

March 2019

POLAND REGULATES THE LEGAL SITUATION OF CERTAIN FINANCIAL MARKET PARTICIPANTS AFTER A HARD BREXIT

The President of Poland signed the Act on the rules of conduct of business of certain financial market entities in relation to the withdrawal of the United Kingdom of Great Britain and Northern Ireland (the "UK") from the European Union without agreement referred to in Article 50 section 2 of the Treaty on European Union (the "Act").

Purpose of the Act is to mitigate the adverse effect of a "no-deal Brexit" on the Polish market and to secure the interests of Polish consumers.

Firstly, the Act provides for certain transitional periods with respect to the Polish operations of UK-based institutions with licenses passported to Poland prior to Brexit.

Under the Act, UK-based credit institutions will be allowed to hold their exposures under credit agreements they entered into under single-license regime for a period not exceeding 24-months (this and every other transitional period referred to in the Act will start to lapse on the day the no-deal Brexit occurs). During that period, lenders will not be allowed to enter into new credit agreements or vary the terms of a credit agreement in a way which would increase the level of credit risk, for example, by extension of maturities or increase of commitments.

Payment services providers and e-money issuers from the UK will be allowed to provide their services based on their existing agreements for a period not longer than 12 months.

Under the Act, insurance granted before Brexit will be treated as being provided by a branch of EU-based insurers for 24 months (life insurance) or 12 months (property and personal insurance). During the transitional period, the UK insurers will not be allowed enter into new insurance agreements nor amend the terms of existing agreements in a way which would increase their risk. The latter limitation will not apply to re-insurers which will be allowed to run their operations for 24 months after a no-deal Brexit.

The transitional period for the brokerage activities of UK-based investment firms has been set at 12 months.

After the lapse of applicable transitional periods all UK-based institutions will become subject to the regime applicable to non-EU entities. In order to run Polish operations they will be subject to licensing requirement (applicable to branches and subsidiaries) in Poland.

The UK-based institutions which will continue their Polish operations in accordance with the Act will be subject to regulation by the Polish Financial Supervision Commission. For this purpose, the institutions will be treated as non-EU residents.

Apart from the above, the Act also resolves certain issues that Polish institutions might face upon the hard Brexit.

Polish open-ended investment funds, as well as specialized open-ended investment funds, which apply principles and restrictions applicable to open-ended investment funds will be allowed to hold their investment in securities, money market instruments and derivatives admitted to trading on the regulated or organized market in the UK. They will be allowed to make new investments in those assets subject to necessary amendments to their articles of associations. Such amendment will not require approval of the Polish Financial Supervision Commission.

The Act will allow the Polish institutions with licenses passported to the UK prior to Brexit to continue their UK business operations. However, the approach of the UK regulator to those operations should be considered.

Finally, the Act will allow Polish banks and credit unions to continue outsourcing agreements with UK-based outsourcers entered into prior to the date of Brexit without approval of the Polish regulator (which is otherwise required to outsource regulated activities outside the EU).

The Act will enter into force on the date of the non-contractual withdrawal of the UK from the European Union.

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