

BREXIT: CONTINGENCY MEASURES IN PLACE IN PREPARATION FOR THE UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION

5 March 2019

On 1 March 2019, the Spanish Government approved the Royal Decree-Law adopting contingency measures in the event of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union without reaching the agreement provided for in Article 50 of the Treaty on European Union.

Such royal decree-law includes measures applicable to financial services with the aim of guaranteeing the protection of Spanish customers, establishing a legal mechanism for British entities to meet their obligations.

Its aim is to prevent increased uncertainty and loss of access to the European market from affecting financial stability or harming financial services customers.

Article 19 of the Royal Decree-Law covers measures adopted in relation to financial services. This article is addressed to UK and Gibraltar financial institutions currently operating in Spain and contains three main provisions:

- Contracts for the provision of financial services entered into prior to the United Kingdom's departure from the European Union will remain valid. The sole purpose of this provision is to establish a fact already stated by the European Commission.
- After Brexit, these entities will have to adapt to third-country regimes. To ensure that this does not interfere with the management of old contracts, if authorisation is required, the previous authorisation may be extended while the application for a new one is being processed and for a maximum of nine months after departure. The same temporary regime shall apply in the event that authorisation is required to facilitate the relocation or orderly termination of contracts. This temporary extension of the previous authorisations will only allow the management of contracts signed prior to the United Kingdom's departure date but will not cover new activities.
- The competent Spanish authorities shall supervise such activity and may take any measures necessary to ensure legal certainty and safeguard the interests of users of financial services.

Activities linked to the management of contracts which do not require authorisation may continue to be carried out without the need to avail of the temporary regime described above. For any queries in this regard, institutions should contact the Bank of Spain, the CNMV or the Directorate General for Insurance and Pension Funds.

Those British or Gibraltar entities (IFs, CIS management companies and venture capital firm management companies) affected can submit any queries that they may have to the CNMV through the following mailbox: welcome@cnmv.es

The transitional period shall end, irrespective of the date of application, nine months after the date of effective withdrawal of the United Kingdom.