

# RISK RADAR

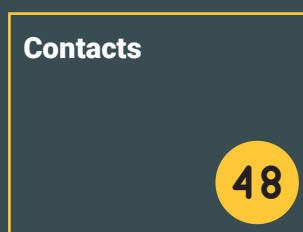
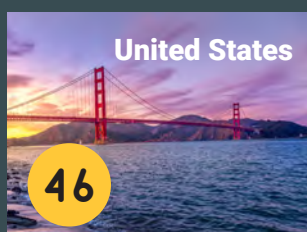
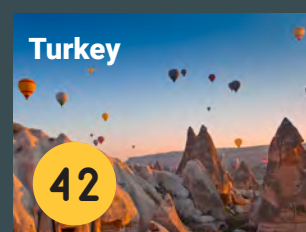
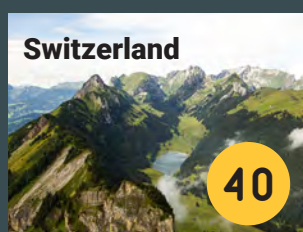
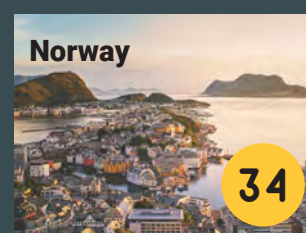
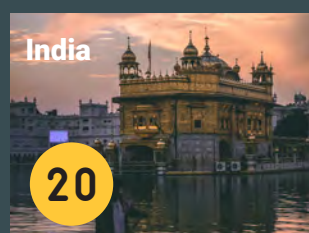
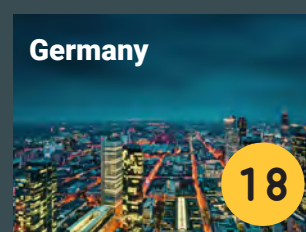
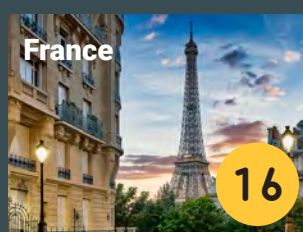
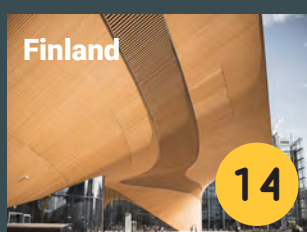
JUNE 2021

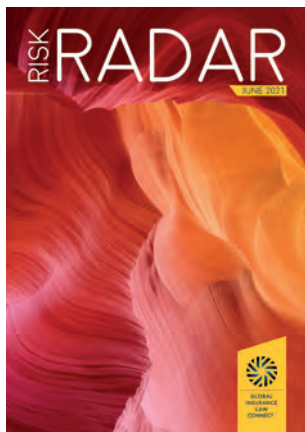


GLOBAL  
INSURANCE  
LAW  
CONNECT



# IN THIS ISSUE





This document does not present a complete or comprehensive statement of the law, nor does it constitute legal advice. It is intended only to highlight issues that may be of interest to customers of Global Insurance Law Connect. Specialist legal advice should always be sought in any particular case.

Dear clients

Welcome to the third edition of the Global Insurance Law Connect RADAR report. Each year, as our network grows, this gathering of insurance law updates from around the globe becomes more and more comprehensive, and we are delighted to welcome new contributions this year from our members in the Netherlands and Turkey, WIJ Advocaten and Durukan, who, together, bring our total number of members up to eighteen. We continue to grow at pace, as more and more clients look to use our services in regions around the world, even in a restricted pandemic-hit world.

As you know, every member of the GILC network is a specialist in insurance, with dedicated teams who live and breathe their local insurance market. Together, we bring a uniquely skilled group of international insurance lawyers to every client that we work with; and we are delighted that this has brought us international network relationships with a number of new clients this year.

Meanwhile, in particular for our clients, it has been a year of great change. For the first time, many of the issues that our lawyers have reported as being currently critical in their markets have converged, with a truly universal focus on cyber, climate change and the impacts of the pandemic bringing new challenges to many markets. A subsidiary point, but one of much importance to all in our industry, is the follow-on impact of the 'powering up' of digital marketing, sales and claims processing, as insurance buyers around the globe move online permanently after a year of cultural change.

In this environment, it is all the more important that different markets share approaches, regulatory challenges and stories of innovation, and in this spirit, I welcome you to the third edition of the Global Insurance Law Connect RADAR report. I hope that its roundup of legal insurance news from around the world is both useful and informative.

We look forward to connecting with you around the topics contained within this report over the coming year, no matter what country you live in, and which member of our network represents your interests.

Best wishes

Jim Sherwood,  
Chairman, Global Insurance Law Connect



## TOP ISSUES:

Business Interruption  
Losses

Marine delay coverage and  
supply chain challenges

Cyber and Privacy

## SPARKE HELMORE LAWYERS

# AUSTRALIA

Although Australia has weathered the COVID-19 storm relatively well from both a health and economic perspective, insurers and their customers have had to be quick to respond to enable business continuity and establish a stable position in the market.

There are a number of key issues that are currently impacting all Australian businesses, alongside their need to manage: (i) flexible and remote working arrangements, (ii) supporting the mental health of all employees, and (iii) competition in the recent war for talent.

The three key areas within which we are seeing more focus and concern in the insurance industry include:

1. Business interruption losses and the uncertainty around whether policies cover COVID-19 pandemic-related losses;
2. Marine delay coverage, supply chain challenges and whether the COVID-19 pandemic will cause insurers to rethink their risk appetite, their underwriting principles and policy wording construction, and
3. Increased attack sophistication resulting in a greater frequency of cyber and privacy-related incidents and shifting regulator attitudes triggering increased compliance and cyber claim costs.

## INSURANCE INDUSTRY AT A GLANCE

# 108

Registered firms

# \$67.2 BILLION

Value of premia  
(general insurance only)



12 apostles, Australia



## CYBER AND PRIVACY

There have been several developments in the last 12 months that will impact the cyber market.

On the legislative front, the Privacy Act 1988 (Cth) review could prompt significant reforms, including broadening the meaning of “personal information”, narrowing or removing the employee-records and small-business exemptions, and introducing a direct right of action for serious breaches of privacy. A discussions paper will be released later this year.

Regulators have also stepped up scrutiny on privacy and cyber-security related issues. The Office of the Australian Information Commissioner, Australian Securities and Investments Commission, and Australian Competition and Consumer Commission, have all been involved in first-of-their-kind actions against corporates and government agencies. The outcomes of these actions may shape how compensation for interferences of individuals’ privacy, the (in)adequacy of cyber-security controls, and (mis)representations about privacy practices are assessed by regulators, and decided on by the courts, in the mid-to-long term.

**“SHIFTING REGULATOR ATTITUDES. AND A REVIEW OF THE PRIVACY ACT: TRIGGERS FOR INCREASED COMPLIANCE AND CYBER CLAIM COSTS?”**

EDWARD OSBORNE, PARTNER,  
SPARKE HELMORE LAWYERS

## MARINE DELAY COVERAGE AND SUPPLY CHAIN CHALLENGES

Following the refloating of the ultra large container ship, Ever Given, the traffic in the Suez Canal resumed to normal, however, the legal implications ensuing from the incident are enduring.

Delay coverage for cargo owners is not generally available in the Australian marine insurance market. It is well understood that losses, damages or expenses caused by delay are specifically excluded under cl 4.4.5 of the standard Institute Cargo Clauses (ICC). The ICC (A) clauses are comprehensive, but they generally only protect cargo owners against loss of, or damage to, the cargo resulting from physical damage to a carrier vessel.

In today’s increasingly uncertain environment, it may be prudent for Australian cargo owners to protect their commercial interests should their shipment be delayed, in circumstances such as the Suez Canal blockage. Although it seems that the grounding of the Ever Given was a once-in-a-lifetime-event, the growth of ultra large container ships and the potential problems associated with their salvage, necessitate an alternative approach to underwriting delay risks. The unthinkable is becoming our “new normal”. As a result, it may be high time for insurers in the Australian market to innovate their marine insurance policies to consider offering standalone bespoke insurance products providing cover for cargo delays that are triggered by a fortuitous event, such as a grounding incident.

**“TROUBLE IN THE SUEZ CANAL – IS DELAY INSURANCE FOR CARGO OWNERS STILL NOT “IN FASHION”?”**

MICHELLE TAYLOR, PARTNER, SPARKE HELMORE LAWYERS

## BUSINESS INTERRUPTION LOSSES

In November 2020, the NSW Court of Appeal rejected the insurance industry’s argument that pandemic exclusions in business interruption policies referring to the repealed Quarantine Act excluded claims arising out of COVID-19. An application for special leave was lodged with the High Court of Australia, which is expected to hear arguments in June 2021.

A second test case has also been commenced in the Federal Court of Australia. This will primarily determine the meaning of policy wordings in relation to the definition of a disease, proximity of an outbreak to a business, and prevention of access to premises due to a government mandate. It will be heard in September 2021, with any appeal to be heard in November 2021.

**“COVID-19 BUSINESS INTERRUPTION COVER REMAINS UNCERTAIN. THE WAIT FOR FINAL DETERMINATION OF TWO TEST CASES CONTINUES...”**

KILEY HODGES, PARTNER,  
SPARKE HELMORE LAWYERS

## TOP ISSUES:

COVID 19

Sustainable finance

Cloud outsourcing

LYDIAN

# BELGIUM

Innovation, InsurTech and Cyber resilience

The insurance sector is in full development. Market consolidation pushes innovation and the occurrence of COVID-19 has accelerated the development of digital distribution channels.

Therefore, 2021 will be the year of innovation. Existing and new players will bring new products and distribution channels to the market and will receive due attention from the regulator.

Insurance undertakings and intermediaries must pay special attention to the applicable legal framework for these new products, distribution channels, internal processes and business models, as well as the risks they entail in terms of continuity and solvency.

Furthermore, the existing challenges regarding the digitalisation of the market and society will continue, especially in the areas of cyber litigation, directors' liability and (implicit?) cyber risks.

We particularly look forward to the further development of the broad initiatives taken at all policy levels (Belgium, EU and international).

## INSURANCE INDUSTRY AT A GLANCE

# 113

Registered firms

# €29.2 MILLION

Value of Premia



Ghent, Belgium



## SUSTAINABLE FINANCE

With the European Green Deal on the agenda, sustainable finance will be a priority in 2021

The EU Sustainable Finance Disclosure Regulation ("SFDR") aims to increase transparency on how financial market participants integrate Environmental, Social and Governance, ("ESG") risks and opportunities into their investment decisions. The SFDR introduces a classification system with new disclosure requirements for certain financial products.

The impact will not be limited to regulatory compliance (for ex. Updating website disclosures and product documentation), but will extend more broadly to the insurer's operational activities, such as its investment policy, underwriting policy, remuneration policy and the impact on the performance of the insurance portfolio.



**"THE TRANSITION TOWARDS A MORE SUSTAINABLE ECONOMY WILL LEAD TO THE DEVELOPMENT OF NEW PRODUCTS. NEW CLIENT SEGMENTS. AND NEW BUSINESS MODELS AND IS THEREFORE OF STRATEGIC IMPORTANCE FOR INSURERS."**

SANDRA LODEWIJCKX,  
PARTNER, LYDIAN

## COVID 19

In 2020, COVID-19 mainly impacted the continuity and reporting of the insurance company. In 2021, when government measures may be discontinued, the true impact of the pandemic will become clear.

We expect that the regulator's priorities will focus on the insurance company's solvency position, policyholder protection and financial stability.

Furthermore, the insurance industry will be able to map the impact in specific insurance lines, such as directors' liability, event and travel cancellation, credit insurance, life insurance, health insurance etc.



**"COVID-19 HAS AN IMPACT INSURERS OPERATIONALLY AND ECONOMICALLY AND THE BELGIAN NATIONAL BANK WILL FURTHER ANALYSE THE SCALE OF THE CONSEQUENCES FOR THE ECONOMY AND FOR THE INSURANCE SECTOR."**

SANDRA LODEWIJCKX,  
PARTNER, LYDIAN

## CLOUD OUTSOURCING

The National Bank of Belgium (NBB) published 15 recommendations for (re)insurance companies that outsource to cloud service providers. These recommendations apply as of 1 January 2021.

Outsourcing to cloud service providers has many advantages including flexibility and scalability, economies of scale, cost effectiveness and operational efficiencies (e.g., to invest in and implement security measures). However, outsourcing to cloud service providers also raises challenges such as security, data protection, etc. These challenges are present on a company level, but also at an industrial level when many companies rely on the same cloud service provider(s).

When a (re)insurance company uses its own servers, it keeps full control. However, when outsourcing, the (re)insurance company and the cloud service provider share the control. Nonetheless, (re)insurance companies remain responsible for complying with all their regulatory obligations when outsourcing. The NBB's recommendations oblige (re)insurance companies that use cloud service providers to pay attention to and mitigate the risks of outsourcing.

**"WITH RESPECT TO OUTSOURCING, WE EXPECT SPECIAL ATTENTION FROM THE REGULATOR (E.G. INTERNAL CONTROL, EFFECTIVE SUPERVISION, OUTSOURCING TO THIRD COUNTRIES, ETC.) AND DO NOT EXCLUDE ANOTHER AMENDMENT TO THE NBB'S OVERARCHING GOVERNANCE CIRCULAR."**

SANDRA LODEWIJCKX, PARTNER, LYDIAN

## TOP ISSUES:

Insurance Product regulation

2022 elections

Open finance

## INSURANCE INDUSTRY AT A GLANCE

Registered firms

# 313

(authorized insurers, pension companies, local reinsurers and registered foreign reinsurers)

# R\$ 274

## BILLION

Value of Premia

# R\$ 108.5

## BILLION

Value of private health insurance and plans

## SANTOS BEVILAQUA ADVOGADOS

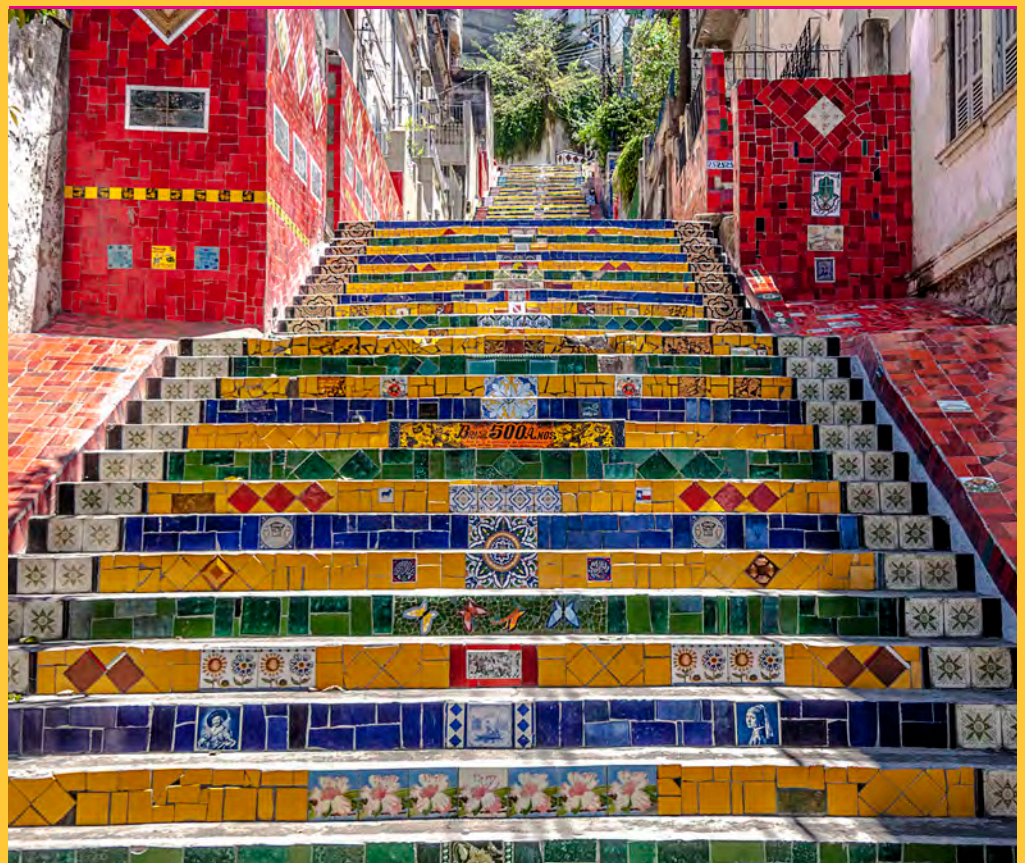
# BRAZIL

Even with the pandemic, the Brazilian insurance market had a good performance in 2020, with stable loss ratios and low decrease of premiums. At the same time, paradigmatic changes in the regulations are being implemented.

