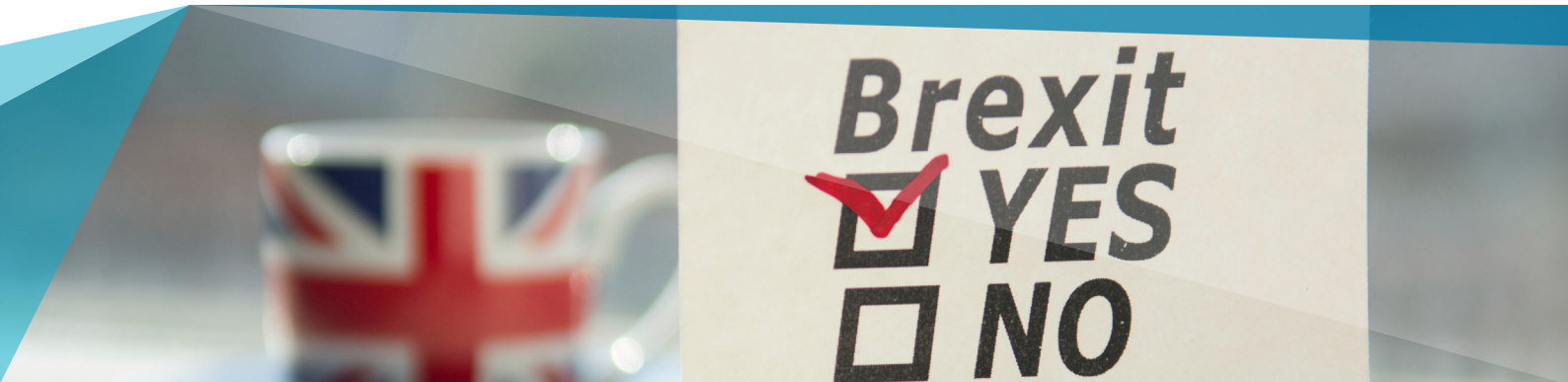


# PREPARING FOR BREXIT: AN UPDATE ON INSURANCE CONSIDERATIONS



In preparation for the UK leaving the European Union (EU) on 29 March 2019, organisations will need to plan for all possible outcomes of Brexit negotiations.

From an insurance market perspective, one concern is the possibility that negotiations could result in a “hard Brexit”, which could mean the loss of all passporting rights (the ability of an insurer or broker to carry out business across the EU from a single country licence) and Freedom of Services (FOS) access (access to the single market that an EU member state enjoys by virtue of their EU membership). This would have far-reaching effects on many organisations’ multinational programmes. On 19 March 2018 the UK and EU negotiators agreed in principle to a transition period until 31 December 2020 during which passporting rights and FOS access would continue to apply. This is subject to the UK and EU agreeing a withdrawal agreement. If the parties do agree a transition period but negotiations result in a “hard Brexit”, the consequences would merely be delayed until 1 January 2021.

Organisations affected are raising concerns over the implications of a loss of passporting and FOS access, which include:

- Will there be as much placement choice as today’s market and will competition be maintained among insurers?

- Will it be possible to avoid or mitigate any cost increases caused by more complex licensing structures or a reduction in available licensed capacity?
- What will be the status of annual insurance contracts that straddle the date of exit, and, likewise, what will be the status of longstanding arrangements/long-tenure policies? What level of additional data gathering or analysis will be needed to separate the UK from the EU in terms of risk presentation to the market?
- Will there be any material changes to the organisation’s own risk profile linked to Brexit?
- Will the UK insurance market face a loss of talent in the light of the number of EU nationals that work for broking firms and London market insurance companies?

## INSURER PASSPORTING

Many insurers operate from a single licence in the EU as part of a concentrated business model. However, the UK insurance market is currently arranging local licences in the EU if these do not currently exist.

Insurers already domiciled in EU locations outside of the UK will continue to passport throughout the EU from that location post-Brexit.

