Global Financial Services Regulatory Guide - Poland

5. What are the requirements to obtain authorization in your jurisdiction?

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# What are the requirements to obtain authorization in your jurisdiction?

**Banking activities**

Regarding banking activities of credit institutions, the KNF has to be informed by the competent national supervisory authorities of a home member state about the types of operations to be performed by a credit institution. Information about types of operations is not limited to banking operations but includes all other activities that are to be performed by such entities.

Foreign banks (i.e., non-EU banks) may carry on banking activities in Poland via branches (oddział) after obtaining a license from the KNF. Such license is granted at the request of the foreign bank; the Banking Law regulates in detail the contents of the relevant motions and proceedings before the KNF.

**Insurance and reinsurance activities**

Regarding insurance/reinsurance activities, the KNF has to be informed by the competent national supervisory authorities of a home member state about the types of operations to be performed by an insurance/reinsurance entity. Information about the types of operations should not be limited to insurance operations but should include all other activities that are to be performed.

A foreign insurance undertaking having its registered office in a non-EU country may undertake and perform insurance activities in Poland solely through its main branch.

In the case of a non-EU foreign reinsurance undertaking, such entity may undertake and perform reinsurance activities in Poland in the following forms:

Through its main branch

Directly from the country where it has its registered office if the solvency system of this country has been deemed as equivalent or temporarily equivalent to the solvency system established within the European Union (in accordance with Article 172 of Directive 2009/138/EC)

Directly from the country where it has its registered office if the agreement referred to in Article 175 of Directive 2009/138/EC has been entered into with that country.

The conduct of insurance or reinsurance activities through a main branch requires KNF authorization. The application requirements for such authorization are set out in the Insurance Activity Act.

**Brokerage activities**

Brokerage activities can be performed by a foreign investment firm in Poland after the KNF has been notified of the planned commencement of such activities by the competent national supervisory authority that granted the investment firm authorization to perform brokerage activities. Where brokerage activities are to be performed without setting up a branch office, such activities may be commenced after the KNF has been notified by the competent national supervisory authority.

The KNF informs a foreign investment firm about the terms and conditions for the performance of brokerage activities in Poland, i.e., principles defined in the provisions of the Act on Trading in Financial Instruments, implementing regulations issued on the basis thereof, and provisions of EU law that are directly applicable to the activities performed by a particular foreign investment firm.

Third-country (i.e., non-EU, non-EEA) investment firms can only perform brokerage activities in Poland in the form of branch offices. The conduct of such activities requires KNF authorization. The application requirements for such authorization are set out in the Act on Trading in Financial Instruments.

It should be noted that entities entered in the register referred to in Article 48 of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFIR) intending to provide brokerage services in Poland are exempted from the obligation to obtain KNF authorization if such entities only wish to provide brokerage services to eligible counterparties and professional clients.

**Payment services**

An EU payment institution can commence cross-border activities in Poland after the competent supervisory authorities of the home member state have provided the KNF with the information listed in the Payment Services Act. An EU payment institution can perform payment services in Poland to the extent covered by the authorization issued by the competent national supervisory authorities.

**Fintech development in Poland – supervisory approach**

The initiatives undertaken by the KNF to encourage financial innovation (such as the Innovation Hub Programme) are worth mentioning. These initiatives permit supervised entities seeking authorization, including but not limited to fintech start-ups, to carry on regulated activities, in a testing environment where there is no risk of regulatory actions taken by the KNF for lack of compliance. A testing environment (like the Virtual Sandbox set up by KNF in 2020) helps develop a keen understanding of new products exploiting advances in technology, or helps answer questions like how to drive corporate internal compliance with IT requirements, such as risks stemming from cyber threats. Services that have been reportedly tested in Virtual Sandbox are Payment Initiation Service (PIS), Account Information Service (AIS) and Confirmation of Availability of Funds (CAF). These services are mostly regulated by the Payment Services Act.

Access to both the Innovation Hub Programme and the testing environment is free and voluntary. The Virtual Sandbox is open to supervised entities, entities seeking KNF authorization to carry on regulated activities, and start-ups.

**Marketing units in investment funds**

A foreign fund may sell its units in Poland, provided that the KNF receives, from the competent authorities of the home member state of the foreign fund, notification of the intention to sell units of the foreign fund in Poland. Such notification should be prepared in accordance with the form provided in Commission Regulation (EU) No 584/2010 of 1 July 2010. As regards EU AIFs, an EU manager can market an EU AIF it manages in Poland if the KNF receives from the competent supervisory authority of the EU manager's home state, notification of the intention to market such EU AIF in Poland. The notification requirements are set out in the Investment Funds Act. The notification is to be supplemented with the internal regulations of the EU AIF, as well as a statement issued by the competent supervisory authority of the home member state of the EU manager indicating that the EU manager is entitled to manage EU AIFs with a specific investment strategy.

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