No-deal Brexit: What should insurers do now?

INSURANCE HORIZONS

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While a range of outcomes, including a departure under the terms of the current Withdrawal Agreement, remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on insurers.

UK insurers and intermediaries will no longer be able to passport their UK authorisations across Europe, and European insurers will no longer be able to passport into the UK.

UK insurers and reinsurers may therefore be unable to cover risks or pay claims (including policies underwritten before Brexit), and will be subject to third country regimes applying in each EU member state.

European insurers and intermediaries could be committing criminal offences if they continue to operate in the UK without having entered the UK Temporary Permissions Regime (TPR) or the Financial Services Contracts Regime (FSCR).

Group supervision and group solvency may also be affected for UK-headed groups with EU subsidiaries, and EU-headed groups with UK subsidiaries.

The expectations of both UK and EU regulators are that firms should assess the impact of Brexit, including no-deal, on their operations and insurance portfolios. They must take steps to identify and mitigate risks, and inform customers of the impact on their rights and the provision of services to them. Online guidance is available from the European Commission

European insurers operating in the UK | UK no-deal regimes for European insurers

European insurers and intermediaries may benefit from schemes introduced by the UK government in the event of a no-deal Brexit.

Those wishing to enter into new business, including renewals, can use the TPR. Those that have notified UK regulators of their intention to use the scheme, or who have already applied for UK authorisation, will be deemed authorised for a limited period to allow them time to become fully authorised.

European insurers who do not intend to undertake new business will qualify for entry into the FSCR if they already passport into the UK. This regime allows those that have not entered the TPR to run off their UK business in an orderly manner in the FSCR, without breaching UK law.

Online guidance about the FSCR and TPR can be found on UK regulators' websites, here and here for the PRA, and here and here for the FCA.

UK insurers operating in the EU

Certain European countries have introduced regimes for UK insurers to continue to operate on a temporary basis, or run off pre-Brexit contracts. However, these regimes vary between different member states, as do third country rules that will apply if there is no temporary regime put in place. The impact of no deal needs to be considered on a case by case basis for each UK insurer, depending on where it operates in Europe, the products it provides, and its customer profile.

How DLA Piper can help?

Our international insurance sector group continues to advise insurer and intermediary clients on Brexit. Since before the 2016 referendum, we have helped clients restructure in preparation for Brexit, including a no-deal situation. For more information, please contact the authors or your usual DLA Piper contact.

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