- The product regulation is being simplified and reduced.
- Insurers and local reinsurers were divided into categories by their size and lines, with reduced regulatory burden to smaller insurers.
- A sandbox with 20 companies is fully operational.

In addition, the open finance is already subject to a public hearing to be completed in the next weeks, with the new rules to be effective probably in 2021.

Furthermore, we did not see in Brazil many important issues related to claims associated to the pandemic. Business interruption coverages, for example, are almost always clearly linked to physical damages. In the life side, all the insurers decided to cover COVID-19 losses, without discussing the wording of the contracts.



Selaron's Stairs, Rio de Janeiro, Brazil



## OPEN FINANCE

The open finance, if implemented in the insurance sector in the way planned by the Brazilian insurance supervisor, will change the face of the market.

There is already a public hearing about open insurance, and the open insurance process is linked to the open banking process, that was already initiated by the Central Bank.

Some resistance is expected, mostly by the bigger companies and the companies controlled by banks, and there is the real risk of delays, but the fact that the open finance project is being conducted by SUSEP (the insurance supervisor) and the Central Bank almost together suggests that it will be implemented in 2021, creating more opportunities to innovators.

**“BRAZIL’S OPEN FINANCE INITIATIVE LOOKS LIKELY BE VERY EFFECTIVE, CONSIDERING THE REGULATORY FOCUS ON INCREASING THE COMPETITION.”**



## 2022 ELECTIONS

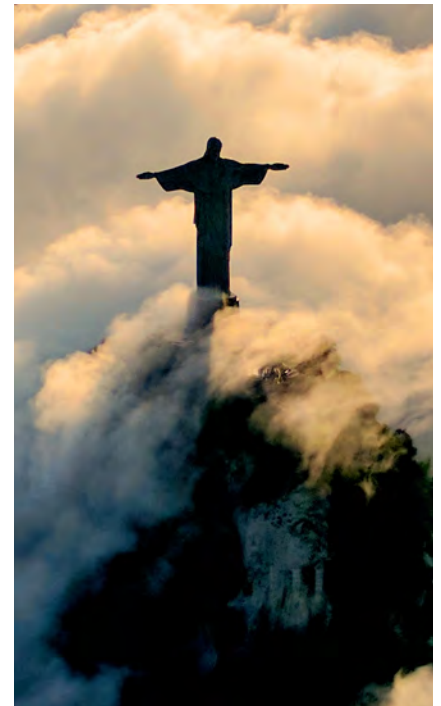
The impacts of the pandemic in the economy fuelled the political polarization between right and left, more specifically between supporters of the President Bolsonaro and Workers Party supporters. It has been a pattern in Latin America in the last year.

This polarization is causing a lot of political and economic instability and a lack of efficiency in the management of the pandemic.

In this context, we tend to not see, until the end of 2022, the implementation and even the discussion about important reforms needed by the country, mostly tax reform, administrative reform and political reform.

There is an expectation of other alternative political solutions to be built before the presidential election in 2022, but at this moment nothing is clear.

**“OUR ECONOMY HAS BEEN PERFORMING RELATIVELY WELL IN THE PANDEMIC. BUT WE NEED TO OVERCOME THE POLITICAL POLARIZATION TO GO AHEAD.”**



## INSURANCE PRODUCT REGULATION

The Brazilian insurance regulation traditionally standardized products and contracts had mandatory clauses and rules. It has created an environment where discussions about products were an institutional issue, more than an individual business decision. It has been causing a lack of innovation.

This is a result of, mostly, the reinsurance monopoly from 1939-2008 and of the historically bureaucratic supervision executed by SUSEP.

It is changing very rapidly now, in a process that is led by the elimination of rules by SUSEP and by the consistent availability of reinsurance. The process is also fuelled by digitalization, changes in the economic environment and consumers needs and a fully operational sandbox.

As a result increased competition among insurers for the best products will be a trend in coming years.

**“COMPETITION FOR THE BEST PRODUCTS IS A NEW TREND IN THE BRAZILIAN INSURANCE MARKET. IT IS A GREAT MOMENT TO INNOVATE.”**

## TOP ISSUES:

New rules about shareholders of foreign insurance companies set to align and implement pre-established provisions

Pilot program on the exclusive business of commercial pension insurance has been rolled out in China

Another year of meteoric growth of China's agricultural insurance sector

## INSURANCE INDUSTRY AT A GLANCE

# 235

Registered firms

Value of Premia

# RMB4.3 TRILLION

## BUREN

# CHINA

According to the China Banking and Insurance Regulatory Commission, the regulatory body for Chinese insurance companies, insurance premium income reached 1.8 trillion RMB (\$278.2 billion) in Q1 2021, an increase of 7.8 percent year-on-year. The total amount of insurance indemnity stood at 1.4 trillion RMB, with an increase of 7.9 percent from a year earlier.

The insurance market in China has gradually shifted from extensive large-scale expansion to meticulous quality improvement. Meanwhile, insurance science and technology continues to permeate into product design, sales, underwriting, claim handling and other processes. Insurance has also played a pivotal role to help tackle several issues currently faced by the country, such as aging population and economic development in rural areas. In a rapidly developing market like China, new opportunities often emerge from the changing of laws and regulations.



Chengdu, Sichuan province, China



## NEW RULES ABOUT SHAREHOLDERS OF FOREIGN INSURANCE COMPANIES SET TO ALIGN AND IMPLEMENT PRE-ESTABLISHED PROVISIONS

On 10 March 2021, CBIRC announced that the *Implementation Rules of the Administrative Regulations of the People's Republic of China on Foreign-invested Insurance Companies* has been revised (the New Rules). The highlights of the New Rules include, among others, cancelling the shareholding requirements in joint venture life insurance companies, requiring that the sole and main foreign shareholder of a foreign-invested insurance company shall be a foreign insurance company or foreign insurance group company, clarifying the conditions that such foreign insurance group companies shall meet as shareholders.

It is worth mentioning that the cancellation of the shareholding requirement alone is not new to the Chinese insurance market, since starting from 1 January 2020, foreign ownership restrictions on life insurance joint ventures companies has been fully relaxed, owing to another regulation – *Notice on Clarification of the Timeframe for the Cancellation of Foreign Ownership Restrictions on JV Life Insurers*.

**“WHAT THE NEW RULES HAVE SOUGHT TO DO, IN FACT, IS TO ALIGN THE OLD AND NEW RULES BY UNIFYING, INTEGRATING AND IMPLEMENTING SEVERAL PROVISIONS SET OUT BY PREVIOUS REGULATIONS..”**

JAN HOLTHUIS, PARTNER OF BUREN

## PILOT PROGRAM ON THE EXCLUSIVE BUSINESS OF COMMERCIAL PENSION INSURANCE HAS BEEN ROLLED OUT IN CHINA

From June 2021, six large life insurance companies (including PICC Life Insurance, China Life Insurance Co., Ltd, Taiping Life Insurance Co., Ltd, China Pacific Life Insurance Co., Ltd, Taikang Life Insurance Co., Ltd and New China Life Insurance Co., Ltd) will launch a pilot program on the exclusive business of commercial pension insurance in Zhejiang and Chongqing provinces for one year. The pilot program on commercial pension insurance has been rolled out as part of the multi-faceted approach to overcome the challenges of aging population - one of the thorny issues in China.

The pilot program was initiated by CBIRC to boost the development of commercial pension insurance and pave the way to the establishment of the multi-faceted and multi-pillared pension insurance scheme in China. The pilot program requires aforesaid insurance companies to achieve “convenient policy purchasing, flexible premium payment and stable returns, with the future pension payment lasting for no less than 10 years and available to customers after their reaching the age of 60”, as stated in CBIRC’s recent announcement released on 8th May. Detailed implementing plans are also published, together with the announcement.

**“THE SUCCESSFUL IMPLEMENTATION OF THE PILOT PROGRAM WILL LAY THE FOUNDATION FOR FURTHER ADAPTATION AND INNOVATION OF COMMERCIAL PENSION INSURANCE ON A NATION-WIDE SCALE. WHERE MORE INSURANCE COMPANIES ARE EXPECTED TO BE INVOLVED.”**

LI JIAO, PARTNER OF BUREN



## ANOTHER YEAR OF METEORIC GROWTH OF CHINA'S AGRICULTURAL INSURANCE SECTOR

According to CBIRC, the premium income from agricultural insurance in China has reached RMB 81.493 billion in 2020. The premium level of agricultural insurance in China has surpassed that of the United States, pushing China towards becoming the world’s largest agricultural insurance market. In Q1 of 2021, the premium income was 23.857 billion, and increased year-on-year by 27%. Agricultural insurance is instrumental in developing the country’s modern agriculture industry, re-energizing rural economies, and safeguarding food security. Generally, the coverage that is currently provided by agricultural insurance in China include losses in yield or quality of more than 270 kinds of crops due to natural disasters, plant diseases and pests, and other risks. Premium is usually directly subsidized by central or local governments.

**“WITH THE PROMOTION AND GUIDANCE FROM CENTRAL GOVERNMENT IN AGRICULTURE-RELATED SECTOR, WE EXPECT A CONTINUOUSLY ROBUST GROWTH IN THE NEXT FEW YEARS ON CHINA'S AGRICULTURE INSURANCE.”**

JING WANG, SENIOR ADVISOR OF BUREN

## TOP ISSUES:

FCA review of general insurance pricing practices

Whiplash reforms

Escape of water risks

BLM

# ENGLAND AND WALES

Business interruption insurance issues relating to Covid-19 remain a very live issue in the market, although the high profile test case pursued by the regulator was resolved by the UK Supreme Court in January 2021, largely in favour of policyholders. Staying with Covid-19, there are concerns about the risks of liability claims emerging against hospitals, care homes and employers generally, both in respect of contracting of disease in those settings and in respect of risks related to a return to more normal working practices as restrictions ease.

In the motor market, three issues should develop significantly during 2021: whiplash reform, the FCA's regulatory pricing review and the authorisation of Automated Lane Keeping Systems on UK roads.

There are ongoing concerns about escape of water claims and risks in the property market.

At structural level, the post-Brexit nature of financial services regulation in the UK and how this sits with the rules applying in the EU27 remains an important topic.

## UK INSURANCE INDUSTRY AT A GLANCE

# 402

Registered firms

**\$418.666.8**

**MILLION**

Value of Premia



Lake District, Keswick, Cumbria, UK



## WHIPLASH REFORMS

The whiplash reforms being introduced on 31 May 2021 are another long-term project, dating back to initial government consultations in 2015 and an election commitment in 2017. The overall goal is to drive out fraudulent or speculative claims for whiplash injuries by reducing the incentives to claim: damages for bodily injuries will be assessed using a statutory tariff (which is lower than amounts indicated by the case law) and the recovery of legal costs will be heavily restricted because none will be allowed if the injury award is for less than £5,000 (and the claim overall is less than £10,000). In addition, standardised medical reports will become mandatory in whiplash cases.

Estimates from the Ministry of Justice indicate that around £1 billion of claims spend could be eradicated because of the reforms and the enabling legislation includes provisions by which insurers must report on savings and costs so that the FCA and the Treasury (Ministry of Finance) are equipped to provide a report to Parliament on the effects of the reforms.

The government and the industry has built (and extensively tested) a new online platform - [www.officialinjuryclaim.org.uk](http://www.officialinjuryclaim.org.uk) - for the notification and resolution of cases subject to the reforms. As many as 400,000 claims (or more) could be processed on this platform each year. It is expected that claimants will make their own claims themselves using the new process. If they use lawyers or claims companies to do that for them then no legal costs will be recovered.

The financial reporting mechanism and the expectation of savings on premium will shine a light on insurers' performance in dealing with claims in the new and reformed whiplash system.

**"THESE ARE THE MOST SIGNIFICANT REFORMS TO MOTOR CLAIMS IN NEARLY A DECADE. THEY APPLY ONLY TO ACCIDENTS AFTER THE END OF MAY. SUGGESTING IT WILL PROBABLY BE TOWARDS THE FINAL QUARTER OF THE YEAR THAT WE BEGIN TO SEE THE REAL PRACTICAL EFFECTS AND DISRUPTION TO THE CLAIMS AND LEGAL SECTORS. THERE'S GOING TO BE CLOSE SCRUTINY OF INSURERS' BEHAVIOUR - WE'VE BEEN WORKING HARD WITH MANY TO GET READY FOR THE CHANGES."**

KERRIS DALE, PARTNER AND HEAD OF MOTOR, BLM

## ESCAPE OF WATER RISKS

Escape of water - due to weather-related flooding or due to leaks from a property's pipes or appliances - remains a concern for domestic and commercial insurers. High profile initiatives in the recent past include a focus on planning law, to reduce development or exposure on flood plains, and the creation of Flood Re, a state-backed reinsurer providing protection for insurers offering flood cover to domestic properties in high risk areas.

While these initiatives continue to develop, attention has also turned to the claims side, with insurers, brokers and professional advisory bodies looking at working together to promulgate clear and effective standards for flood-resilient repairs and the installation of risk management tools such as smart detectors or cut-off switches that respond automatically to water spread and trigger mitigating action. This sort of activity speaks very clearly to the 'build back better' headline government is seeking to promote as part of post-Covid-19 economic regeneration.

