

MEMO# 31589

February 1, 2019

ESMA and EU Securities Regulators Agree No-Deal Brexit MoUs with the UK FCA

[31589]

February 1, 2019 TO: ICI Global Brexit Task Force
ICI Global EU Capital Markets Union Task Force
ICI Global Regulated Funds Committee
International Operations Advisory Committee RE: ESMA and EU Securities Regulators Agree No-Deal Brexit MoUs with the UK FCA

On 1 February 2019, the European Securities and Markets Authority (ESMA)[\[1\]](#) and the FCA,[\[2\]](#) published press releases announcing that Memoranda of Understanding (MoUs) have been agreed among ESMA, the FCA and relevant European securities regulators. As previously outlined,[\[3\]](#) cooperation agreements between regulators are a regulatory pre-requisite for certain activities, including the delegation of functions such as portfolio management by UCITS to third-country entities.[\[4\]](#)

The MoUs announced by ESMA and the FCA form part of preparations for a scenario where the UK leaves the EU without a withdrawal agreement (“a no-deal Brexit”). The MoU are:

- an MoU between ESMA and the FCA concerning the exchange of information in relation to the supervision of credit rating agencies (CRAs) and trade repositories (TRs). The MoU will allow ESMA to continue to discharge its mission and meet its mandate regarding investor protection, orderly markets and financial stability in the EU; and
- a multilateral MoU (MMoU) between EU/EEA securities regulators and the FCA covering supervisory cooperation, enforcement and information exchange between individual regulators and the FCA, and will allow them to share information relating to, amongst others, market surveillance, investment services and asset management activities. This, in turn, will allow certain activities, such as fund manager outsourcing and delegation, to continue to be carried out by UK based entities on behalf of counterparties based in the EEA.

endnotes

[1]

https://www.esma.europa.eu/sites/default/files/library/esma71-99-1096_esma_and_eu_securities_regulators_agree_no-deal_brexit_mous_with_fca.pdf

[2]

<https://www.fca.org.uk/news/press-releases/fca-agrees-mous-esma-and-eu-regulators-allow-cooperation-and-exchange-information>

[3] Memorandum No. 31495, RE: Brexit: A Summary of key political and technical publications, dated 26 November 2018, available from

<https://www.iciglobal.org/iciglobal/pubs/memos/memo31495>

[4] For instance, Article 13(1)(d) of the UCITS Directive 2009/65/EC requires that in the case of delegation “where the mandate concerns the investment management and is given to a third-country undertaking, cooperation between the supervisory authorities concerned must be ensured”.