

Luxembourg CSSF Communication on Temporary Permissions Regime

On 19 November 2020, Luxembourg's financial regulator, the Commission de Surveillance du Secteur Financier ("CSSF") issued a press release¹ regarding the United Kingdom's ("UK") temporary permissions regime ("TPR"). The press release was issued following a request from the UK's Financial Conduct Authority ("FCA") seeking the CSSF's assistance in reminding Luxembourg based funds and firms ("Entities") of their options in the context of the TPR.

Background

The TPR allows Entities which currently passport into the UK to continue to operate in the UK following the cessation of the passporting regime at the end of the transition period, i.e. 31 December 2020.

Options

Entities passporting into the UK, which have not made a TPR notification or wish to update an existing notification

The FCA reopened the notification window for the TPR on 30 September 2020. Entities that have not previously notified the FCA of their intention to use the TPR can now do so. In addition, Entities can update their previously submitted notifications, if necessary.

Entities passporting into the UK, which have made a TPR notification but do not require a UK authorisation

Entities that do not require a UK authorisation (e.g. as they are not doing any UK business)

should withdraw their TPR notification and, if they have no existing contracts, cancel their passport.

Entities passporting into the UK, which have not made a TPR notification but require permission to perform an existing contract

In this particular fact scenario, i.e. where no TPR notification is made before the notification window closes, Entities will automatically enter into the UK's Financial Services Contracts Regime (FSCR) so that they may wind down their UK business in an orderly fashion. In addition, they will not be able to write new business in the UK.

Questions and FCA Consultation Paper

To conclude, the press release also reminds Entities that any questions related to the TPR should be addressed directly to the FCA and that the FCA published a consultation paper on 23 September 2020 setting out the FCA's general expectations for firms that require FCA authorisation.

For assistance on the above matters, please liaise with your usual Maples Group contact or any of the persons listed below.

¹ <https://www.cssf.lu/en/2020/11/communication-by-the-uk-financial-conduct-authority-fca-to-luxembourg-based->

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December 2020

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