**"WE'RE SEEING REAL COLLABORATION IN THE INSURANCE MARKET ON PROPERTY FLOOD RESILIENCE. WITH A LOT OF INTEREST FOLLOWING PUBLICATION OF A CODE OF PRACTICE IN EARLY 2020. WORKING TOGETHER TO BRING THAT MOMENTUM ACROSS TO THE CLAIMS SIDE IS A CRITICAL GOAL FOR 2021."**

JOHN O' SHEA, PARTNER AND HEAD OF PROPERTY DAMAGE, BLM

## FCA REVIEW OF GENERAL INSURANCE PRICING PRACTICES

Despite the pandemic, in September 2020 the FCA published its final report into general insurance pricing practices in the personal lines (ie retail) insurance market. This long term project goes back to a so-called 'super complaint' made by a leading consumer organisation in 2018. The FCA investigated the home and motor markets in particular, finding that complex and unclear pricing practices meant that as many as 6 million consumers were seeing raised prices year on year and risked losing out if they stayed loyal to their provider. A wide range of remedies is being proposed, including: better controls on product design and governance, measures of value for consumers, restrictions on auto-renewals, reporting requirements and, most eye-catchingly, the introduction of the 'Equivalent New Business Price' or ENBP. The FCA recommends that the ENBP for the relevant distribution channel must be offered to any renewing customer. The regulator's aim is that the ENBP will be an imposed ban on 'price walking' (renewing customers seeing increase upon increase to fund new business acquisition at low introductory prices).

Consultation on the detail of this suite of remedies closed in January 2021 and their introduction will be phased over the year: systems controls and product governance remedies will take effect from September and the renewal, reporting and pricing remedies (including the ENBP) will take effect at the end of year.

In earlier studies the FCA has estimated that the aggregate customer benefit from these reforms could, over ten years, run into several billions of pounds.

**"THE GI PRICING REVIEW IS ALL ABOUT VALUE, FAIRNESS AND TRANSPARENCY FOR CUSTOMERS. COVID MAY HAVE DELAYED THE INTRODUCTION OF THE REMEDIES BUT IT WON'T DILUTE THE IMPACT: THIS IS A MAJOR SHAKE-UP FOR RETAIL INSURANCE BUSINESS."**

ALISTAIR KINLEY, DIRECTOR OF POLICY DEVELOPMENT & GOVERNMENT AFFAIRS, BLM

## TOP ISSUES:

Liability of authorities

Climate change

Increase in private  
healthcare insurance

## SOCRATES ATTORNEYS LTD

# FINLAND

The political environment has understandably concentrated on the fight against Covid. Seemingly the public debate will be more and more about the price tag and future financial challenges created by the pandemic, questions that have recently caused some political turbulence. New legislative initiatives are nevertheless still being brought forward, some of which have relevance for the insurance sector.

The Finnish insurance market has done generally well during the past year, despite the unique times. The pandemic has led to various disputes in relation to the epidemic and business interruption coverage. On the other hand, decreased overall activity in the society has also lowered the amount of coverable incidents in many sectors and it is generally reported that insurers have done well in their investment activities during 2020.

Apart from the first few months of the pandemic in 2020, the courts in Finland have generally functioned without notable delays. New technology has been exploited where possible, and this has helped minimize delays.

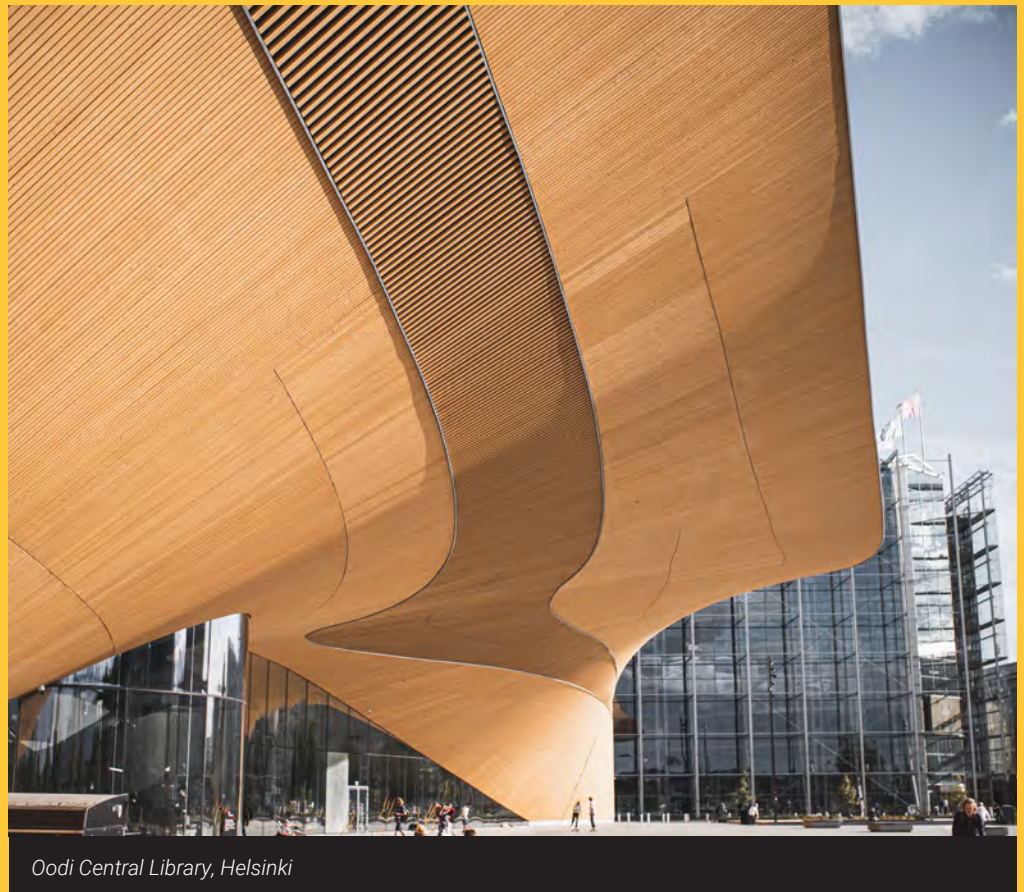
## INSURANCE INDUSTRY AT A GLANCE

# 49

Registered firms

# €26.1 BILLION

Value of Premia



Oodi Central Library, Helsinki





## CLIMATE CHANGE

Insurance has a notable role in efforts against climate change and the topic has gained increasing interest in the Finnish insurance markets. A task force working under the association of local insurers has recently completed a study on the role and requirements of non-life insurances in relation to climate change. The report discusses variety of topics, such as pricing of catastrophe risks, climate footprint of insurance business and future insurability of environmental risks.

In addition local insurers have begun to pay increasing attention to climate change in their product development. This has particularly applied to risk management services where the insurers have taken a role in, for example, assessing and explaining the liability and first party risks that new technology relating to renewable energy, such as solar panels and wind power plants, may cause.

**“CLIMATE CHANGE CREATES RISKS – BUT IT ALSO DEVELOPS THE INSURANCE INDUSTRY AND WILL PRESUMABLY REQUIRE NEW LEGAL CONSIDERATIONS AS WELL.”**

ROBERT BÜTZOW, SOCRATES ATTORNEYS LTD

## INCREASE IN PRIVATE HEALTHCARE INSURANCE

Although Finland has traditionally had a good and accessible public healthcare system, the popularity of private healthcare insurance has been growing for the past 10 years at least, according to a recent report by Finance Finland.

This trend has not been missed by international insurers. In our experience as local lawyers, foreign insurers also increasingly offer varying type of healthcare products to the markets. A notable part of this is done via private SME's with products that are combined with other benefits for employees or entrepreneurs. Distribution of private healthcare insurances is to a large extent covered by EU-based legislation, including among others the IDD, as implemented into the local law recently but the products themselves are subject to more local legal solutions.

**“THE LOCAL INSURANCE CONTRACTS ACT HAS PROVED TO BE SOMEWHAT TRICKY WITH MODERN GROUP POLICIES. WHICH MEANS A CAREFUL PLANNING OF THE LEGAL STRUCTURE IS A KEY TO A WELL WORKING PRODUCT.”**

JUSTUS KÖNKKÖLÄ, PARTNER, SOCRATES ATTORNEYS LTD

## LIABILITY OF AUTHORITIES

In the current Tort Liability Act, enacted in 1974, the liability of state and other public bodies for exercise of public authority is in many ways restricted.

In a survey conducted by the Ministry of Justice in 2010 it was generally concluded that those rules needed to be re-examined, as they do not fully represent the needs and values of today's society. However, the project for the actual law amendment process has taken some time. Now, finally the project has moved forward and the ministry is about to nominate a task force to give details of preferred solutions.

The expected outcome is that regulation will become more coherent and also somewhat stricter for public authorities in the future. Mistakes in the area of public authorities might be a more concrete liability risk than they are now. This is a notable issue for insurers covering liability risks of public entities, although the floodgates of public liability are unlikely to be opened too wide by the new regulations; but the outcome is as yet uncertain.

**“INSURERS ALSO COVER LIABILITY RISKS OF PUBLIC ENTITIES AND THESE RISKS SEEM LIKELY TO CHANGE IN THE FUTURE.”**

JUSTUS KÖNKKÖLÄ, PARTNER, LLD, SOCRATES ATTORNEYS LTD

## TOP ISSUES:

COVID-19 Repercussions

Climate Change

Cyber Risks

BYRD & ASSOCIATES  
FRANCE

The elephant in the room in 2021 for insurers in France is without doubt the repercussions of the Covid-19 pandemic. In France, there have been a multitude of court cases brought in 2020 against insurers before the lower courts by various establishments open to the public which experienced significant interruption of their businesses owing to the restrictions put into place by the government. Many, if not most, of these decisions have or will be appealed. It is therefore expected that there will be a flood of appellate court decisions throughout 2021.

In addition to direct claims, there are a number of reinsurance issues which may arise in connection with BI claims against the cedants, in particular issues of aggregation of claims, definition of events, application of hour clauses, etc. (which we will not treat here). There is clearly a potential for reinsurance arbitrations in 2021.

Another sleeping giant is the repercussions of climate change. France experienced a number of events linked to climate change in 2020 which will most likely continue into 2021, i.e. major flooding, natural catastrophes, drought, freezing crops, etc. France has introduced some major legislation in 2021 in an attempt to address this issue.

A third issue which is expected to raise its head even more in 2021 is the threat of cyber attacks and how insurers will deal with this threat.

INSURANCE  
INDUSTRY AT  
A GLANCE

720

Registered firms

€220  
BILLION

Value of Premia



Eiffel Tower, Paris, France



## CLIMATE CHANGE/ENVIRONMENT

The French government is poised to introduce legislation in 2021 to combat climate change.

President Macron formed a Citizens' Council on Climate (CCC) at the end of 2019 to propose climate change laws aimed at transitioning to a greener economy and enshrining the fight for climate change in the French Constitution.

Two of the key recommendations of the CCC have been included in two bills presented in 2021, the "Climate and Resilience" bill and a separate constitutional bill.

### Constitutional bill:

The constitutional bill proposes to incorporate into the French Constitution of 1958 the principle according to which France "guarantees the preservation of the environment and of biological diversity and fights against climate change".

On 10 May 2021, the Senate adopted the constitutional bill. However, there was some debate over the term "guarantees". The Senate having amended the bill, the parliamentary debate should therefore continue in 2021 until the text is voted in identical terms by both chambers, failing which there can be no referendum.

### Climate bill:

The "Climate and Resilience" bill implements part of the 146 proposals of the CCC to reduce greenhouse gas emissions by 40% by 2030.

On 4 May 2021, the National Assembly adopted the bill.

The bill includes a battery of measures, including, in particular: the criminal law around the environment will be strengthened by an offence of endangering the environment punishable by three years imprisonment and a €300,000 fine and a general offence of water and air pollution punishable, in the most serious cases qualified as "ecocide", by ten years imprisonment and a €4.5 million fine; and the law makes it compulsory to set up "low-emission zones" - limiting the circulation of the most polluting vehicles - in urban areas with more than 150,000 inhabitants by the end of 2024.

The Senate is now scheduled to examine the bill in public session starting 14 June 2021.

**"FRANCE IS IN THE PROCESS OF INTRODUCING LEGISLATION IN 2021 AIMED AT TRANSITIONING TO A GREENER ECONOMY AND ENSHRINING THE FIGHT FOR CLIMATE CHANGE IN THE FRENCH CONSTITUTION."**

ROBERT BYRD. FOUNDING PARTNER BYRD & ASSOCIATES

## CYBER RISKS

In 2020, the number of large-scale cyber attacks in France, especially by ransomware, have multiplied. According to a study conducted in October 2020 in France by the security specialist Proofpoint, 9 out of 10 French companies said they had been victims of at least one major cyber attack in the last 12 months, with two thirds even reporting multiple incidents. The number of cases handled by Anssi, the French national agency for information systems security, reportedly increased fourfold in 2020 compared to 2019 for ransomware alone. These threats will certainly be on the rise in 2021.

Many French insurance companies are now offering coverage for cyber risks for civil liability, business interruption, and provide for emergency hotline services, specialized adjusters, IT experts and legal counsel. Cover for the reimbursement of ransom is not yet current practice in France although some companies are offering this cover as an option.

One way France is responding to these threats is the opening of a cyber campus in the fall of 2021. This so-called "cybersecurity totem pole" will bring together, at the Tour Eria in La Défense, the main national and international players in the field: major groups, small and medium size companies, government departments, training organizations, researchers and associations.

## COVID-19 REPERCUSSIONS

Numerous legal actions have been brought in France against insurers resulting from the Covid-19 pandemic. The majority of these claims involve business interruption claims stemming from an administrative order of 14 March 2020 which, inter alia, restricted public access to many establishments open to the public. Most of the published decisions given media attention to date primarily concern the validity of a specific exclusion clause contained in AXA's standard multi-risk policy.

To date, approximately a third of the lower court decisions have ruled in favour of AXA, finding the exclusion to be clear and limited whereas the other two thirds have found the exclusion to be invalid.

There are a number of other published court decisions on business interruption claims involving other insurers which have likewise been inconsistent.

Many of these lower court decisions have been or are likely to be appealed so it is expected that there will be a flood of appellate court decisions in 2021.

As a possible harbinger of future appellate court decisions, the Appellate Court of Aix-en-Provence rendered a decision on 25 February 2021 ruling against AXA in a BI claim. However, it must be kept in mind this is a ruling regarding a specific exclusion in the AXA multi-risk policy. It does not establish any general jurisprudence against other insurers for BI claims where other wording is in dispute.

**"THERE WERE A MULTITUDE OF BUSINESS INTERRUPTION CLAIMS BROUGHT AGAINST INSURERS BEFORE FRENCH LOWER COURTS IN 2020 ARISING OUT OF GOVERNMENT-ORDERED CLOSURES OF ESTABLISHMENTS OPEN TO THE PUBLIC WHICH THE APPELLATE COURTS WILL BE RULING ON IN 2021."**

ROBERT BYRD. FOUNDING PARTNER BYRD & ASSOCIATES

## TOP ISSUES:

D&O insurance

Business shutdown insurance

Cyber insurance

ARNECKE SIBETH DABELSTEIN

# GERMANY

The German insurance market in 2021 was and continues to be dominated by the Covid-19 pandemic. This can be seen, among other things, in the topics shaping the public discussion, which include the following issues in particular: Covid-19 coverage in business shutdown insurance, insolvency law and D&O insurance, as well as remote working and cyber insurance.

