

Instructions to UK intermediaries operating in Italy after the Withdrawal Agreement (29 April 2020)

The UK having left the EU on 31 January 2020, the transition period provided for in the Withdrawal Agreement started from the following day; EU legislation continues to apply in the UK during this time. The transition period will last until 31 December 2020, unless by 30 June the EU and the UK agree to extend it by one or two years.

After the end of the transition period, EU law will cease to apply to the UK and the Italian third-country regime will apply to all UK intermediaries operating in Italy. In particular, the regulations applicable to the financial intermediaries for which the Bank of Italy is the competent Authority depend on the type of intermediary and the activities performed in Italy:

- *UK banks and electronic money institutions operating in Italy through a branch ('branching e-money institutions') that intend to continue operating in Italy as third-country firms (UK investment firms are invited to refer to Consob).* These intermediaries can continue operating in Italy after the end of the transition period, in accordance with, and within the limits provided for by Italian law, only if they have acquired a licence as a third-country intermediary according to national law before the end of the transition period. However, the provision of investment services by third-country banks on a cross-border basis (is only allowed to eligible counterparties and per se professional clients (as defined in Articles 6(2-quinquies)(a) and 6(2-sexies)(a) of the Consolidated Law on Finance). Third-country banks can only provide investment services to other clients through a branch. Therefore, by the end of the transition period, UK banks have to cease the provision of investment services on a cross-border basis to clients other than eligible counterparties and per se professional clients.
- *UK electronic money institutions currently operating either under the freedom to provide services or through a network of agents ('non-branching e-money institutions'), payment institutions, and asset management companies.* These intermediaries cannot be licensed to operate as third-country firms, and are therefore required by law to cease operations by the end of the transition period. That is, they are required either to transfer the activity to an intermediary authorized to operate in Italy (which could be an intermediary licensed in Italy or an EU intermediary 'passport' into Italy) or to close their activity by that date in an orderly fashion.
- *UK banks and branching e-money institutions not licensed (for whatever reason) before the end of the transition period, and UK banks providing investment services on a cross border basis to clients other than eligible counterparties and per se professional clients.* These intermediaries have a duty to cease operations by the end of the transition period. The same duty also applies to UK banks and branching electronic money institutions that do not intend to continue operating in Italy as third-country firms.

Accordingly, intermediaries that intend to continue operating in Italy either need to acquire a licence as a third-country firm, where this is allowed (i.e. UK banks, except those offering investment services on a cross-border basis to clients other than eligible counterparties and per se professional clients, and UK branching e-money institutions), or to transfer their Italian activities to an Italian intermediary (existing or newly established) or to an EU-licensed intermediary 'passport' into Italy. On the other hand, UK banks and branching e-money institutions that intend to cease operations, banks that have to cease operations relating to investment services, and UK payment institutions, non-branching e-money institutions and asset management companies that are required to cease operations all need to wind down their Italian activities by the end of the transition period.

Therefore, in order to avoid any discontinuity of services to customers and to ensure an orderly closure of activity where required, **the Bank of Italy recommends that:**

- a. all the financial intermediaries that intend to continue operating in Italy, either as a third-country firm or by transferring their activity to a newly established Italian intermediary, **file an application in due time, taking into consideration the statutory duration of licensing procedures and the regulation on administrative procedures** (available in Italian here). The Bank of Italy calls the attention of the intermediaries concerned to the fact that the statutory duration of the proceeding can be extended by up to six months where the need for further information arises.[1] Therefore, if the application is not filed shortly after this Communication, the intermediaries should be prepared to guarantee the closure of all activities by the end of the transition period. Detailed information can be found on the Bank of Italy's website on the page on Business in Italy and on the page on the Supervisory procedures (in Italian only).
- b. all financial intermediaries that intend to transfer their activity to an EU financial intermediary 'passport' into Italy, **complete the procedures for passport notification and transfer of the activity by the end of the transition period;**
- c. all financial intermediaries that intend, or are required, to cease their activity, **end their relationships with customers in an orderly fashion by the end of the transition period, and transmit their closure plans to the Bank of Italy as soon as possible,** using the templates attached to this communication (Annexes C1-bis and C2-bis for banks; Annexes D1-bis and D2-bis for payment institutions and e-money institutions; and Annexes E1-bis and E2-bis for asset management companies. Annexes C1-bis, D1-bis, and E1-bis 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. The electronic notification shall be followed by sending the printed form via certified mail to the Bank of Italy.

Regardless of the type of intermediary involved or the activity performed, all UK intermediaries currently operating in Italy are required to inform customers of their Brexit-related initiatives and the related impacts on existing contracts. Intermediaries that have not already informed their customers, pursuant to the Bank of Italy's communication of 19 February 2019, are invited to inform them in due time during the transition period.

[1] For example, the licensing procedure for banks that intend to carry out services in Italy without a branch has a statutory duration of 120 days which can be extended by up to six months.

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Annex C1-bis - Form letter with signature for banks which cease to operate pdf 42.3 KB

30 aprile 2020

Annex C2-bis - Form for communicating the planned termination of all activities and services in Italy by banks pdf 213.9 KB

30 aprile 2020

Annex D1-bis - Form letter with signature for payment institutions and e-money institutions which cease to operate pdf 44.8 KB

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Annex D2-bis - Form for the description of termination of activity in Italy by payment institutions and e-money institutions pdf 921.4 KB

30 aprile 2020

Annex E1-bis - Form letter with signature for asset management companies ceasing to operate pdf 39.7 KB

30 aprile 2020

Annex E2-bis - Form for the description of termination of activity in Italy by UK authorized asset management companies pdf 169.7 KB

30 aprile 2020