



Belgium - Brexit for the Insurance Sector

INSURANCE HORIZONS

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- A temporary permissions regime will allow UK insurers, under certain conditions, to continue their existing insurance contracts concluded prior to the end of the Brexit transition period.
- UK intermediaries can continue distribution activities in relation to existing insurance contracts for 18 months if they notify the FSMA no later than two months after the withdrawal of the UK from the EU (i.e. by the end of February 2021).

To address issues that needed urgent attention in a no-deal Brexit scenario, the Belgian legislator enacted the Brexit Act of 3 April 2019 (Belgian Brexit Act).

In the area of financial services, the Belgian Brexit Act is mainly a delegation of power to the Belgian government and the Belgian Financial Services and Markets Authority (FSMA).

The Belgian Brexit Act allows the establishment of a temporary permissions regime for credit institutions, investment firms, insurance or reinsurance undertakings, payment institutions, e-money institutions, a range of funds and insurers who are operating from or otherwise domiciled in the UK by facilitating exercise of powers by the Belgian government to secure contractual continuity and continued service by UK financial services providers that are active in the financial sector in Belgium and lost their authorisation as a result of Brexit.

Following the Belgian Brexit Act, the government issued a Royal Decree with regard to insurance undertakings and intermediaries. In order to handle the existing policies in an orderly manner and to safeguard the rights of policyholders and beneficiaries, the Royal Decree of 22 December 2020 allows insurance undertakings, who were required to stop their activities in Belgium and cease to conclude new insurance contracts as from 1 January 2021, to continue their existing insurance contracts concluded prior to the end of the Brexit transition period, under the following conditions:

1. the undertaking confirms to the National Bank of Belgium (NBB) that it intends to make use of this option;
2. the undertaking may not conclude any new insurance agreements from the date on which the UK has withdrawn from the EU (i.e. 1 January 2021) (new insurance agreements also includes explicit or tacit renewal of existing insurance agreements);
3. the undertaking provides evidence that it is authorised in the UK or Gibraltar to carry on the insurance activities with regard to the Belgian insurance agreements;
4. the undertaking provides evidence (i) that it complies with the legal and regulatory requirements applicable in its country of establishment, (ii) that it is not subject to a recovery plan or a short-term finance scheme and (iii) that it has not been subject to a reorganisation measure in the UK or Gibraltar;
5. the undertaking provides the NBB with a plan indicating how it will unwind its obligations;
6. the undertaking will support the Belgian activities operationally and financially;
7. the NBB may request any information it deems necessary for the supervision of the activities; and

8. the undertaking appoints a representative in Belgium.

The Royal Decree of 22 December 2020, also provides for a temporary scheme which allows insurance, reinsurance and ancillary insurance intermediaries, established in the UK or Gibraltar and authorised prior to the date of the UK's withdrawal from the single market, to continue to operate in Belgium on a temporary basis in relation to the contracts concluded prior to that date, without having to be registered with the FSMA.

They will be able to continue the activity of insurance or reinsurance distribution in Belgium, in relation to existing insurance contracts for a maximum period of 18 months, under similar conditions as insurance undertakings. They have to inform the FSMA no later than two months after the withdrawal of the UK from the EU of such intention.

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