



CSSF anticipates hard Brexit looming larger: Mandatory notifications for certain UK regulated entities.

Following its initial press release Nr. 19/18 regarding the publication of the laws of 8 April 2019 on Brexit, the Luxembourg commission for the supervision of the financial sector (the *Commission de Surveillance du Secteur Financier* or the *CSSF*) issued two further press releases earlier last week (Nr. 19/33 and Nr. 19/34) in relation to certain measures that UK authorized investment firms, payment/e-money institutions, UCITS, AIFs and their managers will need to adopt in order to continue servicing their clients in Luxembourg under the relevant EU passport in the event of hard Brexit.

UK entities authorized under CRD, MiFID 2, PSD 2 or EMD

UK entities authorized under the Capital Requirements Directive (CRD), Markets in Financial Instruments Directive 2 (MiFID 2), Payment Services Directive 2 (PSD 2) or E-Money Directive (EMD) that intend to conclude new contracts in Luxembourg after the date of the hard Brexit should submit an application for an authorization to the CSSF, provided that the authorization procedure with the CSSF can take up to 12 months. UK authorized entities will not be permitted to perform respective regulated activities in Luxembourg as of the date of a hard Brexit unless they have received the necessary authorization from the CSSF.

To facilitate the transition for the UK authorized entities that are currently providing financial services in Luxembourg under the relevant passport regime, the CSSF may allow such entities to benefit from a 12 months transitional period after the date of a hard Brexit. Such transitional measures will however apply in case of a no-deal Brexit and concern only those contracts that were concluded before Brexit and those contracts concluded after Brexit but having close links to existing contracts.

UK entities wishing to benefit from the transitional measures in respect of their existing contracts in Luxembourg must notify thereof the CSSF by **15 September 2019** at the latest via a dedicated online notification tool. The notification tool will be put in place in the coming weeks.

UK UCITS, AIFs and their managers

Should no agreement be made between the UK and the EU in relation to the UK leaving the bloc, as of the date of hard Brexit, UK entities authorized under the UCITS Directive and/or the AIFM Directive respectively, will be considered as “third-country entities” and will lose the rights under the relevant passporting regime.

Those UK UCITS, AIFs and their managers intending to continue providing their services in Luxembourg after the date of hard Brexit must notify the CSSF thereof by 15 September at the latest via a dedicated online notification tool. Such entities will then have to submit to the CSSF a complete application for authorization, and/or the corresponding notification or information on any action taken otherwise to address the loss of passporting rights by **31 October 2019 at the latest**.

The CSSF may further permit UK UCITS/AIFs and their managers, on a case-by-case basis, to continue their activities in Luxembourg for a limited period of maximum 12 months after the occurrence of a hard Brexit.

UK entities with dual authorization under both UCITS and AIFM directives should submit to the CSSF two separate Brexit notifications.



LINARI LAW FIRM

AVOCATS A LA COUR