

# KNF-Polish Financial Supervision Authority Announces No Transition Period for UK Entities in the Case of a No-deal Brexit



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**In the announcement of 29 January 2019, KNF-Polish Financial Supervision Authority confirmed that, in the case of no-deal Brexit, UK entities operating on the Polish financial market will be treated as third-country entities.**

In the wake of the recent British Parliament vote rejecting the UK's EU withdrawal agreement, the eventuality of a no-deal Brexit has become more likely than merely a month ago. This has been corroborated by the reactions of certain European politicians who – in response to the 29 January 2019 House of Commons vote indicating support for the Brexit deal would hinge upon amending certain provisions – now rule out the likelihood of any deal renegotiation. Therefore, EU Member States have been increasingly interested in weighing up the legal and business ramifications of a possible Brexit with no contractual provisions whatsoever.

The UK's withdrawal from EU structures will have a bearing on the operations of financial sector entities. The entitlements of British businesses, currently free to

operate in other EU Member States – for instance, under Article 15(1) of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) – will expire overnight in case of no-deal Brexit. One of the consequences of a withdrawal with no arrangements would be the loss of the so-called single passport, allowing UK firms to render their services in Poland and in other EU Member States. The European Commission has expressly emphasised that in the case of no-deal Brexit, UK companies will not be able to continue banking and insurance operations under their EU membership entitlement.

On 29 January 2019, KNF issued an announcement to the effect that in case of no-deal Brexit, UK entities operating on the financial market will have the status of third-country entities. This implies that it will be necessary for them to undergo a relevant vetting procedure in order to be able to continue their operations in Poland. Depending on the nature of their business, this may also mean they will be required to seek an appropriate KNF permit.

The KNF announcement means that there are no plans to put any mechanisms in place which would extend the possibility of UK entities conducting their business activities in this sector under their entitlements hitherto arising from EU laws. Thus, rejecting the concept adopted in Germany, for instance, of enacting a law authorising the German KNF counterpart to extend UK financial sector entities' entitlements under EU laws in case of no-deal Brexit.

Having that in mind, if the UK withdraws from the EU without any arrangements, British banks, insurance companies and firms rendering financial services on a cross-border basis or through their branches in Poland will have lost their entitlements as of 30 March 2019. Another problem such firms and their customers will face is the further course of action with regard to the legal relations and agreements entered into prior to that date. Namely, the underlying law of such legal relations at the time of entering into the agreements and assuming the obligations will have changed. Also relevant will be the requirement on the part of British companies to inform their customers of such new legal circumstances.

As regards the Polish preparations in anticipation of no-deal Brexit, it is worth noting the following, already adopted, measures and regulations:

- Setting aside an additional PLN 1.5 billion in the 2019 budget to pay for the expected increase in Member State allocations payable to the EU
- Preparation of a draft law relating to the status of British citizens resident in Poland and their continued right to reside in Poland in case of a no-deal Brexit
- Preparation of a guide for dealing with the transfer of personal data to the UK in case of a no-deal Brexit
- Support for firms exporting to and importing from the UK with regard to customs, tariff and regulatory issues that will arise in case of a no-deal Brexit

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