambitions of growing the domestic market place and cross border through entering into international agreements for mutual recognition of trust services in the future. In this respect it is the DCMS view that the original policy objectives of the legislation remain appropriate and that the current level of regulation remains necessary to meet those objectives.

Number of UK Qualified Trust Service Providers

The UK eIDAS landscape has changed over the last few years and the ICO has seen an influx of interest around qualified trust service status either via direct enquiries to their frontline service or in the context of stakeholder engagement e.g. with Land Registry, HMRC and others. Whilst numbers remain low, the ICO has seen a small increase in the number of organisations enquiring about becoming qualified since the UK left the EU on 31 January 2020.

At the present time the ICO is finalising its assessment of the UK's first QTSP. This is the first time the ICO has conducted such an assessment and it has helped to build a robust set of processes to underpin assessment, and onward supervision, of these services. The ICO has noted that the QTSP currently being assessed has indicated it will be submitting a notification for

¹²www.gov.uk/government/consultations/digital-identity/outcome/digital-identity-call-for-evidence-response

two additional qualified services in the near future (qualified web authentication certificates, and timestamping) for which a full ICO assessment will be required.

The ICO believes that in the near future other organisations will be submitting notification for qualified status and may be awarded QTSP status over the next year. The ICO has also indicated that the market is likely to be increasingly driven by the need for more electronic means of signing and other digital trust services as a result of the ongoing pandemic, remote working, and as a result of organisations seeking to enter into the UK market after Brexit.

In respect of non-qualified trust service providers in the UK, this number is difficult to quantify due to the nature of the UK eIDAS regulatory reach. Whilst the ICO is responsible for the verification and oversight of qualified trust service providers, non-qualified services are only subject to regulatory action where the ICO is informed that a trust service provider does not meet the standards of eIDAS. The ICO does not hold a register of non-qualified trust service providers.

The EU maintains a 'master list' for EU Member States – the EU List of Trusted Lists - which contains links to each of the individual EU Member State trusted lists. The Member State trusted lists contain the specific details of trust services that have reached qualified status through the member state supervisory body granting them that status (a mechanism the ICO QTSP assessment is based on). Entry on an EU member state Trusted List as a qualified trust service gives EU trust services mutual recognition and cross-border interoperability within the eIDAS area.

In the UK there remains a requirement under the UK eIDAS Regulations for a UK trusted list containing information relating to qualified trust service providers and the qualified services provided by them. The UK's list of qualified trust service providers is currently managed by the not-for-profit organisation tScheme. The list currently does not have any QTSPs on it but does have 16 non-qualified trust service providers on this list, including significant providers such as: Royal Bank of Scotland, BT, Health and Social Care Information Centre, Police services/Met Police, NHS PKI, Home Office Technology, Registers of Scotland, Experian, Royal Mail, Barclays and a number of other commercial trust service providers.

Whilst the UK eIDAS Regulation provides the ability for non-qualified trust service providers to be included in a UK list, the status of the non-qualified list held by tScheme prior to EU exit will be considered in light of those provisions.

EU Trust Service Providers in the UK

The ICO is aware that EU QTSPs provide services to organisations in the UK. For example, the Law Society Scotland provides its members with a Smartcard which allows members to apply their electronic signatures to documents. The QTSP in this case is ACA RedAbogacia, the Spanish bar society.

The ICO inform us that prior to the end of the transition period on 31 December 2020, and due to the requirements of EU's payment Service Directive (PSD2) for qualified certificates, many online banking providers were seeking qualified services from EU QTSPs – which was often problematic due to differing language, cultural and different working and technical customs and practices.

UK eIDAS Regulation allows for recognition of EU QTSPs, however, the ICO does not have data on how many UK organisations are using EU trust service providers – but self-evidently in the absence of a UK QTSP and any mutual recognition with the EU, any organisation looking to make use of qualified services for EU recognition will need to go to EU QTSPs for these services.

Enforcement Activity

The ICO has investigated one organisation in respect of a suspected non-conformity but was able to ascertain that the organisation and processing did not fall within the scope of the eIDAS Regulation and thus no further action was taken on the part of the regulator.

The ICO has not had to inform other European supervisory bodies and the public about breaches of security or loss of integrity (prior to EU Exit), though during the investigation outlined above they kept European supervisory bodies informed through membership of the European Union Agency for Network and Information Security (ENISA) and their standard reporting mechanism (twice yearly meeting).

In line with requirements for reporting whilst the UK was still part of the EU, the ICO submitted an annual report to ENISA on its activities. This was largely a nil return as it predominantly related to QTSP related matters, of which the UK had none. It was however used to update on the one non-conformity investigation and to highlight any broader activity such as development of processes, stakeholder engagement, and other operational matters.

