

## **MGAA BREXIT FREQUENTLY ASKED QUESTIONS**

The MGAA has been asked many questions regarding the potential effect of Brexit. At present, it is impossible to know what is going to happen. No announcement has been made by the UK Government or regulators, or by the EU.

The Board of the MGAA are keen to ensure that Brexit causes the minimum disruption to all of its members and their businesses. The MGAA Board wishes, at the appropriate time, to raise members' issues with the FCA. At present, it is considered too early to do this. However, the Board invite members to add to the issues and questions below.

Again a caveat – below is a simple flowchart and we are talking about the European Union and the respective member states. This cannot be used in relation to those countries who are part of the European Economic Area, such as Switzerland and the Nordic countries. The effects of Brexit on these countries could make them fall outside any deal with the European Commission

The simple flow-chart, below, reflects the position as off today. But members should seek to clarify their own position prior to making any specific commitments. However, with a view of easing your journey we have two pathways.

The first relates to members who have no EU business and are using a UK domicile insurer. This should have no impact upon them

The second looks at EU business transacted from the UK. If the UK is successful in obtaining a “Soft Brexit”, and assuming passporting continues, then again there will be no impact. But this is unlikely

The likely hood is that there will be a “Hard Brexit” and as such we need to separate the position in relation to Underwriting issues and also Distribution issues. The third issue can be summed up as an Opportunity

These can therefore be summed up in three main areas to concentrate upon, which are:-

- Underwriting issues – such as passported in Insurers
- Distribution Issues – what happens to UK MGAs writing EU risks
- Opportunities – regarding European MGAs writing UK domicile risks

## Underwriting Issues

### Passported in Insurers

- What happens if passport rights of EU Insurers are terminated when the UK finally leaves the EU?

***If this occurs, then those EU insurers will no longer be able to write new business into the UK. This then leaves the intermediary with issues such as how do they handle cancellations, MTAs or run-off of pre-existing policies.***

- Other questions, which arise from this situation, are  
What happens to MGAs agencies?  
What do the binding agreements say?  
Should binders be changed now to address this potential issue and, if so, in what way?

***We suggest that MGAA members should be liaising immediately with any EU insurers from who they receive capacity to find out their intentions, and the answers to these and other questions which arise surrounding their delegated authority binding agreements***

- Should MGAs be looking to move their accounts away from EU Insurers and to UK-authorized insurers in order to protect their clients?

***We suggest that Members should be asking their EU Insurers sooner rather than later, what their contingency plans are. Especially they no longer have permissions, post BRexit, to underwrite new risks in the UK. Depending on those discussions, it may be that Members may need to look for alternative underwriting capacity***

- What is the position with Financial Ombudsman's claims?
- Do claimants of these EU Insurers go to the FOS or the local equivalent in the country of original regulation?
- What will be the position post Brexit if passporting ceases?

***Again, we suggest that Members should be seeking assurances from their EU Insurer that they will continue post BRexit to adopt the FOS Regime for pre BRexit risks.***

- Will EU Insurers be able to run business off post cessation of passporting?

***Run-off is a regulated activity***

- Will run-off have to be undertaken by a third party for the EU Insurer, or will the MGA have to take over claims control?
- Should the MGA be looking to take claims control now in order to reduce any potential effect here?

***It is suggested the Members should seek certainty from their EU Insurers as to what their contingency plans are for handling claims post BRexit, where will claims monies reside, and that claims will be properly met in accordance with pre BRexit policy terms and conditions.***

- What will happen to long term policies?

***We suggest that Members should be seeking comfort around how the liabilities and obligations under these policies will be dealt with by EU Insurers post BRexit, and whether they will be transferred to comparative UK Insurers.***

## **Distribution Issues**

### Status of MGAs writing EU risks from the UK

- What will be the position for UK MGAs writing EU/EEA business?

***Provided that the insurer itself is authorised in the country concerned, either directly or through passporting then the situation should remain unchanged***

- Does the MGA itself need local authorisation?

***Under the Insurance Mediation Directive and the Distribution Directive, if the MGAA wishes to conduct insurance mediation business in the EU, then yes it will need to be authorised within the EU post BRexit.***

- Is this the same where an MGA places a 9000 series Lloyd's stamp on a slip that is signed through XIS – i.e. where the MGA is not actually involved in the policy issuing / premium collection / sales but simply puts a Lloyd's stamp on a slip?

***This will depend upon whether the MGA is conducting a regulated activity in the EU. If the activity only occurs in the UK, we would not expect the need for an EU licence. However, there are many grey areas here and specific legal and regulatory advices will need to be taken***

- What occurs to motor and health insurance when UK residents travel to the EU?
- Will UK residents need to obtain insurance in the EU from EU based insurers?
- Will the old “Motor” green card or a Spanish bail bond system come back?

***This is currently unclear and clarify is being sought. However, this cannot be clarified until the full extent of the UKs withdrawal from the EU has been established***

- How will accounting for EU equivalents of IPT be dealt with?
- If the MGA is no longer authorised to conduct business under its EU passport, will we return to the system (as previously) of each country requiring separate localised IPT equivalent representatives (and at what cost)?

***Again, this is currently unclear and clarify is being sought. However, this cannot be clarified until the full extent of the UKs withdrawal from the EU has been established***

- What recommendations can we make to MGAs in terms of options to “get around” the effect of passporting ceasing?
- Can the MGAA provide a solution?

***The MGAA cannot provide any “solutions” per se.***

***The MGAA challenged the FCA at our “Open Door” meeting in October 2017 but FCA [and PRA] are unclear where BRexit will leave the UK insurers and ultimately MGA’s.***

***Planning is obviously the key, and taking protective steps to set up in the EU may be the way forwards. However, we do recommend that members should be consulting your insurers on all aspects of what they are doing, and how they will protect customers and indeed act in their best interests.***

***If you are in doubt, then we recommend that you seek professional advices.***

## Opportunities

### EU MGAs writing UK domicile risks from the EU

***Whilst this is not so much as a problem as the aforementioned issues it is something, which MGAA members need to consider.***

***EU MGAs will be in the same position as UK MGAs wishing to write European business from the UK***

***If members are involved within this intermediation channel then it is suggested that they should seek certainty from their EU partners as to what their contingency plans are.***

***Planning is obviously the key here, and taking protective steps to set up the appropriate relationship may be the way forwards. However, we do recommend that members should be consulting your insurers on all aspects of what they are doing, and how they will protect customers and indeed act in their best interests.***