



.... so you want to sell International PMI ?

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Legal & Regulatory Issues for Brokers

International PMI & Health Regulation



Contents

1. Introduction
2. Overview
3. International Legal Systems and Laws
4. Global Legal aspects of PMI
5. (*Legal*) Ways of Setting up for business in the Global PMI market
6. (*Home*) Legislation to look out for
7. Conclusion & Summary



Introduction

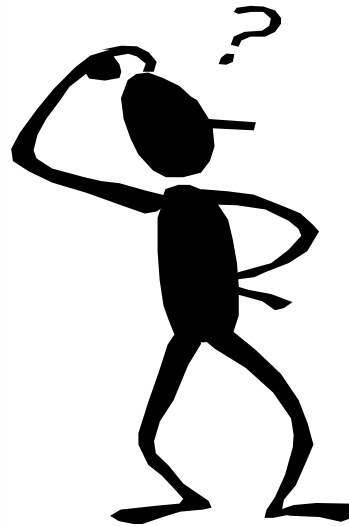


PMI
Global Legal
Services



Introduction

Pure Legal approach or Pragmatic approach to
Global PMI business?



Overview

Global PMI Market:

Global Business;

Home regulation vs. local regulation;
legal & Compliance uncertainty;
Global interests of the customer

Can you meet expectations?
International expertise – needed?



Overview of Legal System & Laws

Most Jurisdictions = Common Law System;
PMI Legal Market follows standard common law drafting
(*International insurance standards from UK markets – Lloyds*)

UK Brokers have flexibility in the global market given standard of Regulation

- Middle East
- Asia Pacific
- Europe



Overview of Legal System & Laws

Civil Jurisdictions v Common Law System;

Different legal systems:

- Roman law codified systems – consumer protection laws
- Common law systems

Problems with the Overall concept:

Culture:

- Different national interests
- Different political objectives



Overview of Legal System & Laws

English Courts adopted EU Laws

“No longer is European law an incoming tide flowing up the estuaries of England. It is now like a tidal wave bringing down our sea walls and flowing inland over our fields and houses....to the dismay of all.”

Lord Denning *Bulmer v Bollinger* (1974)

Legitimate Expectation:

Originated in German Public Law;
Although no concept in English common law still adopted

