



Finding clarity

Useful pre-Christmas Brexit clarifications for Irish pension schemes

As political turmoil continues in the UK, the EU continues to prepare the ground for how a hard Brexit, without a withdrawal agreement and an orderly transition period, will be addressed in financial services.

On 19 December the European Commission published a package of 14 measures that it says are “absolutely necessary to protect the vital interests of the EU and where preparedness measures on their own are not sufficient”.

The temporary measures in respect of financial services are:

- A temporary and conditional equivalence decision for 12 months to ensure that there will be no disruption in central clearing of derivatives. This will allow the European Securities and Markets Authority (ESMA) to recognise temporarily central counterparties currently established in the United Kingdom, allowing them temporarily to continue providing services in the Union.
- A temporary and conditional equivalence decision for 24 months to ensure that there will be no disruption in services provided by UK central securities depositories. It will temporarily allow them to continue providing notary and central maintenance services to operators in the Union. This will allow EU27 operators that currently have no immediately available alternative in the EU27 to fulfil their obligations under EU law.

- Two Delegated Regulations facilitating novation, for a fixed period, of certain over-the-counter derivatives contracts with a counterparty established in the United Kingdom to replace that counterparty with a counterparty established in the Union. This allows such contracts to be transferred to an EU27 counterparty while maintaining their exempted status and thus not becoming subject to clearing and margining obligations under the European Market Infrastructures Regulation. Such contracts, pre-dating EMIR, are exempted from EMIR requirements. This act will ensure that a change of counterparty will not change that exempted status.

These temporary measures are very welcome. They will ensure that the many Irish pension schemes which either directly or indirectly invest in derivatives via the London clearing houses will have time to transition to new arrangements in an orderly fashion, and will not lose existing margin exemptions for those contracts in doing so.

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Obviously, if a hard Brexit does indeed occur, pension trustees should be engaging with their LDI and other derivatives providers at that point to work out longer term EU compliant solutions for their derivatives portfolios.

To read the Commission press release, [click here](#)

To read the Commission communication, [click here](#)

Also on 19 December, ESMA issued a statement reminding investment services firms of their obligations to provide clients with information on the implications of the United Kingdom's (UK) withdrawal from the European Union (EU) on their relationship with clients and on the impact of Brexit-related measures that a firm has taken or intends to take.

To read the statement in full, [click here](#)

For those Irish trustees that do not feel they have received satisfactory responses to their Brexit queries to their investment managers, the ESMA statement is useful in specifying the minimum information which UK investment services providers need to provide to you regarding their Brexit contingency measures.

How can we help?

We are uniquely placed to assist you on your Brexit planning, with leading edge pension, financial services and asset management capability in both Dublin and London.

Contacts

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EDUB.2069 12/18