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Diverse European markets: Dealing with the intricacies of local coverage - Are Freedom of Service policies a "Panacea" as part of a Multinational program?

24th September 2020

Session Agenda

- Spotlight on:

  - French Pools
  - Spanish Consorcio
  - Ukraine
  - Turkey
  - Russia

- FOS
- BREXIT
- Limit Management

Insurance Regulations in Europe

There are 51 Countries in Europe

And all with different regulation / legislation …

Pools – France, Spain, NL, Belgium, Norway … Italy is one of the few EU countries that doesn't have a terrorism pool of some kind.

Cash Before Cover – Belarus and Russia for TPL owners of hazardous facilities

KYC, AML - Varies by country and document type, by new business or renewal

Tariff Rating Requirements - Belarus, Russia and Ukraine

Premium Collection – Local (Russia) or Central (UK)

Non-Admitted – 'No' or 'Yes at Insured's Initiative'

Reporting requirements – for example, UK EL

French Catastrophes Naturelles (Cat Nat)

What are Cat Nat?

- Cat Nat are “non-insurable direct material damage having as the determining cause the abnormal intensity of a natural agent. Usual measures to be taken to prevent such damage could not prevent their occurrence or could not be taken”.

- Damages caused by natural disasters are difficult to assess and the cost can be considerable. This is why the state provides a guarantee through a public company, the **Caisse Centrale de Réassurance** (CCR).

- Insurers are under **no obligation** to accept all risk but as soon as an insurer agrees to insure a property, there is an **obligation** to insure against damage resulting from a natural disaster (with exception for certain buildings that are too vulnerable).

The legal regime for natural disasters is governed by the law of July 13, 1982

France GAREAT

What is GAREAT?

An Insurance Pool implemented after 9/11/2001 Terrorist Attack by the French Government, allowing insurers, members of the Pool to retrocede Terrorism cover on personal and commercial sites, located in:

France mainland plus Overseas Departments including Guadeloupe, Martinique, Guyana, Reunion, Mayotte, New Caledonia plus others.

Two GAREAT Pools:

1. **Small and Medium Risks** (Non mandatory Pool) :
   - Programs with Contractual Limit of Indemnity less than 20M€ per loss PD/BI combined
   - OR Total Values < 20M€ if no Contractual Limit of Liability.

2. **Large Risks** (Mandatory Pool for all insurance companies operating on French territory:
   - Programs with Contractual Limit of Indemnity greater than 20M€ per loss PD/BI combined
   - OR Total Values greater than 20M€ if no Contractual Limit of Liability.

GAREAT Large Risks > 20M €

Losses from 2002 to 2019

EXERCICES / *UNDERWRITING YEARS*	PRIMES / *PREMIUMS*	SINISTRES / LOSSES				RATIO SINISTRES/PRIMES *LOSS RATIO*
		NB SINISTRES/LOSSES	PAYES / *PAID*	PROVISIONS / *OUTSTANDING*	TOTAL	
TOTAL 2002-2019	**4 119.62**	**45**	**32.02**	**1.01**	**33.03**	**0.80%**
*2019 (est)	220.0	0	0.00	0.00	0.00	0.00%
*2018 (est)	220.0	2	0.00	0.77	0.77	0.35%
* 2017 (est)	222.0	0	0.00	0.00	0.00	0.00%
2016	218.8	4	0.95	0.11	1.06	0.49%
2015	212.6	3	0.13	0.12	0.26	0.12%
2014	209.1	0	0.00	0.00	0.00	0.00%
2013	210.6	1	7.72	0.00	7.72	3.66%
2012	207.6	0	0.00	0.00	0.00	0.00%
2011	198.3	0	0.00	0.00	0.00	0.00%
2010	198.1	1	3.78	0.00	3.78	1.91%
2009	246.7	4	0.73	0.00	0.73	0.30%
2008	246.7	5	0.66	0.00	0.66	0.27%
2007	250.8	2	0.07	0.00	0.07	0.03%
2006	253.5	5	3.18	0.00	3.18	1.25%
2005	262.5	5	1.86	0.00	1.86	0.71%
2004	278.5	3	1.70	0.00	1.70	0.61%
2003	264.3	7	4.25	0.00	4.25	1.61%
2002	199.5	3	6.99	0.00	6.99	3.50%

Opened Claims by Underwriting Year

Spain CONSORCIO

What is CONSORCIO?

