

29 January 2019

**KNF Statement on the impending withdrawal of the United Kingdom from the European Union (Brexit) with regard to financial markets**

On 29 March 2017, the United Kingdom (UK) notified its intention to leave the European Union (UE) under Article 50 of the Treaty on European Union. EU primary and secondary legislation will cease to apply to the UK from 30 March 2019, 00:00 CET, unless the EU and the UK agree on a different date<sup>1</sup>. The UK will then become a ‘third’ country, i.e. a non-EU country.

Today, either of the following two options seems most probable:

- the UK’s withdrawal from the EU under a withdrawal agreement, followed by negotiations on a future trade deal;
- a no deal/hard Brexit – a scenario in which negotiations between the EU and the UK would not lead to any agreement, and the UK’s withdrawal from the EU would not be governed by any agreement.

The draft withdrawal agreement endorsed on 25 November 2018 provides for a transition period, in which the UK will still have access to the EU Single Market (as if it were an EU Member State) but it will no longer be able to participate in the EU’s decision making process or activities of EU institutions. The transition period would start on 30 March 2019 and end on 31 December 2020, subject to possible extension by another year or two years. As the draft agreement was rejected by the House of Commons of the UK Parliament on 15 January 2019, various future scenarios may be expected, including negotiations on amendments to the agreement, extension of negotiations pursuant to Article 50(3) of the Treaty on European Union, or even the UK’s revocation of notification of its intention to withdraw from the EU<sup>2</sup>.

Regardless of the final scenario of the UK’s withdrawal from the EU, the Polish Financial Supervision Authority engages in ongoing cooperation at country level (central authorities, chambers of supervised entities) and at international level (authorities within the European System of Financial Supervision and British financial regulators) to identify risks to financial markets and financial market participants, and to undertake, if necessary, preventive measures, especially in the event of a no deal Brexit.

The ultimate post-Brexit operating conditions for financial markets and financial services with regard to relations with British entities depend mainly on:

- ratification of an agreement between the EU and the UK laying down the rules for the UK’s withdrawal from the EU structures;
- any ‘emergency’ solution which might be applied in the event of a no deal Brexit;

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<sup>1</sup> Under Article 50(3) of the Treaty on European Union, the European Council, in agreement with the UK, may unanimously decide that the Treaties will cease to apply to the UK at a later date.

<sup>2</sup> In accordance with Judgment of the CJEU in case C-621/18, the UK is entitled to revoke unilaterally the notification of its intention to withdraw from the EU, by a notice addressed to the European Council in writing.

- negotiation of terms of cooperation between the UK and the EU with regard to the provision of financial services.

If no agreement on the UK's withdrawal from the EU is reached, this might involve the following major risks to financial markets:

- as of 30 March 2019, UK-based entities might lose their right to provide financial services in the territory of the EU under the existing licences or authorisations granted by British financial regulators (on the basis of the European single passport, under the freedom to provide services and the freedom of establishment);
- the uncoupling of the legal systems, which might lead to differences between those systems (including differences between laws and standards pertaining to financial markets, statutory protection of secrets, data processing, or outsourcing);
- no freedom of movement for workers, which is important to businesses.

Please be informed that in the event of a no deal Brexit, UK-based entities operating in financial markets will have a status of a third-country entity. Such entities would only be able to operate in the territory of Poland upon completion of appropriate proceedings before the KNF (depending on the type of entity and type of its business, this might involve e.g. the requirement to obtain appropriate authorisation from the KNF) and such entities would be supervised to the extent specified in legislation.

**The KNF would like to emphasise that clients may expect their financial service providers to provide details on matters such as the implications of the UK's withdrawal from the EU, the measures undertaken by the relevant entity, as well as clients' contractual and statutory rights in the context of Brexit. That issue was also emphasised in the statements published by the authorities within the European System of Financial Supervision. The KNF expects that the communication with clients will be clear and comprehensible, and that the supervised entities will provide clients with contact addresses for the purpose of further questions.**

**According to the KNF, it is necessary to consider the risk of Brexit-driven crime, as criminals might be taking advantage of the new circumstances. Clients and investors in financial markets should therefore be particularly careful due to the risk of phishing (fraudulent attempts to obtain sensitive information) or fraudulent commercial offers. In case of reasonable doubts as to any Brexit-themed attempted contact initiated in person, by phone or e-mail, such attempt should be verified directly with the financial market entity with whom the financial service user has signed, or intends to sign, a contract, using the contact details provided in the contract or on the website of the relevant entity.**

Brexit-related issues, in particular the communication with clients, will be further monitored by the KNF.

The KNF encourages clients, investors in the financial market and the supervised entities to follow the websites of the European Supervisory Authorities (ESMA, EBA, EIOPA), which publish the latest updates, recommendations and warnings for financial market participants

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relating to Brexit. Some statements of the above-mentioned institutions are also available on the KNF's website at:

[https://www.knf.gov.pl/dla\\_ryнку/Stanowiska\\_UE\\_ESNF\\_oraz\\_FCA\\_w\\_sprawie\\_brexit](https://www.knf.gov.pl/dla_ryнку/Stanowiska_UE_ESNF_oraz_FCA_w_sprawie_brexit)