

## Regulatory News Alert

### Brexit: CSSF to “blacklist” non-compliant UK asset managers

16 October 2019

#### Context and objectives

As provided in our [previous article](#) on the topic, in order to continue to pursue activities in Luxembourg in a “hard” Brexit scenario, UK asset managers were required to **notify the Commission de Surveillance du Secteur Financier (CSSF)** of their intention to continue to provide services in Luxembourg **by 15 September at the latest**.

Furthermore, UK entities set to benefit from a 12-month transition period, have to submit to the CSSF the **application for UCITS and/or AIFM authorization** no later than **31 October 2019**.

On 11 October 2019, the CSSF issued a [press release 19/48](#) stating that UK managers of alternative investment funds established in Luxembourg (AIFs) which have not submitted a notification to the CSSF, **will not be entitled to continue their activities under the benefit of the transitional period**. Therefore, **as of 1 November 2019**, such UK managers will be considered as **“third-country managers” and will lose the benefit of their existing passporting rights**.

Moreover, in order to remain a third-country manager for the eligible AIFs, these UK managers will be required to **seek the approval of the professional investors** (considering the fact that such a possibility is **limited** only to those AIFs whose investors qualify as professional investors). Hence, UK managers must submit to the CSSF, **before October 31**, documents demonstrating they **have obtained such approval from professional investors**, together with proof that all investors in the fund **qualify as professional investors** under Luxembourg law.

Those UK managers who have not submitted a notification or have not provided a copy of the above required documents to the CSSF will be regarded by the CSSF as **operating in breach of applicable requirements** as of the day of the “hard” Brexit. What’s more, the CSSF is putting additional pressure on such managers by stressing the possibility of publishing **a list of such non-compliant UK entities in due course**.



Recent discussions between the EU and UK seem to point to the possible signing of an exit agreement before the end of October. At this stage, the business perspective should prevail and notification for entities concerned appears to remain the appropriate solution.

### **How can Deloitte help?**

Deloitte has developed a systematic approach: a Brexit health check to assess the potential impacts Brexit may have on your structure and organization. From there, based on both business development plans and legal realities, Deloitte can help you implement operational changes for a robust post-Brexit environment strategy.

With Deloitte RegWatch, you can stay on top of regulatory news and prepare your organization for future regulatory developments.

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