

International programme compliance – a changing risk

Businesses today face many challenges managing their cross-border risks - not knowing if insurance programmes are compliant globally shouldn't be one of them. Keeping up to date with changing requirements across jurisdictions or even knowing what questions to ask your broker can be daunting. Inadvertent breach of these laws or regulations may only be identified on disclosure of the insurance contract to regulators or during litigation. The breach might render the insurance contract unenforceable, exposing the buyer to an unexpected, uninsured loss, as well as the possibility of fiscal or penal sanctions.

Being aware of these requirements has never been more important as Britain draws ever nearer to its official departure from the European Union. 'Brexit' will undoubtedly have a significant impact on the UK insurance market and appropriate legislation will need to be introduced to separate the UK from EU laws, directives and other regulations.

Brexit ramifications will potentially be disruptive for the risk management community. Without passporting, straightforward insurance programmes placed from the UK across the EU could involve increased compliance and administrative complications.

To mitigate potential risks, shared standards in regulation are almost certain to be maintained in the agreed transition period and within the industry, UK brokers have

cemented relationships with EU counterparts and insurers have opened European offices to smooth the transition for clients with EU exposures. However, it remains to be seen how many of these players will be able to navigate this new frontier whilst servicing their clients and addressing the complexities of cross-border regulatory compliance.

Risk managers must be proactive when addressing their international programme compliance. This paper presents a checklist of questions that they must ask themselves, the insurer or the broker to gain assurance on their compliance concerns and responsibilities.

THE INSIGHT RISK MANAGER TOOL

Risk managers need access to consistent information to make an informed decision about the need and/or requirement to buy local cover. Airmic and Axco, with the support of insurers and brokers, developed Insight Risk Manager. This online tool delivers consistent up-to-date information in an intuitive Question & Answer format. It holds crucial country intelligence, clarifying complexities and grey areas relevant to local compliance and regulatory insurance requirements, policy conditions and premium payment terms.

The tool is free to use for Airmic members and can be used to interrogate an entire programme at renewal or to dip into information. Insight Risk Manager helps Airmic members to understand their policy compliancy and have more informed discussions with their brokers.

A CHECKLIST FOR COMPLIANCE

WHEN CHECKING THE COMPLIANCE OF THEIR MULTI-NATIONAL INSURANCE ARRANGEMENTS AIRMIC MEMBERS MUST BEGIN BY CONSIDERING THE COMPLETENESS OF THE PROGRAMME FROM AN INTERNAL VIEWPOINT. THEN THEY MUST ADDRESS THE GOVERNANCE AND ADMINISTRATIVE ISSUES.

Internal checks

The risk manager must recognise the degree of insurance control held centrally compared to local overseas operations and ensure that governance arrangements support the chosen approach.

- Is there senior level support for a global programme?
- Have the local philosophies, cultures and any preferred use of local insurers been considered?
- Is there sufficient resource in central and local operations to manage the programme?
- Are there any gaps or overlaps between the corporate insurance purchased and locally purchased policies?
- Is the importance of the insurance and all terms and conditions understood by relevant local operations?
- Do the chosen brokers and insurers have the necessary worldwide capabilities?



Pre-placement / renewal

Risk managers must be aware of the local insurance legislation and market practices and controls for each territory. A fundamental question to answer is, 'can insurance be brought freely inside and outside of the country?'

- Which regulatory or national authority has responsibility for the supervision and administration of the insurance business in that country?
- What is the regulatory position and market practice for using non-admitted insurers?
- Is it possible to vary national requirements or obtain a waiver from the regulator?
- What are the legal requirements or practices for presenting insurance placement/renewal information?
- Are any classes of insurance compulsory and what are the mandatory limits?
- Can insureds contract directly with insurers or is use of an intermediary mandatory?

Structuring the programme

Risk managers must understand how a territory's restrictions will impact on overall programme design. This includes if insurance must be purchased via a state provider and any restrictions on reinsurance outside of the territory that may impact on the use of a captive.

- Is there a state insurance carrier and is it mandatory for them to retain any part of the risk?
- Are there any mandatory requirements or local custom to use local insurers and if so, for what classes of limits?
- Are there any insurance pools and what are the requirements for using them?
- Is there a state reinsurance carrier and are there any requirements relating to ceding risk to either this or local carriers?
- Are there any restrictions on use of captive insurance companies?
- What are the requirements relating to security rating or financial disclosures of captives?

Contract wording

Risk managers should be aware of how the insurance contract and its conditions will need to comply with the contract, commercial and common law of the territory, as well as the insurance contract law.

