



[View this email in your browser](#)

End of Temporary Transitional Powers (TTP)

Of particular interest to: AIFMs marketing funds in the UK and UK portfolio managers of AIFs

In brief

The **TTP** comes to an end on **31 March 2022** which may impact upon certain AIFMs marketing funds in the UK by requiring the need to revise its marketing notification to the FCA. For the avoidance of doubt the TTP is a different concept to both the Temporary Marketing Permissions Regime (TMPR – which allowed the continued marketing in the UK of EEA-based funds managed by an EEA AIFM) and the Temporary Permissions Regime (TPR – which allowed EEA firms that previously made use of the MiFID passport to continue operating in the UK).

Summary

The TTP gave temporary powers to the FCA to waive or modify regulatory obligations following the end of the Brexit transitional period (11pm 31 December 2020). Following the end of that period firms were subject to 'on-shored' EU legislation such as EU Regulations and EU Decisions which had been amended to make them work in a UK only context. However to help firms adapt the TTP allows firms to continue to comply with their pre-existing requirements ('standstill direction') until 31 March 2022. After this time firms are expected to comply in full with the on-shored regime. Of course, firms also had the option to comply with on-shored requirements immediately after the end of the transitional period in which case standstill will have no relevance.

The standstill direction is not across the board and is limited to only those areas, and subject to any exclusions set out in, **Annex A** and **Annex B** (see 'Useful Links'). The former shows where standstill does/does not apply by instrument e.g. AIFMD, EMIR etc. whilst the latter is from the perspective of the Handbook e.g. SUP, COBS etc.

The purpose of this Alert is to draw attention to AIFMs marketing in the UK to ensure that they will be able to continue marketing after the expiration of the TTP.

Standstill was applied in **two** situations as far as AIFMs are concerned. Although the second situation may not be directly relevant to UK firms it may of interest to any UK firms that are managing the assets of certain AIFs under delegation.

- **UK AIFMs** marketing an **EEA AIF** in the UK would have notified the FCA of this under **Regulation 54** of the UK AIFM Regulations. Following the end of the Brexit transitional period such an AIF would be regarded as a third country AIF and so notification would be required under **Regulation**

57 instead. The effect of standstill meant that such AIFMs could continue to market that AIF under Regulation 54 without the need to notify the FCA to market under Regulation 57 **until 31 March 2022**. AIFMs falling within this element of standstill should ensure that notification under Regulation 57 has been made or will be made before that date.

- An **EEA AIFM** marketing a third country AIF (or an EEA AIF feeder fund of a master fund which is either managed by a third country AIFM or is a third country AIF) in the UK would have notified the FCA under **Regulation 57**. As the latter is now only relevant to full-scope UK (and Gibraltar) AIFMs such marketing notification should be under **Regulation 59**. Standstill allowed such an AIFM to continue marketing under Regulation 57 until 31 March 2022. Those AIFMs falling within this part of the standstill direction should consider whether any action is required before that date.

Useful Links

[FCA: TTP](#)

[FCA: NPPR](#)

[Annex A](#)

[Annex B](#)

If you have any comments on this article, or any questions in general, then please speak to your usual Optima consultant or contact us at info@optima-partners.com

To stop all marketing communications from us, please click unsubscribe below.
[unsubscribe from this list](#)

Copyright © 2022 Optima Partners, All rights reserved.

Our mailing address is:

Terminal House, 1st Floor, 52 Grosvenor Gardens, Belgravia, London SW1W 0AU