

Brexit – Changes to the deadlines to notify the UK Regulators to benefit from the UK's Temporary Permissions Regime

28 March 2019

Speed Read

While the Brexit landscape continues to evolve daily, the day set for Brexit has, for the time being, been extended by the European Council and the United Kingdom (UK) Government from 23:00 on 29 March 2019 to 23:00 on 12 April 2019 (the **Brexit Delay**).

In light of the Brexit Delay, the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (the PRA and together with the FCA, the **UK Regulators**), each intend to extend the notification window for firms and funds wishing to use the UK temporary permissions regime (the TPR) **from the end of 28 March 2019 to the end of 11 April 2019. Note this is the day before the revised Brexit date rather than the (current) revised date of Brexit itself.**

Any firm or fund that has not notified the relevant Regulator by the 11 April 2019 deadline will not be able to use the regime after 12 April 2019, and will therefore not be able to continue carrying on regulated activities or marketing that fund on the same basis as before the UK left the European Union (EU).

In addition, the FCA has confirmed that any fund managers that, as a result of the Brexit Delay, wish to update their notification, should do so by emailing recognisedcis@fca.org.uk **by the end of 2 April 2019 at the very latest** confirming this and including their FRN. **Note that this deadline is 10 days before the revised Brexit date rather than the (current) revised date of Brexit itself.**

Overview of the TPR

The TPR will now come into force at 23:00 on 12 April 2019 if the UK leaves the EU without an implementation period in place. **For any firms and funds wishing to use the TPR that have not yet notified the relevant UK Regulator that they wish to do so, this provides an extended window to take advantage of the TPR.**

Under the TPR, a firm that is authorised through passporting to carry on regulated activities in the UK can obtain deemed permission to carry on these activities - within the scope of current permissions - for a limited time while it seeks full authorisation from the relevant UK Regulator. The TPR will also allow funds with a current passport to continue temporarily marketing in the UK.

Once the notification window for the TPR has closed, firms that have not submitted a notification, and fund managers that have not submitted a notification for a fund, will be unable to use the TPR. As a result of this, they will not be able to continue carrying on regulated activities or marketing that fund in the UK on the same basis as they did before exit day. The only exception to this is for new sub-funds of European Economic Area (EEA) UCITS that are in the temporary permissions marketing regime on exit day. It is possible for such new sub-funds to enter the temporary permissions marketing regime after exit day. The FCA has not yet confirmed what steps would need to be followed for a new sub-fund to benefit from the TPR in that scenario but we expect that to be clarified in due course.

To the extent you have an EEA UCITS with existing sub-funds and foresee that you may launch a new sub-fund, it would be prudent to make a notification in respect of those existing sub-funds to ensure that you leave open the flexibility to benefit from the TPR in respect of those new sub-funds if needed.

How to Notify

The notification window is expected to close at the end of 11 April 2019. We would therefore recommend making any notifications sooner rather than later.

Notifications should be made via the [FCA’s Connect System](#). The FCA have published a guide for [Connect covering the notification process for firms \(PDF\)](#) and [investment funds \(PDF\)](#). These guides set out in detail how to complete the application. Note that an application for investment funds can be made in respect of multiple funds but a separate notification is required for each firm.

There is no fee for notifying for the regime and given the consequences of not notifying before the 11 April 2019 deadline, we would suggest that firms and fund managers should not wait for confirmation of whether there will be an implementation period before they submit their notification.

Amendments to Existing Notifications

In addition, the FCA has confirmed that any fund managers that, as a result of the Brexit Delay, wish to update their notification should do so by emailing recognisedcis@fca.org.uk by the end of 2 April 2019 at the very latest confirming this and including their FRN. Note that this deadline is 10 days before the revised Brexit date rather than the (current) revised date of Brexit itself.

This provides fund managers that have already made a notification with a short window to update that notification. Fund managers that wish to amend their existing notification should ensure that they update their notification accordingly and before this deadline.

Further Information

For further information about how the TPR will operate, including the new compliance requirements applicable to those firms and funds benefiting from the TPR, please visit the [FCA's TPR website](#), the PRA’s [TPR website](#) or contact:

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