The Consorcio de Compensacion de Seguros (CCS) is a public business organization in Spain, first established in 1941 to support the Spanish insurance market with losses incurred from the Civil War.

Today, the main task of the CCS is to effectively act as a catastrophe insurer, compensating losses arising from a number of natural perils and socio-political risks which occur in Spain.

The CCS is financed entirely by its premiums and a series of mandatory surcharges on insurance policies covering risks located in Spain. Insurance entities are required to collect the Consorcio charges from the insured and settle them to the CCS

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Spain CONSORCIO

What else do you need to know?

Consorcio charges must be paid to Consorcio **within 30 days** from policy inception date.

On January 1, 2019, a local law entered into force introducing the new online reporting and direct debit payment tool for Consorcio charges. The System of Information of Recargos (SIR) provides more transparency in the process and allows CCS to more strictly drive reporting and payment compliance

- Effective June 1, 2019, Insurers must report and settle Consorcio charges on insurance policies covering risks located in Spain directly with CCS via the SIR tool .

- Failure to comply with the reporting and payment requirements, allows CCS to deny coverage or payment of claims

Ukraine – New Regulator

Transfer of Insurance Regulator to the National Bank took place on the 01st July 2020.

- Licensing requirements
- Capital requirements
- Requirements for improved disclosure of information and reporting by financial institutions
- ‘Fit and proper’ persons requirements (particularly for senior management of financial institutions)

Goal: increased supervision and simplification of the market.

Ukraine – New Regulator

- New Insurance Distribution Law (IDD)
- Solvency II requirements
- New consumer rights protection Law
- New AML requirements

Turkey – New Regulator

A new independent Insurance Regulation and Supervision Authority (Sigorta Denetleme ve Duzenleme Kurumu - SDDK) was established in 2019.

- Regulation
- Strategic Plan Governance
- Reporting Requirements

Comment: Insurance industry players welcome the establishment of the SDDK, saying that with as an independent agency, SDDK will be able to introduce initiatives more quickly, and the market will be more driven.

Turkey – Turk Re

Turkish Reinsurance Corporation (Turks Reasurans - Turk Re).

- Compulsory cessions?
- Capacity
- EQ Pool to

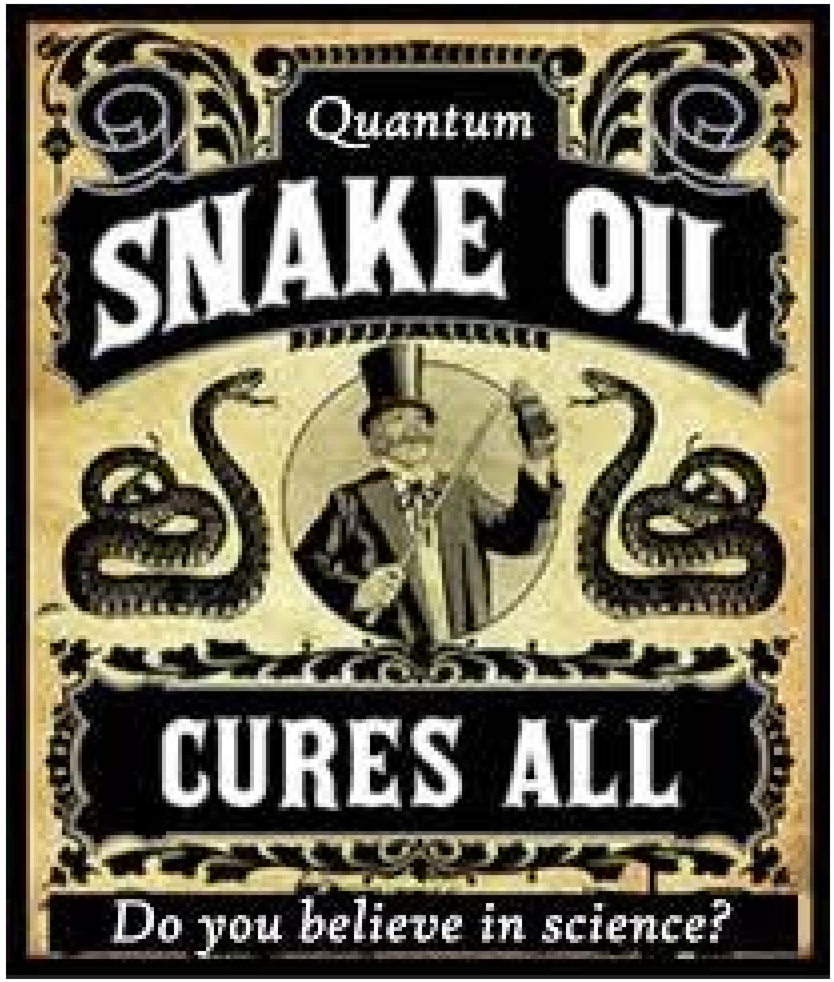
Projected Legislation

- There is a long-term plan to adopt Solvency II provisions but no relevant changes to legislation are expected for some years.