## POTENTIAL CHALLENGES OF EU LOCALISATION

Insurers face potential challenges with EU localisation as they look to accelerate their contingency plans. The risks involved include:

- Insurers could run out of time to implement contingency plans, as there are limited regulatory resources in many proposed EU locations.
- A potentially fraught Brexit negotiation could mean political interference in passporting plans.
- EU localisation only solves passporting issues in regards to a particular insurer, therefore potentially limiting competition and reducing choice for insurance buyers.
- Insurance buyers may be left in large numbers with limited options. Solving this under stress and in a tight timescale isn’t ideal.
- There is a risk that a chosen EU hub could also leave the EU in the future.

Uncertainty over passporting post-Brexit means planning for all eventualities is critical in order to maintain seamless multinational insurance protection.

## PLANNING AHEAD

Insurers may choose to partner with other insurers that already have an EU licence, rather than securing their own. This is not an uncommon approach in other parts of the world; however, there could be added complexities for organisations with large multi-line, multi-insurer, EU-exposed insurance programmes. Carrier options will continue to be developed, and Marsh is monitoring these developments.

Alternatively, organisations may consider a fronting option. In this scenario, a fronting insurer with the requisite EU licence would be selected, ensuring continued access to EU passporting rights. This is an approach commonly used in other parts of the world where insurer licensing is a constraint. Similar to many current agreements, under a fronting option, a set of competing insurers would sit behind the fronting insurer(s) on the placement. These insurers would reinsure the fronted EU exposures, and could either be comprised of the same selection an organisation currently has on its programme or alternatives in order to inject competition into the programme.

The reinsurance policy would be intended to mirror the existing policy wordings, therefore reducing the risk of inconsistency in cover between the fronting insurers and those following on the programme. Any potential frictional cost through a fronted structure could be tested and mitigated through market competition.

EU (re)insurers can take credit for eligible reinsurance from a reinsurer domiciled in the EU or a non-EU jurisdiction which has been determined to be Solvency II equivalent for reinsurance. Where a reinsurer is domiciled outside the EU in a jurisdiction which has not been determined to be Solvency II equivalent for reinsurance, the relevant reinsurer must either be rated BBB or equivalent or supported by an eligible guarantee or collateral arrangement. These rules apply across the EU.

Based on current information, Marsh believes that it is reasonable to assume that immediately post-Brexit (or from 1 January 2021, if the ultimate withdrawal agreement includes the transition period):

- The UK will be regarded as Solvency II equivalent.
- UK insurers and regulators will be seeking to retain regulatory equivalence.
- The risk remains that local EU regulators could take action to discourage fronting.

## SUPPORTING CLIENTS' POST-BREXIT PLANS

Marsh is working to ensure that choice and competition are maintained for its clients, regardless of the outcome of the Brexit negotiations. In support of Brexit readiness, Marsh can support organisations by:

- Reviewing participating insurers on programmes to assess their ability to maintain passporting, post-Brexit.
- Examining UK vs EU exposures and how differentiated organisational data can be captured and presented.
- Identifying what local servicing requirements may be required in EU countries and consider any alterations to the Marsh and insurer servicing model.

- Considering the most appropriate programme structure for a post-Brexit environment; this should be in place for upcoming renewals.
- Preparing contingencies for how programmes that straddle the EU exit date might be structured in the absence of any legislative mitigation around “grandfathering” for the period the annual contracts. Options might include short period policies and automatic “cancel and rewrite”.

Post-Brexit, Marsh can effectively achieve passporting through its EU presence, existing licences, and breadth of experience. Marsh has offices in almost all EU countries, giving it the ability to provide wholesale insurance programmes.

Where organisations wish to deal more closely with London specialists, Marsh has additional teams closely linked to its London team's EU hub locations. It is also looking at individual practitioner licensing requirements for servicing business directly into the EU post-Brexit (similar to requirements in Switzerland, for example). In addition, Marsh has developed a “bridge” placement structure that works without passporting. Additional information can be found on the Brexit section of [Marsh's website](#).

Please contact your Marsh client executive if you would like to discuss this issue, or email [national.enquiries@marsh.com](mailto:national.enquiries@marsh.com)

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