

ATOZ ALERT

Brexit: CSSF communication on the equivalence of UK firms for the third country national regime under MiFIR

29 December 2020

Further to the long-awaited outcome of the Brexit negotiations on 24 December 2020, the Luxembourg financial supervisory authority – the *Commission de Surveillance du Secteur Financier* (“**CSSF**”) – issued a press release (the “**Press Release**”) relating to the publication of the new CSSF Regulation n°20–09 dated 14 December 2020 (the “**Regulation 20-09**”) amending the CSSF Regulation n°20–02 dated 29 June 2020 on the equivalence of certain third countries with respect to supervision and authorisation rules for the purpose of providing investment services or performing investment activities and ancillary services by third–country firms (the “**Regulation 20-02**”).

Pursuant to the Press Release, the CSSF wants to draw the attention of the public on the implications of Regulation (EU) n° 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (“**MiFIR**”) to UK firms that shall provide investment services or activities in the Grand Duchy of Luxembourg (“**Luxembourg**”) within the context of withdrawal of the United Kingdom (“**UK**”) from the European Union (“**EU**”) and considering the EU–UK trade and cooperation agreement to be entered into both parties with provisional effect as of 1 January 2021.

In the absence of an equivalence decision by the European Commission in accordance with Article 47(1) of MiFIR, a third–country firm may, subject to certain conditions, provide investment services or activities as well as ancillary services in Luxembourg to eligible counterparties and professional clients per se, without setting up a branch in Luxembourg (the so–called “national third–country regime”). In particular, a third–country firm must be subject to supervision and authorisation rules that the CSSF deems equivalent to those laid down in the Luxembourg Law on the financial sector.

The CSSF stressed that, in accordance with Regulation 20–02, the equivalence decisions made by the CSSF may be revoked where one or several conditions on which the decision was based are no longer met. To that effect, the CSSF will continue to monitor the applicable regulatory framework in the UK regarding the supervision and authorisation of firms providing investment services and activities.

Lastly, it should be noted that the effectiveness of Regulation 20–09 shall be concomitant with that of the EU–UK trade and cooperation agreement, i.e. 1 January 2021.

Therefore, any UK firm willing to provide investment-related services or activities in Luxembourg is invited to submit an application file to the CSSF without delay in order to benefit from the national third-country regime.

Do you have further questions?



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