Notwithstanding these trends shaped by the pandemic, however, it should be noted that the economic development of the insurance industry is very positive. Unlike other sectors of the economy, the German insurance industry is suffering less from the effects of the pandemic and has developed relatively stability both in 2020 and in the course of 2021 so far. However, it can be assumed that parallel to the pandemic subsiding, the structural issues of the insurance industry, such as digitalization and customer focus, will also come to the fore.

## INSURANCE INDUSTRY AT A GLANCE

# 530

Registered firms

# 255 BILLION

Value of Premia



Frankfurt am Main, Hessen, Germany.



## CYBER INSURANCE

The German cyber insurance market continues to be a growing market segment. Two developments in particular could be observed in the past months.

On the one hand, there has been a considerable increase in claims, both in terms of the number of claims and in terms of the amount of the claims. One reason for this development is seen in the increased vulnerability of IT systems due to the pandemic-related expansion of remote working. In addition, many companies are still clueless about their own IT security and the technical development of attackers is constantly advancing.

The second trend observed is the hardening of the market. On the one hand, this development is naturally a consequence of the claims development just described. At the same time, however, it also shows a certain maturity of the market, which apparently - with a certain delay - orients itself to the development of the D&O market and at the same time wants to avoid the undesirable developments of the D&O market in the last decade (e.g. constant expansion of coverage with a simultaneous decrease in premium). It remains to be seen whether this development will "only" lead to a limitation of capacities or an increase in premiums in 2021, or whether it will also lead to harsh cuts in coverage (e.g. coverage in connection with cyber extortion).

**"THE HARDENING CYBER INSURANCE MARKET IS A SIGN OF THE MARKET'S MATURITY. MARKET PARTICIPANTS SHOULD SEIZE THE OPPORTUNITY TO ENABLE HEALTHY FURTHER DEVELOPMENT. TO THIS END, COVERAGE COMPONENTS MAY ALSO HAVE TO BE PUT TO THE TEST."**

DR. QUIRIN VERGHO,  
PARTNER AT ARNECKE SIBETH  
DABELSTEIN AND HEAD OF THE  
INSURANCE PRACTICE GROUP

## D&O INSURANCE

The D&O market has hardened and probably will not soften up for the next year. The renewals have meant a lot of work for all involved parties. In addition, long-discussed issues are still not solved. Insolvency of a company and the liability involved is still one of the major topics for D&O insurers, as the cover under the D&O insurance for claims of an insolvent company against their managers due to losses incurred as a result of payments after maturity of insolvency has been a long-discussed topic in Germany. A verdict of the Higher Regional Court of Düsseldorf has supported insurers' view that the relevant provision in the Limited Liability Company Act (§ 64 GmbHG), providing a claim of the company against its managers, does not constitute a claim for damages, since the protective purpose of the provision is the preservation of the insolvency assets and the claim does not presuppose any financial loss of the company. As a consequence, some insurers have explicitly included the liability according to § 64 GmbHG, when the market was still weak.

In the meantime, the Supreme Court has overturned the decision of the Higher Regional Court of Düsseldorf. In addition, the legislator has fundamentally revised the liability regime - also as a consequence of Covid-19. At the same time, however, various insurers are endeavouring to exclude insolvency risks from insurance coverage as much as possible, also due to the hard market. The question of whether and when claims in connection with insolvencies are covered in D&O insurance is therefore likely to continue to occupy the market intensively.

**"IT IS ESSENTIAL FOR POLICYHOLDERS AND ESPECIALLY THE ASSURED TO REVIEW THEIR INSURANCE CONDITIONS IN RESPECT OF THE NEW INCOLVENCY ACT AND COVER UNDER THEIR D&O POLICIES. INTENDED COVERAGE SHOULD BE CLARIFIED BEFORE AN EVENT OCCURS."**

DR. CAROLIN SCHILLING-SCHULZ, LL.M., PARTNER AT ARNECKE SIBETH  
DABELSTEIN

## BUSINESS SHUTDOWN INSURANCE

The insurance line that continues to attract the most public attention in relation to Covid-19 is the business shutdown insurance. This hitherto little-known insurance line has been being field-tested nationwide for more than a year now. As expected there now exist numerous decisions of Regional and Higher Regional Courts throughout Germany. Up to now, a clear majority of the courts dismissed the claims. However, the cases highly depend on the different wordings and there is a wide range of clauses.

There are numerous contentious issues with respect to the coverage of a business shut down due to Covid-19. For example, it is disputed whether there was a business shutdown at all, as many effected businesses were not completely closed. The main issue though is the reference in the terms and conditions to the Infection Protection Act (Infektionsschutzgesetz). There is a wide range of wordings and the meaning of almost every word is debated. Moreover, the terms and conditions usually include a catalogue of contagious diseases, but it is highly disputed, whether this catalogue is conclusive or not. Due to this combination, courts also have to decide whether the respective clauses are transparent or not. In the light of the second or even third COVID-19 wave and interim reopening, furthermore, it is unclear whether the insurance benefit is paid multiple times or only once.

All these and some further questions are currently being discussed intensively, both in courts and in the press. This is likely to continue as long as the Supreme Court does not finally decide the essential questions. However, the first decisions in this regard are not expected before autumn of this year.

## TOP ISSUES:

Regulation

COVID-19

Digitisation

# KHAITAN LEGAL ASSOCIATES INDIA

The recent decision by the Indian government to increase foreign investment in the insurance sector is appreciated and set to create tremendous potential for growth in the insurance market. This increase is following an increase of foreign investment into insurance intermediaries to 100% in 2019.

Further, the Indian government and the sector regulator IRDAI is undertaking several initiatives for the development of the insurance sector. The International Financial Services Centre (GIFT City) has recently seen the super-regulator IFSC Authority to provide a single window clearance for issues in GIFT City.

The claims market in India is also developing with newer insurance solutions being implemented for large and complex risks for e.g., M&A insurance and other liability insurance.

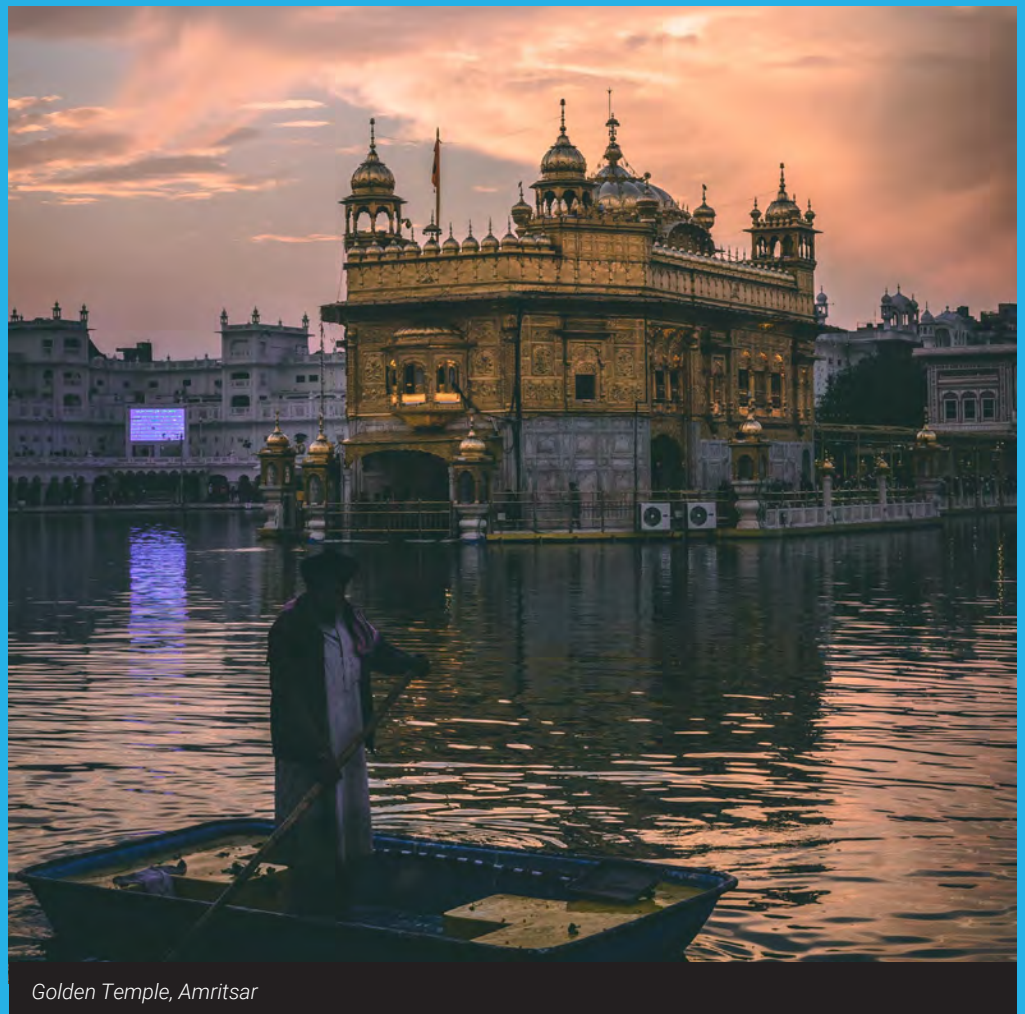
## INSURANCE INDUSTRY AT A GLANCE

# 58

Registered firms

# 7.61.828.81 CR

Value of Premia



Golden Temple, Amritsar



## REGULATION

The Indian government recently opened the Indian insurance market to higher foreign direct investment (FDI) by permitting 74% FDI in insurance companies from the earlier 49%. The requirement for an Indian insurance company to be Indian owned and controlled has been removed, thereby paving way for access of foreign capital, technology and innovation in the insurance sector for further growth. This move will facilitate the entry of global foreign insurers in the Indian market, bringing with them novelty and innovation and also offering better insurance products with wider coverage to consumers.

**“WITH AN INCREASE IN PERMISSIBLE FOREIGN INVESTMENT THERE IS TREMENDOUS POTENTIAL TO INJECT A FRESH LEASE OF LIFE TO THE INDIAN INSURANCE MARKET.”**

SAKATE KHAITAN, SENIOR PARTNER, KHAITAN LEGAL ASSOCIATES

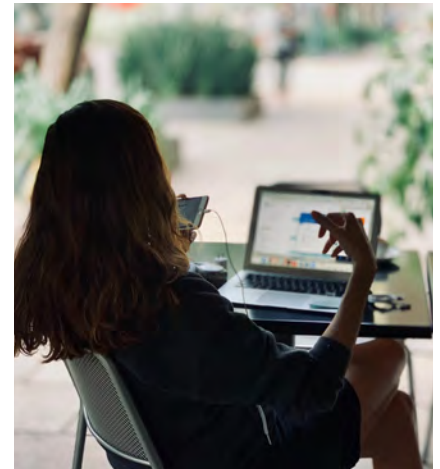
## COVID-19

The COVID-19 pandemic has caused major social and economic disruptions which in their own ways have an impact on the insurance sector. To tackle this, the IRDAI issued several instructions / advisories to life insurers, general and health insurers pertaining to the pandemic, issued guidelines on handling claims reported under COVID-19, relaxed timelines, etc. IRDAI instructed insurers to design products covering treatment of COVID-19 and offer standardized health insurance policies. It also committed to fast-track approval of the applications for such products. It extended the sandbox initiative to allow new sandbox proposals for experiment. To extend support to consumers during the pandemic, the insurance companies have offered specific COVID-19 related health products to cover treatment costs relating to COVID-19. Further, insurers have been directed to expedite health insurance claims for treatment of COVID-19 and authorise cashless treatment of such patients.



**“GOVERNMENT AND IRDAI DID SOME QUICK THINKING AND RESPONDED TO COVID 19. THE INSURANCE INDUSTRY ROSE TO THE CHALLENGE AND ALIGNED ITSELF WITH THE LARGER OBJECTIVE OF THE GOVERNMENT AND IRDAI IN ALLEVIATING THE IMPACT OF THE PANDEMIC AND ITS FALLOUT ON THE POLICYHOLDERS.”**

SAKATE KHAITAN, SENIOR PARTNER, KHAITAN LEGAL ASSOCIATES



## DIGITISATION

As the industry was presented by the unprecedented challenge posed by COVID-19, digitisation became the need of the hour. The sector regulator stepped up to the challenge and initiated a series of requirements for enabling digitisation in the insurance value chain. This has paved way for partnership with digital platforms and Insurtechs to enable personalised management.

Insurance companies are now open to exploring options beyond traditional models for their requirements, and banks are partnering with fintech companies to provide faster and cost-efficient services. We expect significant change to follow on this liberalisation.

**“THE IMMEDIATE ADAPTATION TO DIGITISED SOLUTIONS IN THE INDIAN INSURANCE MARKET IS COMMENDABLE. IN SYNC WITH THE GLOBAL TRENDS, WITH THE RISE IN DIGITISATION AND DISRUPTION, INDIA ALSO FACES THE THREAT OF CYBER RISKS. THE MARKET AND SPECIFICALLY THE INSURANCE INDUSTRY WILL NEED TO RESPOND TO THE EMERGING CYBER RISKS.”**

SAKATE KHAITAN, SENIOR PARTNER, KHAITAN LEGAL ASSOCIATES

## TOP ISSUES:

The Personal Injuries  
Guidelines 2021

Remote personal injury  
hearings

Business interruption and  
policy wordings

BLM

# IRELAND

As is the case worldwide, the insurance market in the Republic of Ireland has been impacted in the last 14 months by the global pandemic. Lockdowns and government restrictions have impacted greatly on the economy and have led to large delays in the justice system which in the Republic of Ireland is still largely based on “viva voce” evidence requiring the physical attendance of witnesses at hearings; remote hearings have been introduced to deal with the backlog.

With the closure of business, numerous claims under business interruption sections of policies have been made with the policy’s wording often determined in the policyholder’s favour. Decades of proposed reform of damages for personal injury awards (often being much higher than in the UK) have been hampered by a reluctant judiciary. However, Judicial Council guidelines lowering the valuation of a large number of injuries was signed into law in April of this year.

## UK INSURANCE INDUSTRY AT A GLANCE

# 201

Registered firms

# \$49.889.4 MILLION

Value of Premia



*The Long Room of the old library at Trinity College, Dublin, Ireland*



## THE PERSONAL INJURIES GUIDELINES 2021

The new Judicial Guidelines on Personal Injury Awards came into effect on Saturday 24 April 2021. The Judicial Council, which comprises the State's more than 160 judges, voted in favour of the Guidelines in March, with 86 of the judges who took part in the confidential poll voting in favour, and 64 voting against. The new Guidelines replace the Book of Quantum and will lead to significantly reduced payouts in most cases.

The fundamental difference between the Personal Injuries Guidelines and the Book of Quantum is that the application of the Guidelines is mandatory. The Guidelines are much more prescriptive and have introduced a lot more categories of injury which were not previously dealt with in the Book of Quantum. There is a substantial reduction in damages for minor and soft tissue injuries. However General Damages in respect of the most serious and catastrophic injuries have been increased from €500,000 to €550,000. Psychiatric injuries, scarring and pain disorders are now included in the Guidelines.