Under eIDAS Article 20, the ICO is able to audit a QTSP where there is a justified reason for doing so. As the UK does not currently have a QTSP, this power has not been used. Under EITSET the ICO has been granted enforcement powers based on the Data Protection Act 2018 (DPA 2018) for the purposes of enforcing the EITSET Regulations 2016 and the eIDAS Regulations. The compulsory audit powers found within the DPA 2018 have not been used in respect of QTSPs under eIDAS.

General information

The ICO has highlighted its membership of FESA – the Federation of European Supervisory Authorities - as a key part of its engagement activity in this area. This is a group created between Supervisory Authorities (SAs) that operate within the eIDAS framework, or who are looking to move towards it. It is not connected to the EU or the Commission. The group meets twice a year and is an excellent fora for the sharing of good practice, technical information, and to collaborate and work across borders to establish where possible shared positions and approaches. Domestically the ICO also engages with key stakeholders to ensure they are informed and are informing their approach – in particular they meet with tScheme regularly, have frequent engagement with UKAS and have engaged with various other bodies over Trust Services issues including HM Land Registry, HMRC, Open Banking and others as necessary.

Key issues for the future

Both the DCMS and the ICO have separately identified a number of issues that may have contributed to the low market maturity in the UK for trust services in general over the last five years.

As highlighted above, there are no QTSP's in the UK who, for instance, could issue certificates for the creation of qualified electronic signatures needed for legal documents and non-repudiation, due to lack of demand. However, the ICO's imminent assessment of the first QTSP may stimulate our domestic market by motivating firms currently offering advanced trust service products to invest in gaining qualified status. For example, we anticipate the market in the UK to develop as government bodies such as Land Registry have committed to a future service model based on using QTSPs to confirm signatures in the house buying/selling process.

A key concern raised by the ICO in preparing for this PIR was in relation to its current level of resourcing for its eIDAS related activities. Until 2021, funding for ICO to undertake this work has been static at c£57,000 p.a since DCMS took responsibility for this work in May 2018. This was recently increased to c£70,000 as part of the 2020 one-year baseline spending review. If the ICO needs to undertake more QTSP assessments in future, its resource needs may grow to undertake the assessments, and to support follow-up supervision of QTSPs.

The ICO has recently published a paper setting out its thoughts regarding the development of the digital identity trust framework. In it the ICO raises a number of questions regarding the role of QTSPs within that framework. DCMS will be engaging with the ICO on these questions throughout the ongoing development and iteration of the trust framework to address those issues.

Securing cross-border mutual recognition

Article 14 of the EU eIDAS Regulation provides that trust services provided by trust service providers established in a third country can be recognised as legally equivalent to qualified trust services provided by EU QTSPs where there is an agreement in place between the EU and the third country. The Government will use this as a basis for exploring a future mutual recognition of trust services between the UK and the EU as interoperability of e-authentication and trust service products will facilitate and encourage cross border digital transactions by giving citizens, governments and businesses greater trust in the identity of the other party. In the meantime the UK EU exit eIDAS SI has provided the ability for UK firms to purchase QTSP products from the EU in the short term.

In view of the likely growth of digital transactions globally, the Government will also explore commitments with other countries, including with the EU, to encourage mutual recognition of e-authentication and trust service products.

Recommendation

Based on the evidence within this Post Implementation Review of the EITSET Regulations, and taking into account the amendments made to the eIDAS Regulation as retained in UK law by the 2019 UK EU exit eIDAS Regulations, our recommendation is that the legislation is retained. The 2019 EU Exit SI preserves the functions of the ICO as the supervisory authority for the UK eIDAS Regulations, holding responsibility for investigating and overseeing UK QTSPs. The legislation also provides the Secretary of State with the ability to request the ICO to develop the UK trust service infrastructure.

The review has taken place at a time when regulatory activity in this area has been very limited due to the lack of market demand for qualification to qualified trust service standards by UK organisations. It has highlighted the need to improve the trust service market and consider how we can better support qualified and non-qualified trust service providers.

In light of the provisions contained in the 2019 UK EU exit Regulations DCMS will work with the ICO and relevant stakeholders to resolve outstanding issues and perceived barriers to the market that have emerged post EU exit, for example to provide clarity on certification schemes and the accreditation of certification bodies undertaken/approved pre-EU exit; and to review the arrangements surrounding the maintenance of the UK trust list. The UK EU exit Regulations will be reviewed again within the next 5 years, with more evidence being collected.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: Dipti Bhadresa, Chief Economist

Date: 10/06/2021

Signed: Matt Warman MP

Date: 17/06/2021