



PRESS RELEASE

Measures concerning British Financial Intermediaries operating in Italy after Brexit contained in Decree Law No. 183 of 31 December 2020

Article 22 of Decree Law No. 183 of 31 December 2020 (www.gazzettaufficiale.it/eli/id/2020/12/31/20G00206/sg) includes provisions affecting the operation of British financial intermediaries and insurance companies after the expire of the transitional period (31 December 2020) envisaged by the EU-UK Withdrawal Agreement.

In particular, Article 22 of the mentioned Decree Law extends some of the measures contained in Decree Law No. 22 of 25 March 2019, with a view to facilitate the correct and orderly management of the transition from the European passport regime to the national regime for companies of non-EU countries, in order to better safeguard clients' interest.

The provisions dealing with financial intermediaries providing investment services and activities are recalled hereafter, whereas for those specifically dealing with the performance of banking and insurance activities, please refer, respectively, to the websites of the Bank of Italy (<https://www.bancaditalia.it/compiti/stabilita-finanziaria/informazioni-brexite/index.html>) and of the Ivass (<https://www.ivass.it/consumatori/azioni-tutela/brexite/index.html>).

On condition that they applied, before 31 December 2020, for a new authorisation to operate in Italy as a non-EU country firm or an Italian investment firm to which hand over activities, it is foreseen that the British financial intermediaries may carry on the activities performed before the end of the transitional period until such time as the authorisation is either granted or refused, in any case no later than 30 June 2021. During such period the operation is limited to the activities for which an authorisation is sought and to the outstanding contractual relationships. Therefore it is not allowed neither the opening of new contractual relationships nor the modification of the outstanding ones, whereas it is allowed to perform the activities in connection with the management of the so-called «life-cycle event» for derivatives contracts not subject to clearing by a central counterparty.

The financial intermediaries that are allowed to continue their operation as referred to above are subject to the national regime applicable to the firms of non-EU countries and to the supervision of the competent Italian authorities thereon.

Those financial intermediaries that operate under the regime of the freedom to provide services are forbidden from providing their services to retail clients (as defined in Article 1, para. 1, point *m-duodecies* of the Consolidated Law on Finance) and to professional clients upon request (as defined in Article 6, para. *2-quinquies*, point b, and para. *2-sexies*, point b, of the Consolidated Law on Finance).

Those financial intermediaries that operate in Italy through the establishment of branches keep their adherence to the Italian alternative dispute resolution system (Arbitro per le



Controversie Finanziarie) and are due to adhere to the Italian compensation system (Fondo Nazionale di Garanzia, FNG) according to what provided for under the relative statute. Within 30 days from the expire of the transitional period, the British financial intermediaries are due to contact the FNG to fulfil the adherence requirements, including through the payment of the inherent financial contribution. The said financial intermediaries are required to provide the clients with the relevant information thereon, as soon as possible and no later than forty days from 1 January 2021. The information to the clients are to be provided in a clear and simple language and shall include the details for the contact person dealing with further information or clarifications.

Should the authorisation to continue the activities in the Italian territory be refused, the British financial intermediaries are compelled to cease such non-authorised activities into the shortest time possible and, in any case, no later than three months after the communication of the refusal decision, according ways and times that are not detrimental to clients. During the wind-down period, the British financial intermediaries continue to be subject to the national regime applicable to non-EU countries firms and to the supervision of the competent Italian authorities thereon; during such period, the safeguards stemming from the adherence to the alternative dispute resolution system and to the compensation system are also ensured for the intermediaries operating in Italy through the establishment of branches and all intermediaries are bound by the same disclosure requirements as referred to above.

The Decree Law also includes specific provisions as concern the impacts on the outstanding contractual relationships with clients for those financial intermediaries that are compelled to cease their operation in Italy either because they did not apply to receive an authorisation or because the required authorisation was refused. Such intermediaries are due to refund the clients' money, financial instruments and other assets, according to the instructions received by them.

All British financial intermediaries providing investment services in Italy shall give their clients adequate information about the consequences of the Brexit on the outstanding contractual relationships.

Rome, 2 January 2021