

CMS: Romanian Financial Services Authority turns its attention to a post-Brexit scenario



As [*reported earlier this year*](#), the Romanian Financial Services Authority (the “FSA”) indicated that, in the event of a hard Brexit, UK entities operating in the non-banking financial markets will no longer be authorised to carry out regulated activities in Romanian on the basis of freedom of services (FOS) or the right of establishment (FOE).

The FSA has now issued draft legislation (the “Draft Norm”), regulating the status of UK insurers and insurance intermediaries operating in Romania on a FOS or FOE basis after a no-deal Brexit.

Briefly, the Draft Norm provides that, following a no-deal Brexit, UK insurers, insurance intermediaries and ancillary insurance intermediaries operating in Romania on a FOS or FOE basis:

- will be de-registered from the Registry of EEA insurers/intermediaries held by the FSA;
- must inform their respective insureds, policyholders or beneficiaries of the legal regime applicable to current insurance contracts, within 15 days from a hard Brexit;
- may continue to operate in Romania only for the purposes of managing the then-current insurance portfolio and preparing for a systematic cessation of activity;
- will be prohibited from concluding new contracts, renewing contracts in force, or from amending existing contracts regarding the insured amount, limits of liability, insured risks, validity period, territorial applicability etc.

Run-off activities may be performed only for a limited period post-Brexit. Following a no-deal Brexit, policyholders will be entitled to cancel multi-annual insurance policies, without any cost.

UK insurers will need to provide to the FSA, within 60 days from a hard Brexit, a plan for managing the existing portfolio for the purposes of the run-off; UK intermediaries and ancillary insurance intermediaries will need to communicate to the FSA, within 30 days from a no-deal Brexit, a list of clients and insurers they collaborate with, and other information related to the existing portfolio.

After Brexit, UK insurers seeking to operate in Romania will need to be authorised by the FSA – in this respect,

the FSA will apply the proportionality principle and take into consideration the fact that UK insurers have been subject to Solvency II requirements.

On the flip side, Romanian insurers operating in the UK will need to take similar run-off measures to systematically cease their activity in the UK after a no-deal Brexit and will comply with the relevant UK legislation regulating their activity in the UK after such moment.

The Draft Norm also brings some much-needed clarity on the status of life insurance contracts concluded by a UK insurer with a resident whose domicile subsequently (after Brexit) changes to Romania – in this case, the FSA shall consider that the UK insurer did not perform cross-boarder insurance activities in Romania in relation to such life insurance contracts.

The Draft Norm is currently up for public debate – comments and suggestions may be sent to the FSA until 2 January 2020. If adopted, it will apply as of the date of a no-deal Brexit.

If you want to learn more about this subject, please contact [Cristina Popescu](#) - Senior Counsel CMS România and Head of CEE Insurance Practice Group.