

The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019: notification before exit day: as amended

Direction under regulations 64(1) and 71 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019

1. Purpose

This direction is given by the FCA under regulations 64(1) and 71 of the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 (the Regulations). It applies to notifications to the FCA in accordance with regulations 63(1)(a) and 63(2)(a) of the Regulations and varies the direction previously given by the FCA for these purposes on 28 March 2019.

2. Manner in which notifications are to be made

The FCA directs that a notification made:

- a) for the purposes of regulation 63(1)(a), by the operator of a stand-alone scheme that wishes that scheme to be treated as a recognised scheme for the purposes of Part 17 of the Financial Services and Markets Act 2000 (FSMA) under regulation 62 of the Regulations; or
- b) for the purposes of regulation 63(2)(a), the operator of a sub-fund authorised by its home state regulator before exit day that wishes that sub-fund to be treated as a recognised scheme for the purposes of Part 17 of the Financial Services and Markets Act 2000 (FSMA) under regulation 62 of the Regulations,

must:

- a. be made by submitting the Fund Temporary Permission Regime Notification Form using the Connect system (<https://connect.fca.org.uk>);
- b. be made following any further instruction published in relation to the Fund Temporary Permission Regime Notification form;
- c. contain the information required by that form; and
- d. be made before the end of 30 May 2019.

3. Interpretation

In this direction, references to 'stand-alone scheme', 'sub-fund', 'operator', and 'home state regulator' have the meanings given in the relevant paragraphs of regulation 61 of the Regulations; a reference to the authorisation of a sub-fund by its home state regulator is to be construed in accordance with regulation 61(5) of the Regulations.

Note

Section 264 of the Financial Services and Markets Act 2000 (the Act) enables collective investment schemes that are EEA UCITS to be marketed to the public in the United Kingdom as 'recognised schemes' subject to certain conditions.

Part 6 of the Regulations creates a temporary extension of this marketing regime. The Regulations will allow the operator of an EEA UCITS to notify the FCA before exit day that:

- (1) in relation to a stand-alone scheme, the operator wishes the scheme to be treated as a recognised scheme for the purposes of Part 17 of FSMA in circumstances where the stand-alone scheme is an EEA UCITS recognised under s264 of FSMA immediately before exit day;
- (2) in relation to a sub-fund authorised by the relevant home state regulator before exit day, the operator wishes the sub-fund to be treated as a recognised scheme for the purposes of Part 17 of FSMA in circumstances where the sub-fund is the sub-fund of an EEA UCITS which is recognised under s264 of FSMA immediately before exit day.

A notification made by an operator must be made in such manner, during such period, and be accompanied by such information as the FCA may direct under regulation 64 of the Regulations. These directions are given for this purpose and the operator's notification must be made in accordance with this direction.

The Regulations will also allow the operator of an EEA UCITS which benefits from the temporary extension to the marketing regime to market 'new sub-funds' in the United Kingdom after exit day, subject to certain conditions (regulation 63(3)). The FCA will issue directions for this purpose separately.

This direction extends the date by which operators must notify the FCA for the purposes of regulations 63(1)(a) or 63(2)(a) of the Regulations to the end of 30 May 2019.