The Guidelines provide that where there are multiple injuries, the trial judge should identify the injury and bracket of damages that best resembles the most significant of the claimant's injuries. Once they have valued that injury, the trial judge should uplift the value to ensure that the claimant is properly compensated for the additional pain and suffering caused by the lesser injuries. Where a pre-existing condition has been aggravated by an injury, the trial judge should have regard only to the extent and duration to which the condition had been made worse.

The new guidelines should have an immediate impact and a downward effect on damages and should see awards and settlements becoming more proportionate to the injury suffered. A dual system will be in operation for some time with Book of Quantum cases and Guidelines cases running in parallel. However it seems inevitable that the cases commenced prior to 24 April 2021 will experience the diluting effect of the new guidelines. The implementation of the Guidelines should also lead to a greater number of claims being assessed by the Personal Injuries Assessment Board which should reduce legal costs.



## BUSINESS INTERRUPTION AND POLICY WORDINGS

In a landmark decision handed down in February 2021, the High Court ruled that the terms of an insurance policy - as held by four publicans - covered losses that the pubs sustained from being closed as a result of the pandemic. The decision in this test case centred on interpretation on the wording of the business interruption section of the policy, which stated that to take effect an outbreak must have occurred on the premises or within a 25 mile radius. It was further argued that the policyholder had not specifically sought cover for the event of a widespread pandemic. The Court rejected this and ruled that the policy covered an outbreak where the proximate cause for the government action was located outside such a radius.

**“WE WOULD EXPECT TO SEE AN INCREASE IN THE VOLUME OF MULTIPLE INJURY CLAIMS ALONG WITH AN INCREASE IN PSYCHOLOGICAL SEQUELAE PLEADED BY PLAINTIFFS. WE ANTICIPATE A GREATER FOCUS ON SPECIAL DAMAGES IN ORDER TO KEEP CLAIMS IN EITHER THE CIRCUIT OR HIGH COURT JURISDICTION.”**

SINEAD CONNOLLY, PARTNER, BLM

**“GREAT CARE IN THE DRAFTING OF INSURANCE POLICY CLAUSES WOULD APPEAR PARAMOUNT IN LIGHT OF THE FDB INSURANCE JUDGMENT.”**

OLIVIA TRESTON, PARTNER, BLM

## REMOTE PERSONAL INJURY HEARINGS

On 7 April 2021 the High Court introduced Practice Direction HC 104 which will now pave the way for the widespread holding of personal injury hearings on a remote platform. Prior to this only a limited numbers of matters were permitted to proceed through remote hearing and only if all parties consented, this led to widespread delay in court lists. With this Direction the High Court can now direct that personal injuries actions in Dublin can proceed remotely if the court considers that the interests of justice can fairly be met. Indeed, the new default position is that a personal injuries action should proceed by remote hearing unless a good reason is accepted by the court as to why the action should not proceed.

**“REMOTE HEARINGS WILL NOT ONLY ADDRESS DELAYS BUT MAY ALSO USHER BOTH A MORE COST AND TIME EFFICIENT LITIGATION SYSTEM.”**

OLIVIA TRESTON, PARTNER, BLM

## TOP ISSUES:

Insurer's capitalisation

Technological innovations  
and insurance growth

Insurers investment  
diversification

# BTG LEGAL ITALY

In 2019, the total value of gross direct written premiums in Italy amounted to 135 billion euros. At the end of 2019, nearly 1,300 companies were operating in the Italian insurance market, one hundred of which were domestic companies.

Delayed premiums payments and slower economic activity will reduce inflows for insurers in the short term, particularly those with a mainly corporate customer base, however analysts do not anticipate liquidity pressures for insurers. The market expects coronavirus-related claims, in both life and non-life segments, to remain manageable but insurers face the risk that governments will exert pressure to make ex gratia payments to their clients or to make some other form of financial contribution to the resolution of the crisis.

Analysts revised the outlook on the Italian life insurance sector to negative from stable.

## INSURANCE INDUSTRY AT A GLANCE

**1257**  
Registered firms

**€141.1**  
**BILLION**  
Value of Premia



Siena, Italy

## INSURER'S CAPITALISATION

High sensitivity to credit spreads on Italian government debt, and very low interest rates, look set to have a negative impact on insurers' capitalisation in 2020 and 2021. Of course, the present pandemic situation is not helping to correct this trend. In response to the outbreak of coronavirus (COVID-19), the Italian Government has reduced the requirements for applying a country-specific volatility adjustment to strengthen Italian insurers' regulatory Solvency II ratios. A Solvency II amendment passed in December 2019 included a reduction in the threshold requirement for applying the country-specific volatility adjustment, increasing the likelihood that it could be applied during times of financial market volatility. The Italian government has now adopted this directive into law with immediate effect, meaning Solvency II ratios have been subject to lower threshold requirements from the first quarter of 2020. This helped stabilize Solvency II ratios but not offset the combined negative market movements.

**"HIGH SENSITIVITY TO CREDIT SPREADS ON ITALIAN GOVERNMENT DEBT. AND VERY LOW INTEREST RATES. ARE SET TO HAVE A NEGATIVE IMPACT ON INSURERS' CAPITALISATION IN 2021 AND BEYOND."**

ALBERTO BATINI. FOUNDING MEMBER. BTG LEGAL



## TECHNOLOGICAL INNOVATIONS AND INSURANCE GROWTH

Economic growth, rising government spending, technological innovations and increased consumer awareness about insurance products are key market drivers in Italy. The government's policy of insuring the uninsured has progressively pushed up the insurance penetration in Italy and the proliferation of insurance schemes.

The increasing number of digital distribution channels is favouring insurers, allowing buyers to easily obtain insurance policies. Insurtech, messaging platforms, and online sales channels are contributing to the insurance landscape in the country.

Through different distribution channels, insurance companies in Italy are providing a wide variety of products with varying levels of complexity that are designed for different groups of businesses, individuals and other organizations.

This will provide ways to meet the emerging demands of every end-use customer and propel net sales.

**"INSURTECH. MESSAGING PLATFORMS. AND ONLINE SALES CHANNELS ARE CONTRIBUTING TO A BURGEONING INSURANCE LANDSCAPE IN THE COUNTRY."**

GIORGIO GRASSO. SENIOR PARTNER. BTG LEGAL

## INSURERS INVESTMENT DIVERSIFICATION

Italian insurers will continue to diversify their investments, although their exposure to Italian sovereign debt is likely to remain high relative to their capital. The exposure to domestic government bonds is expected to decline, though insurers may make small short-term adjustments on investment allocations to take advantage of higher yields.

The non-life sector outlook is stable and further growth in non-motor business is expected while underwriting profitability in motor lines should remain relatively weak.

Better claims handling and stable claims frequency will offset pricing pressure. However, strong competition in the non-motor market is likely to exert pressure on prices and profitability. It is reasonable to expect non-life underwriting profitability, measured by combined ratios, to remain resilient in 2020 and, partially, through 2021.

**"ITALIAN INSURERS WILL CONTINUE TO DIVERSIFY THEIR INVESTMENTS. ALTHOUGH THEIR EXPOSURE TO THE ITALIAN SOVEREIGN DEBT IS LIKELY TO REMAIN HIGH RELATIVE TO THEIR CAPITAL."**

SILVIA TRAVERSO. SENIOR PARTNER. BTG LEGAL



## TOP ISSUES:

Environmental, social and corporate governance in the Luxembourgish insurance sector

Postponement of the FATF's visit to Luxembourg

Draft bills under discussion

## MOLITOR AVOCATS À LA COUR

# LUXEMBOURG

In 2020, the COVID-19 pandemic negatively affected the insurance sector. However, companies have shown significant resilience, even if the overall collection of direct insurance premiums, at 34 billion, was down by 16% compared to 2019.

Another consequence of the pandemic was the cancellation of the visit of the FATF, which was scheduled to take place in October and November 2020, now postponed to October 2021. FATF will, among other things, check the application of the measures put in place since its last report.

Meanwhile, the advancement of key legislation has been slow, particularly bill n°7511 which is supposed to put an end to legal uncertainty that persists with regard to the processing of health data, and has not been adopted yet.

Finally, in the context of the entry into application of the 2019/2088 European regulation on sustainability-related disclosures in the financial services sector regarding environmental, social and corporate governance criteria ("ESG criteria"), the Luxembourg market is adapting fast and providing more and more sustainable products, showing its flexibility.

## INSURANCE INDUSTRY AT A GLANCE

# 746

Registered firms

# 34

## BILLION

Value of Premia



Vianden, Luxembourg

## ENVIRONMENTAL, SOCIAL AND CORPORATE GOVERNANCE IN THE LUXEMBOURGISH INSURANCE SECTOR

Luxembourg insurance and reinsurance companies have been particularly attentive to the entry into force on 10 March 2021 of the main provisions of the EU 2019/2088 regulation on sustainability-related disclosures in the financial services sector ("SFDR regulation"), which aims to improve transparency regarding ESG criteria when financial entities - including insurance companies - advertise their products.

In this context, important players in the insurance sector in Luxembourg did not take long to jump on the bandwagon, as they are now starting to offer more ESG-oriented products. For instance, it is now possible in the Grand Duchy to subscribe to life insurance which is advertised as being 100% sustainable. It is expected that more and more companies will follow suit in the near future considering the growing importance of preoccupations related to environmental and social issues.

**“RECENT MONTHS HAVE CONFIRMED THE EVER-GROWING IMPORTANCE OF ESG CRITERIA. WITH THE ENTRY INTO FORCE OF THE EU SFDR REGULATION, AND NEW INNOVATIVE ESG-FRIENDLY PRODUCTS OFFERED BY LUXEMBOURGISH INSURERS.”**

MICHEL MOLITOR, MANAGING PARTNER, MOLITOR AVOCATS À LA COUR



## POSTPONEMENT OF THE FATF'S VISIT TO LUXEMBOURG

2020 was supposed to see the much anticipated visit of the FATF to Luxembourg; however, the visit was cancelled in the face of the pandemic and rescheduled in October 2021.

The aim is to avoid a negative assessment that would be detrimental to the sector. Luxembourg has made important progress since the last report in 2014, especially regarding the adoption or updating of legislation to the standards of the FATF, not to forget the key supervisory role played by Luxembourg's insurance regulator, the CAA (Commissariat aux Assurances). Also, the ACA (Association des Compagnies d'Assurances et de Réassurances, i.e. the Luxembourg insurance and reinsurance association) has issued a series of recommendations for its members to set up appropriate supervisory procedures, particularly for companies that do not fall within the scope of AML legislation.

Points of concern however remain, for instance the lack of sufficient qualified personnel to fight against money-laundering.

**“THE CANCELLATION OF THE FATF VISIT WILL GIVE MORE TIME TO ALL STAKEHOLDERS TO PREPARE FOR THE NEXT VISIT AND TO SHOWCASE THE PROGRESS THAT HAS BEEN MADE.”**

JACQUES WOLTER, PARTNER, MOLITOR AVOCATS À LA COUR

## DRAFT BILLS UNDER DISCUSSION

The eagerly awaited draft bill about the processing of health data by insurance companies in accordance with the GDPR is still pending before the Chamber of Deputies. The Chamber of Commerce, the National Commission for Data Protection, the Council of State, and the Chamber of Employees have, however, submitted several opinions on it. Essentially, the Chamber of Commerce is favourable to the project as it ends legal uncertainty, while the Chamber of Employees is opposed to it as it fears it will undermine the social security system. The Commission for Data Protection and the Council of State note that in general, the draft bill contains appropriate safeguards to preserve fundamental rights, even though they point out the lack of clarity of some parts of the wording.

The draft law on dormant contracts is also still pending even though the Council of State issued its opinion on it in 2019.

**“HOPEFULLY 2021 WILL FINALLY SEE THE ADOPTION OF THE DRAFT LAW ON THE PROCESSING OF HEALTH DATA TO PUT AN END TO LEGAL UNCERTAINTY IN THIS FIELD.”**

SOPHIE LAMOTHE, COUNSEL,  
MOLITOR AVOCATS À LA COUR



## TOP ISSUES:

Elections

Covid-19 claims

Cyber risks

## OCAMPO 1890

# MEXICO

Mexico's insurance industry has demonstrated over the past year that the Solvency II model implemented during the former administration is worth having, because it has meant that insurers are facing the impacts of the pandemic with solid financial foundations and good levels of reserves.

Insurers are also facing up to new circumstances generated by the current administration's indifference towards insurers. There have been no incentives to develop the industry, and growth is stagnating.

## INSURANCE INDUSTRY AT A GLANCE

# 117

Registered firms

# \$29.6

# BILLION

Value of Premia



Colorful alley in the old town of Guanajuato, Mexico



## CYBER RISKS

Cyber risks coverage in Mexico is a new trend that is growing rapidly. GDPR in Mexico is 11 years old and has been amended to fit the treaties Mexico has entered into with several countries, including the EU, USA and Canada. Fines are high and obligations to data holders have been aligned with international trends, all of which have made large corporations attractive to hackers.

**“CYBER RISKS COVERAGE MUST BE PROPERLY UNDERSTOOD BY INSURERS, BROKERS AND POLICY HOLDERS. THAT IS THE CHALLENGE.”**

ALDO OCAMPO, PARTNER,  
OCAMPO 1890

## COVID-19 CLAIMS

The pandemic, as in most countries, has presented a huge challenge to insurers. Health insurers are all facing their highest number of claims ever, but the Solvency II model has ensured their financial strength, allowing all to pay their insureds in a proper and timely way. In this regard, a huge caseload of claims is now arriving with property insurers for Business Interruption. In most cases policies cover BI only as a consequence of a direct damage. Just a few policies exclude pandemics as a cause for a claim. It will be a challenge for insurers to sustain at trial that BI is not covered by property insurance policies, but if they fail to demonstrate that, the impact could be severe.

**“BUSINESS INTERRUPTION CASES CURRENTLY IN LITIGATION WILL IMPACT THE INSURANCE INDUSTRY. NO MATTER WHAT THE OUTCOME OF THE CASES.”**

DIANA ANGELES, ASSOCIATE,  
OCAMPO 1890



## ELECTIONS

Mexico elected a new president in summer 2018. Mr. Lopez Obrador is a hard-left politician who has promised the people new policies on wealth distribution. His policies are often seen as scandalous and are widely criticized by many for their lack of solid foundation planning. His policies are often seen as scandalous and are widely criticized by any for their lack of solid foundation planning. Since his election, Congress has been on his side, easing and supporting his initiatives including the Energy and Oil Law amendment that is jeopardizing that entire sector's stability. 2021 mid-term elections are important as a balance in Congress is needed to counterweight some of the President's wilder initiatives.

**“MEXICO IS FACING LACK OF BALANCE IN ITS GOVERNING AUTHORITIES. AS CONGRESS AND PRESIDENT MAKE EFFORTS TO TAKE POLITICAL CONTROL OVER THE SUPREME COURT. THE 2021 ELECTIONS WILL BE DEFINITIVE TO RESTORING BALANCE (OR NOT) FOR MEXICAN DEMOCRACY.”**

MITCHELL ESQUEDA, PARTNER, OCAMPO 1890

## TOP ISSUES:

COVID-19

Digital transformation

Sustainable finance

## WIJ ADVOCATEN

# NETHERLANDS

The corona pandemic and the ensuing lockdown measures have caused a major global economic setback. The economic contraction in the Netherlands, however, was smaller than the average in the eurozone and smaller than in surrounding countries.

