

ATOZ ALERT

Clarifications of the rules governing the provision of investment services or performance of investment activities in Luxembourg by third country firms

3 July 2020

On 1 July 2020, the Luxembourg supervisory authority (the *Commission de Surveillance du Secteur Financier - CSSF*) issued the circular n°20/743 (the **Circular**) amending the existing CSSF circular 19/716 on the provision of investment services or performance of investment activities and ancillary services in accordance with the law of 5 April 1993 on the financial sector, as amended (the **LFS**).

The purpose of the Circular is to clarify the concept of services provided "in Luxembourg" (principle of territoriality). The CSSF considers that the provision of investment services by third country firms is deemed to be made in Luxembourg if one of the following conditions is met:

- the third country firm is established (e.g., has a branch) in Luxembourg; or
- the third country firm provides an investment service to a retail client established or located in Luxembourg; or
- the place where the "characteristic performance" (*prestation caractéristique*) of the service is provided is Luxembourg.

Therefore, under certain circumstances, a third country firm may provide certain services to a client, except a retail client, established or located in Luxembourg, without being recognised as providing services in Luxembourg.

It is worth noting that the Circular follows the publication by the CSSF on 29 June 2020 of the regulation n°20-02 that sets the list of countries that are considered by the CSSF as having equivalent supervisory and authorization rules as those set out under the LFS, namely:

- Canada
- Switzerland
- United States of America
- Japan
- Hong Kong
- Singapore

The above is of peculiar importance within the context of Brexit and the latest landmark on the access rights for UK financial firms.

Do you have further questions?



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