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Brexit: UK Temporary Permission Regime for EEA Firms

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EEA Firms and funds relying on EEA passporting to do business in the UK should act now if they want to continue carrying on business in the UK on the same basis into 2021.

In light of the United Kingdom's ("UK") exit from the European Union, the UK has established a temporary permissions regime ("TPR"). This regime will enable relevant firms and funds which passport into the UK to continue operating in the UK when the passporting regime falls away at the end of 2020.

The TPR is designed to extend the benefit European Economic Area ("EEA") firms and fund managers have, for example under the Alternative Investment Fund Managers Directive ("AIFMD") or the Markets in Financial Instruments Directive ("MiFID"), and to enable them to continue their UK business for a temporary period with minimal disruption when the passporting regime ends.

The window for relevant firms and fund managers to notify the Financial Conduct Authority ("FCA") is still open if they wish to use the TPR. Notifications can be submitted to the FCA via the Connect system until the end of 30 December 2020.

EEA fund managers should review their portfolio of EEA and UK alternative investment funds ("AIFs"). If there are AIFs that will be marketed to investors in the UK via the AIFMD marketing passport and are going to marketed beyond 31 December 2020 then it should be determined if these AIFs should be registered with the FCA under the TPR now. AIFs without a marketing passport and that are in the pipeline to be marketed into the UK from 1 January 2021 will need to be notified under the National Private Placement Regime ("NPPR").

Equally, EEA firms providing services or carrying out activities into the UK under an AIFMD or MiFID passport should assess if they will require the relevant passport after the end of this year and if so, they should also consider making a TPR notification in relation to these passported activities/services. The TPR will allow they such firms to continue operating in the UK within the scope of their current passport permission (as it stands at the end of the transition period) for a temporary period.

The FCA has a dedicated TPR website, which is updated regularly.

Related Professionals

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