Russia

- Compulsory Reinsurance Cession to he Russian National Reinsurance Company (RNRC) equal to 3.5% part of the total reinsurance to be ceded.
- Only local collection of premium is permitted.
- “Know Your Customer” due diligence before concluding an insurance contract.
- Compulsory “carriers” liability insurance.
- Under the Russian Law it is not possible to cover fleet vehicles under a Compulsory Motor TPL group policy.
- Liability insurance for private owners of hazardous facilities is required.
- Filing – Wordings & Rates.
- Sign before cover
- Sanctions

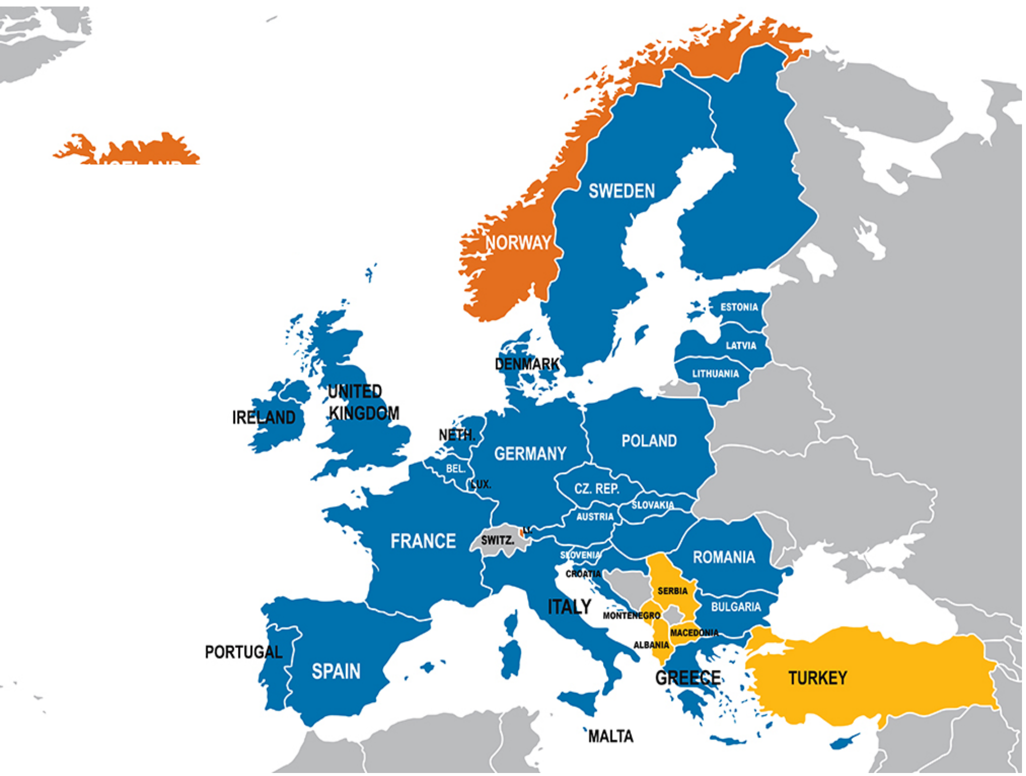
FOS – a Panacea?



Freedom of Services (FOS)

What is FOS?

