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Regulatory News Alert

CSSF's communication on Brexit

29 January 2019

On 25 January 2019, the Commission de Surveillance du Secteur Financier (CSSF) published a press release on Brexit in order to remind the delegation of investment management activities to UK undertakings that will continue to be permissible and about Temporary Permissions Regimes (TPR) for continuity of operations in the UK.

The CSSF confirms its endeavor that the required cooperation between the UK Financial Conduct Authority (FCA) and the CSSF shall be in place on 29 March 2019. In the event of a "no deal" Brexit, so that the delegation of investment management/portfolio management and/or risk management to UK undertakings will continue to be possible without any disruption, provided that the relevant conditions for delegation are met.

In addition, the CSSF reminds Luxembourg firms and investment funds which passport activities into the UK of the existence of the TPR and encourages them to take timely action. Firms and funds will therefore need to notify the FCA that they wish to use the regime by submitting the relevant notification before the end of 28 March 2019. Firms or funds that have not submitted a notification will not be able to use the TPR.

The same deadlines for the activation of the TPR apply to other financial institutions, including banks, that wish to continue operating in the UK for a limited period, once the UK leaves the EU under a "no-deal" scenario.

The CSSF is also reminding the guidance addressed to financial institutions to prepare for "no-deal" Brexit provided by the emergency action plan adopted on 19 December 2018 by the European Commission as well as the Brexit related statements published by the European Banking Authority (EBA) and the European Central Bank (ECB).

On the same day, Luxembourg Minister of Finance, Mr Pierre Gramegna, presented the outline of a bill to be drafted in order to put in place national measures for financial service providers to continue to work without disruption in Luxembourg after "no-deal" Brexit and to avoid the consequences of a "hard Brexit" after 29 March 2019.

The bill aims to apply a form of EU passport for UK financial service providers currently operating in Luxembourg by an introduction of a transitional period of 21 months. It should be recalled that all other regulations still apply, especially rules on delegations and outsourcing foreseen in ESMA July 2017 opinion and CSSF 18/698 and 18/697 circulars.

In addition, the bill would provide the basis for the two supervisory bodies, the CSSF and the Insurance Commissariat (CAA), to take temporary emergency measures in their area of their supervisory activities. In order to ensure the proper functioning of the financial markets, these regulatory bodies would therefore have the possibility to decide, on a case-by-case basis, to allow UK service providers to benefit from EU passport regime.

The bill will be discussed by the members of the Finance Committee in the coming weeks.

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