Lord Denning *Schmidt Case* 1969



Global Legal Aspects of PMI

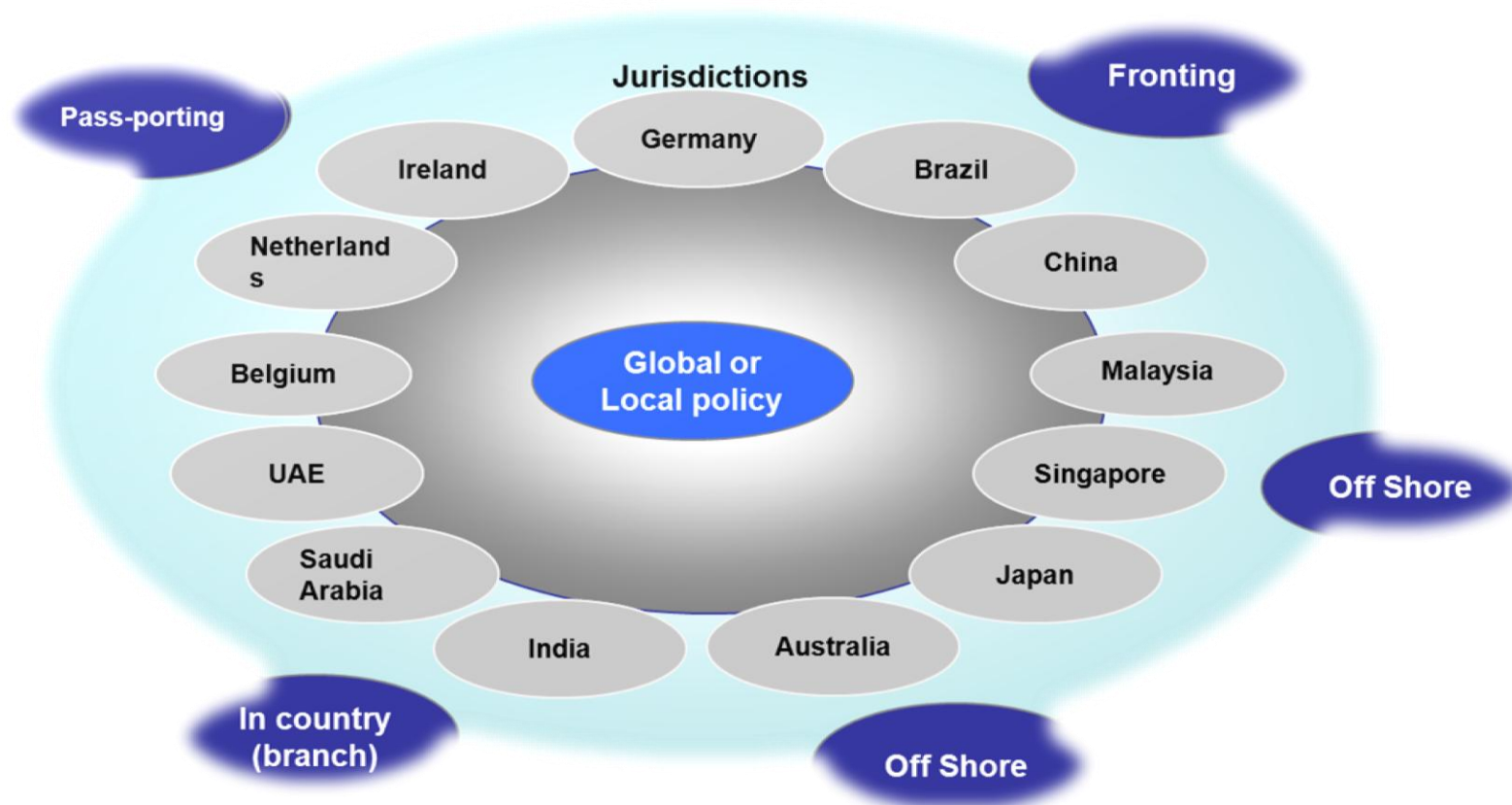
In terms of what kind of business models are deemed most appropriate for Overseas:

two approaches:

- 35% are reinsuring via a local front;
- 34% by establishing a branch;
- 31% non admitted basis.



