

GREAT FUND INSIGHTS

Alerting all Luxembourg firms and funds: FCA Brexit communication to CSSF

On 19 November 2020, the Luxembourg financial regulator (**CSSF**) issued a press release on its website regarding a Brexit-related communication it received from the Financial Conduct Authority (**FCA**) in the UK for further dissemination and notification to all Luxembourg-based entities who come under CSSF supervision (the **Communication**).

The purpose of the Communication is two-fold: first, it serves as a reminder to local Luxembourg firms and funds about the immediate actions they need to take for their UK activities as part of their Brexit planning; and second, it points firms to the FCA's consultation on its approach to international firms.

In the Communication, the FCA reiterates that the purpose of the UK's temporary permission regime (**TPR**) is to enable relevant firms and funds which passport into the UK from Luxembourg to continue operating in the UK from the end of the transition period, and the FCA further confirms that the TPR framework will allow such Luxembourg-based firms and investment funds time to obtain authorisation or recognition in the UK, if so required.

The Communication briefly sets out the steps needed for such firms and funds to benefit from the TPR regime. Basically, firms and funds will need to notify the FCA of their desire to benefit, and any solo-regulated firms that have already notified the FCA will already be in receipt of communications from the FCA about how they should prepare.

The FCA is requesting that the CSSF help facilitate these preparations, and states in the Communication that the CSSF can do this by issuing reminders to firms in Luxembourg regarding the following:

- For firms that passport into the UK, the notification window for the TPR reopened on 30 September 2020. This will allow any solo-regulated firms and fund managers that have not yet notified the FCA to do so. The reopening of the notification window also provides an opportunity for fund managers to update their previously submitted notifications, if necessary. The Communication states that the FCA's passporting team will soon be in touch to check that all firms from Luxembourg that have notified for TPR remain authorised.
- If firms hold a passport and have already notified to be in the TPR, but do not require a UK authorisation because, for example, they are not doing any UK business, they should withdraw their TPR notification and, if they have no existing contracts, also cancel their passport. This is an important message which the FCA has asked the CSSF, via this Communication, to emphasise to all concerned parties.
- Any firms with a passport to the UK that do not enter the TPR, and that require permission to perform an existing contract, will automatically enter the UK's Financial Services Contracts Regime (**FSCR**), to allow them to wind down their UK business in an orderly fashion. Firms in the FSCR will not be able to write new business in the UK, and the FCA has asked that the CSSF send out specific reminders on this point.

Separately to these reminders on the actions to be taken with respect to the TPR, the FCA is alerting the CSSF within the same Communication about a recent publication to be brought to the attention of Luxembourg firms. On 23 September 2020, the FCA published a “consultation paper on our general expectations for international firms that require FCA authorisation”, which will be needed by firms which wish to undertake regulated activities in the UK on an on-going basis (the **Consultation Paper**). The Consultation Paper sets out information on the FCA’s expectations for that authorisation and can be accessed [here](#).

All Luxembourg firms seeking a UK authorisation will be expected to have an active place of business in the UK. The FCA has requested that the CSSF draw this Consultation Paper to the attention of local Luxembourg firms, especially those which currently passport into the UK on a services basis. The consultation closes on 27 November 2020.

For more details regarding the content of the Communication, Luxembourg-based firms are further directed to the FCA’s website, and should there be further questions then the FCA’s Contact Centre can also directly assist them with questions related to TPR notifications.



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