



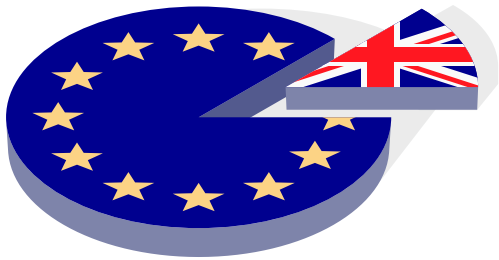
Broker Briefing:

Brexit – removal of ‘Freedom of Services’ (FOS)

Date of Issue -
28 February 2019



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On 23 June 2016, via a referendum, the UK voted to leave the European Union after 43 years of membership. The process of the UK leaving began when Article 50 of the 2009 Lisbon Treaty was triggered on the 29 March 2017.

Unless Article 50’s two-year implementation timeframe is now extended (if so, all other EU members would need to agree), or stopped completely by the UK Parliament (right to cancel exists) then the **UK will leave the EU or ‘Brexit’ at 11pm on Friday the 29 March 2019.**

At the time of issue there is still significant political and regulatory uncertainty as to exact nature of the UK’s exit from the EU and the resulting practical ramifications for insurers, brokers, customers and businesses alike.

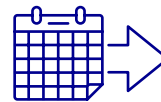
This broker briefing focuses on the removal of the EU member benefit of **‘Freedom of Services’ (FOS)** which unless Article 50 is paused or cancelled **will be removed for UK domiciled insurers** on the 29 March 2019.



Possible Brexit scenarios



UK political agreement to the current deal negotiated with the EU



UK political agreement to extend or even withdraw Article 50 (which triggered the UK EU exit)



No deal. This is the default position if no UK political agreement in advance of the 29th March 2019



Impact timeline

Transition period commences 29 March 2019, providing a timeframe for the UK and EU to agree their future trading relationship (up to 31 December 2020, with further extensions possible).

Timelines to be agreed - this may pause or even cancel Brexit. If a time extension is sought then all EU members would need to agree otherwise the UK still defaults to a 'hard Brexit'.

'hard Brexit' commences 29 March 2019 - in the first instance the UK would revert to World Trade Organisation (WTO) rules.



Brexit day - removal of 'Freedom of Services' (FOS) EU member benefit

Important: UK businesses with no permanent physical buildings or assets in the EU will not be affected by the market removal of (FOS).

Equally, irrespective of Brexit, UK customers liability policies with territorial limits for the European Economic Area (EEA) and beyond will continue to be valid as UK insurers are acting on behalf of a UK customer, with either a liability that has accrued from those UK operations (maybe through the export of goods), or temporary operations overseas.

Passporting

The ability for a UK domiciled insurer to 'passport' and directly underwrite risks in the EU is enshrined in current EU member legislation, commonly referred to as 'Freedom of Services' (FOS).

As it stands today on Brexit day '29 March 2019' **the provision of insurance services, including claims handling, will no longer be permitted for UK domiciled Insurers** under the current EU 'passporting' (FOS) legislation.

Whilst the UK Government has for the time being agreed to the continuation of EU based insurers right to underwrite business in the UK as part of its withdrawal agreement negotiations, **reciprocal arrangements from other EU members are**

still to be agreed which currently means that irrespective of any political acceptance of the current UK EU withdrawal agreement **(FOS) will cease for all UK domiciled insurers on the 29 March 2019.**

Thereafter all policies underwritten by UK insurers relating to EEA risks currently permitted under (FOS) passport arrangements will need to be administered differently, including handling overseas claims, because of the UK's exit from the EU.



UK businesses with overseas operations (buildings/assets) in the EEA

If as part of your clients' insurance cover they have **overseas operations in the European Economic Area (EEA)** such as buildings/assets established on anything other than a temporary basis, then these **will need to be covered and administered under 'Local' insurer policies** as opposed to the current EU

member legislation which permits UK domiciled insurers to extend UK policies. Even in some circumstances temporary operations overseas in the EEA will require cover to be placed locally (workmen's compensation in some territories for example) but this is not something that has changed due to Brexit.

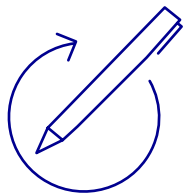
AXA Insurance UK is fully prepared for the removal of 'Freedom of Services' (FOS)

AXA is a truly global business, present in 62 countries with over 160,000 employees serving over 105million clients.

Our extensive EU and global footprint caters for the complexities of UK businesses with overseas exposures.

On a rolling basis over the last 12-month renewal cycle in preparation for Brexit, **AXA Insurance UK has already transferred** all identified **FOS business** (EU/EEA overseas buildings/assets) **onto 'Local' policies with an AXA EU entity** to provide both our brokers and clients with the reassurance of continuation of cover. The process of setting up 'Local' policies with other AXA EU entities is administered seamlessly by your AXA branch team.





Renewals

on/after 29 March 2019

Covers will continue as before with AXA policies that renew on or after Brexit day.