(Legal) Ways of Setting up for business in the **Global PMI** market



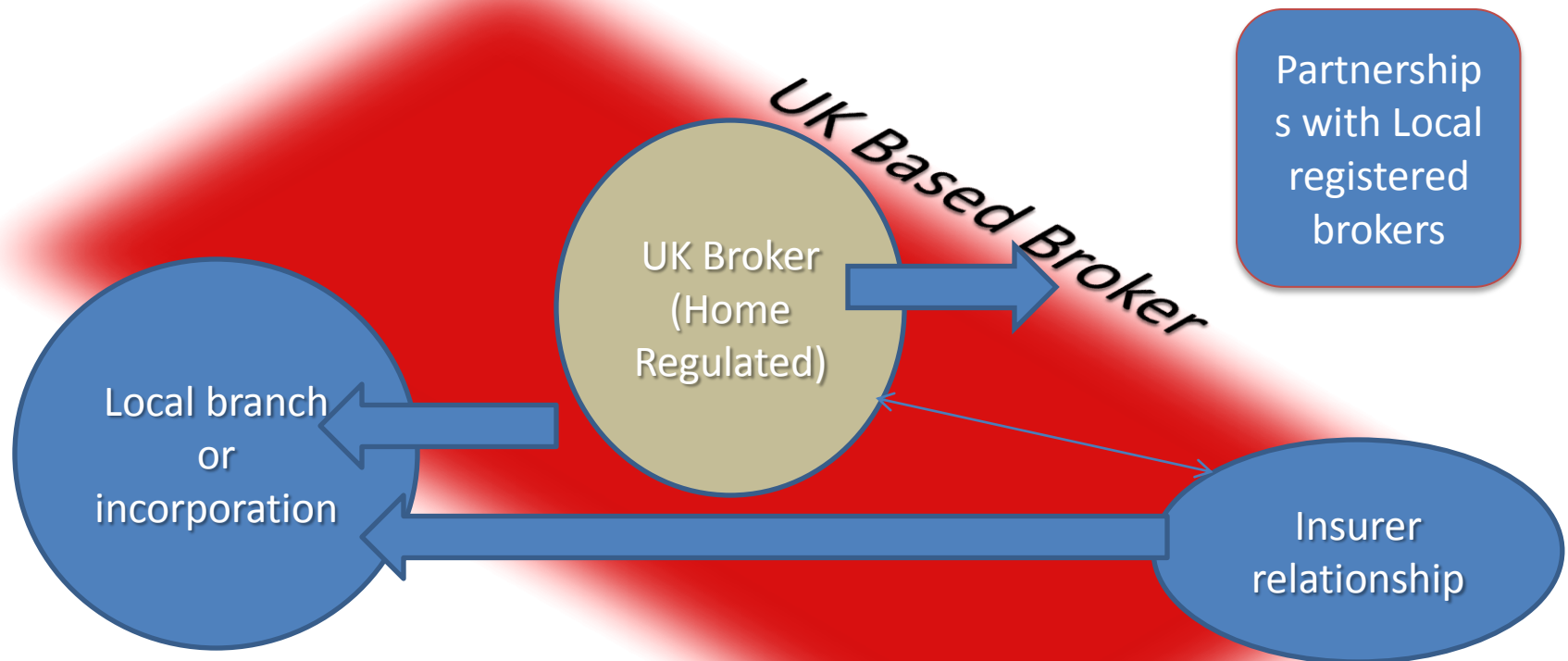
(Legal) Ways of Setting up for business in the **Global** PMI market



Local Licence	Partnerships with Local Brokers	Informal arrangements with local Brokers	Off-shore without local Brokers
Incorporation or Branch (on the ground)	Joint Ventures	Introducer agreements	Contractual agency with clients head office. No direct contract within local jurisdiction
Adhere to local regulations	Sub-broker contractual agreements	Letter of Intent	Passporting rights within the EU from home state
Capital requirements – need to invest locally	Commissioning sharing agreements	Shadow agreements	Regulators may give dispensations to sell richer products



(Legal) Ways of Setting up for business in the **Global** PMI market



(Legal) Ways of Setting up for business What you need to consider . . .



The Insurance Mediation Directive

Preamble

“....registration should allow insurance intermediaries to operate in other Member States in accordance with the principles of freedom of establishment and freedom to provide services subject to notification procedures....between regulatory authorities”

UK Financial Services Markets Act 2000

Under Article 1 – restrictions:

Principle profession must be insurance intermediary;

Insurance is not complementary to other products;



(Legal) Ways of Setting up for business

What you need to consider . . .



Partnerships

Disadvantages:

- Lack of control
- Risk exposure
- Reputational damage
- Client service standards hard to control
- Local jurisdictional clauses

Advantages:

- Reduced costs
- Build up networks with joint referrals
- More access to markets and clients



(Legal) Ways of Setting up for business What you need to consider . . .



Local Licensing



Disadvantages

- Costs
- Local regulation requirements
- Capital
- Risk exposure

Advantages

- Increase local and global business
- Build local expertise and networks
- More access to markets and clients



(Legal) Ways of Setting up for business What you need to consider . . .



Off-Shore

Disadvantages

- May have some risk and exposure – law may change
- Limited local knowledge and requirements
- Difficulty with local communications – providers, insurers etc

Advantages

- Reduced costs
- Less red tape and flexibility with selling products
- Control own contracts with appropriate jurisdictional clauses



(Home) Legislation to look out for . . .



