

## CLIENT ALERT

### Belgium Adopts a Regulatory Framework for Managing General Agents

Apr.18.2019

**The Belgian Parliament has passed an act that creates a regulatory framework for managing general agents (MGAs) in Belgium. In addition to the conditions applicable to (re)insurance brokers which will also apply to MGAs, MGAs will have to comply with specific transparency requirements and will be required to have an ‘appropriate internal organization’ adjusted to the nature, scale and complexity of their activities and any related risks.**

Following increased interest among U.K.-based managing general agents in establishing an EU base in Belgium, the Belgian Parliament has passed an act that creates a regulatory framework for so-called ‘mandated underwriters’ or MGAs in Belgium (the Act). The Act amends the Belgian Insurance Act of 4 April 2014, which since December 2018 is compliant with the Insurance Distribution Directive (IDD).

Up until now, the only regulated insurance intermediaries in Belgium were (re)insurance agents, (re)insurance subagents, (re)insurance brokers, and accessory insurance intermediaries. MGAs wishing to establish a business in Belgium were forced to apply for a registration as a (re)insurance broker or agent, neither of which was a perfect fit for their actual business activities.

The Act defines a ‘mandated underwriter’ as an insurance intermediary that is competent in its capacity as authorized representative of one or more insurance companies to, in the name and on behalf of these insurance companies, (i) accept the coverage of risks, (ii) write insurance contracts and (iii) possibly manage insurance contracts.

As the underwriting activities of MGAs include the outsourcing of some of the core activities of (re)insurance companies, which might have an impact on the technical results of the (re)insurance companies they represent, the Belgian legislator deemed it expedient to introduce a reinforced regulatory framework for this type of intermediary.

#### Specific Changes

MGAs will be subject to the same regulations as (re)insurance brokers. In addition, MGAs will have to comply with specific transparency requirements and will be required to have an ‘appropriate internal organization’ adjusted to the nature, scale and complexity of their activities and any related risks. The specific conditions to be met by this ‘appropriate internal organization’ are still to be determined by Royal decree. In view of the desirability of creating a level playing field, these conditions are likely to be similar to those applicable in countries that already have a regulatory framework for MGAs (such as the United Kingdom and the Netherlands). MGA's will largely have to organize themselves like the insurer they represent in that class of business.

In order to avoid possible conflicts of interests, MGAs will not be allowed to combine their activities with registration in another category, such as insurance broker, agent or subagent. It will nevertheless be possible for two companies from the same holding to be registered, each in a different category.

The Belgian FSMA (Financial Services and Markets Authority) will be the competent authority to monitor and control the MGAs and their activities (as it is for other insurance intermediaries).

### **Entry into Force**

This new regulatory framework for MGAs entered into force on April 10, 2019. MGAs currently active in Belgium and registered as a (re)insurance broker or agent must notify the FSMA about their underwriting activities by July 10, 2019 at the latest. They will then be allowed temporarily to exercise their underwriting activities in Belgium. MGAs must apply before April 10, 2019 for a registration as a 'mandated underwriter' in accordance with the guidelines and conditions that are as yet still to be determined by the FSMA.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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