January 2019

Consequences of Brexit Deal Rejection for U.K. Insurance Market
Source: AM Best

AM Best has commented that uncertainty as to the United Kingdom's future trading relationship with the European Union has increased following the vote in the House of Commons on January 15, 2019, rejecting the deal terms agreed with the EU by Prime Minister Theresa May's government.

Historically, Lloyd's, the London market and other U.K.-based commercial insurers have underwritten European Economic Area (EEA) business on a cross-border basis. However, if the U.K. withdraws from the EU without a deal, or at the end of an agreed transition period, passporting rights are expected to cease and U.K.-domiciled insurers will no longer be able to issue insurance contracts in the EEA.

In order to continue to provide insurance services to EEA customers post-Brexit, many affected companies have chosen to establish new EU subsidiaries. Others, particularly small insurers that do not have the resources to create additional companies, have formed relationships with local carriers that will be able to front business for them. AM Best expects rated insurance groups to have these subsidiaries or arrangements in place by 29 March 2019, ensuring that they are able to underwrite EEA business going forward, even in the absence of a trade deal between the U.K. and the EU.

It is possible that if there is no trade deal, U.K. insurers will not be able to service existing contracts in certain EEA countries by settling and paying claims. It is the hope and expectation of the insurance industry that a political solution will be found to this problem; for example, by allowing the grandfathering of existing contracts. In spite of this, affected insurers have been putting contingency plans in place and exploring their operational and legal abilities to settle claims and provide other services to policyholders in individual EEA jurisdictions.

The majority of insurance groups that are affected by Brexit and rated by AM Best have either completed or initiated a transfer of their EEA business from their U.K. insurer to an affiliated EEA insurer under Part VII of the Financial Services and Markets Act 2000. However, the Part VII transfer process is expensive and time consuming, with transfers subject to extensive regulatory scrutiny and court approval. Consequently, a number of Part VII transfers will not be complete by the end of March 2019.