

THE UK TEMPORARY PERMISSIONS REGIME: HOW EU27 FUNDS CAN CONTINUE TO BE MARKETED IN THE UK ON A 'NO-DEAL BREXIT'

The UK Government has legislated for a Temporary Permissions Regime (TPR) enabling EU27 managers who are currently marketing funds into the UK under the AIFMD and UCITS marketing passports to continue marketing those funds for a limited period after 29 March 2019 (exit day) if there is a 'hard Brexit'.

EU27 managers must notify the FCA if they intend to use the TPR. It is expected that the FCA will accept notifications from 'early January' and that the notification window will close prior to exit day. The FCA is currently consulting on how the TPR regime should work in practice, so further details are expected shortly.

THE TEMPORARY PERMISSIONS REGIME FOR FUNDS

- The TPR will come into force on 29 March 2019 if there is a 'no-deal Brexit' and will last for a maximum of 3 years
- UCITS and AIFs (including EuVECAs, EuSEFs, ELTIFs and AIFs authorised as MMFs), which immediately prior to exit day were marketed into the UK under a passport, can use the TPR, provided they have given notice to the FCA
- The notification window will open in early January 2019 and will close prior to exit day. Notice must be given via the FCA Connect system
- If notification is not given prior to exit day in respect of a particular fund, that fund will not be able to use the TPR and marketing of that fund in the UK must cease (separate recognition in the UK would then need to be applied for to market the fund to UK investors, which can be a lengthy process)
- Operators, depositories and trustees of EEA-domiciled funds must continue to comply with the FCA rules which applied immediately before exit day

NEXT STEPS

In order to prepare for the new regime, fund managers wanting to use the TPR should:

- Complete the online survey, providing information on their operations in the UK to the FCA
- Register for the FCA Connect System
- Check which funds they are actively marketing in the UK and notify the FCA of any changes via their national competent authorities

C L I F F O R D C H A N C E

- Monitor the FCA website for the precise dates of the notification window
- Notify the FCA during the notification window

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