

# FCA Opens Notification Window for Temporary Permissions Regime for EEA Firms

14 January 2019

As we have previously reported, as part of its preparations for a “no-deal” Brexit, the United Kingdom’s Financial Conduct Authority has established a temporary permissions regime (“TPR”) for non-UK firms that use their home state “passport” to market funds domiciled in the European Economic Area (“EEA”) in the United Kingdom, provide services on a “cross-border” basis into the United Kingdom or operate a UK branch. This regime will only come into effect if there is a “no-deal Brexit” and would do so on the date that the United Kingdom leaves the European Union (currently expected to be 29 March 2019 and referred to as “exit day”). (Further detail on the United Kingdom’s TPR is available [here](#).)

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The FCA has now [announced](#) the opening of the notification window for EEA firms and fund managers wishing to enter the temporary permissions regime. The notification window closes on 28 March 2019. EEA firms and fund managers that have not submitted a notification by this time will not be able to use the regime.

## THE TEMPORARY PERMISSIONS REGIME

The TPR provides continuity for EEA firms and fund managers by granting temporary permission to continue to operate branches in the United Kingdom, provide services into the United Kingdom or market EEA-based funds to UK investors for up to three years following exit day.

The FCA put forward draft rules last year which proposed that firms using the TPR submit an application for permanent authorisation during one of six three-month “landing slots” following exit day to which each firm will be assigned. The FCA expects firms opting into the TPR on the basis of the branch or cross-border services passport to apply for permanent authorisation. Firms opting into the TPR on the basis of the fund marketing passport are expected by the FCA to submit an application to market the fund under private placement (or to cease marketing the fund). The FCA’s announcement does not refer to the FCA’s proposal to issue “landing slots”, although it

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is still expected that the FCA will take that approach, with the first landing slot between October and December 2019.

The TPR does not address UK firms marketing EEA funds in the United Kingdom because that marketing is not carried out on the basis of the passport. The FCA is expected to make further announcements on arrangements to ensure continuity of such marketing after exit day.

### **NOTIFICATION PROCESS**

EEA firms wishing to use the TPR must notify the FCA using the FCA's online Connect system; the system allows firms to specify which of their passported funds they wish to continue to market. There will be no fee for such notifications. Once a notification has been submitted, it cannot be changed. Applicants should note that the FCA relies on the notifications that the firm's "home state" regulator has made to the FCA regarding information on a firm's passport. Firms should check that these details are correct (and the FCA says that firms may need to contact their home state regulator to ask it to contact the FCA with correct details).

After notification has been made, the FCA will issue an email to confirm receipt, but it appears that firms will also need to wait for the FCA to process the notification. It is not currently known how long this will take.

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Please do not hesitate to contact us with any questions.



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