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Brexit Industry Insights

Insurance

September 2019

With the UK's default to leave the EU without a deal, the insurance sector is vulnerable to disruption. However, the sector is generally well placed, having spent significant time on no-deal Brexit planning since the EU referendum results were announced. The insurance sector is however faced with simultaneously navigating competitive pressures whilst mitigating the broader impacts of Brexit – including the impact of controls on the free movement of services, capital and people. The winners will be those in the sector prepared for change and alive to the opportunities.

As the financial services sector is among the most mature in its preparations for Brexit and has been through the process from impact assessments to implementation, there are lessons that can be taken and applied to the preparation of other sectors of the economy.

Brexit and the Insurance sector

The UK's insurance sector is one of the world's largest, managing investments of £1.8 trillion and employing 300,000 individuals[2]. The insurance sector however could be one of the most impacted due to the level of regulation and interconnection between the UK and EU financial systems, and the risk that millions of policies signed pre-Brexit could become invalid after 31 October.

What does this mean for business?

Some of the key implications for businesses operating in the sector:

Market access

Existing passporting arrangements allow UK based firms to access and offer services throughout the EEA, and vice versa, without the need for separate authorisation in each jurisdiction. Under a Temporary Permissions Regime (TPR) offered by the UK in the event of a no-deal Brexit, EEA based firms currently authorised to carry on regulated activities in the UK insurance market will be able to continue doing so for a maximum of three years while they seek UK authorisation. In order for the TPR to apply, firms must be in the process of obtaining UK authorisation for their UK branch and be aligned with the respective regulatory requirements. This gives EEA-based firms time to seek authorisation from the UK regulator to carry on their activities without disruption to customer services if there is no transition period. There has been no reciprocity from the EU however, so in the event of a no-deal Brexit, UK insurance firms currently accessing the EEA market through a passport will lose their authorisation to do so.

1. ABI warning on Brexit no deal and future rule taking: https://www.abi.org.uk/news/news-articles/2019/02/abi-issues-strongest-brexit-warning-yet-on-no-deal-and-future-rule-taking/

Third country equivalence regimes for regulations that facilitate the cross-border provision of financial services are not uniform, with different arrangements in place for each legislation. Not only are equivalence decisions time consuming and costly, but an equivalence decision can be withdrawn unilaterally at any time – failing to eliminate uncertainty entirely. The political situation must also be considered, as the EU has said the entire third country equivalence framework needs to be updated. Together with the time constraints, this makes an equivalence decision being in place for the UK's withdrawal extremely unlikely.

Future regulatory environment

Once the UK leaves the EU it will no longer be subject to EU directives and regulation, including Solvency II. The UK will implement its own equivalent regimes however the possibility for regulatory divergence is likely in the longer term. Although at the point of withdrawal the UK has indicated it will not be looking to make major changes to the regulatory landscape, the possibility remains that firms operating in the UK and EU could be subject to two distinct regulatory regimes, lending to a greater compliance burden over time.

People

Under a no deal, free movement of people will end once the UK leaves the EU. EU/EEA citizens resident in the UK before 31 October 2019 will retain their rights to settlement and access to services, and they will need to apply under the EU settlement scheme by 31 December 2020. EU/EEA citizens moving to the UK after 31 October 2019 will for a transitional period be able to move to the UK to live and work as they do now. But those wishing to stay beyond December 2020 will either need to apply for European Temporary Leave to Remain by 31 December 2020 or leave the UK. The UK is expected to introduce a new immigration regime from January 2021 for all EU nationals arriving in the UK after this date.

Multinational insurance companies often have a highly mobile international workforce and are reliant on the efficient deployment of individuals around the world including within the EU. Post-Brexit changes will need to be factored into existing processes to avoid delays in putting feet on the ground and/or increased costs. For example, immigration requirements for UK nationals planning to work in the EU will need to be confirmed on a country-by-country basis including expected time lines for completion of the immigration process.

Dual social security liabilities could arise for employers and mobile employees if member states do not agree to reciprocal arrangements with the UK.

Features of preparation to date:

Restructuring: The financial services industry was one of the first to mobilise resources and undertake impact assessments and location analysis to ensure business continuity. Setting up new entities or transferring functions to existing entities, and obtaining authorisation for these entities is a lengthy process. The majority of firms in this industry are implementing their mitigation plans.

Part VII transfers: The mechanism for transferring EU based customers to an EU domiciled entity under the Financial Services Markets Act (FSMA) has been key to Brexit planning. In a no-deal scenario this method of transferring customers will no longer be available – all insurers looking to use this method must have done so by the date of withdrawal. This process involves court hearings and directions which takes approximately two years on average. To date, approximately 29 million contracts have been transferred[1].