The Dutch insurance market for life and non-life insurance has been shrinking since 2010, especially in the life insurance market. The life insurance market is expected to shrink further in the coming years, due to – among other things – changes in tax rules.

In the non-life insurance market, the contraction in premium volumes was reversed in 2017. Premium volume has been rising again since then, with the market hardening considerably, especially in 2019 and 2020. The profitability of insurers is fairly stable, with most profit being made in the life insurance market. The net result for non-life insurers is mixed, mainly due to volatile claims, such as storm and COVID claims, which have a dampening effect on the profitability of some insurers.

## INSURANCE INDUSTRY AT A GLANCE

# 150

Supervised insurers/  
reinsurer

# €79.4 BILLION

Value of Premia



Flowering Tulip Fields, Sint Maartensbrug, Netherlands





## DIGITAL TRANSFORMATION

Digital transformation is high on the agenda of many insurers, due to changing customer needs and digital customer behaviour. In order to serve customers better, digital innovation is needed constantly. Data analytics and Artificial Intelligence are increasingly facilitating speed and quality in the daily operations of insurers.

Cyber risks have also increased enormously. On the one hand, this requires a major investment from insurers in their own cyber security, but on the other hand, it also offers them opportunities as cyber insurance providers. The annual loss as a result of cyber incidents in the Netherlands is now approximately EUR 10 billion. The number of companies affected by cyber incidents is falling, but the amount claimed per incident is growing rapidly, which affects the profitability of existing policies.

**“THE POST-PANDEMIC WORLD IS DIGITAL. BE PREPARED FOR ITS CHALLENGES AND OPPORTUNITIES.”**

MARGJE BENNINGEN. PARTNER AT WIJ ADVOCATEN

## SUSTAINABLE FINANCE

Insurers are becoming increasingly aware of their role in the transition to a climate-neutral, green, circular, inclusive and competitive economy. There is a growing awareness that sustainability can also be rewarding from a purely economic perspective. As a result of the Sustainable Finance Disclosure Regulation (SFDR), new rules have been introduced in March 2021 that force the financial sector to become even more transparent about its sustainable performance, so that customers will know better when a product is or is not ‘green’. These new measures, their impact, their compulsory nature and the speed with which they are being introduced make sustainability a strategic priority in 2021.

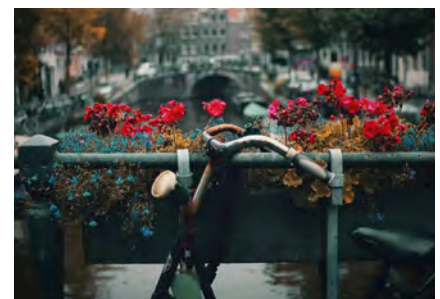
**“A SUSTAINABLE ECONOMY CANNOT EXIST WITHOUT A FINANCIAL SECTOR IN WHICH THESE SAME SUSTAINABILITY CRITERIA ARE AN INTEGRAL PART OF STRATEGY AND OPERATIONS.”**

SUZANNE BORDEWIJK. PARTNER AT WIJ ADVOCATEN

## COVID-19

For insurers, the consequences of the COVID-19 outbreak are significant. These include an increase in the number of claims, for example under health, credit and business insurance, the impact of government measures, pressure on sales due to reduced activity, and less direct contact with customers. Last year, the latter proved to be a problem especially for insurers and intermediaries who had not digitised their distribution channels to the right level yet.

However, COVID-19 has also offered many opportunities for innovation in the sector, including in the area of digital transformation and FinTech.



**“COVID-19 WAS A SHOCK TO THE INSURANCE WORLD. BUT IT WILL ULTIMATELY PROVE TO BE AN ACCELERATOR FOR SUSTAINABLE INNOVATION IN THE SECTOR.”**

HARRIËT DELHAAS. PARTNER AT WIJ ADVOCATEN



## TOP ISSUES:

Ongoing Civil Justice reforms

Discount rate and implications

Brexit

BLM

## NORTHERN IRELAND

The Northern Ireland insurance market, which is effectively a subset of the UK market, has hardened considerably in recent months. Brokers and policyholders report a “perfect storm” of increased premiums and reduced capacity from insurers. The market had already started to harden but the situation was compounded by the impact of the business interruption insurance litigation in England, fire safety concerns following Grenfell, and the general economic uncertainty faced by insurers as a result of Covid-19 and the lockdowns. Brexit has also created an additional challenge, with policyholders with a presence north and south of the border struggling to find cover in both territories.

## INSURANCE INDUSTRY AT A GLANCE

402

Registered firms

\$418.666.8

MILLION

Value of Premia



The Dark Hedges, Northern Ireland

## DISCOUNT RATE AND IMPLICATIONS

The Northern Ireland Personal Injury Discount Rate (PIDR) has been subject to review for some time. It had been widely recognised that the rate in NI of 2.5% based on the Damages Act 1996 needed reform because a significant proportion of claimants were being under-compensated.

In March 2021, the Department of Justice (DoJ) announced an interim discount rate of -1.75%, effective from 31 May 2021. This rate is much lower than the rate in England, which was set at -0.25% in 2017, and Scotland where the rate is -0.75%.

Whilst claimants have unsurprisingly welcomed the discount rate change, arguably the rate change is a step further than anyone ever anticipated. The 1996 Act which the DoJ has triggered to set its interim rate of -1.75% is out of date and was replaced in both England and Scotland two years ago.

Setting an interim rate under the same flawed Act, however, simply swings the pendulum much too far in the opposite direction and will ultimately lead to over-compensation in potentially more than 90% of claims.



**“THE INTERIM RATE WILL COST TENS OF MILLIONS OF POUNDS FOR NI BUSINESSES AND TAXPAYERS. THOSE ADDITIONAL COSTS WILL CONTINUE BE FELT UNTIL THE NEW BILL – WHICH THE COMMITTEE FOR JUSTICE HAS CHOSEN TO SCRUTINISE UNTIL HALLOWE’EN – COMES IN. THAT SHOULD BRING STABILITY TO THIS AREA.”**

ALISTAIR KINLEY- DIRECTOR  
OF POLICY AND GOVERNMENT  
AFFAIRS, BLM

## BREXIT

The EU-UK Trade and Cooperation Agreement, and the Northern Ireland Protocol both took effect on 1 January 2021. The exit from the EU means far more for NI citizens and businesses than simply having to carry a Green Card when driving across borders. The concept behind the ‘Protocol’ was to avoid the need for customs checks on the border with the Republic of Ireland, which in theory should make NI the perfect ‘hub’ for many companies given its unique access to both the EU and rest of the UK. The reality is that the discussions around the two borders between Great Britain/Northern Ireland and the Republic of Ireland/Northern Ireland has given rise to political wrangling, sporadic violence, and in some quarters has reignited the debate about a united Ireland.

Brexit will also have an impact on regulations relating to cross-border civil claims:

- The relevant EU regulations; Brussels I (relating to jurisdiction and enforcement) and Rome I & II (dealing with applicable laws) ceased to apply at the end of the transition period.
- However, Rome I & II, on applicable law in contracts and tort respectively, will be retained in national law after the end of the implementation period and will continue to apply.

The EU-UK Withdrawal Agreement states that after Brexit, Brussels I still applies to judgments issued before Brexit, as well as to all judgments to be rendered after Brexit, as long as the relevant proceedings commenced before Brexit. It remains to be seen whether issues such as enforcement and jurisdiction will be determined in a straightforward fashion post-Brexit.

**“ALTHOUGH WE NOW HAVE CERTAINTY IN RELATION TO THE PROTOCOL, THE AGREEMENT WAS SILENT IN RELATION TO ANY TRANSITIONAL PROVISION BEYOND 31 DECEMBER 2020 FOR THE LUGANO CONVENTION OR THE BRUSSELS CONVENTION. IT IS HARD TO IMAGINE THAT ANY OTHER JURISDICTION COULD BE MORE IMPACTED BY BREXIT THAN NORTHERN IRELAND.”**

GRAEME MOORE, PARTNER, BLM

## ONGOING CIVIL JUSTICE REFORMS

Following the recommendations from Lord Justice Gillen’s Civil Justice Report in 2017, the Department of Justice launched a consultation on 4 February 2021 regarding a proposed increase to the civil jurisdiction of the County Courts in Northern Ireland. The consultation proposes two options: (1) an increase in the County Court’s monetary jurisdiction from £30,000 to £60,000, together with an increase in the District Judge’s jurisdiction to £20,000; or (2) an increase in the County Court’s monetary jurisdiction to £100,000, with an increase for District Judge’s cases to £35,000. Either option would almost certainly see the majority of civil cases dealt with in the County Court jurisdiction, with District Judges dealing with a large bulk of cases. There is also a proposal to increase the Small Claims limit to £5,000. The consultation closed on 30 April 2021.

**“AN INCREASE IN THE COUNTY COURT JURISDICTION IS LONG OVERDUE. THE IMPACT ON HOW INSURANCE CLAIMS ARE DEALT WITH IS POTENTIALLY VERY SIGNIFICANT. THE HOPE IS THAT REFORM WILL IMPROVE THE SPEED AND EFFICIENCY OF LITIGATION IN NORTHERN IRELAND.”**

GRAEME MOORE, PARTNER BLM

## TOP ISSUES:

Increase in class action lawsuits

Introduction of litigation financing

More demanding insureds

## RIISA & CO

# NORWAY

The property and casualty insurance market is still hardening, as lately the premiums seem to have increased across all segments by around 20%. In particular, professional liability premium levels have been skyrocketing lately due to large claims payments.

The Norwegian insurance market is still dominated by four large companies with a combined market share of 75 %, while smaller companies are competing for the remaining 25%. This situation has been fairly stable for the last couple of years.

An upcoming trend in the Norwegian market is class-action lawsuits, as well as the introduction of third-party litigation arbitration funding. There is also renewed interest in compensation relating to natural disasters, after a massive landslide swept away several houses and left ten people dead in Norway last December. Furthermore, the trend for insurance customers to increase their needs and expectations from their insurance companies also continues to grow.

## INSURANCE INDUSTRY AT A GLANCE

# 25

Registered firms

# 673.283.14 NOK

Value of Premia



Aksla Viewpoint, Alesund, Norway



## MORE DEMANDING INSURED

The expectations that insurance customers have of their insurance experience have changed in recent years. Customers are becoming more demanding, starting from the first steps of taking out policies right through to the claims-handling process when damages and accidents occur.

Customers expect an easy and efficient journey where they can choose from off-the-shelf insurance solutions online, without the need of sales representatives.

Norwegian insurance customers expect ever better follow-up from the insurance companies, digital platforms with easy access to documents and direct contact with claims handlers. Customers also expect value beyond mere claims handling, such as having access to insurance company partners.

**“INSURERS NEED TO UNDERSTAND AND ADAPT TO NEW AND INCREASED NEEDS AND EXPECTATIONS FROM INSURANCE CUSTOMERS.”**

MARIT ASPHAUG, PARTNER, RIISA



## INTRODUCTION OF LITIGATION FINANCING

Litigation and arbitration funding is still uncommon in Norway. When Therium Nordic launched in Norway five years ago it became the first company to offer litigation funding services in the country. By May last year, Therium had allegedly funded six lawsuits in Norway, most notably the class-action suit against two alarm companies.

Other European litigation funding companies have started to see the potential in the Norwegian market, and with the increased awareness of such funding's the number of claims is expected to rise.

But this new product has also raise regulatory issues that are not yet fully clarified. Recently the Financial Supervisory Authority of Norway has taken a closer look at the activities of Therium's operations in Norway and stated that such activities are subject to license. The Authority's decision has been appealed and is currently pending a decision at the Ministry of Finance. A clarification is expected later this year.

**“THIRD-PARTY LITIGATION FUNDING IS STILL RARE IN NORWAY BUT IS LIKELY TO INCREASE IN THE YEARS TO COME ALONGSIDE THE GLOBAL DEVELOPMENT OF THIS DISPUTE TOOL. THERE IS GOOD REASON TO BELIEVE THAT CLASS-ACTION LAWSUITS WILL EXPAND WITH INCREASING THIRD-PARTY LITIGATION FUNDING.”**

YNGVE SKOGRAND, PARTNER, RIISA



## INCREASE IN CLASS ACTION LAWSUITS

Legislation on class-action lawsuits was first introduced in Norway with the Dispute Act, which entered into force in 2008. Since then, the public awareness of class action has increased, and a few high-profile lawsuits have already been filed. One such lawsuit is a claim against two alarm companies for illegal cartel activity, which could involve nearly 400,000 customers. There is also a lawsuit emerging against an electric car maker, where plaintiffs demand compensation for misleading advertising of the car's range. A group of more than 1,000 Norwegian owners of cabins in Sweden brought suit against the Norwegian government claiming that the covid regulations regarding quarantine obligation upon return to Norway was unlawful. Oslo District Court found in favour of the plaintiffs as it ruled that the government had not given sufficient grounds for the obligation. The district court decision was however overturned by Borgarting Appeal Court in their decision of June 7th 2021 as the appeal court found that the quarantine obligation was neither in violation of the European Convention on Human Rights nor the Norwegian Constitution.

**“WE WILL SEE AN INCREASE IN CLASS-ACTION LAWSUITS IN THE COMING YEAR FROM DISSATISFIED CONSUMERS.”**

JOACHIM SKJELSBÆK, PARTNER, RIISA

## TOP ISSUES:

Ongoing disparity between Scotland and England on awards in high-value injury claims

Costs reform for all Scottish personal injury claims, including disease claims and fatality claims

Redress and damages for survivors of non-recent childhood abuse

## UK INSURANCE INDUSTRY AT A GLANCE

# 402

Registered firms

# \$418.666.8

# MILLION

Value of Premia

## BLM

# SCOTLAND

Following the elections to the Scottish Parliament in May 2021 the Scottish constitutional and socio-economic landscape remains uncertain after pro-independence parties (the SNP and the Scottish Greens) collectively gained an overall majority in the Scottish Parliament (albeit with the SNP alone forming a minority government). So seven years on from the 2014 55% majority support for “no” to Scottish independence from the rest of the UK, this question has not gone away. This challenge in horizon-gazing then is exacerbated by the ongoing effects of the COVID-19 pandemic. Meantime, we may usefully reflect on certain legislation passed during the fifth session of the Scottish Parliament because, left unaltered, this will affect insurers and their customers for many years to come.



Quiraing, Isle of Skye, Scotland





## REDRESS AND DAMAGES FOR SURVIVORS OF NON-RECENT CHILDHOOD ABUSE

2021 redress legislation - albeit awaiting being brought into force - establishes a payment scheme for survivors abused as children (under 18) in relevant in-care residential premises in Scotland, whether before or after 1964 but before 1 December 2004. However, instead of applying for redress, survivors of post-1964 abuse may still litigate for damages because the Scottish three year limitation triennium has been abolished, both retrospectively and prospectively, for personal injury claims arising from childhood abuse though two time-related defences remain, regarding a "fair hearing" and regarding "substantial prejudice" sufficient to outweigh the claimant's interest in the litigation proceeding. Those accepting redress are to sign a litigation waiver.

