



ESMA and the AMF

The relationship between ESMA and the AMF is very close. In fact, some believe that it is far too close. ESMA and the AMF are both based in Paris, they are just a short distance apart.

With the CBI and CSSF geographically removed from the goings on in Paris there's a growing concern that policies coming out of ESMA will favour France over Ireland and Luxembourg in the years ahead. This matter has come to the fore as a result of Brexit, for two reasons.

First of all, the FCA will no longer be part of the inner circle of EU regulators (or indeed its outer circle either) as a result of the UK's departure from the EU. The disappearance of the FCA from the scene, by far the most important financial national regulator in the EU up until Brexit, has created a regulatory power vacuum in Europe which the French seem determined to fill. And by a stroke of luck both their regulator, the AMF, and ESMA are based in Paris.

The other reason that Brexit has brought this matter to the fore is delegation. ESMA wants to change the rules in a way that is contrary to the interests of the EU's two main cross-border fund jurisdictions - Ireland and Luxembourg.

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A competitor to the Channel Islands?

It is increasingly likely that the UK will become an international alternative jurisdiction post Brexit. What does this mean for the Channel Islands?

Brexit's outcome matters a great deal to all the Crown Dependencies and Overseas Territories. But it arguably is of greater importance to the Channel Islands than anyone else. Many funds domiciled there access EU markets via private placement arrangements. On top of which Guernsey and Jersey are first in line to obtain the extended AIFMD passport whenever that may come in – something that is connected to Brexit.

But the biggest change for the Channel Islands, brought on by Brexit, is likely to be the development of the UK as an alternative fund domicile. This is a topic that ADI has covered a number of recently but makes no apologies for returning to again now. That is because the evidence that this happening grows by the day.

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