EU Member Countries EEA Countries EU Candidate Countries



EU Countries

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Rep
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- UK*

EEA Countries

- Iceland
- Liechtenstein
- Norway

…but not Switzerland

EU Candidates

- Albania
- Macedonia
- Montenegro
- Serbia
- Turkey

*** Further BREXIT UK can only be covered under FOS during the 'transition period' or TPR**

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FOS

	Theory	Reality
COST	▪ FOS policy will be much cheaper than underlyers "Cheaper to write one FOS policy than 5… or 12… or 20 underlyers"	▪ Wrong! The only savings is in cost of issuing one policy vs. many Costs for collecting and settling taxes, producing certificates and handling claims are the same whether done under one or many policies
ADMITTED POLICIES	▪ FOS policy is "admitted" insurance	▪ True – but single language policy may present issues for local Insureds
REGULATION	▪ FOS policy is not subject to any regulation except country of issuance	▪ Wrong! FOS policy is subject to the rules of both: – Country of issuance ("Home State") – Country(ies) of risk ("Host State")

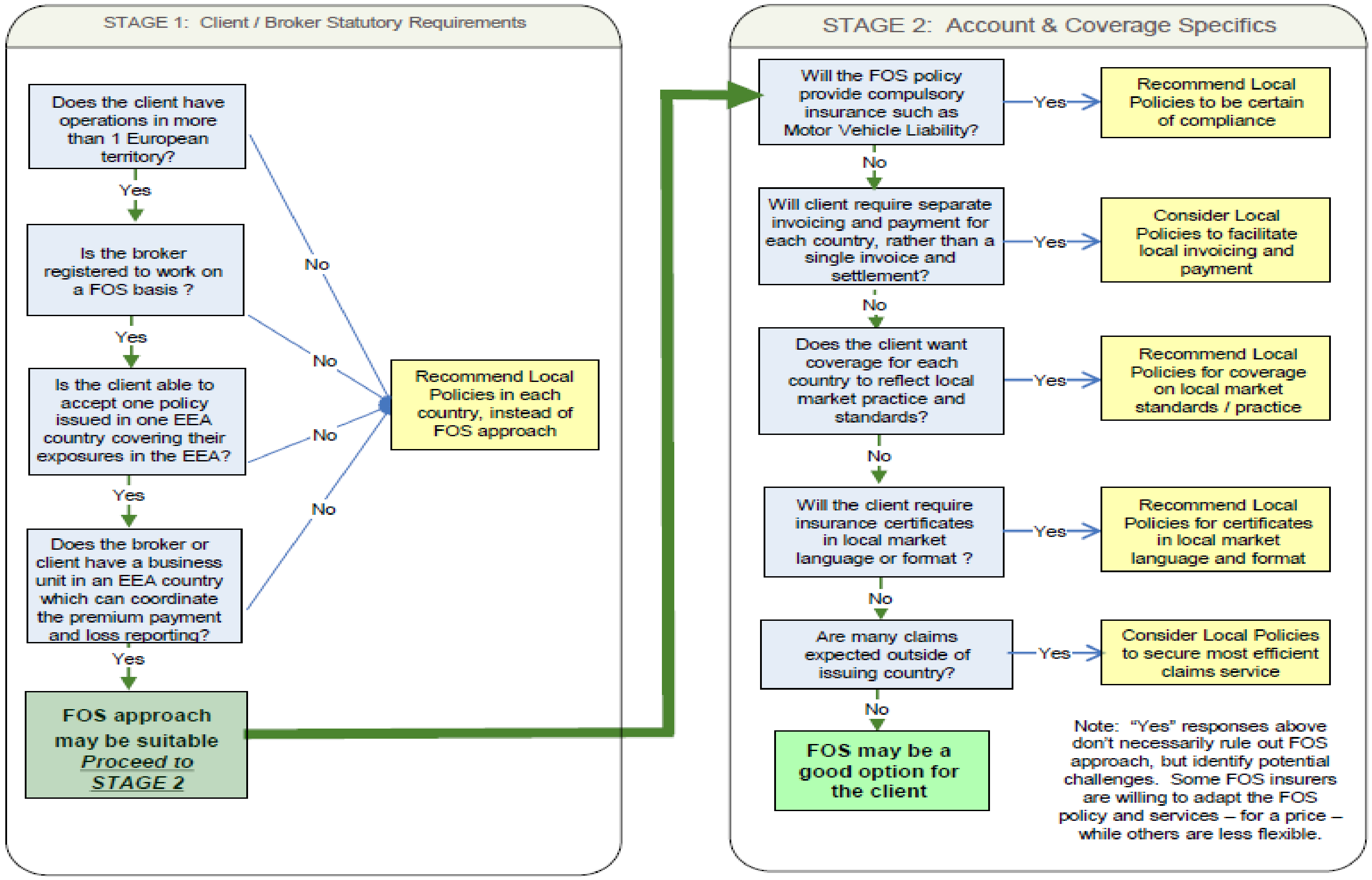
FOS
Advantages and Disadvantages for Client/Broker