**"THE REDRESS LEGISLATION PROVIDES FOR ONLY A SHORT 18 MONTH POST-IMPLEMENTATION REVIEW ON THE WAIVER'S IMPACT."**

FRANK HUGHES,  
PARTNER, BLM

## COSTS REFORM FOR ALL SCOTTISH PERSONAL INJURY CLAIMS, INCLUDING DISEASE CLAIMS AND FATALITY CLAIMS

Qualified One-way Costs Shifting (QOCS) is to apply to all Scottish personal injury claims - including disease claims and fatality claims - litigated from 30 June 2021. Under Scottish QOCS, an award of expenses against an unsuccessful claimant will be significantly harder to achieve than previously in Scotland but with material differences in Scottish QOCS in comparison with England & Wales. Scotland has no statutory provision on "fundamental dishonesty" so those words are not used for the purposes of the Scottish honesty-related qualification to the costs shift, which focuses instead on "fraudulent representation". Also unlike England & Wales, mesothelioma claims are not excluded from QOCS in Scotland. The language of Scottish QOCS is new and will likely require judicial explanation to define its parameters.



**"UNDER STATUTE, THE OPERATION OF QOCS IN SCOTLAND IS TO BE REVIEWED AS SOON AS PRACTICABLE AFTER 5 JUNE 2023."**

KAREN DANCE,  
PARTNER, BLM



## ONGOING DISPARITY BETWEEN SCOTLAND AND ENGLAND ON AWARDS IN HIGH-VALUE INJURY CLAIMS

The first statutory review of the Scottish personal injury discount rate (PIDR) will take place in 2024 though Scottish Ministers have power to require a prior ad hoc review. Under the Scottish legislative methodology, the Scottish PIDR was re-affirmed at minus 0.75% in October 2019, half a per cent lower than the minus 0.25% PIDR set for England & Wales in August 2019. This difference can cause a massive, upwards, increase in damages for serious personal injury claims in Scotland compared to England & Wales. The impact of this difference can be exacerbated by the ongoing absence in Scotland of periodical payment orders (PPOs) imposable by the courts. The Scottish PIDR legislation provides for imposable PPOs but these provisions remain to be implemented.

**"SCOTLAND REMAINS A MORE EXPENSIVE JURISDICTION THAN ENGLAND & WALES FOR INSURERS IN PERSONAL INJURY LITIGATION."**

RACHEL HENRY, PARTNER AND  
HEAD OF CATASTROPHIC INJURY  
IN SCOTLAND



## TOP ISSUES:

Covid-19 vaccinations

New claims

Cyber risk and digitalization

# B&A BLANCO Y ASOCIADOS ABOGADOS SPAIN

All the financial gurus forecast that 2021, while not as good as 2019, would still be good in terms of GDP growth and decrease of unemployment. Nevertheless, once the COVID-19 crisis started, the effects of restrictions derived from the fight against the pandemic started to have a negative impact from March on employment, business and the solvency of individuals and companies. This also impacted, of course, the insurance sector.

COVID-19 is estimated to become one of the most expensive global events in history for the insurance sector. Moreover, the new coronavirus vaccines are creating uncertainty in the industry, and until immunisation is completed throughout the globe, the insurance industry will not really know the total impact on their balance sheets.

Meanwhile, new COVID-19 claims are arising that will affect the insurance market. Several lines of insurance will be affected, and companies will have to digitalise and implement new technologies in order to adapt to the new post-COVID normality.

## INSURANCE INDUSTRY AT A GLANCE

# 207

Registered firms

# €58.8 MILLION

Value of Premia



Parc Güell at sunset, Barcelona, Spain

## COVID-19 VACCINATIONS

The impact of coronavirus on the Spanish insurance industry shows many similarities with that of the 2008 world financial crisis, although in the current crisis the intervention of the European Central Bank is allowing Spain to finance itself at reduced costs.

Meanwhile, the situation is beginning to improve. As vaccination progresses in Spain, there is a dilution of the more pessimistic scenario predicted at the end of last year, gradually giving way to a better return on investments and with it to the increase in the contracting of insurance and the increase in premiums. There are also classes of insurance whose level of premiums has increased notably, such as D&O or surety insurance.

In addition, the immunisation process against Covid-19 has triggered inquiries about delivering insurance policies that cover the possible negative effects of the vaccine.

**“LOOKING TO THE END OF 2021. WE EXPECT A GRADUAL INCREASE IN THE CONTRACTING OF NON-LIFE INSURANCE CONTRACTS.”**

FERNANDO BLANCO GIRALDO. SENIOR PARTNER. B&A BLANCOS Y ASOCIADOS ABOGADOS



## CYBER RISK AND DIGITALIZATION

In an increasingly digitized world, the use of new technologies is more frequent for everyone, of all age ranges. With the situation generated by Covid-19, we have advanced in just a few months what we would otherwise have advanced in the next five years.

In the insurance sector, online insurance contracting has exploded in use, generating a series of synergies that have led consumers to find a simpler and more practical way of contracting products.

The direct effect of the above is undoubtedly going to be the increase in cyber incidents or cybercrimes, which will continue to damage the operating systems of companies and public entities, as they will become more frequent every day. The good news for insurers is that this is leading to a corresponding increase in the sale of cyber insurances.

Lastly, it should be noted briefly the importance of Artificial Intelligence (AI), which will increase our agility in the insurance buying process, improve customer loyalty and efficiently manage claims, making possible the detection of potential frauds and malpractice.

With this in mind, investors will invest in technological implementation for the management of processes in the areas of compliance, data governance, risks and fraud.

**“THE THREE MONTHS OF CONFINEMENT HAVE ACCELERATED THE DIGITIZATION OF THE INSURANCE WORLD BY FIVE YEARS.”**

FERNANDO BLANCO GAMELLA. ASSOCIATE. B&A BLANCOS Y ASOCIADOS ABOGADOS

## NEW CLAIMS

The biggest claims issues all centre around Covid in Spain.

In the Covid-19 crisis, some lines of business such as healthcare, travel and event cancellation or credit insurance, among others, have been seriously impacted with a corresponding increase in claims.

One significant line of business affected is BI coverage insurance. This is not yet fully apparent but we believe that in the next few months we are likely to see an increase in claims, as soon as companies have quantified their full loss of earnings.

Finally, it is reasonable to expect that there will also be a noticeable increase in claims against D&O insurance, due to the bankruptcy of enterprises. The more the profit and loss accounts are constricted, the more risks managers have to take with the consequent exposure to future losses. D&O is the class of insurance where the impacts of poorly considered corporate risk-taking will be felt most deeply.



**“WE ARE ALREADY SEEING CLAIMS FOR BI COVERAGE AGAINST INSURERS AS ARE OTHER COUNTRIES ACROSS EUROPE. THERE MAY BE A FURTHER UPTICK IN THESE CLAIMS BY THE END OF THE YEAR.”**

SANTIAGO MARTIN. PARTNER. B&A BLANCOS Y ASOCIADOS ABOGADOS



## TOP ISSUES:

COVID-19 losses

Amendment of the Swiss Insurance Contract Act

Innovation among insurers

## GBF ATTORNEYS-AT-LAW LTD

# SWITZERLAND

A pandemic, an unchanged interest rate environment, a revised Insurance Contract Act, an uncompromising watchdog, new regulations and even more technology are shaking up the Swiss insurance market. This aggregation of claims and challenges appearing on the radar poses serious challenges for insurers.

There is still uncertainty about how the die will be cast with regard to pandemic-related losses. The practical effects of the revision of the Insurance Contract Act are eagerly being anticipated. Artificial Intelligence powered by Big Data is here to stay. There is no opportunity to pause and take a breath. Insurers are well advised to take these challenges seriously and consider that they can be mutually reinforcing. But the future need not be gloomy. Insurers that have their house in order and adapt quickly to the new environment will be able to defend their market shares against non-market challengers and create new value-creating ecosystems.

## INSURANCE INDUSTRY AT A GLANCE

# 200

Registered firms

# CHF130 BILLION

Value of Premia



Appenzell, Switzerland

## COVID-19 LOSSES

After years of calm and the certainty that not even a full-blown financial market crisis could upset the Swiss insurance market, COVID-19 arrived. Non-life insurers have been exposed to more and higher losses, especially from business interruption claims, which are currently being judged in court. They do not yet have any certainty whether these aggregate losses will be covered under standard reinsurance contracts. Added to this are the losses caused by cyber criminals taking advantage of the sudden shift to remote working. Life insurers are challenged by the low interest rate environment prolonged by the pandemic, while impressive promises made to policyholders many years ago now weigh heavily on them. Needless to say, the Swiss Financial Market Supervisory Authority FINMA has intensified its supervision and is meticulously monitoring the financial situation of insurers. It is to be expected that despite the pandemic, it will uncompromisingly insist on enforcing the difficult-to-navigate regulatory environment and will not shy away from reporting to law enforcement agencies. There is a feeling that the playing field has permanently changed. Some players can be expected to bow out of the competition.



**“THE SWISS REGULATOR HAS SHIFTED UP A GEAR. NOT ALL INSURERS WILL WANT TO KEEP UP THE PACE.”**

DOMINIK SKROBALA, PARTNER,  
GBF ATTORNEYS-AT-LAW



## INNOVATION AMONG INSURERS

Artificial intelligence has entered the stadium. Measuring risks in real time is becoming a reality, and big data is becoming a very important competitive advantage. For years, it has been predicted that large international technology companies and platforms will enter the insurance market and challenge insurers - similar to the challenge that banks are facing in their core business from innovative payment service providers. However, the complex regulatory framework as well as the high turnover and low profitability of newly founded insurtechs still pose major obstacles for the challengers. But this could change soon, as the new Swiss Insurance Supervision Act provides sandboxes for innovative business models. Insurers will now see less restriction by the regulator from investing in non-insurance business, try to leverage their existing customer basis, and tap into new ecosystems before technology companies gain a foothold. They will have to prove that the new ecosystems will one day be able to replace the profits from the already saturated core business.

**“COBBLER, STICK TO THY LAST – IT WILL BE EXCITING TO SEE FOR WHICH NEW AND OLD MARKET PARTICIPANTS THIS SAYING WILL APPLY.”**

DOMINIK SKROBALA, PARTNER,  
GBF ATTORNEYS-AT-LAW

## AMENDMENT OF THE SWISS INSURANCE CONTRACT ACT

The Swiss Insurance Contract Act (ICA) is over 110 years old, and it did not age well. One of its distinguishing features is that some of its provisions aimed at protecting consumers are also applicable to professional policyholders. After a total revision of the ICA failed almost ten years ago, a partial revision will come into force on 1 January 2022, which will bring some very important changes. For example, the ban on retroactive insurance, which has been ignored in practice for some time, will now be formally repealed. The statute of limitations for claims arising from insurance contracts will now be five years after the occurrence of the fact, giving rise to the obligation to pay benefits. The most important change for industrial insurers, however, is that insurance contracts with professional policyholders may deviate from the mandatory provisions of the ICA. Insurers operating in the Swiss market are thus well advised to say goodbye to contractual provisions that have been set in stone for 110 years and to prepare for the influence of provisions that have long been established in other markets.



**“IT REMAINS TO BE SEEN WHETHER ALL INSURERS WILL TOLERATE WELL THE INFUSION OF NEW INSURANCE PROVISIONS MADE POSSIBLE BY THE REVISION OF THE INSURANCE CONTRACT ACT.”**

DOMINIK SKROBALA, PARTNER,  
GBF ATTORNEYS-AT-LAW



## TOP ISSUES:

Cancelation of the "General Conditions" provision in the Highway Traffic Law

Recent developments in cyber security

Izmir Earthquake

# DURUKAN TURKEY

One of the many things that the Covid-19 pandemic has brought to our lives is the changes in customers' social behaviors and the formation of new habits to accommodate the post-pandemic world. These changes have encouraged the insurance industry to develop new policies and products.

The insurance sector in Turkey is reshaping in line with the new needs of its clients and continues to grow.

Postponement or cancellation of travel plans, curfews and restrictions affected travel health and cancellation policies. Travel health insurance was the product segment that was most impacted by the epidemic.

With the pandemic, new product portfolios are emerging in the insurance sector. New areas such as cyber-attacks, loss of profits and business interruption cover are attracting the attention of insurance companies and insurers. Perhaps the greatest benefit of this period is that the rapidly changing environment accelerates development, with a corresponding increase of new thoughts and investments in related fields.

## INSURANCE INDUSTRY AT A GLANCE

# 61

Registered firms

# \$12.125.9 MILLION

Value of Premia



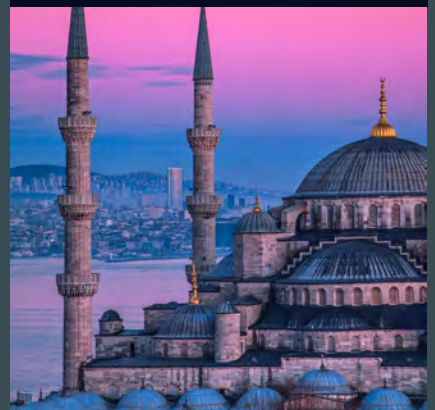
Hot Air Balloons rise up over the Goreme Valley in Cappadocia, Turkey



## İZMİR EARTHQUAKE

The earthquake occurred 6.9 magnitudes on October 30, 2021, at İzmir, a city located in the Aegean Region. As a result, 114 people lost their lives. Many buildings were destructed, and hundreds more were damaged. The insurance sector worked intensively in the region with its stakeholders to alleviate the pain of the İzmir-based earthquake. Insurance companies took action immediately to help the many injured and homeless people impacted by the earthquake. Insurance companies' call centers and emergency desks worked 24/7 to record damage to policyholders.

This event has once again brought home how important insurance companies and the rate of insurance is so that we can return to our lives with the minimum damage after such catastrophic events and natural disasters. After the earthquake, the ratio of mandatory earthquake insurance increased from 57 percent to 61.40 percent in the Aegean Province. The penetration of insurance is important to increase of insurance ratio.



**“EXPERIENCING ONE OF THE MOST DEVASTATING NATURAL DISASTERS IN THE REGION HAS SEEN HAS REMINDED US OF THE IMPORTANCE AND NECESSITY OF UNDERTAKING FULL “HAZARD AND RISK ASSESSMENT SCENARIOS.”**

ZEYNEP ECE UYARER,  
ASSOCIATE, DURUKAN

## RECENT DEVELOPMENTS IN CYBER SECURITY

Cyber insurances offer an innovative package of protection against the potential damage of data breaches. Digital transformation provides companies with numerous opportunities that increase innovation, efficiency, and profitability. However, emerging technologies also bring security risks such as data breaches and cyberattacks. After the covid-19 pandemic, the increase in remote working practices has led companies to be much more careful about cybersecurity, and interest in cyber liability insurance has increased.

In Turkish law, there is no regulation directly related to cyber insurance (as of today). Cyber insurance policies that protect from data breaches are offered by various insurance companies. Therefore, cyber insurance policies have been defined as insurance contracts based on freedom of contract between the insurer and the insured.

