



*Commission de Surveillance  
du Secteur Financier*

## PRESS RELEASE 19/05

### **BREXIT: DELEGATION OF INVESTMENT MANAGEMENT; TEMPORARY PERMISSIONS REGIMES**

#### **Delegation of investment management/portfolio management and/or risk management activities to undertakings in the United Kingdom**

The CSSF would like to remind that legal provisions in Luxembourg fund legislation permit the delegation of investment management/portfolio management and/or risk management activities to undertakings in countries outside the European Union ("third countries") under specific conditions. In the particular context of a "no deal" Brexit, legislation, in particular Article 110 of the Law of 17 December 2010 on undertakings for collective investments, Article 18 of the Law of 12 July 2013 on alternative investment fund managers and Article 42b of the Law dated 13 February 2007 on specialised investment funds, allow for such delegations to undertakings in the United Kingdom, which would gain the status of a third country in case of a "no deal" Brexit, provided that (i) these undertakings are authorised or registered for the purpose of asset management, (ii) are subject to prudential supervision and that (iii) cooperation between the UK FCA as supervisory authority of these undertakings and the CSSF is ensured. The CSSF endeavours that the required cooperation between the UK FCA and the CSSF shall be in place on 29 March 2019 in the event of a "no deal" Brexit. On this basis, delegation of investment management/portfolio management and/or risk management to UK undertakings shall continue to be possible without any disruption post-Brexit, under the condition that the UK delegatee continues to fulfil all applicable requirements.

#### **Operating and marketing in the United Kingdom by firms and investment funds established in Luxembourg**

The CSSF reminds Luxembourg firms and investment funds which passport activities into the UK that a temporary permissions regime (TPR) has been operating since 7 January 2019. Firms and investment funds having notified the FCA under the TPR will be authorised to continue new and existing regulated business within the scope of their current permissions in the UK for a limited period after 29 March 2019 while seeking full FCA authorisation. The regime will also allow inbound marketing of EU funds in the United Kingdom that is currently available, to temporarily continue.

Firms and funds will 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.

A detailed explanation of the process to be followed is provided on the FCA's website: <https://www.fca.org.uk/brexit/temporary-permissions-regime>

Firms and funds established in Luxembourg that make use of the TPR are required to duly inform the CSSF of any notifications made under the TPR, as soon as they have submitted their notification, by sending an email notification to the dedicated address: [opc@cssf.lu](mailto:opc@cssf.lu). The email notification must include the name of the firm, fund or sub-fund and a detail of the services/activities for which the TPR notification has been submitted as well as the date of the TPR notification.

#### **TPR for financial institutions post Brexit**

The publication by HM Treasury of a draft of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (the draft Regulations) providing for a TPR also offers other financial institutions, including banks, to continue operating in the UK for a limited period of time once the UK leaves the EU under a no-deal scenario. The CSSF reminds Luxembourg financial institutions that the foreseen notification window opened on 7 January 2019 and closes on 28 March 2019.

At EU and Luxembourg level, the emergency action plan adopted on 19 December 2018 by the European Commission as well as the publications by the European Banking Authority (EBA) and the European Central Bank (ECB) provided

appropriate guidance to financial institutions, including banks, to prepare for Brexit and mitigate major “cliff-edge” issues.

Luxembourg, 25 January 2019