

## PORTUGUESE CONTINGENCY MEASURES ON FINANCIAL SERVICES MATTERS IN THE EVENT OF A HARD BREXIT

### DECREE-LAW NO. 147/2019 OF SEPTEMBER 30

The United Kingdom declared, on March 29, 2017, to the European Council its intention to leave the European Union. However, in the absence of entry into force of the agreement negotiated between the European Commission and the United Kingdom government on November 25, 2018 and, if the deadline is not extended again, the United Kingdom will no longer be an EU Member State, at 11 PM on October 31, 2019.

As a result, credit institutions, investment firms and management entities headquartered in the United Kingdom, from that date, will no longer benefit from the European passport, which allows them freely perform financial services to investors in the other Member States. From that date, they will become subject to the conditions of entities with headquarters in third countries. To deal with instability and legal

uncertainty associated to the possibility of, on October 31, 2019, all these entities having to cease immediately to provide services in Portugal, it was published, the **Decree-Law no. 147/2019 of September 30**.

**This legal instrument, which approves measures to be applied in the event of the United Kingdom leaving the European Union without an agreement on financial services, ensures the validity and continuity of existing agreements.** The transitional regime established by this Decree-Law, will be applied until December 31, 2020, allowing that these entities continue to operate in Portugal under European Passport, if the Portuguese Securities Market Commission receives:

- Before the date of the United Kingdom leaves the European Union without an agreement, a notification from the United Kingdom competent authority, in case of investment firms and management entities, or from the Bank of Portugal, in case of a credit institutions, regarding the provision of such services in Portugal;
- Within three months after the date of the United Kingdom leaves the European Union without an agreement, a set of elements and a communication from credit institutions, investment firms and management entities of its intention to

terminate the existing agreements in Portugal or seek authorisation to continue to operate in Portugal.

This legal instrument also ensures that, in this transitional period, all agreements regarding the reception of deposits or other repayable funds, credit operations, payment services and e-money subject to supervision from the Bank of Portugal celebrated by United Kingdom credit institutions, payment institutions and e-money institutions in Portugal before the date of the United Kingdom leaves the European Union without an agreement, remain valid if these entities notify, within three months after the date on which the Decree-Law no. 147/2019 enters into force, the Bank of Portugal of its intention.

Insurance agreements covering risks located in Portugal or in relation to which Portugal is the Member State of the commitment celebrated by insurance companies with registered offices in the United Kingdom under an authorization to provide insurance services in Portugal before the date of the United Kingdom leaves the European Union without an agreement also remain valid.

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Therefore, it is possible to conclude that Portugal provides solutions to mitigate possible adverse impacts that might result

from the “*hard Brexit*”, to facilitate the process of permanence in Portugal to entities headquartered in the United Kingdom interested in stay in our country, and finally, protect Portuguese economic interests. Portugal ends up choosing good alternatives for something that seemed to be disastrous.

Decree-Law no. 147/2019 enters into force on the date of the United Kingdom leaves the European Union without an agreement and expires on December 31, 2020.

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