

# Ania

Associazione Nazionale  
fra le Imprese Assicuratrici

## L'impatto di Brexit sul mercato assicurativo UK

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Milano, 7 Maggio 2019

# Agenda

- Brexit and Freedom of Services and Freedom of Establishment
  - Interim solution for insurance contracts entered into before Brexit
    - IUA Clause
    - Brokers' clauses
  - Solution for insurance contracts entered into after Brexit
    - Branch of EEA Company
    - Mononational and multinational risks
    - EU Parent Companies (Financial Interest Clause)
    - EU Policy wordings from UK: common law v civil code

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**Solution for insurance contracts entered into before Brexit**

# L'impatto di Brexit sul mercato assicurativo UK

- IUA Clause by Sub-Group of the IUA Non-Marine Clauses Committee
- Applies following UK withdrawal from EU (Brexit)
- To be included in UK policies covering insureds domiciled in EEA incepting before Brexit and providing cover after Brexit
- UK and EU insurer are parties to the contract from inception
- No transfer of risk from UK to EU insurer: no Part VII Transfer
- EU insurer to perform contract that UK Insurer will not be permitted to perform after Brexit
- UK and EU insurer to perform different parts of contract in same period

# L'impatto di Brexit sul mercato assicurativo UK

- Insured can cancel if neither UK nor EU insurer can perform
- Premium return on pro-rata basis, irrespective of claims
- Subscription market:
  - Applies to participation of UK Insurer and corresponding EU Insurer
  - Where any Insurers' share is cancelled as per this clause, participation of remaining Insurers remains in force

# EU CONTRACT CONTINUITY CLAUSE LMA5824

- Refers to an EU membership event in general, not just Brexit
- Any term conflicting with applicable law to be amended
- Part of contract that cannot be performed to be terminated
- Pro-rata return premium, but if any claim is notified, no return premium
- IUA clause is more advantageous to the insured:
  - Provides continuity
  - Premium return following cancellation, even if claims were notified

## OTHER BROKERS' BREXIT CLAUSES

- Insured has right to give “revocable notice of cancellation”
- Transfer of participation to a replacement insurer: Part VII transfer needed.
- Provisions insurers might find difficult to accept:
  - ensure that insurance protection is unaffected by Brexit
  - Transfer the whole contract if only part of it cannot be performed
  - settle claims before a certain date (Brexit date?)
  - bear the insured's and broker's expenses relating to Brexit
  - Undertake any action too much in advance of Brexit (e.g. 90 days) as it is unknown when it will happen.

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**Solution for insurance contracts entered into after Brexit**

# UK insurance contracts after Brexit

- Establish a UK Branch of an EEA Company for FoS underwriting (not FoE)
- Challenges for policy wordings
  - Multinational wording structure to be changed
    - UK Master to sit along EEA policy and EEA local policies v non-EEA local policies
    - If parent is EEA company, no FINC from UK
    - UK Wording to cover EEA subsidiaries. Challenge becomes clearer after Brexit, but not new: common law v civil code
- Broker position and challenges not very different from Insurers

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## Grazie per l'attenzione

Brexit e mercato assicurativo UK

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