

The impact of 'Brexit' on EU/EEA insurers who provide insurance in the UK using 'provision of services' passporting rights

On 23 June 2016, the UK will vote in a referendum to decide whether Britain should remain in or leave the European Union. If the UK votes to leave, contingency planning by UK and EU/EEA insurers to address the risks that Brexit poses to their businesses will become a reality.

It will be some time before it becomes known on what basis, following a 'Brexit', UK insurers will be able to do business in the continuing EU/EEA (cEU) and cEU insurers will be able to do business in the UK, since the position on this issue will depend on the negotiations that will take place (over a period of perhaps as few as two years but quite possibly as many as five or more) between the UK and the cEU concerning their future relationship.

- It is possible that a future regime could effectively retain the 'insurance single passport' as between the UK and the cEU, such that UK insurers and cEU insurers would be able to continue to maintain branches and provide services in or into the other's territory on the basis of their 'home' authorisation
- Another possibility is a 'grandfathering' arrangement, under which cross-border trading arrangements that were in place on or before the date of the arrangement could continue to be operated for a period of time after that date. (An arrangement of this nature might be used if, for example, an agreement under Article 50 of the Treaty on European Union for the UK's withdrawal from the EU were entered into before a separate agreement between the UK and the cEU providing for their future relationship.)

- If the UK votes to leave the EU and if passporting rights as between the UK and the cEU are not retained or replicated once a 'Brexit' actually takes place (or, if applicable, any 'grandfathering' arrangement comes to an end), the position of cEU insurers with respect to the UK laws regarding insurance regulation will be similar to that of other non-UK insurers in the rest of the world. In that situation it may well be that if you are a cEU insurer you will be able to continue to provide insurance in the UK without establishing a UK-authorized branch or subsidiary; you may however wish to take UK legal advice to confirm the position with respect to the specific circumstances of your business

We are able to provide:

- Generic advice concerning the principal UK insurance regulatory and tax considerations relating to the underwriting of insurance by a non-UK insurer where there is some UK involvement, setting out by way of general, preliminary advice some practical points for consideration; and
- Any more detailed or specific advice that may be required

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Clyde & Co Brexit team

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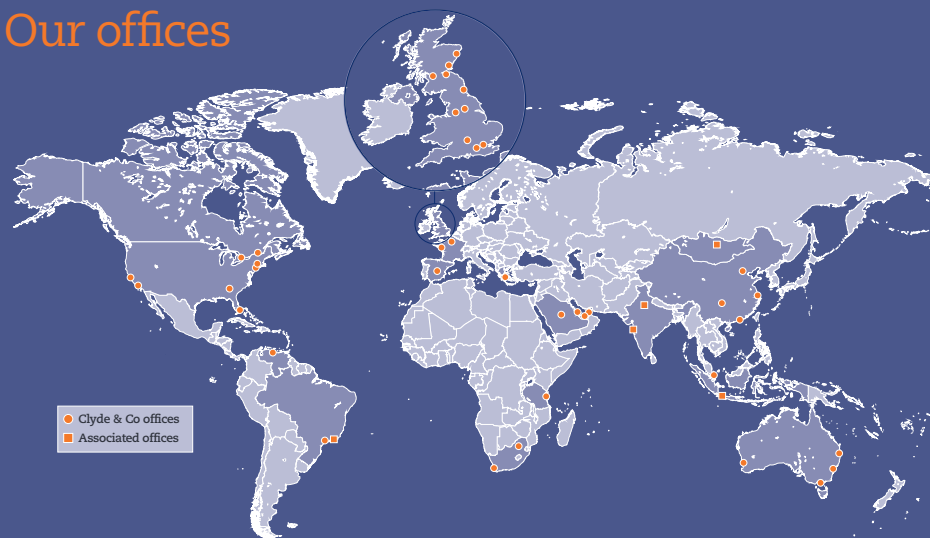
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