

Luxembourg Brexit Laws: 15 September 2019 final deadline for UK based managers to notify the CSSF



Mrs. Josée Weydert
Managing Partner

josee.weydert@nautadutilh.com



Mr. Ezechiël Havrenne
Partner

ezechiel.havrenne@nautadutilh.com



Mrs. Yoanna Stefanova
Partner

yoanna.stefanova@nautadutilh.com

On 8 April 2019, Luxembourg adopted two laws ("Brexit Laws") on measures to be taken in relation to the financial sector in the event of a hard Brexit, i.e., a withdrawal of the United Kingdom from the European Union in the absence of any negotiated agreement.

The Brexit Laws, which will take effect on the day of occurrence of a hard Brexit, apply to UK regulated fund managers authorised under Directive 2009/65/EC and/or Directive 2011/61/EU and other UK financial and investment institutions as well as UK UCITS marketed in Luxembourg under the UCITS Directive (the "Impacted Entity(ies)").

They introduce transitional measures for the Impacted Entities which would no longer be entitled to benefit from passporting rights under the relevant EU Directives as a result of a hard Brexit.

Notification to the CSSF to continue activities before 15 September 2019

Impacted Entities may be permitted by the CSSF to continue their activities during a 12 month transitional period. During the same transitional period, certain derogations may also be granted to the relevant Impacted Entities to remedy certain inadvertent breaches resulting from positions held prior to the UK leaving the EU and which, in the meantime, would no longer be permitted in the event of a hard Brexit.

In all cases, Impacted Entities must submit a notification to the CSSF by no later than 15 September 2019 via the designated eDesk portal.

The CSSF will assess each notification on a case-by-case basis.

Application for authorisation before 31 October 2019

If the Impacted Entities are UCIs or fund managers that wish to continue their activities after the transitional period, they shall, in addition to the aforementioned notification, submit to the CSSF as soon as possible and no later than 31 October 2019, the corresponding application for authorisation.

The Brexit Laws create legal certainty for investors, UCIs and fund managers. They allow a 12 month transitional period which should be sufficient for all concerned parties to implement the relevant adjustments and take the steps required to continue their activities going forward.