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Brexit Alert

On 20 March 2019, the Italian Council of Ministers has approved a law decree introducing urgent measures in order to manage the potential effects of a "no-deal" Brexit scenario on the activities of UK banks, investment firms, e-money and payment service institutions, insurance companies, insurance and reinsurance intermediaries operating in Italy (the "**Brexit Decree**"). The Brexit Decree was published in the Official Journal of the Republic of Italy on March 25 and came into force on March 26, 2019.

The effective application of the Brexit Decree is conditional on the UK leaving the EU without a deal. **On 29 March 2019, the UK parliament rejected (for the third time) the Withdrawal Agreement** and therefore, should no further extension be granted by the European Union, the date of withdrawal of the UK from the EU, with no deal, is 12 April 2019.

The Brexit Decree establishes a transitional period of 18 months (subject to certain qualifications and restrictions) (the "**Transitional Period**"), starting from the date of withdrawal of the UK from the EU (the "**Withdrawal Date**"), during which **continuity of certain banking and financial activities is guaranteed.**

With respect to **financial institutions**, the ability to rely on the Transitional Period is subject to (i) the delivery of a prior notice to be sent at least 3 business days before the Withdrawal Date to the relevant Italian authorities, according to the guidelines and rules to be provided by such authorities (the "**Notice**"); and (b) the filing of an application for a third country local authorisation within 6 months of the Withdrawal Date (the "**Application**") by the relevant UK entity[1]

The Brexit Decree also addresses **tax issues**: Italian tax rules that apply based on the UK being an EU member state – including those endorsing an EU directive – will continue to apply until the end of the Transitional Period. Rules on VAT and excise duties deriving from the transposition of EU directives and regulations will continue to apply to the extent they are compatible with the new legal landscape. The Ministry of Economy

[1] Please note that the Brexit Decree only refers to the filing of an application for a third country local authorisation, within the six-month limit. Therefore, at the moment, acceptance/completion of the application before such deadline does not appear to be required. The Bank of Italy/Consob will hopefully provide guidelines and clarifications on this point.

and Finance will issue one or more decrees containing the implementing measures.

Please note that the Bank of Italy has published guidelines in English in relation to the Brexit Decree, also containing the notification forms which must be duly transmitted by the banks and other financial intermediaries to the Bank of Italy in order to benefit from the Transitional Period. Likewise, Consob has published a set of requirements, also in English, for UK intermediaries who provide investment services and activities in Italy.

The Brexit Decree shall remain in force for a maximum period of 60 days and should the Parliament not convert it into law within this timeframe, it would automatically lapse with retroactive effect[2]. In case of non-conversion of the Brexit Decree, the Parliament may, nevertheless, introduce laws with the aim of protecting the legal obligations and relationships arisen by virtue of the enactment of the Brexit Decree by the Government.

Plese find here the the final version of the Brexit Decree (in Italian) as published in the Official Journal and here an English courtesy translation of the main provisions in relation to banks, financial intermediaries and insurance companies of the Brexit Decree published in the Official Journal.

[2] However, the Government may issue a prorogation, which would allow for an extension of the Brexit Decree, up to a further 60-day period.

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