

Brexit - Fulfillment of the requirements for UK financial institutions under Decree Law 25 March 2019, n. 22

Given that the British Parliament has rejected, on 15 January 2019 and on 12 March 2019, the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union ('Brexit'), there is a concrete possibility that the withdrawal - on 29 March, or at a later date if a postponement is agreed upon - may occur in the absence of transitional provisions regulating the relations between the United Kingdom and the European Union. In view of this possibility, the Italian Government has enacted Decree Law 22/2019 entered into force on 26 March 2019, which provides for a transitional regime to prevent abrupt business discontinuity for both markets and intermediaries in the event of a 'no-deal Brexit'.

The provisions are differentiated according to the type of intermediary involved, taking into account the applicable European and national laws and regulations. UK banks and UK electronic money institutions operating in Italy through a branch ('branching electronic money institutions') which intend to continue operations in Italy after Brexit must formally notify the Bank of Italy; UK investment firms intending to continue operating must notify Consob. UK payment institutions, electronic money institutions operating either under the free provision of services or through a network of agents ('non-branching electronic money institutions'), and asset management companies are required to cease operating in Italy as of the date of withdrawal and will have six months for the orderly closure of their activities. UK banks and branching electronic money institutions may also choose to terminate their operations in Italy.

In particular the Decree Law provides for different transitional provisions for:

- a. *UK banks and branching electronic money institutions that intend to continue operating in Italy (UK investment firms that intend to continue operating in Italy should refer to Consob).*

Pursuant to Article 3(6) of Decree Law 22/2019, UK banks and branching electronic money institutions which intend to continue operating in Italy after the date of withdrawal, in relation to all or part of the activities previously carried out, shall notify the Bank of Italy at least three business days prior to the date of withdrawal. The notification must be transmitted using the templates attached to this communication (Annexes A1 and A2 for banks; Annexes B1 and B2 for branching electronic money institutions). Annexes A1 and B1 must be signed by the legal representative authorized to act on behalf of the financial institution. The intention to continue to operate shall also be communicated to the relevant UK supervisory authority.

The templates must be sent via e-mail to the addresses provided in the Annexes within the time limit indicated above. The electronic notification shall be followed by the delivery

of the printed form through certified mail to the Bank of Italy.

The banks and branching electronic money institutions that have notified their intention to continue operating in Italy will be allowed, for the time and under the conditions provided for by Decree Law 22/2019, to continue carrying out only the activities indicated in their notification, with the exception of deposit taking on a cross-border basis which will be restricted during the transition period to the activities necessary to manage pre-existing contracts for their duration.

No later than six months after the start of the transition period, the banks and branching electronic money institutions that have notified their intention to continue operating in Italy may apply for a license to operate as third-country banks or third-country electronic money institutions if they intend to operate beyond the transition period of 18 months. Failure to submit such application shall trigger a run-off period of six months, by the end of which the financial institution will have ceased to operate in Italy.

- b. *UK banks and branching electronic money institutions that intend to cease operations, and UK payment institutions, non-branching electronic money institutions and asset management companies that are required to cease operations (UK investment firms that intend to cease operations should refer to Consob).*

Pursuant to Article 4 of Decree Law 22/2019, within 15 days of its entry into force UK banks and branching electronic money institutions that intend to cease operations in Italy after the date of withdrawal shall notify the Bank of Italy of how they plan to ensure the orderly termination of their activities. The same requirement shall apply to payment institutions, non-branching electronic money institutions and asset management companies.

The notification must be transmitted using the templates attached to this communication (Annexes C1 and C2 for banks; Annexes D1 and D2 for payment institutions and electronic money institutions; Annexes E1 and E2 for asset management companies. Annexes C1, D1, and E1 must be signed by the legal representative of the intermediary).

The intention to cease operations must also be communicated to the relevant UK supervisory authorities.

The templates must be sent via e-mail to the addresses provided in the Annexes within the time limit indicated above. The electronic notification shall be followed by the delivery of the printed form through certified mail to the Bank of Italy.

