



# BREXIT – An insurance broker's perspective

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# AGENDA

## I. Brexit Risks for insureds in case of a “hard” Brexit

1. Contract performance by UK domiciled insurers
2. Future insurance of UK domiciled risks
3. Effective access to the UK insurance market

## II. Some lessons learned



# 1. Brexit Risk – Contract performance

Insurers domiciled in the United Kingdom could lose their authorisation (“Passporting”) to perform insurance contracts with insureds in the EU.

## Considerations to evaluate the risk:

### Effectiveness of insurers Brexit plans

- Moving EU-risk portfolios by changing the legal form into a Societas Europaea (**SE**) including a change of domicile to the EU before March 29, 2019
  - Portfolio transfer to a sister company domiciled in the EU via a **Part VII** Transfer process
  - Policies are **already contracted** by EU domiciled subsidiaries of a group of companies
  - Commitment by **Lloyd's** (and other insurers) to honour contractual obligations independent of regulatory license challenges in EU member states
- > Lloyd's has announced that they are planning to conduct and finalise a Part VII Transfer until end of 2020

### Likelihood of a political solution in the EU

- Similar situation to **derivatives** contracts:  
More than 40 billion derivatives contracts need to be effected in London post Brexit !
- The **EU** has indicated that a solution shall be found but has not reflected this in most recent communications about No-deal Brexit preparations (Dec 19, 2018)
- Activities and statements from **German, French and Dutch** ministries are all aiming to create at least short term solutions



# 1. Brexit Risk – Contract performance

## Measures to consider for insureds:

- a. Keep the status quo and observe political developments and insurer commitments
- b. Cancel & replace or endorse policies with insurers not affected or EU-domiciled subsidiaries of incumbent insurers if possible either
  - ♦ Immediately,
  - ♦ With effect at 29/3/19 or
  - ♦ If possible include a second insurer on the policy as a fall back option
- c. Agree a special termination clause in case the insurer does not conclude its Brexit plans in time (only in exceptional cases and probably no longer applicable)



## 2. Brexit Risk – Insuring UK domiciled risks in the future

Insurers domiciled in the EU could lose their authorisation (“Passporting”) to agree and perform insurance contracts with insureds in the United Kingdom.

### Solutions:

1. **Commitment by the UK government to EU domiciled insurers, to be allowed to perform policies existing pre-Brexit also after a hard Brexit**
2. **Introduction of a “Temporary Permissions Regime” by the UK regulator (FCA)**
  - Available as of January 2019
  - Simple procedure, applicable for all financial services institutions already active in the UK
  - Grants the status quo for three years; pending full third country license applications processed
3. **Agreement of a local stand-alone cover**

Could be agreed via the lead insurer of an international insurance program
4. **Agreement of so called financial interest clauses (FINC) in international programs**

This means economic losses through activities in third countries (like the UK) will be compensated via payments to the mother company (e.g. in Belgium).

This can be problematic in case of D&O insurance or other lines of business covering individual’s interests

### 3. Brexit Risk – Access to the UK insurance market

EU domiciled companies could lose a seamless and effective access to the UK insurance market via third party brokers

IMD and IDD do not incorporate an equivalence principle, which could be a fall-back option to the incumbent passporting for insurance brokers

#### Relevance of the London market for EU domiciled insureds:

**9 Billion Euro**  
volume of the London  
market for EU-Insureds

**60%**  
Of the global  
market for Aviation  
insurance

**Special Risk  
expertise**  
Renewable Energies  
Space  
Off-shore construction

**80%**  
Of the biggest banks  
in the EU use  
London credit  
insurance capacity

**1 Billion USD**  
Available sum  
insured for Cyber  
coverage (in the  
EU it's ca. 100 Mio  
USD)

**1,7 Billion Euro**  
Limit for major event  
insurance e.g.  
Olympic Games in  
Paris

**80 Mio Euro**  
Premium volume of  
Italian state owned  
companies

**33%**  
of the global  
market for Marine  
insurance

# 3. Brexit Risk – Access to the UK insurance market

## Solutions:

### 1. Network-Access

- Insured contracts with a local broker, who in turn uses a UK broker as agent or sub-contractor (“Wholesale broker”)
- Interactions between UK broker and insured are subject to certain restrictions (e.g. correspondence between the parties may only take place via the local broker; claims support or premium payments via the UK broker are not allowed)
- Could be a challenge for local brokers without a network
- No solution for countries, in which Wholesale Broking is not permissible at all (e.g. Scandinavia, ITA, FRA)

### 2. Access via a UK branch

- Insured agrees a service agreement directly with the branch of a broker domiciled in the EU
- This would not have any restrictions regarding direct interactions with the UK domiciled branch and its employees
- Concept still requires acceptance from regulatory bodies

### 3. Direct access via Temporary Permissions Regime

- Brokers already passporting into the UK can apply for a license under the Temporary Permissions Regime for the next three years



## **Recommended actions for insureds**

- 1. Review if UK domiciled insurers are participating on an existing insurance cover and if so, what are their Brexit plans?**
  - Is there immediate need for action?
  - Preparation of the next upcoming renewal
- 2. Review if there are UK risks, which require a bespoke solution or an amendment to the existing global program?**
- 3. Discuss with your broker the approach for continued access to the London insurance market**





- Insurance market stakeholders seem to have a lack of awareness which values brokers and risk managers create
- Differences between regulatory institutions
- Placing insurances will get more complex and more costly
- Brexit as a possible catalyst for London market challenges
- „Diverging Narratives“ between the EU and the UK

LESSONS  
LEARNED





**Q&A**