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Brexit – for better or worse, the UK is leaving the EU. What does this mean for (re)insurers and intermediaries post-Brexit?

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Environmental challenges dominate the Global Risks Report 2020



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1. REGULATION AND LEGISLATION

Brexit – for better or worse, the UK is leaving the EU. What does this mean for (re) insurers and intermediaries post-Brexit?

The agreement on the UK’s withdrawal from the EU has been signed by the UK and the European Commission and Council, signed by Boris Johnson on Friday 24 January and approved by the European Parliament on Wednesday 29 January. This means that everything is in place for the UK to leave the EU on Friday 31 January.

We will not see immediate changes, as the UK will enter into a transition period until 31 December this year during which the UK will attempt to agree its future relationship with the EU. During this transition period, the UK’s trading relationship with the EU, compliance with EU rules, contribution towards the EU budget and acceptance of the rulings of the European Court of Justice will remain the same.

In the insurance and reinsurance sector, therefore, passporting will continue, as will consumer rights and protections derived from EU law. Any new EU legislation which comes into force before the expiry of the implementation period will also apply to the UK.

While the signing of the withdrawal agreement means that the UK will not leave the EU without a deal, there are many aspects of the UK’s future relationship with the EU that are not included within this withdrawal agreement, in particular in respect of financial services. Some are sceptical that there will be enough time for the necessary negotiations to take place. Indeed, a report by Oxford Economics in January 2020 estimated the chance of the UK government striking a deal by 31 December 2020 at just 20% and argued that there was a higher chance (30%) of the talks breaking down entirely, leaving the UK trading on WTO terms from the start of 2021. The report stated “This timescale is far shorter than seen in most trade negotiations, particularly those involving a large, bureaucratic organisation like the EU. For comparison, the EU’s deals with Canada and Japan took seven years of talks”.

The new European Commission president Ursula von der Leyen recently made positive noises, saying that, whilst “tough” talks lie ahead, the EU was “ready to negotiate a truly ambitious partnership with the UK”. However, this will not be any comfort to UK (re) insurers and intermediaries looking for certainty on how (or whether) they will be able to do business in the EU from 1 January 2021.

UK (re)insurers and intermediaries should already have made plans for their EEA customers to continue to be serviced in a no-deal scenario, or in the event of the UK’s future relationship with the EU not containing an arrangement which is similar to passporting rights. If they have not done so already, it is vital that UK (re) insurers and intermediaries intending to continue their distribution activities to EEA policyholders and in respect of EEA risks seek appropriate legal advice.

One thing we do know is that EU regulators are unlikely to go out of their way to accommodate UK (re)insurers who are not properly prepared (see our previous article here: <https://www.hfw.com/downloads/001677-HFW-Insurance-Bulletin-December-2019-Edition-1.pdf>).

Insurers, reinsurers and intermediaries may wish to review the dedicated insurance/reinsurance Brexit guidance page recently published by the Financial Conduct Authority (FCA) (<https://www.fca.org.uk/firms/preparing-for-brexit/uk-general-insurers-intermediaries>), as well as the FCA’s general Brexit implementation period guidance (<https://www.fca.org.uk/firms/preparing-for-brexit/uk-general-insurers-intermediaries>).

There is a lot to be agreed in the next 11 months, but we hope that we will soon see a clearer picture emerging of the future relationship on financial services.

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2. MARKET DEVELOPMENTS

Environmental challenges dominate the Global Risks Report 2020

The Global Risks Report 2020 published by the World Economic Forum has ranked climate change as the greatest global threat.

As 2019 closed out the hottest decade (and second hottest year) on record, and 2020 began with Australia's bush fires raging out of control, environmental concerns have risen to the top of the list of issues worrying the world's elite.

The report draws on feedback from over 800 global experts and decision-makers, who were asked to rank their concerns by both likelihood and potential impact.

For the first time in the report's 15-year history, all five of the top risks in terms of likelihood over the next 10 years were environmental risks. They were:

1. Extreme weather events with major damage to property, infrastructure and loss of human life.
2. Failure of climate-change mitigation and adaptation by governments and businesses.
3. Human-made environmental damage and disasters, including environmental crime, such as oil spills and radioactive contamination.
4. Major biodiversity loss and ecosystem collapse with irreversible consequences for the environment, resulting in severely depleted resources for humankind as well as industries.
5. Major natural disasters such as earthquakes, tsunamis, volcanic eruptions, and geomagnetic storms.

The top five risks in terms of impact were the same as above, but natural disasters and human-made environmental disasters were replaced by weapons of mass destruction and water crises.

In the previous decade, economic and financial crises were seen as the most dangerous, but risk perceptions have clearly shifted.

In his prelude to the report, Børge Brende, President of the WEF, notes that a further challenge is that whilst these environmental challenges demand immediate united action, the global community seems to be growing increasingly divided. Countries are falling behind their commitments under the Paris Agreement. Nonetheless, the window for action is still open, for now. The next 10 years will be crucial in shaping the climate and environmental risks for the rest of the century.

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