**“IN ADDITION TO CYBERSECURITY AND DATA PROTECTION LEGISLATION, INSURERS MUST CONSIDER MANY FACTORS TO PRODUCE SUSTAINABLE SOLUTIONS AND REALIZE THE FULL POTENTIAL OF CYBER INSURANCE.”**

MAHMUT BARLAS, PARTNER, DURUKAN

## CANCELATION OF THE “GENERAL CONDITIONS” PROVISION IN THE HIGHWAY TRAFFIC LAW

Under Turkish law, the liability of insurance companies for compensation arising from traffic accidents is determined primarily under the Highway Traffic Law and the General Conditions of Traffic Insurance. The General Conditions are the regulatory acts of the highway authority.

The Constitutional Court has cancelled the “General Conditions” provision in the Highway Traffic Law so that “General Conditions” will no longer be applied to determine compensation for traffic incidents. As a result, the role of the highway authority in determining the amount covered in traffic insurance has been eliminated.

The Constitutional Court has ruled that it is unconstitutional for the insurer liabilities arising from compulsory traffic insurance to be assessed under the General Conditions of Traffic Insurance. The Court also underlined that granting the administration with such authority for calculating the compensation would upset the balance of interest between the vehicle owner, the insurance company.

**“THIS DECISION, WHICH IS IN FAVOUR OF THE INSURED, WILL CREATE RADICAL CHANGES IN THE POLICIES OF THE INSURANCE COMPANIES AND THE PRACTICES OF THE COURTS.”**

KEREM KARABUCAK, PARTNER, DURUKAN



## TOP ISSUES:

Video Call to replace the long-standing in-person visit practice in insurance industry

COVID-19 related insurance policies introduced to the market

Major amendment to the Regulations Governing Insurance Brokers

## INSURANCE INDUSTRY AT A GLANCE

# 45

Registered firms  
(life and non-life)

# NTD 3.352 BILLION

Value of Premia

# LEE AND LI ATTORNEYS-AT-LAW TAIWAN

In 2020, the property insurance industry continued to maintain a high growth rate in infrastructure insurance arising from construction of offshore wind farm and major public infrastructure projects supported by the government's green energy policy. However, the travel insurance market witnessed a drastic fall due to the global COVID-19 pandemic. For the life insurance industry, due to the new interest rate adjustment mechanism in floating rate insurance products and stricter regulatory requirements on investment link insurance products, the overall life insurance market premium income has declined comparing to the previous years. Nonetheless, the profits of the life insurance companies still grew due to increase in the value of financial assets.

The first two issues chosen for this year are focusing on the changes in the insurance industry due to COVID-19 pandemic in the past year and in current situation. The insurance industry is developing new methods and products hoping to seek opportunities in this unprecedented crisis. The last issue is aiming to give a brief introduction to the key points of the new amendments to the Regulations Governing Insurance Brokers.



Skyline of Taipei at night



## MAJOR AMENDMENT TO THE REGULATIONS GOVERNING INSURANCE BROKERS

In early 2021, the Financial Supervisory Commission of Taiwan amended the Regulations Governing Insurance Brokers to promote the sound operation of insurance broker companies. In particular, the amendments has raised the minimum paid-in capital requirement for newly establishing insurance broker companies. Moreover, to enhance the transparency of relevant operation of reinsurance arrangements as well as strengthen reinsurance-related supervision and market discipline, the amendment stipulated that reinsurance-related documents and information must be preserved, ready for inspection by the competent authority, and be submitted to the original insurer. The amendment also stipulated that if an insurance broker company appoints a foreign broker to arrange reinsurance, it must obtain the consent from the original insurer in advance, and the foreign broker must meet regulatory requirements.

**“FACING THE CHALLENGES ARISING OUT OF STRINGENT REGULATION. OUR CLIENTS SHOULD ADJUST TO THE STRICTER SUPERVISION BY BEING ATTENTIVE TO LEGAL COMPLIANCE AND CORPORATE GOVERNANCE.”**

C.T. CHANG, LEE AND LI,  
ATTORNEYS-AT-LAW

## VIDEO CALL TO REPLACE THE LONG-STANDING IN-PERSON VISIT PRACTICE IN INSURANCE INDUSTRY

The long standing practice for insurance agent to pay in-person visit to customers to solicit new policies, underwrite, or settle claims is facing new challenges by quarantine restrictions due to COVID-19 pandemic. The Financial Supervisory Commission of Taiwan has proposed a temporary guideline to minimize any person-to-person contact while keeping the industry running smoothly. One of the major policies includes using video/phone calls to replace in-person visits. The customer shall present personal ID to verify his/her identity while the insurance agent shall keep records of the calls, consents given, documents or images for further verification. Although the measures are deemed temporary, it is possible that video/phone calls may be adopted as a new general practice and become a major reformation in the insurance industry post COVID.

**“BY ADOPTING NEW MEASURES AND TECHNOLOGIES. THE LOCAL INSURANCE INDUSTRY IS STILL ABLE TO THRIVE UNDER THE PRESSURE OF COVID.”**

C.T. CHANG, LEE AND LI, ATTORNEYS-AT-LAW



## COVID-19 RELATED INSURANCE POLICIES INTRODUCED TO THE MARKET

Since mid-2020, several property insurance companies have launched COVID-19 insurance policies, including coverage and compensation for medical and hospitalization expenses for policyholders who are either infected with the virus or placed in mandatory self-isolation quarantine. One of such policies can even be purchased at a minimum cost of NT\$ 500 (approximately US\$18). Similarly, life insurance companies have been promoting spillover insurance policies to encourage COVID vaccination. Following the rising numbers of domestic cases in mid-2021, the Insurance Bureau of the Financial Supervisory Commission of Taiwan has also encouraged insurance companies to offer COVID insurance policies to provide financial support for people suffering economic losses from the pandemic or related governmental restrictions and be lenient when reviewing policyholders' claims to safeguard the rights of policyholders.

**“THE GROWING DEMAND FOR COVID INSURANCE POLICIES REVEALS HIDDEN BUSINESS OPPORTUNITIES AND HINTS AT A NEW TREND FOR THE INSURANCE INDUSTRY.”**

C.T. CHANG, LEE AND LI, ATTORNEYS-AT-LAW



## TOP ISSUES:

Increased focus on  
cyber-security

M&A deals at an all-time  
high

Regulatory oversight  
increases

# UNITED STATES

The US insurance market looks likely to ride into growth in 2021, but the road could be bumpy along the way, with a lot of change to be considered on all sides.

With the election of President Biden, the country saw radical political change at the beginning of 2021. His administration brings both an increased focus on regulation that will impact insurers particularly and a massive economic stimulus to the US economy that will also benefit domestic insurers. As a result, many industries are considering growth through acquisition – a wave of M&A is underway, and insurance is no exception to this trend.

Finally, the cyber market continues to see significant developments on all fronts, as insurers grapple with major ransomware attacks (in some of which they themselves have been targets), an associated rise in claims, and a high level of political and law-enforcement interest in managing risk in this area.

## INSURANCE INDUSTRY AT A GLANCE

# 5965

Registered firms

# \$2.62 BILLION

Value of Premia



Golden Gate Bridge, San Francisco, United States

## INCREASED FOCUS ON CYBER-SECURITY

In 2021 the cyber market in the US looks set to experience a number of significant shocks as it matures, as well as potentially change the way policies are structured. The last few months have seen some extremely significant ransomware attacks, including one which caused a complete outage of a critical oil pipeline in the US. More significant still is that, in this case, the company eventually recovered the ransom that was paid with the help of the FBI, who tracked the bitcoin payment and forced its repayment. But hackers are becoming ever bolder and are now targeting insurers themselves with ransomware attacks, seeing these as offering 'bragging rights' for the criminals who can claim to have extorted money from the very companies that protect their victims.

For insurers, these changes are significant. Evidence is that many insurers are seeing high levels of ransomware claims, and we believe that changes to coverage may result – although these are not yet evident across the market. In addition, the US federal government is actively involved in this space, both as a law-enforcer and combating foreign state-sponsored hacking programmes. Corporately, cyber insurance is likely to become more in demand – and this could drive capacity challenges when coupled with higher claims. Overall, this class of insurance could find itself at the centre of major client, regulatory and government storm in 2021 with reputational implications for insurers who read the market wrongly.

**“CYBER INSURERS COULD SEE THEMSELVES IN THE SPOTLIGHT ON A NUMBER OF FRONTS. AND NEED TO MAINTAIN FOCUS ON PROFITABLE UNDERWRITING. AS WELL AS HOW TO HELP CLIENTS MANAGE RISKS UP FRONT.”**

JIM SHERWOOD, CHAIRMAN, GILC

## REGULATORY OVERSIGHT INCREASES

In 2020 US regulators continued fine-tuning existing regulations, while they also expanded their reach into new areas – most particularly climate risk and insurtech supervision. Several recent regulatory actions indicate clearly that insurers can anticipate higher levels of accountability and enforcement moving forward. Data remains a key focus, with privacy laws and increases in pandemic-related digital customer engagement requiring insurers to increase their own focus on data governance. Regulators also remain intensely interested in how effectively insurers' core risk management and compliance frameworks are embedded, both operationally and culturally.

Meanwhile, the state-based system for insurance regulation continues to advance in spite of a new US president and associated federal change. State insurance regulators in the US have recently been boosting their regulatory capabilities, with a renewed focus on consumer protection, and this needs careful watching over the next few months, as a new President of the National Association of Insurance Commissioners pushes an activist agenda for state insurance regulators across the US.

**“INSURERS CAN EXPECT THE REGULATOR TO TAKE AN INTEREST IN NEW AREAS. SUCH AS INSURTECH. BUT THERE WILL ALSO BE A FOCUS ON OPERATIONAL STABILITY AS THE ERA OF BIG DATA CONTINUES TO IMPACT INSURANCE. AS IF THAT ISN'T ENOUGH. WATCH OUT FOR MORE INTERVENTION AT STATE LEVEL TOO.”**

JIM SHERWOOD, CHAIRMAN, GILC

## M&A DEALS AT AN ALL-TIME HIGH

Given the number of deals announced in recent months, we predict that US insurance M&A will surge in 2021. The number of completed deals worldwide is likely to surpass 220 in a six-month period for the first time since 2019 and could go even higher in the second half of the year.

Insurance deal-makers' appetites have been refreshed, buoyed by growing confidence in the economic outlook and the sense that there are opportunities to be had. This is particularly the case internationally. Where the focus in 2020 was domestic, the evidence is that in 2021, insurers, brokers and service companies are seeing opportunities overseas, especially in the UK and Europe. The availability of plentiful capital, combined with a deeper pool of targets, will give buyers plenty of choice although we expect them to select acquisitions carefully to ensure the best fit with their strategic objectives.



**“DESPITE MARKET HARDENING. MANY OF THE FUNDAMENTALS DRIVING US INSURANCE M&A REMAIN IN PLAY. INSURERS ARE LOOKING TO DIVERSIFY PORTFOLIOS AND GROW MARKET SHARE. AND ARE SEEING OPPORTUNITIES IN WELL-PRICED COMPANIES OVERSEAS. ON TOP OF THIS THERE IS AN ONGOING SEARCH FOR NEW DIGITAL CAPABILITIES. WHICH ARE OFTEN FOUND THROUGH ACQUISITION.”**

JIM SHERWOOD, CHAIRMAN, GILC



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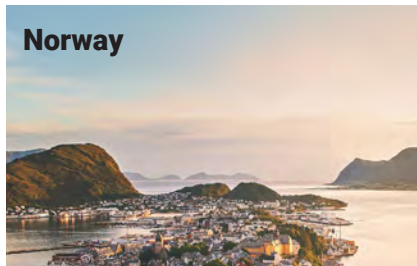
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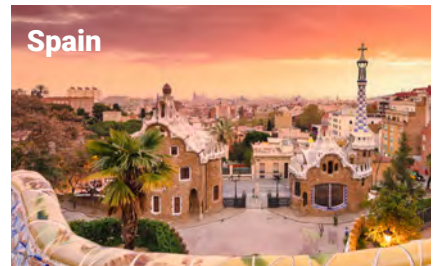


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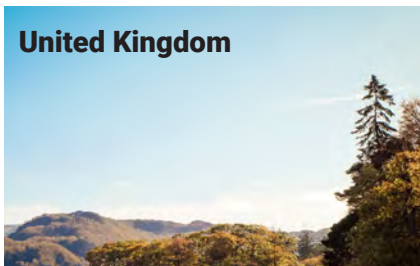


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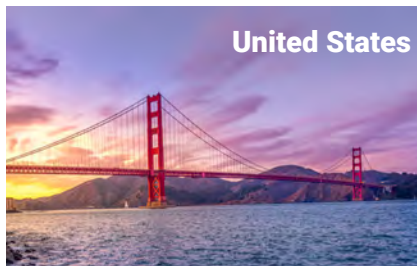


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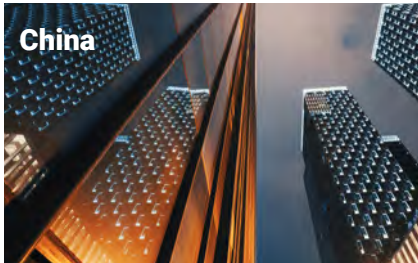
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## United States

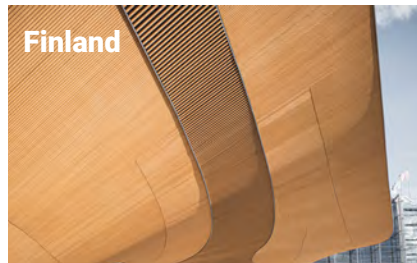


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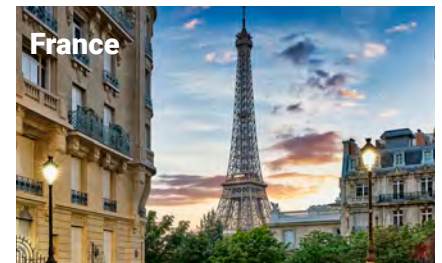
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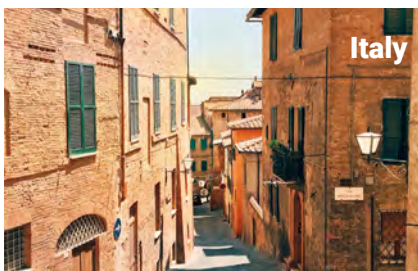
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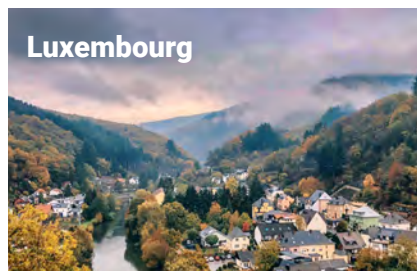
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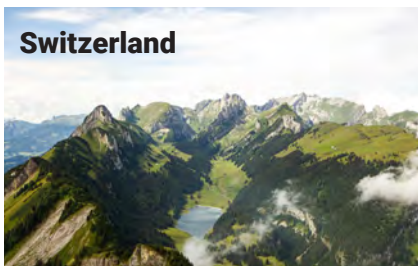
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