Compared to having local policies issued in each country

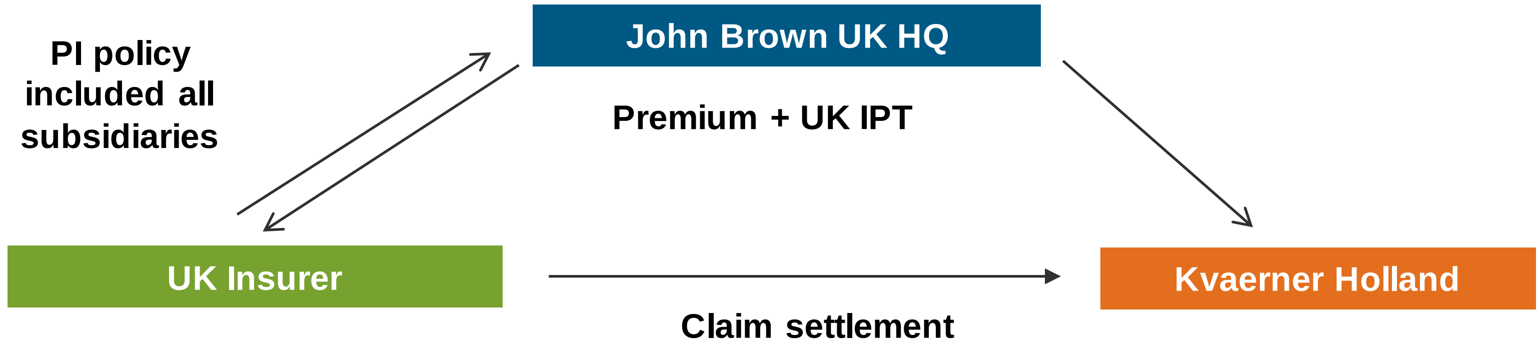
FOS Policy Feature	Advantages	Disadvantages
Fully admitted coverage throughout the EU and EEA	Automatic coverage for new risks or operations would be admitted (if such coverage is provided)	FOS policy may lack coverages available only through a local policy – e.g., Pool Re Terrorism for UK risks
Single policy covering multiple territories	Potentially simpler and easier for client and broker to administer	One language for all countries unless insurer agrees to issue translations (cost factor)
Single point of change for policy endorsements	Simpler and easier for client and broker to administer	Broker must ensure the FOS policy meets client's needs in each country (no local broker advising/consulting)
Claims reported centrally to FOS Insurer	Good if the client wants to tightly control claims reporting	Broker will need to oversee/manage reporting and servicing for all claims
Claims handled centrally by FOS Insurer	Potential for more uniform handling of claims	Limited local claims service – not well suited to high frequency programs
Claims paid to local insured or claimant	None – same as local policies	None – same as local policies
Single premium payment to FOS Insurer	FOS broker earns commission or fee on entire EU/EEA premium as no local brokers are involved	If premium to be paid by client's local operations, broker must invoice and collect from them and consolidate
Premium tax compliance	None – FOS Insurer collects and remits to countries' tax authorities	None – as long as the FOS Insurer collects and remits taxes correctly

FOS - Decision Tree

Is a FOS approach right for the Client? This 'Decision Tree' will help you decide



FOS – Kvaerner 2001



Affirmed the principle that IPT must be settled to each European country where there is risk, and calculated on by-country premium allocation that is commensurate with the risk in country