Pursuant to Article 4 of Decree Law 22/2019, the above-mentioned plans for the orderly termination of activities in Italy shall also be disclosed to the Italian customers and to the relevant business counterparties of the financial institution.

To this end, the banks and branching electronic money institutions that intend to cease

operations, and payment institutions, non-branching electronic money institutions and asset management companies shall act as follows:

- financial institutions that have already informed their customers of their intention to cease operations, pursuant to the Bank of Italy's communication of 19 February 2019 shall not provide further notice; nonetheless, within 15 days of the entry into force of Decree Law 22/2019, these financial institutions shall liaise with their relevant business counterparties and inform them of any foreseen consequences stemming from their decision to cease operations in Italy (see below);
- within 15 days of the entry into force of Decree Law 22/2019, financial institutions other than those referred to above shall send their Italian customers detailed information about the impact of Brexit and the measures the institution will take to ensure the orderly termination of activities. In particular, these financial institutions shall provide at a minimum specific information on: i) the expected effects on existing contracts caused by the termination of activities, with particular regard to the effects on current lending facilities as regulated under Article 4(5) of Decree Law 22/2019; ii) the consequences of any potential corporate restructuring related to Brexit, with particular regard to any planned transfer and/or sale of businesses in whole or in part; iii) the possibility of making recourse to an alternative dispute resolution mechanism in light of Article 7 of Decree Law 22/2019; and, iv) where appropriate, the effects relating to deposit insurance guarantee schemes also in light of Article 8 of Decree Law 22/2019 (see Annex F - the Annex F will be published in the forthcoming days). All communications shall be written in clear and plain language. Addressees shall also be given contact details for further information and assistance and up-to-date information about the competent complaints office when deemed relevant.

The above disclosure to customers and business counterparties shall also be provided by UK banks and branching electronic money institutions that do not apply for a license as third-country banks or third-country electronic money institutions pursuant to Article 3 of Decree Law 22/2019. Provided that the six-month termination period starts upon the expiry of the term for submitting an application as a third-country institution (see Article 4(3) of Decree Law 22/2019), the disclosure to customers shall be sent at least 15 days prior to the expiration of such term.

UK banks and investment firms that, on the date of entry into force of Decree Law 22/2019, are authorised to participate in government bond auctions are exempted from the notification; with the exception of the activity of collecting deposits, for which notification is necessary, they may continue to operate without having to submit a notification.

The table below provides a guide to the Decree Law.

Note: This table is only a guide to the Decree Law. Please refer to the official text for the exact content of the Decree Law and in order to fulfill all the respective requirements.

Types of intermediaries	Required steps in case of no-deal Brexit	Reference in the Decree Law
UK banks providing services subject to mutual recognition in Italy pursuant to Article 1(2)(f) the Consolidated Law on Banking, through branches	Notification of the intention to operate during the transition period shall be transmitted no later than 3 days prior to the date of withdrawal (Annexes A1, A2). Banks authorized to participate in government bond auctions are exempt from the notification requirement, except in relation to the activity of collecting savings.	Article 3(1) and 3(6)
	Contact an Italian deposit guarantee scheme (DGS) and complete the formalities regarding the adherence thereto by the end of the third month following the date of withdrawal (Annex F).	Article 8(1)
	Disclosure to customers on adherence to an Italian DGS by 40 days from the entry-into-force of the Decree Law (Annex F).	Article 8(3)
	Request for authorization to operate after the transition period, submitted no later than 6 months after start of the transition period.	Article 3(7)
	Compulsory termination by the date of withdrawal with a run-off period of 6 months, in the absence of a notification pursuant to Article 3(6).	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law, absent a notification pursuant to Article 3(6) (Annexes C1, C2).	Article 4(3)
	Compulsory termination by the deadline for the request for authorization pursuant to Article 3(7), with a run-off period of 6 months from that date, absent a request for authorization pursuant to Article 3(7).	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans, absent a request for authorization pursuant to Article 3(7) (Annexes C1, C2).	Article 4(3)
UK banks providing investment services in Italy under the freedom to provide services to	Compulsory termination by the date of withdrawal with a run-off period of 6 months.	Article 4(1)