The only change being if AXA have previously provided an element of FOS cover, this has now transferred to an AXA EU entity, and if appropriate reinsured back to AXA UK to form an integrated programme with the UK insurances.

From March 2018 renewals onwards, AXA Insurance UK has already implemented this contingency measure against the removal of FOS to ensure that your clients will not be adversely impacted by Brexit.



New business

on/after 29 March 2019

Similarly, for new business, since March 2018 all AXA new business with identified overseas EU buildings/assets have been arranged with a 'Local' AXA EU entity policy, and if appropriate, reinsured that back into the UK to form part of an integrated programme for your client.

The mechanism we are using has been in place for some time across the AXA Group and has been used for a sizeable proportion of our international exposures already, so going forward the only change will be that AXA Insurance UK will no longer be able to offer cover under the EU 'Freedom of Services' basis, but we will provide a client solution through an alternative 'Local' AXA EU entity policy with associated claims handling services.



Difference in conditions (DIC), Difference in limits (DIL) covers & Financial Interest Clauses (FINC)

Where Local overseas policies do not provide as wide a cover as those available in the UK, currently clients have several options available to purchase ‘top up’ covers from the UK such as DIC/DIL.

AXA can continue to arrange these covers either from the UK or through our wider global network, and we have experts who can advise on the best way forward, together with highlighting any associated tax implications.

If you have any queries in relation to overseas buildings or assets (within the EEA or otherwise), or wish to discuss DIC/DIL or FINC clauses, please contact your local AXA branch team.





Other than the removal of (FOS) what other business insurance implications result from a 'hard Brexit' on the 29 March 2019?

In general terms, understanding your business clients' reliance on both the import and export of goods/services to/from the EU combined with continued access to skilled labour resulting from any potential loss of entitlement of EU nationals to reside in the UK should be a priority.

Clearly the wider UK economic outlook resulting from a 'hard Brexit' is unknown, but businesses may predict changes to their turnover projections, profitability, asset values, stock levels, staff/wage roll due to changes in accessing markets (contractual permissions), currency fluctuations or resulting from the default adoption of WTO rules.

In terms of transportation and a no deal Brexit, driving for employment or business purposes does not exempt drivers from needing to carry a Green Card while driving in the EEA. Please refer to our [Brexit briefing on the re-introduction of Green Cards](#).

From a cost of claims perspective transport delays, currency fluctuations and increased costs in sourcing replacement materials from the EU may well increase settlement costs. This is likely to vary by line of business and AXA will continue to monitor the situation closely and do have specific mitigation plans in place across our portfolio.

For non-AXA clients with overseas exposures, we recommend you seek clarity from your insurer partners (particularly if they rely on 'passporting' from other EU member states to continue to be regulated by the UK Financial Conduct Authority which may be subject to future change because of a default 'no deal'

Brexit). In terms of UK domiciled insurers, we suggest that you confirm if they have also set up 'Local' policies through their existing network of EU entities, or have obtained a UK court order enabling a Part VII transfer of insurance contracts to a third-party entity, or even intend to withdraw areas of EU overseas client cover due to the removal of (FOS) on the 29 March 2019.

Please contact your local AXA Underwriter if you have identified a potential client issue following the market removal of FOS and wish to maintain existing client cover for their overseas EU/EEA operations.



Recommended Broker preparation for a no deal 'hard Brexit'



Ensure that your teams are aware of the real possibility of a 'hard Brexit' scenario – and what this means specifically to their clients in terms of the removal of (FOS) and re-introduction of Green Cards on the 29th March 2019.



Check with your various Insurance partners about their **plans for continuation of EU buildings/asset cover** (or not) following the removal of (FOS) on Brexit day. You can be reassured that AXA Insurance UK have over the last 12-month renewal cycle implemented contingencies to ensure the continuation of overseas buildings/asset cover.



How do you intend to communicate changes (e.g. removal of FOS and the re-introduction of Green Cards) with business clients that are potentially impacted?



There is a wealth of end **client support material available** to assist with business Brexit contingency planning. Example resources:

[Brexit briefing on the re-introduction of Green Cards](#)

<https://www.gov.uk/government/brexit>



Be prepared. The political and legal implications of Brexit remain huge and complex.

In the advent of a 'hard Brexit' there is likely to be a wave of new legal and regulatory clarifications, potential new free-trade agreements plus wider economic factors.

To support our brokers, AXA Insurance UK will continue to issue relevant Brexit briefings once further market and regulatory clarity is forthcoming.



Clarifications?

In the interim, if you have any questions or clarifications in relation to the removal of (FOS) on the 29 March 2019, please email david.j.williams@axa-insurance.co.uk (David Williams, Managing Director, Underwriting & Technical Services, AXA Insurance) or contact your local AXA branch team to discuss.





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Disclaimer

The content of this document is for broker awareness purposes only based on our interpretation of the UK's EU membership withdrawal at the time of issue. This document does not provide advice and should therefore not be relied upon. We recommend that brokers seek adequate Brexit regulatory advice from specialist advisors.