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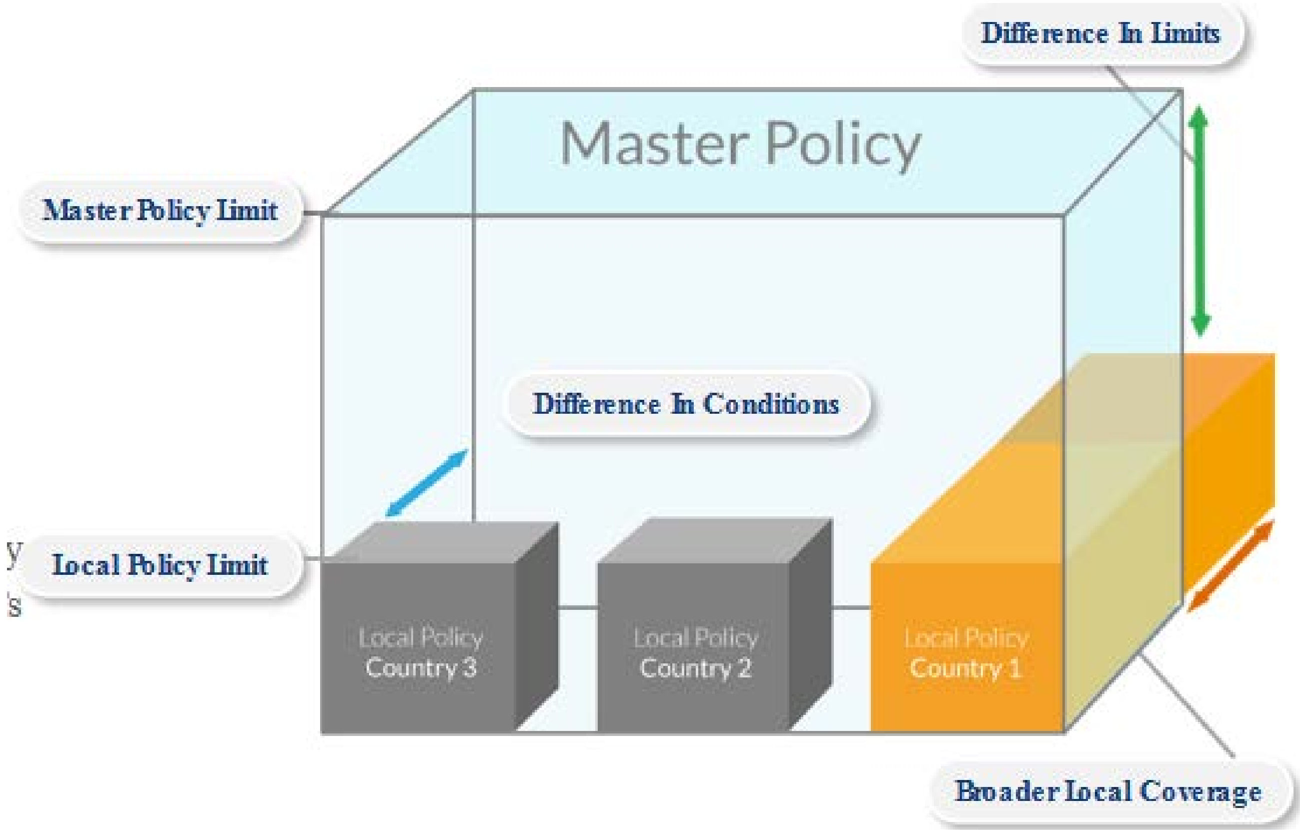
BREXIT – Temporary Permissions Regimen

Concept of an MN Programme



Limit Management

Systemic risk is the possibility that an event at the company level could trigger severe instability or collapse an entire industry or economy.

Food for thought: Can a single event trigger losses under multiple policies in a Multinational Program?

Limit Management

Let's consider Cyber …

Although NotPetya was targetting war-ridden Ukraine, the aftermath was felt by the world.

The malware had immense potential to destruct computers, data and wired machines across the world.

The spread of the malware affected not just its intended victim, i.e. Ukraine, but went out to numerous machines around the world, from hospitals in Pennsylvania to a chocolate factory in Tasmania.

It ate into multinational companies including a pharmaceutical giant, a European delivery company, a French construction company, an American multinational confectionery, food, holding and beverage and snack food company, and a British multinational consumer goods company.

And, as not even expected by its inventors NotPetya spread back to Russia, striking the state oil company.

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Limit Management

Aggregation & Systemic Risk - what we need to consider …

All stakeholders (underwriter, broker, and client) must understand and agree on how the policy limits apply and are intended to respond.

The program must support, and not exceed, the policy limit exposure contemplated on :

1. Occurrence Policy Limit Accumulation
2. Aggregate Policy Limit Accumulation

Complexity Factors:

1. Volume of stakeholders and varied policy wordings and markets involved in a single program
2. A rise in litigiousness, scrutinous and protective regulatory measures

Limit Management

Aggregation - what we need to consider …

LIMIT MANAGEMENT

Policy limit exposure may be addressed through:

1. Program structure.
2. Indemnity agreements
3. Master and/or local policy provisions and/or a combination or other variation.

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