retail clients and professional-upon-request clients intermediaries	Required steps in case of no-deal Brexit	Reference in the Decree Law
UK banks providing services subject to mutual recognition in Italy pursuant Article 1(2)(f) of the Consolidated Law on Banking, under the freedom to provide services	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law (Annexes C1, C2).	Article 4(2)
	Notification of the intention to operate during the transition period to be transmitted at least 3 days prior to the date of withdrawal (Annexes A1, A2); note that the activity of collecting savings is limited to the management of existing business. Banks authorized to participate in government bond auctions are exempt from the notification, except in relation to the activity of collecting deposits.	Article 3(1), 3(2) and 3(6)
	Contact an Italian deposit guarantee scheme (DGS) and complete by the end of the third month following the date of withdrawal the formalities related to the adherence thereto, unless the UK DGS certifies that their depositors continue to be protected (Annex F).	Article 8(2)
	Disclosure to customers on adherence to an Italian or a UK DGS by 40 days from the entry-into-force of the Decree Law (Annex F).	Article 8(3)
	Request of authorization to operate after the transitional period, submitted no later than 6 months after start of the transition period.	Article 3(7)
	Compulsory termination by the date of withdrawal with a run-off period of 6 months, in the absence of a notification pursuant to Article 3(6).	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law, absent a notification pursuant Article 3(6) (Annexes C1, C2).	Article 4(3)
	Compulsory termination by the deadline for the request for authorization pursuant to Article 3(7), with a run-off period of 6 months from that date, absent a request for authorization.	Article 4(3)

Types of intermediaries	Required steps in case of no-deal Brexit	Reference in the Decree Law
	Compulsory communication to the Bank of Italy of the run-off plans, absent a request for authorization pursuant to Article 3(7). (Annexes C1, C2).	Article 4(3)
UK banks providing investment services in Italy under the freedom to provide services to <i>per se</i> professional clients and eligible counterparties pursuant to Directive 2014/65/EU.	Notification of the intention to operate during the transition period to be submitted at least 3 days prior to the date of withdrawal (Annexes A1, A2). Banks authorized to participate in government bond auctions are exempt from the notification requirement, except as regards the activity of collecting deposits.	Article 3(3) and 3(6)
	Request for authorization to operate after the transition period to submitted no later than 6 months after start of the transition period.	Article 3(7)
	Contact the Italian compensation system (ICS) and complete by the end of the thirty days from the date of withdrawal the formalities related to the adherence thereto, unless the UK ICS certifies that their investors continue to be protected (Annex F).	Article 8(6)
	Disclosure to customers on adherence to an Italian or a UK ICS by 40 days from the entry-into-force of the Decree Law (Annex F).	Article 8(7)
	Compulsory termination by the date of withdrawal with a run-off period of 6 months, absent a notification pursuant to Article 3(6).	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law, absent a notification pursuant to Article 3(6) (Annexes C1, C2).	Article 4(3)
	Compulsory termination by the deadline for the request for authorization pursuant to Article 3(7), with a run-off period of 6 months from that date, absent a request for authorization.	Article 4(3)
Compulsory communication to the Bank of Italy of the run-off plans, absent a request for authorization pursuant to Article 3(7) (Annexes C1, C2).	Article 4(3)	

