

Temporary Permissions Regime – Notification Window Now Open

What is the Temporary Permissions Regime?

In order to mitigate the effect a no-deal Brexit would have on the ability of EEA firms to passport their services into the UK, the FCA has confirmed that it will implement a temporary permissions regime (“TPR”). This regime will enable funds, which are currently passported into the UK, to continue to do so post-Brexit until an application for full authorisation can be made. It is designed to last for a maximum of three years, but this will vary depending on when the fund is invited to make its application for full authorisation.

The TPR only applies to funds which have been registered for sale in the UK prior to March 29th 2019 (“exit day”), and have notified the FCA of their intention to avail of the TPR. The period to make such notification opened on January 7th 2019 and closes on March 28th 2019. Funds on behalf of which no notification has been made prior to exit day may re-apply for permission to market in the UK, however, approval will take time and the FCA anticipates significantly more restrictions.

What does this mean for Irish UCITS / AIFs?

If a fund has already been passported to the UK, then an additional notification under the TPR will need to be made so that the fund can continue to be distributed in the UK post-Brexit. This additional notification needs to be made directly to the FCA, now that the notification period has opened. The link to the FCA update on the opening of the notification window is below:

<https://www.fca.org.uk/news/news-stories/notification-window-temporary-permissions-regime-now-open>

If a fund has not yet been passported to the UK, but UK investors may be targeted in the near future, then consideration may want to be given to passporting the fund to the UK now so that the TPR can be taken advantage of. If a fund is not passported to the UK and it does not take advantage of the TPR prior to exit day, there will likely be a period of time post-Brexit when it will not be possible to register the fund for distribution in the UK.

What are the next steps?

If the fund currently has a fund registrations service provider, requests to register the fund in the UK or to make a notification under the TPR should be directed to them. Alternatively, KB Associates offers a fund registrations service and can handle notifications to the FCA under the TPR. Please contact Andrew Kehoe using the information below for more information.

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