

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 date by which notifications must be received by the FCA under the following directions:

- a) the [direction](#) previously given by the FCA for these purposes on 24 May 2019 (the 24 May 2019 CIS direction); and
- b) the direction given by the FCA dated 18 October 2019 (the 18 October 2019 CIS direction) to those operators that:
 - i) notified the FCA in accordance with regulations 63(1)(a) and 63(2)(a) of the Regulations of the funds they wished to be treated as recognised schemes for the purposes of Part 17 of FSMA under regulation 62 of the Regulations;
 - ii) submitted a request to the FCA that they be able to update that notification; and
 - iii) were informed by the FCA that they would be able to do so.

2. Manner in which notifications are to be made

2.1 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 be received before the end of 30 January 2020.

2.2 Apart from the variation in 2.1 above, a notification made to the FCA under the 24 May 2019 CIS direction or the 18 October 2019 CIS must be made in such manner and in accordance with such instructions as specified in the applicable direction.

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.

Financial Conduct Authority

30 October 2019

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 a notification made by an operator must be received by the FCA for the purposes of regulations 63(1)(a) or 63(2)(a) of the Regulations to before the end of 30 January 2020. Aside from the change in the date by which the notification must be received, the manner in which such a notification must be made and any instructions which apply to such a notification are unchanged.