



The Netherlands - Brexit for the Insurance Sector

INSURANCE HORIZONS

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- Formerly passporting UK Insurers are no longer authorised to provide services in the Netherlands from 1 January 2021.
- It is currently possible for UK insurers as third country insurers to provide services into the Netherlands if they make a notification to the Dutch National Bank, but the relevant legislation is expected to be amended or revoked.
- Insurers, who have notified DNB before the entry into force of the amended legislation, may be able to make use of an expected transition period of 24 months to wind-down existing cross-border business.

Insurers and Insurance distributors in the Netherlands are supervised through a twin peak model, with supervision tasks divided between the Authority for Financial Markets (AFM) (conduct supervision) and the Dutch National Bank (DNB) (prudential supervision). DNB is the relevant authority for, amongst others, market access for banks (together with the ECB), insurers and payment service providers. AFM grants licenses to intermediaries and advisors, including insurance brokers and intermediaries.

Both the AFM and DNB have published their approach to supervision with regard to UK financial institutions after Brexit.

Authority for Financial Markets

The AFM has stated that it will remove UK entities that did not obtain appropriate license in the Netherlands or the EU from its registers.

It is also expected that the AFM will monitor financial institutions in accordance with its supervisory approach and enforcement policy. This means that, in its supervisory role, the AFM will prioritize addressing situations in which the customers' interests are harmed and major implications arise.

Dutch National Bank

DNB continuously called on UK institutions to take timely preparatory measures to ensure compliance with the relevant Dutch laws and regulations after the Brexit transition period. It is expected that DNB will also monitor financial institutions in accordance with its supervisory approach and enforcement policy. In this regard, it is important to note that DNB's focus on stability in the financial sector.

Although there is no specific temporary permissions regime for insurers and insurance distributors available in the Netherlands, there currently exists a possible route for UK / Third Country Insurers to continue their business operations in the Netherlands in the adjusted form as summarized below. Most of these options are reflected in DNB's recently published factsheet.

Currently, the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) allows for cross-border service provision in

the area of life and non-life insurance by third country insurers, following a notification procedure with DNB. However, it is envisaged that this notification procedure will be amended or revoked as part of the implementation of Article 162 of the Solvency II Directive into Dutch legislation (introducing a ban on the provision of services in the EU by third country insurers) after which these cross-border services will no longer be allowed. Insurers from third countries, that have notified DNB before the entry into force of the amended legislation, can make use of an expected transition period of 24 months to wind-down existing cross-border business. As UK insurers are third country insurers from 1 January 2021 onwards, they are currently able to make use of this notification procedure. It is uncertain when the amended legislation will come into force. Also, the anticipated transition period of 24 months is subject to parliamentary approval.

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