Current Issues

- FSA – Breach of Systems & Controls –
- *Aon Case 2009 – Principle 3 breach;*
- Home Regulations – FSMA;
- New Bribery Act 2010;
- Money Laundering;
- Local legislations – UAE – China etc.



(Legal) Ways of Setting up for business What you need to consider . . .



Informal Arrangements

Disadvantages

- Lack of control
- Large Risk exposure
- Reputational damage
- Client service standards hard to control
- Fraud, corruption & exposures to both home regulator and local regulator

Advantages:

- Reduced costs



(Legal) Ways of Setting up for business What you need to consider . . .



Always Consider

- Due Diligence
- EO Coverage
- Good Legal Advice
- Contractual relationships
- Home Jurisdiction Clauses; - if not
- Second contract with local jurisdiction
- Check local registers and insurer's recommendations.



Conclusion & Summary

Current Position:

- PMI sold through a global policy;
- Head office normally located where parent organisation incorporated – UK, US & Europe;
- May need regional presence or other arrangements in other Jurisdictions given regulations and legal requirements;
- Broker Services drawn from local brokers;
- Local expertise needed;
- Global Interest can be ignored.



Conclusion & Summary

Future Position:

- More local and Federal Legislation on its way;
- Expertise needed in this area;
- Will need to understand the clients Global needs;
- Will need to understand local legal and regulatory markets for insurance and healthcare;
- Will need to be committed long term to the region.



Summary

Lack of expertise in the PMI market because still developing;

May generate new income for the organisation;

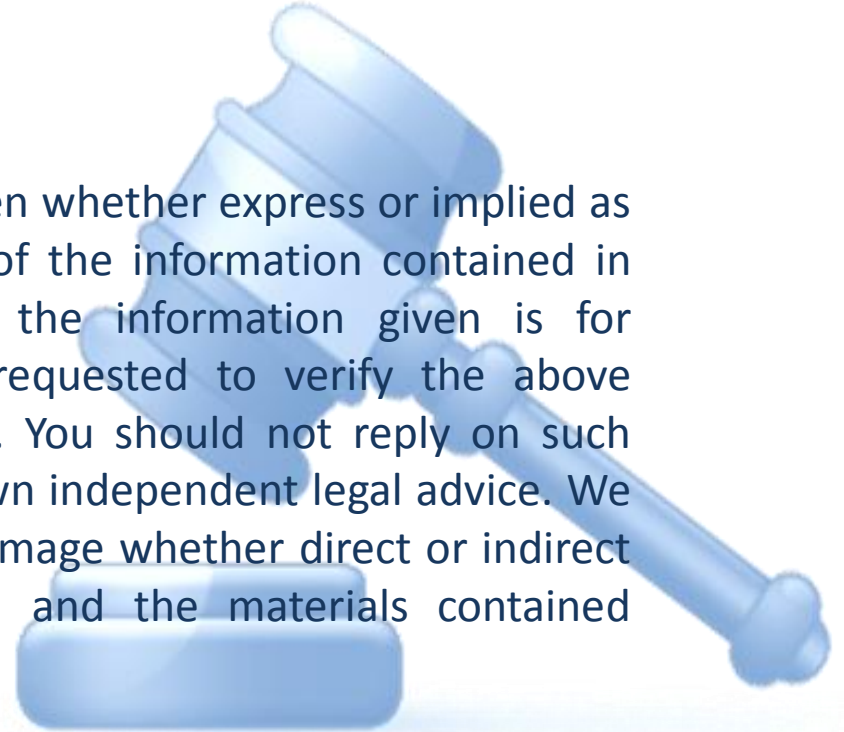
Expand the organisations international footprint;

Understand the organisations legal & compliance needs.



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Benefits of Legal Advice

Will provide the following:

- International PMI expertise;
- Cross border advice
- Global interest of client first;
- No need to deal with regional counsel;
- Build up precedent library in all documentation;
- Quarterly updates on international legal & compliance issues in the market;
- Quick turn around of legal & compliance solutions;
- Cost effective services.





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