- Are there mandatory policy forms or mandatory terms and conditions (general or specific) that must feature in the policy?
- Can general terms and conditions be limited or varied, and do any other bespoke wordings need to be filed with the regulator?
- Do policy wordings need to be in local language and / or local currency?
- What are the standard cancellation provisions?
- Are there any standard renewal provisions and / or does tacit renewal apply?
- Are there any aspects of insurance law and regulation where failure to comply render the insurance contract void ab initio?
- What constitutes formal binding of cover in the territory?
- Can local policies be issued outside of the jurisdiction in question?

Premium payment

Risk managers must understand the premium rates and premium tariffs that are regulated by the law in relevant territories. These will have an impact on the overall premium charged and premium allocation by the organisation.

- Are there any minimum rates or tariffs for specific insurance classes or any related statutory premium payment warranties?
- Can an insurer assume a risk before a premium payment is received?
- What are the applicable taxes, levies or other charges in the territory, and who is responsible for accounting for them?
- Are there any controls or restrictions that may restrict or delay the payment of premium from overseas and does a proportion of the premium have to be retained in the territory?
- Are direct payments to the insurer permissible?
- Are there any rules regarding the currency that the premium must be paid in?

Claims handling and payment

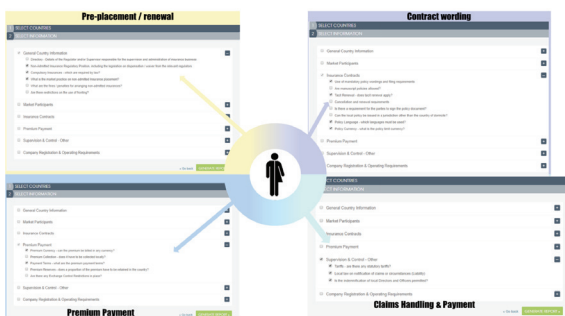
The ultimate test of any insurance is that claims are paid. Risk managers must be clear on any restrictions around claims handling and settlement to avoid any difficulties.

- Are there any statutory or established practices governing the notification of claims or loss circumstances under the local policy?
- Are there any prohibitions on the insurer paying claims settlements directly to third parties?
- Is the indemnification of local directors and officers permitted?
- What are the requirements regarding the involvement of the insurer in litigation proceedings?
- Are there any rules relating to the currency in which claims must be paid?
- Where non-admitted policies are allowed, what are the restrictions on claims payments, including exchange controls and relevant taxes?

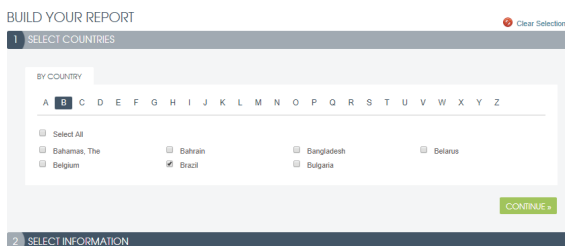
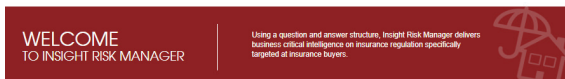
INSIGHT RISK MANAGER - USER GUIDE

Airmic members can register for the tool here: airmic.com/axco

1. Select one or more countries from a database of 100 of the most relevant territories – the countries that account for more than 90% of all placed insurance premium.



2. Select the information you need to confirm.

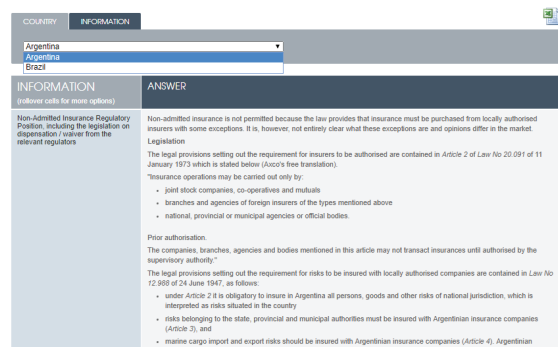


3. Then click to generate your report.

The resultant information can be viewed either by topic



or by country



The information can be easily exported to Excel, particularly useful for a multiple country policy or the preparation of reports.



About Axco

Axco is the leading supplier of global insurance market information with over 50 years' experience in researching and publishing industry intelligence on insurance and employee benefits. Its unique business model and methods of research have enabled the development of an extensive suite of products comprising in-depth reports, focused profiles, Q&A databases, intelligent questioning tools and email services, which are delivered to every corner of the globe.

For more information on the services Axco provides, including in-depth country analysis and insurance market statistics, please contact Sophie Hancock: axco@axcoinfo.com