

Brexit's Impact on the Insurance Industry

FINANCIAL SERVICES REGULATORY | INTERNATIONAL | LIFE, ANNUITY, AND RETIREMENT SOLUTIONS |
PROPERTY & CASUALTY INSURANCE | REINSURANCE | JULY 1, 2016



Barry Leigh Weissman



This alert is not meant to prescribe action, as none can yet be taken given the situation's uncertainty. Rather, we here pose questions and potential considerations. We suggest you review our related thoughts on Brexit's impact on intellectual property issues and businesses.

Following the UK's historic vote to leave the EU, numerous questions have arisen, including whether the UK will really leave the EU and whether Scotland and Northern Ireland (both of which voted to remain in the EU) will have their own referendums to leave the UK. At this early stage in the process, U.S. insurance companies lack the information needed to make decisions. But they have much to consider, including the following.

Domicile for European Business. Should insurance companies immediately seek another EU country to domicile their European business or take a wait-and-see approach? U.S. companies that use London as their European base may find a move is necessary to maintain unfettered access to the EU. As English-speaking nations, Scotland and/or Northern Ireland may become attractive options. Additionally, these two countries may seek to enact tax and related legislation to entice companies from London to their cities.

Solvency II. The Solvency II Directive ("Solvency II") codifies and harmonizes EU insurance regulation and primarily concerns the amount of capital EU insurance companies are required to hold to reduce the risk of insolvency. Under Solvency II, the solvency regimes of countries outside the EU are assessed to determine whether they are "equivalent" to those of the EU. If the UK does leave the EU, it would, absent a contrary agreement, no longer be an equivalent country, putting it on similar footing with the United States, which, likewise, is not equivalent.

Companies with UK Parents. With the pound losing strength, the financial stability of the entire entity could be endangered. Enterprise risk management systems will need to be examined and adjusted. These are just some considerations for companies with UK parents.

Some Additional Considerations

- Cybersecurity
- Data privacy issues (e.g., which standard will be followed the UK, the EU, both, or another country's?)
- Will the UK—or Ireland—remain on the National Association of Insurance Commissioners' list qualified foreign jurisdictions?
- Tax implications once the UK is no longer be part of the EU VAT system
 - Will the UK vary its anti- money laundering directive and if so what will be the impact on entities doing business in the UK?

Conclusion

The only certainty is that the relationship between the UK and the EU will change at some point in various ways. For now, the best strategy is to allow the politicians and government entities to adjust and determine their strategies. This can really only occur once the UK elects a new prime minister.

©2020 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.