

FINANCIAL SUPERVISION COMMISSION

DIRECTIONS

for the interpretation and application of the Code on Insurance with regard to the withdrawal of the United Kingdom of the European Union without agreement

Pursuant to Art. 12, para. 1, item 1 and art. 13, para. 1, item 4 of the Financial Supervision Commission Act (FSCA) in connection with Art. 9, para. 4 of the Code on Insurance (CI) and in relation to Recommendations for the insurance sector in light of the United Kingdom withdrawing from the European Union (EIOPA-Bos-19/040) issued by the European Insurance and Occupational Pensions Authority, the Financial Supervision Commission (FSC) issues the following directions regarding the interpretation and application of the CI.

The directions will apply with regard to insurance undertakings and insurance intermediaries established in the United Kingdom (UK) and operating on the territory of the Republic of Bulgaria under the conditions of freedom to provide services or the right of establishment in the event of a UK exit from the EU without agreement.

These directions are issued in order to minimise the damage to insurance policyholders and beneficiaries based on the applicable European Union (EU) legislation and national law when regulating the cross-border activity of insurance undertakings and insurance intermediaries established in the UK.

The directions are intended to specify and ensure compliance with the regulatory framework that the FSC will apply in the event of a UK exit from the EU without agreement.

Pursuant to Art. 12, para. 1, item 1 of the FSCA, the FSC shall issue directions in accordance with the purposes under Art. 11 of the same law. According to Art. 11, para. 1, item 1 of the FSCA, the FSC, in the exercise of the functions and powers conferred on it by law, is guided by the objective of the protection of the interests of investors, insured and social-insured persons.

In this regard, the following shall be considered:

1. In the event of a UK exit from the EU without agreement, insurers and insurance intermediaries established in the United Kingdom shall be considered as undertakings established in a third country and shall be subject to the regulation and supervision provisions of the CI for third country undertakings.
2. In the event of a UK exit from the EU without agreement, the Bulgarian law does not provide for termination of insurance contracts concluded with insurers established in the United Kingdom

before the date of the withdrawal of the United Kingdom from the EU. Insurance undertakings from the UK are not released from their obligations under contracts already concluded. Insurance contracts shall remain in force for the parties between which they are concluded, for the period for which they are concluded, unless the insurer's portfolio is transferred to another insurer or the insurance contract is terminated on any of the grounds provided for by applicable law.

3. The insurance undertakings established in the United Kingdom which, until the date of the withdrawal of the United Kingdom from the EU, have carried out an activity on the territory of the Republic of Bulgaria under the conditions of freedom to provide services or the right of establishment, after the date of withdrawal will not have the right to carried out an activity on the territory of the Republic of Bulgaria under the conditions of freedom to provide services or the right of establishment and in this connection, the provisions of Art. 41, para. 1 of the CI shall apply. After the withdrawal of the United Kingdom of the EU without agreement, insurers established in the United Kingdom should be considered as insurers with revoked licenses and a ban on entering into new insurance contracts, offering new terms under such contracts or changing the terms, including on the period, insurance amount and coverage, shall apply.

4. In the case of insurance activities other than the settlement of claims by the insurance undertakings established in the United Kingdom or by insurance intermediaries carrying out insurance activities on behalf of such insurers, after the date of the UK withdrawal from the EU without agreement, the provisions of Art. 635, para. 1 of the CI concerning responsibility for admission or pursuit of insurance activities without a license, shall apply thereof.

5. Insurance undertakings established in the UK which intend to carry out activities on the territory of the Republic of Bulgaria after UK's withdrawal from the EU without agreement, will have the right to carry out insurance activity in the Republic of Bulgaria through a branch registered under the Commercial Law, after obtaining a license from the FSC under the terms and conditions of Art. 56 et seq. of the CI.

6. The FSC cooperates with competent authorities of EU member states in the event of the transfer of a portfolio of an insurance undertaking established in the UK to an undertaking established in another EU country. With regard to the transfer of a portfolio of insurances covering risks located in the Republic of Bulgaria, the provisions of Art. 225, para. 1 of the CI shall apply. With regard to the transfer of a portfolio of insurances which belong to a branch in the Republic of Bulgaria of an insurer established in the UK, the provisions of Art. 225, para. 2 of the CI shall apply and with regard to the transfer of a portfolio to an insurer established in the Republic of Bulgaria, Art. 226 and 227 of the CI shall apply. With regard to the transfer of insurance portfolios of insurers established in the UK in the order specified above, the proceedings need to be commenced before the date on which the UK withdraws from the EU.

7. The Bulgarian legislation does not impose any special rules for third country intermediaries. Pursuant to Art. 296, para.1 of the CI, the registration for an insurance intermediary in the Republic

of Bulgaria is allowed only for persons with registered office or permanent residence in the country. With regard to registered in the Republic of Bulgaria subsidiaries of undertakings established in the UK, the requirements for registration pursuant to *Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (IDD)* shall apply, in the same way as these requirements are applicable to subsidiaries of undertakings from other third countries. In this regard, the terms and conditions under Art. 307 et seq., Art. 316 et seq. and Art. 321a et seq. of the CI shall apply, depending on the type of the insurance intermediary for which registration is requested.

The legal requirements of the CI and the applicable laws shall apply for all other cases in relation to UK's withdrawal from the EU without agreement.

These directions are adopted by decision (Minutes № 75 of 15.10.2019) at a meeting of the Board of the Financial Supervision Commission.