

Belgian transitional regime for the UK insurance industry



On 1 January 2021, the Brexit transition period came to an end and the United Kingdom (“UK”) officially left the European Union. The UK can now no longer enjoy the benefits of the internal market, and UK insurance undertakings and intermediaries will no longer benefit from a European passport. In the meantime, certain UK insurance undertakings have decided to cease their activities in Belgium, which means putting in place a termination procedure for their existing policies.

Following the trade agreement between the European Union and the UK, the Belgian government is offering a transitional period for such industry players to ensure continuity of service for existing policies in the interests of all contracting parties and for a limited period.

Application of transitional measures

The transitional measures apply to (i) insurance undertakings and (ii) insurance intermediaries that are governed by the laws of the UK or Gibraltar and that were active in Belgium until 31 December 2020.

Insurance undertakings

As of 1 January 2021, insurance undertakings wishing to terminate their pre-existing business in Belgium can temporarily continue to use their legacy insurance contracts without obtaining a new licence from the National Bank of Belgium (“NBB”). To benefit from this transitional regime, UK insurance undertakings have to:

- notify the NBB of their intention to use the arrangement;
- undertake not to conclude any new insurance policies in Belgium;
- provide the NBB with a plan indicating how they will discharge and settle their obligations under the legacy contracts;
- appoint a Belgian representative; and
- inform their policyholders and beneficiaries that the continuity of their policies is guaranteed.

The NBB may insist that certain assets are deposited with a Belgian financial institution to guarantee the performance of the undertaking’s Belgian liabilities.

The provisions above also apply to insurance undertakings awaiting the approval of their licence to open a branch in Belgium.

It should be noted that the transitional regime does not apply to risks located in Belgium relating to maritime shipping, commercial aviation and space launching, and freight, or to goods in international transit, which may continue to be underwritten by insurance undertakings of third countries that are parties to the GATS treaty.

Insurance intermediaries

Insurance intermediaries wishing to continue their insurance distribution activities in Belgium can do so without additional registration with the Financial Services and Markets Authority (“FSMA”) for a maximum of 18 months (i.e. until 30 June 2022).

Any UK intermediaries wishing to use the transitional regime must notify the FSMA before 28 February 2021 and provide the FSMA with a plan indicating how they will terminate their activities in Belgium within the 18-month period.

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