



March 2018

## Central Bank Communication: ESMA's Opinions on Brexit

### **Background**

As readers will be aware, in July of last year ESMA issued three sectoral specific opinions in the areas of [Investment Firms](#), [Secondary Markets](#) and [Investment Management](#) (the “**Opinions**”). The Opinions set down principles which were aimed at ensuring consistency across the European Union in the authorisation, supervision and enforcement of UK entities seeking to relocate their operations to a Member State in contemplation of the UK's withdrawal from the EU.

Since the publication of the Opinions, Member States have been reviewing internal processes and procedures to determine whether any amendments to their regimes are required in order to be in a position to demonstrate compliance with the Opinions.

### **Central Bank Communication**

Earlier this week, the Central Bank of Ireland issued a [communication](#) relating to the Opinions in which it confirms that it has now concluded its review of its authorisation and supervisory processes in light of the principles set down in the Opinions.

The Central Bank notes that some “*procedural enhancements*” will be made to its application forms and internal procedures relating to the authorisation and supervision of fund managers and investment firms.

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Such amendments include requiring the applicant to provide:

- Details and rationale for the geographical distribution of planned activities;
- Objective justification for delegation arrangements in relation to critical functions;
- Details of due diligence undertaken during selection process;
- Information on business continuity arrangements;
- Information on how legal risk is assessed;
- Details on delegate remuneration requirements; and
- Details on how best execution obligations continue to be met when dealing with execution venues outside of the EU.

## **Conclusion**

As testament to the close consideration which the Central Bank had already given to the area of delegation when finalising its [Fund Management Companies-Guidance](#) in December 2016, the Central Bank has not deemed it necessary to make any significant overhauls to its existing authorisation and supervisory regime in light of the Opinions.

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