

Romania to relax restrictions on insurance distribution on a FOS basis

As we reported previously, at the end of 2018, the Romanian Financial Supervisory Authority (the “FSA”) issued Norm no. 19/2018 on insurance distribution (“Norm 19”).

Norm 19 introduced a number of restrictions on distribution of insurance on a FOS basis by EEA-based distributors, which were widely considered as excessive by the market as a whole and potentially in breach of the EU principle of freedom of services.

After almost a year from the enactment of Norm 19, the European Commission formally requested Romania on 10 October 2019 to comply with EU rules on the sale of insurance by distributors from other EU Member States. It raised some of the same issues as had been flagged already by the market i.e. that the national rules setting restrictive conditions on insurance distributions (such as the requirement to collaborate always with a Romanian distributor, or the ability to sell insurance products only on a reactive basis i.e. only at a specific request of a Romanian client) were in breach of the fundamental freedom of EEA distributors to provide services within the internal market.

In response to the European Commission’s notice, the FSA recently elaborated a draft amendment to Norm 19, which is open for public consultations until December 8th, 2019.

The draft amendment now eliminates all of the current restrictions on insurance distribution on a FOS basis regulated by Norm 19; instead, it defines “insurance distribution on the basis of freedom of services” by reference to the criteria defined in the Commission Interpretative Communication on Freedom to provide services and the general good in the insurance sector (2000/C 43/03).

If the amendment is approved in the current draft wording (as it appears likely), this will mean that the restrictions regulated by Norm 19 on FOS distribution of insurance will fall away.

That said, EEA-based insurance distributors will still need to consider whether the business model they use in Romania satisfies the criteria/requirements of the Commission Interpretative Communication referred to above. We expect the FSA to scrutinise this segment of insurance distributors in more detail, now that it has been pushed to give up its restrictions on FOS insurance distribution by the European Commission.

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