Regulatory supervision: The Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) have been transparent and communicative about their expectations of market participants through regulatory outputs and educational briefings, while also conducting supervision to ensure firms are making appropriate preparations. The FCA and PRA also required regulated firms to plan for the scenario of maximum change, i.e. a no deal Brexit, and demanded evidence of firms' preparations to ensure the industry is sufficiently planning.

2. ABI UK Insurance and Long-Term Savings Key Facts 2018 https://www.abi.org.uk/globalassets/files/publications/public/key-facts/key_facts_2018.pdf

Recognition of Professional Qualifications

Professional qualifications are the means by which the quality of individuals delivering professional and business services is tested and maintained. Regulated subsectors of the professional services industry, such as actuaries, rely on mutual recognition of professional qualifications (MRPQ) to provide their services to insurance clients in the UK and to the EU.

The specific requirements vary by sector. In the absence of any agreement, there will be no system of reciprocal recognition of professional qualifications between the UK and EU, meaning UK-recognised professionals may not be able to deliver services and advice in the EU. Post-Brexit, EU-wide mutual recognition of UK qualifications could be replaced by a myriad of local regulations with varying effects on the standing of UK firms. Reverting to this 'patchwork' approach to mutual recognition of qualifications would increase costs and reduce efficiencies for businesses in the UK and the EU27.

Tax

Restructuring in response to regulatory barriers has resulted in a number of tax issues for companies to manage, including assessing whether the activity transitioning to a new EU company is a transfer of a business going concern (i.e. with goodwill or intangibles attached) in order to determine potential exit tax charges and associated valuation issues.

Post-restructuring, the tax implications for ongoing operations present different tax challenges, for example, new cross-border charges for services provided by an old UK hub company to a new EU company will have transfer pricing and VAT implications. The employment tax position for staff moving to new locations will need to be considered.

Case study

Deloitte was appointed as the Brexit advisor to support a large, listed insurer on planning and implementation of Brexit solutions. We supported them undertaking a cross border merger and setting up a new EU insurer subsidiary.

This included the provision of regulatory, advisory, corporate tax and VAT support, as well as assistance throughout the integration of systems and operational considerations. Input also included a comprehensive analysis comparing EU short-listed jurisdictions and the respective regulatory, capital and tax implications.

What can businesses to do prepare?

The financial services sector as a whole was one of the first to mobilise resources and develop comprehensive plans to mitigate the impact of a no deal Brexit scenario. Key actions businesses are taking preparation for Brexit include:

- **Identifying "decisions of no regret":** The lasting uncertainty around Brexit means businesses could not plan for a particular future state. By using the scenario of maximum change as a basis for planning insurers were able to identify decisions of no regret which would benefit their business, or at least minimise disruption, independent of the future relationship between the UK and EU27.

- **Regulatory requirements:** Brexit preparedness activity was driven by the UK regulators meaning all UK insurers have made significant progress to date. Those acting as intermediaries were less proactive and some brokers have not yet identified their post-Brexit solution. With the deadline approaching this needs to be a management priority.

- Businesses are expected to have their Brexit solutions ready and tested by now. Firms should **seek assurance** over Brexit contingency plans and strategies adopted to respond to all eventualities around a future UK/EU relationship. There is a window of opportunity for those who haven't yet gone live to test new solutions.

- Changes to the terms of insurance policies, including the transfer of their contract to an EU entity, should be **communicated to policyholders** in good time. **Customers should also check with their insurance providers** regarding the status of their policies.

- **Communication with the workforce** to encourage employees to certify their residency status while also reviewing recruitment strategy for critical roles. Monitor information from countries in which you operate to ensure you understand local visa and work permit requirements.

- **Manage all key stakeholders to understand commitments and expectations.** Engage audit committees and liaise with government, regulators and trade bodies.

How can Deloitte help?

Deloitte has been supporting multiple businesses across a range of industries to understand the implications of, and prepare for, the UK's withdrawal from the EU. We have supported many clients with their Brexit planning. Our teams combine Brexit insights, industry knowledge and technical expertise to support our clients with their Brexit readiness planning – from risk assessment to applying the lessons learned to optimise for the future trading environment.

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Further reading

No-deal guidance for the insurance sector

UK No-deal Technical Note:

Banking, insurance and other financial services if there's no Brexit deal

UK Business Preparation Tool:

Prepare your business or organisation for Brexit

European Commission Brexit Preparedness:

Financial Services and Capital Markets Union

Further guidance:

FCA Brexit guidance
Bank of England Brexit pages
ESMA Brexit guidance
European Central Bank

This no-deal guidance is not exhaustive. Companies should routinely review the latest official updates and technical guidance as and when they are published by the UK, EU, and individual EU member states.

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