

Financial Services Alerter

April 2019





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UK developments

HM Government updates definition of “exit day” in the European Union (Withdrawal) Act 2018 to 31 October 2019

On 11 April 2019, the HM Government made statutory instrument SI 2019/859, “[European Union \(Withdrawal\) Act 2018 \(Exit Day\) \(Amendment\) \(No. 2\) Regulations 2019](#)”. The definition of “exit day” has been changed to 11.00 pm on 31 October 2019 following the second extension of the Article 50 period agreed by the UK and EU.

FCA publishes Dear CEO letter reminding firms of obligations when approving financial promotions

On 11 April 2019, the FCA published a [Dear CEO letter](#), “Firms’ Approvals of Financial Promotions: the FCA’s Expectations”, reminding firms involved in the approval of financial promotions for unauthorised persons of their regulatory duties. Among other things, the letter highlights that:

- before a firm approves a financial promotion for communication by an unauthorised person, it must confirm that the promotion complies with the financial promotion rules (COBS 4.10.2R(1))
- if, at any time, a firm becomes aware that the financial promotion no longer complies with the rules, it must withdraw its approval (COBS 4.10.2R(2))
- a firm that communicates or approves a financial promotion must have put in place adequate systems and controls, or policies and procedures, to comply with these rules (COBS 4.10.1G) and
- the firm must ensure that information presented is accurate and always gives a fair and prominent indication of any relevant risks when referencing any potential benefits (COBS 4.5.2R (2), COBS 4.5A.3EU).

FCA extends notification window for temporary permissions regime

On 12 April 2019, the FCA published updated directions on the temporary permissions regime (TPR) notifications for the following entities, extending the window for notifications to the FCA from the end of 11 April 2019 to the end of 30 May 2019:

- [EEA firms with passports and Treaty firms](#)
- [EEA authorised payment institutions and EEA registered account information service providers \(RAISPs\)](#)
- [EEA authorised electronic money institutions \(EMIs\)](#)

- [EEA UCITS](#) and
- [EEA AIFs](#).

Bank of England/PRA publish policy statement and supervisory statement on enhancing banks' and insurers' approaches to managing financial risks from climate change

On 15 April 2019, the Bank of England/PRA published [policy statement](#) PS11/19, “Enhancing banks’ and insurers’ approaches to managing the financial risks from climate change” and [supervisory statement](#) SS3/19, “Enhancing banks’ and insurers’ approaches to managing the financial risks from climate change”. The Bank of England/PRA consulted on the proposals in CP23/18 in October 2018.

FCA's 2019/20 business plan

On 17 April 2019, the FCA published its 2019/20 business plan, outlining, among other things, the following four ongoing sector priorities for 2019/20:

- work on firms’ culture and governance, including extending the SMCR to all firms
- ensuring the fair treatment of firms’ existing customers by monitoring firms’ practices, including the information they give prospective and current customers.
- developing the work being done on operational resilience and
- combating financial crime and improving anti-money laundering practices, by enhancing the use of technology and data, as well as engaging with agencies and government bodies.

elexica and other client items

01 April 2019	<u>Preventing abuse of R&D tax relief for SMEs: consultation</u>
03 April 2019	<u>UCITS KIIDs - ESMA updates its Q&As with clarification on disclosure of past performance and benchmark indices</u>
04 April 2019	<u>ESMA updates its Market Abuse Q&As</u>
04 April 2019	<u>Calculation of leverage - ESMA updates Q&As on the AIFMD</u>
04 April 2019	<u>Breakfast Briefing: Transitional / Emergency Measures Implemented in Germany and Ireland</u>
04 April 2019	<u>Hague - more delay?</u>
05 April 2019	<u>Brexit: CNMV publishes guidelines on interpretation of the Spanish Brexit Measures</u>
08 April 2019	<u>ESMA's updated Q&As on UCITS KIIDs – key changes and action points for managers</u>
08 April 2019	<u>Financial Markets Legal Update 2019</u>
10 April 2019	<u>Mining Database Expansion</u>
11 April 2019	<u>Brexit Draft Law 7401 for Luxembourg Financial Services Adopted</u>
11 April 2019	<u>Brexit Draft Law 7426 Adopted - Treatment of breaches of investment policies/rules of Luxembourg UCIs and marketing of UK UCITS to Luxembourg retail investors</u>
12 April 2019	<u>Belgian Brexit contingency measures regarding migration and social security in the event of a “no-deal”</u>
15 April 2019	<u>UK TPR - FCA further extends the period to make notifications to 30 May</u>
15 April 2019	<u>FCA fires warning shot over approval of financial promotions</u>
17 April 2019	<u>SEC decision could enable active ETF Managers to reach their full potential - will ESMA follow suit?</u>
18 April 2019	<u>CSSF guidance for third country investment firms</u>
26 April 2019	<u>Guidance from the CSSF on third country firms providing investment services and performing investment activities in Luxembourg</u>

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