



CMS Newsletter Italia

Implications for the provision of investment services and activities by intermediaries

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On March 12, 2019, the Italian supervisory authority (CONSOB) released the "Warning notice" no. 3 relating to implications of Brexit in the general context of financial services and intermediaries' activities. The Warning notice is aimed to ensure the protection of investors, considering the material effects of a "No-deal" Brexit.

The absence of both a bilateral agreement ("*no deal*") and of transitional measures adopted at the national level may affect the continuity of markets and intermediaries' activities. Therefore, in case no measure is implemented, the Italian intermediaries must not provide investment services in the UK and equally, British intermediaries would not be able to provide their investment services in Italy. Given the above, on January 24, 2019 the Ministry of Economy and Finance issued a press release in order to inform the financial market on possible transitional provisions in order to ensure the continuity of markets and intermediaries even in the event of a no-deal. Notwithstanding, for the time being, no any relevant provisions are issued. The great uncertainty arising from the pending negotiations and from the approaching of the date set for March 29, 2019 draw relevant Authorities' attention such as ESMA). The Authority issued a Statement to remind investment firms and credit institutions providing investment services of their obligations to provide customers on the impact on the provision of services and investors' rights that may emerge from the withdrawal of the United Kingdom from the European Union.

CONSOB, in accordance with ESMA's approach reminds Italian intermediaries, - banks and SIMs which provide their investment services in the UK - and British intermediaries, including management companies, which provide their services in Italy (through branches or under the freedom to provide service) to provide "*adequate information*" to each client through a clear and graduated communication released on the basis of the clients' characteristics (retail or professional).

In particular, clients must be informed on:

1. The impact of UK withdraw: the implications in the services' execution, in relation to the specific client;
2. The organizational arrangements adopted for managing the relationship with the clients and his inquiries related to UK departure;

3. The main implication of Brexit in the contractual rights, specifically in relation to the type of service provided and for an eventual termination of the contract.

For more information, the Warning Notice no. 3 of March 12, 2019 "*Brexit - Implications for the provision of investment services and activities by intermediaries*" issued by CONSOB is available at the following link: http://www.consob.it/web/consob-and-its-activities/other-regulatory-measures/documenti/english/resolutions/ra20190312_3.htm

Massimo Trentino
Partner

massimo.trentino@cms-aacs.com

Giulio Poggioli
Counsel

giulio.poggioli@cms-aacs.com

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