Types of intermediaries	Required steps in case of no-deal Brexit	Reference in the Decree Law
UK banks providing investment services in Italy, through branches	Notification of the intention to operate during the transition period to be submitted no later than 3 days prior to the date of withdrawal (Annexes A1, A2). Banks authorized to participate in government bond auctions are exempt from the notification requirement, except as regards the activity of collecting deposits.	Article 3(4) and 3(6)
	Contact the Italian compensation system (ICS) and complete the formalities related to the adherence thereto by thirty days from the date of withdrawal (Annex F).	Article 8(5)
	Disclosure to customers on adherence to the Italian ICS by 40 days from the entry-into-force of the Decree Law (Annex F).	Article 8(7)
	Request for authorization to operate after the transition period to be submitted no later than 6 months after the start of the transition period.	Article 3(7)
	Compulsory termination by the date of withdrawal with a run-off period of 6 months, in the absence of a notification pursuant to Article 3(6).	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law, absent a notification pursuant to Article 3(6) (Annexes C1, C2).	Article 4(3)
	Compulsory termination by the deadline for the request for authorization pursuant to Article 3(7), with a run-off period of 6 months, absent a request of authorization.	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans, absent a request for authorization pursuant to Article 3(7) (Annexes C1, C2).	Article 4(3)
UK electronic money institutions operating in Italy either under the free provision of	Compulsory termination by the date of withdrawal with a run-off period of 6 months, absent a notification pursuant to Article 3(6).	Article 4(1)

services or by means of a network of agents Types of intermediaries	Required steps in case of no-deal Brexit	Reference in the Decree Law
UK electronic money institutions operating in Italy through branches	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law (Annexes D1, D2).	Article 4(2)
	Notification of the intention to operate during the transition period to be submitted no later than 3 days prior to the date of withdrawal (Annexes B1, B2).	Article 3(5) and 3(6)
	Request for authorization to operate after the transition period to be submitted within 6 months after the date of withdrawal.	Article 3(7)
	Compulsory termination by the date of withdrawal with a run-off period of 6 months, absent a notification pursuant to Article 3(6).	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law , absent a notification pursuant to Article 3(6) (Annexes D1, D2).	Article 4(3)
	Compulsory termination by the deadline for the request for authorization pursuant to Article 3(7), with a run-off period of 6 months from that date, absent a request for authorization.	Article 4(3)
	Compulsory communication to the Bank of Italy of the run-off plans, absent a request for authorization pursuant to Article 3(7) (Annexes D1, D2).	Article 4(3)
UK payment institutions operating in Italy	Compulsory termination by the date of withdrawal with a run-off period of 6 months, absent a notification pursuant to Article 3(6).	Article 4(1)
	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law (Annexes D1, D2).	Article 4(2)
UK asset management companies operating in Italy	Compulsory termination by the date of withdrawal with a run-off period of 6 months, absent a notification pursuant to Article 3(6).	Article 4(1)

Types of intermediaries	Required steps in case of no-deal Brexit	Reference in the Decree Law
	Compulsory communication to the Bank of Italy of the run-off plans by 15 days from the entry-into-force of the Decree Law (Annexes E1, E2).	Article 4(2)

LIST OF ANNEXES

The **Annex F** will be published in the forthcoming days.

Annex A1 - Form letter with signature for banks intending to continue operating pdf 56.8 KB

27 marzo 2019

Annex A2 - Form for communicating the intention of carrying on activities and services in Italy pdf 1.1 MB
by banks in accordance with D.L. 25 March 2019, n. 22

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Annex B1 - Form letter with signature for e-money institutions (emis) intending to continue operating pdf 78.2 KB

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Annex B2 - Form for the communication of the intention of continuing activities and services in Italy pdf 1.6 MB

by UK authorized e-money institutions (emis) already established with a branch

27 marzo 2019

Annex C1 - Form letter with signature for banks ceasing to operate pdf 56.9 KB

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Annex C2 - Form for communicating the planned termination of all activities and services in Italy pdf 104.7 KB
by banks in accordance with D.L. 25 March 2019, n. 22

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Annex D1 - Form letter with signature for payment institutions and e-money institutions ceasing to operate pdf 77.3 KB

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Annex D2 - Form for the description of termination of activity in Italy by UK authorized payment institutions and e-money institutions pdf 882.1 KB

27 marzo 2019

Annex E1 - Form letter with signature for asset management companies ceasing to operate pdf 56.5 KB

27 marzo 2019

Annex E2 - Form for the description of termination of activity in Italy by UK authorized asset management companies pdf 242.8 KB

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