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European regulators outline Brexit mitigation measures

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As the threat of a no-deal Brexit becomes more likely, some EU countries are stepping up their preparations to ensure service continuity. **Cintia Cheong** spoke to regulators and governments in five big EU27 markets to find out what they have planned

The UK government has been working hard to create a temporary permissions regime to allow EU27 insurers to continue to operate in the country in the event of a hard Brexit.

But to the UK industry's annoyance, the EU27 have not acted to mirror the UK effort and create laws that would allow UK insurers to continue servicing contracts in the EU – until very recently.

The growing threat of a hard Brexit has prompted changes in many of the major EU countries with substantial cross-border activities. *InsuranceERM* contacted governments, insurance regulators and associations in France, Germany, Ireland, Italy and the Netherlands to discover the plans now being put in place – the results of which are summarised below.

Of course, for the more than 30 UK-based firms that have opened EU-based subsidiaries as part of their own Brexit mitigation measures, the work comes rather too late.

As Huw Evans, director general of the Association of British Insurers, commented at an event organised by rating agency Fitch last week: "UK insurers work very hard to prepare for Brexit... In the last two years they have been setting up subsidiaries in continental Europe... this demonstrates the sector does not wait for political settlement. It reflects the hard work of providing legal certainty."

In November, the European Insurance and Occupational Pensions Authority (Eiopa) released findings that 124 firms from the UK and Gibraltar with cross-border business in European Economic Area (EEA) have "no or insufficient contingency plans" in place to ensure service continuity in case of hard Brexit.

The authority predicted 9.1m EEA policyholders might face uncertainty and delays in receiving payments in case of a no-deal scenario. The measures outlined below should help alleviate some of that risk.

Germany

Germany's government is putting legislation in place to grant EU passporting rights on UK financial institutions until 2020. The German parliament is due to pass the legislation in February.

Felix Hufeld, president of financial regulator BaFin, said earlier this month he was confident "we can enable companies, at least temporarily, to transact existing contracts properly or transfer them into new, legally sustainable structures".

Hufeld said the fall-back solution being developed in Germany, to safeguard the continuity of contracts sealed before a hard Brexit, was necessary to "keep the financial markets capable of functioning, and to avoid disadvantages for domestic insurers".

Ireland

Ireland has announced similar mitigation measures to Germany.

Earlier this month, the Central Bank of Ireland said the government was drafting legislation to protect Irish policyholders with contracts issued by UK insurers in the event of a hard Brexit.

If enacted, it would put in place a temporary regime allowing UK and Gibraltar insurers and brokers to continue to serve their existing business contrast three years after Brexit. It would not apply to new policies.

Kevin Thompson, chief executive of the country's trade association Insurance Ireland, said: "As the possibility of a no-deal Brexit increases, it is critically important that industry and government continue to work together to avoid any detrimental impacts that could arise. This is a welcome development for customers and it builds on insurers' preparations to protect their policyholders in the event of a no-deal Brexit."

The Netherlands

Dutch regulator De Nederlandsche Bank (DNB) told *InsuranceERM* it currently has no plans to draft legislation to give temporary permissions to UK firms in the Netherlands. The Dutch Ministry of Finance has been contacted for further clarification.

A DNB spokesperson said: "Regarding the ensuring of continuity, it is primarily the responsibility of UK insurers to ensure that a no-deal Brexit scenario does not have detrimental effects for their EU policyholders, for instance by applying in a timely fashion for a licence in the EU.

"If any issues arise within reach of us as supervisor, we will work in tandem with Eiopa."

During 2017 and 2018 Eiopa issued several statements telling insurers to prepare for the worst and asking national authorities to ensure firms address the situation.

When asked to comment on the situation in the Netherlands, Eiopa said it is working with the national supervisory authorities and addressing residual risk to ensure that consumers will be protected.

Italy

The Italian Institute for the Supervision of Insurance (Ivass) said of the 126 UK insurers licensed in Italy, 53 are operational, meaning they have issued new contracts in the past two years. The remaining 73 have not, or their Italian business is in run-off.

Ivass estimated that about two-thirds of the UK undertakings operating in Italy have not yet completed the contingency plans drawn up to manage Brexit.

"We were hoping there would be an agreement to regulate the insurance sector to ensure contract continuity, but if no agreement is reached by March we are also preparing for a no-deal Brexit," according to Stefano De Polis, Ivass secretary general.

The government is developing draft legislation to grant temporary permissions to UK companies operating in the country.

De Polis said most UK insurers regulated in Italy have put in place contingency plans such as establishing a company in the EU. However, not all of these plans have been finalised.

"It can be a complex and lengthy procedure. There are some medium and large UK firms that are not ready for March.

"Ultimately, it's the responsibility of those firms to take action. If there is no interim legislation, it's difficult to say what would happen to those with no contingency after Brexit. We have the right to impose a penalty, but it's not easy to impose a penalty on a company from another country. It's an extreme situation we are working to avoid that."

Ivass has set up a Q&A to inform customers what a hard Brexit would mean for their insurance policies.

De Polis added: "We are working to protect European/Italian customers, but the best solution is to give a chance to UK companies to serve their contracts in an orderly way. It's the interest not only of customers but also of the companies."

France

The Banque de France and l'Autorité de contrôle prudentiel et de resolution (ACPR) say the matter is in the hands of the government.

According to a government website, it is trying to get the parliament to enable a bill that will allow the government to ensure certain elements of continuity, deemed strictly necessary for individuals and businesses, on a temporary basis, in the event of a hard Brexit.

The measures include continuity of certain financial activities, in particular insurance, after the loss of the UK financial passport. However, further details were not disclosed.

The country's Brexit preparations have included identifying 200 measures to deal with the fallout, including recruiting 250 customs officers for example.