Insurance law

Insurance in a changing world

August 2026

Insurance law

The insurance sector is a driver of growth and an essential component of the German economy. It allows companies to do business by safeguarding them against risks and creating space to innovate. However, the sector itself also faces profound changes: The digital transformation, artificial intelligence (AI), climate risks, geopolitical uncertainty and new, complex damage scenarios all require maximum flexibility and innovation. Remaining competitive in this dynamic environment not only calls for effective risk management, but also far-sighted and technologically adept legal advice.

CMS is one of the leading German law firms for insurance law. Our specialist team has in-depth industry knowledge and delivers comprehensive advice on all areas of insurance contract law, insurance intermediary law, insurance regulatory and company law as well as insurance competition law.

Our expertise covers:

- legal support in product development and product monitoring
- the sale of insurance products
- representation both in court and out of court, particularly in complex cases involving major insurance claims and in national and international judicial and arbitration proceedings

In addition, we advise insurers on everything related to business law, from regulatory and company law, corporate finance, compliance, M&A and insolvency law to tax law, data protection, competition law and trademark law. We are on hand for our clients even in specialist areas such as marine insurance law. Our clients are major German and international insurance companies, reinsurers, Hanseatic underwriting agents and insurance brokers.

We pride ourselves on our:

- specialist expertise
- efficient and practical advice
- close collaboration with our clients' in-house teams
- use of legal tech and AI-assisted analyses to optimise processes and decision-making

We support our clients' in-house teams with practical advice to actively help them succeed. As part of the international CMS Insurance Sector Group, which comprises some 100 lawyers through Europe who specialise in insurance law, we are able to provide seamless advice to our clients even on cross-border matters while always giving full consideration to the local legal systems.

Insurance law reimagined – with sector focus and foresight

The services we offer are designed around the challenges our clients face: individual, efficient and future-facing.

Insurance regulatory law

The advice we provide is tailored to the individual needs of our clients. We have been advising a large number of insurance companies on issues around insurance regulatory law for many years – offering practical, strategic advice with a profound understanding of regulatory developments. We represent our clients' interests before the German Federal Financial Supervisory Authority (BaFin) in the context of ongoing oversight and advise companies on entering the German insurance market, from initial licensing to strategic positioning.

Our advice on regulatory matters in the insurance sector spans in particular:

— Issues surrounding licensing of new market players, for instance in relation to permission to operate a business or notification of freedom to provide services and of establishment in other EU/EEA countries
— Advice on the impact of EU sanctions regulations on the insurance sector
— Approval procedures, including for changes to the business plan and articles of association
— General regulatory constraints on product design
— Risk management in accordance with the MaRisk (VA) risk management regulations for insurers
— Changes resulting from Solvency II and other ongoing developments
— Outsourcing agreements
— Owner control
— Remuneration systems for insurance companies
— Caps on commission and liability for cancellation in health insurance
— Supporting insurance companies during external audits by BaFin
— Transfer of insurance portfolios
— Business operations of foreign insurance companies in Germany
— Regulatory issues relating to investing in funds (in particular investment in debt, companies, real estate and funds)
— Regulation of reinsurance companies
— Other matters relating to ongoing regulation

Handling claims

CMS has many years of in-depth expertise in all areas of substantive insurance law, including marine insurance and reinsurance law. We act on behalf of insurers and major companies on insurance claims, even internationally, both in court and before trial.

Other areas of insurance law

We provide comprehensive and future-facing advice in the following areas:

— **Insurance terms and conditions und product literature**
Revising, updating and reviewing the terms and conditions of your insurance policies and product documentation on legal grounds
— **Product development and innovation**
Legal assistance in developing new insurance products and enhancing existing offers, particularly as a result of changes in case law at the highest instance
— **Contract design and advice when entering into contracts**
Support with designing and entering into legally compliant insurance contracts – nationally and internationally
— **Reviews of coverage and handling claims**
Answering questions regarding coverage under existing insurance contracts and strategic advice in handling claims

- **International insurance programmes**
  Structuring and legal assistance for cross-border insurance programmes – including compliance and regulatory requirements
- **Advice on competition law**
  Inspecting cooperation agreements between insurance companies for admissibility under competition law
- **Data protection in insurance**
  Advice on issues under data protection law in connection with insurance contracts, claims for damages and digital processes

Insurance intermediary law

We advise insurance companies and intermediaries on all issues around the law of insurance intermediaries and commercial agents. Our portfolio of services covers the full range of insurance sales law – from direct sales and distance selling to brokerage by insurance agents and brokers.

We are on hand to help you with our well-founded expertise both out of court and in court – particularly in liability cases in connection with mis-selling or disputes in distribution law.

Some of the topics our advice covers are:

- Licensing procedures in accordance with section 34d German Trade, Commerce and Industry Regulation Act (GewO)
- Obligations under sections 59 ff. German Insurance Policy Act (VVG)
- Contract drafting
- Fee agreements
- Enforcement of claims for clawback of commission
- Breaches of competition regulations
- Suspected fraud by insurance intermediaries
- Access to records
- Cross-border insurance brokerage
- Compliance in sales

D&O insurance: Strategic advice for companies and executives

CMS has many years of comprehensive expertise in advising on insurance law matters in complex D&O insurance claims – on behalf of both insurers and policyholders. Our clients include in particular financial services providers, DAX-listed companies and leading trading companies.

Our services extend from conventional advice and the assessment of complex claims with regard to liability and insurance cover aspects (claim monitoring for insurers) to enforcing claims in court. Additionally we offer support with drafting and agreeing D&O insurance contracts.

For insured persons (particularly members of executive bodies), we review their position in relation to insurance cover aspects and enforce justified claims against insurers.

The team

The core insurance law team is based in Cologne. We also advise clients at other locations, such as in Hamburg, where the team specialises in issues involving marine insurance law.

We take a full-service approach: We consider factors beyond insurance law and work closely with colleagues from other practice areas when needed. This way we ensure that our clients benefit from comprehensive advice. That is why our team not only includes specialists in insurance law, but also experts in commercial and corporate law, banking and capital markets law, employment law, competition law, intellectual property, data protection law and tax law.

Thanks to our international CMS network, we can directly draw on the know-how of our colleagues specialising in insurance law in many countries to solve cross-border issues.

CMS Hasche Sigle Partnerschaft mbB, registered office: Berlin (Charlottenburg District Court, PR 316 B). The list of partners and locations can be found on the website.