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International (Re)insurance Review 2025/26

Content

FOREWORD

Shaping the Future of Global (Re)Insurance: Key Developments and Emerging Trends

GLOBAL FEDERAION OF INSURANCE ASSOCIATIONS

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BIO

Susan Neely is Past President of the Global Federation of Insurance Associations (GFIA), a non-profit association established to represent national and regional insurance associations that serve the general interests of life, health, general insurance and reinsurance companies and to make representations to national governments, international regulators and others on their behalf.

She is also Past President and CEO emeritus of the American Council of Life Insurers (ACLI) where she led an industry whose mission is to help families live better lives by achieving financial security and certainty. Neely drove public policy and advocacy on behalf of ACLI's member companies before Congress, the administration, in all state capitals, and in the international arena.

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Shaping the Future of Global (Re)Insurance: Key Developments and Emerging Trends

The global insurance sector is currently navigating a landscape marked by significant developments and emerging trends that are reshaping its future. The Global Federation of Insurance Associations (GFIA) provides critical insights into these changes, emphasising the importance of adaptability and innovation in addressing the evolving needs of consumers and the challenges posed by global risks and protections gaps.

Through its 42 member associations and 1 observer association, GFIA represents the interests of insurers and reinsurers in 68 countries. These companies account for around 89% of total insurance premiums worldwide. GFIA brings perspectives from around the globe to reflect on how the industry will take up current and future challenges to both individuals and businesses, while advocating to policymakers to ensure they are involved in finding solutions.

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> GFIA has been actively engaging with global regulatory bodies to advocate for a balanced approach that encourages competitiveness and innovation while ensuring consumer protection.

Overview of key developments

Close collaboration with member associations around the world informs GFIA's global view on the most urgent developments and challenges facing the insurance industry. With a rapidly shifting environment – both literally, in terms of climate change, and figuratively, with societal changes – insurers remain at the centre of an evolving world, having to address challenges across economies, health systems, infrastructure and a digitalised landscape.

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Insurance protection gaps

One of the most pressing issues is the growing insurance protection gap, particularly in the areas of natcat, cyber, pensions and health. GFIA published a major report in 2023 underscoring the necessity for insurers and public authorities to work together on closing these gaps, thereby providing better coverage for individuals and businesses facing increasing risks from climate change and economic instability.[1] The report contains recommendations to policymakers on the actions that can have the largest potential impact on global protection gaps.

Regulatory landscape

The regulatory environment for the insurance sector is becoming increasingly complex. GFIA has been actively engaging with global regulatory bodies to advocate for a balanced approach that encourages competitiveness and innovation while ensuring consumer protection. In its latest report, GFIA also emphasised the need for adequate regulations that consider the key features of the insurance business model that make it a unique sector. Failing to recognise this by applying regulations from the banking sector threatens to undermine the effective functioning of the insurance sector and its important contributions to society. It would result in additional, unjustified operational and cost burdens that would ultimately be paid for by consumers. For regulatory and supervisory purposes, insurers should therefore be recognised as a separate and distinct sector.[2]

1. GFIA report, 'Global protection gaps and recommendations for bridging them' (2023), available on the GFIA website.
2. GFIA report, 'Insurance: a unique sector' (2024), available here.

The growing importance of financial inclusion and diversity, equity and inclusion (DEI)

Financial inclusion and DEI concerns are increasingly crucial in the insurance sector. Insurers recognise the need for inclusive products to provide for underserved and marginalised communities, thereby addressing the protection gaps exacerbated by economic disparities, limited financial literacy and by other issues such as disruptions caused by the COVID-19 pandemic.

Prioritising financial inclusion and DEI is essential from a moral perspective. Strategically, it is also necessary for insurers aiming to future-proof their business. Embracing these principles will help the industry enhance its relevance, expand its customer base, and contribute to more equitable and resilient societies.

GFIA and its members are committed to encouraging and promoting DEI across the sector and published principles in 2023 to support these efforts.[3] While recognising that financial inclusion and access to insurance have been a priority for numerous international organisations, the development of policy on DEI will necessitate broad consideration and consensus at both national and international levels.

Climate risks

Insurers around the world play an active role in protecting policyholders against the effects of climate change and in advising governments on adaptation and mitigation measures.

Any discussions aimed at addressing climate change must recognise that regulation is not the only – nor often the most appropriate – response, as governments and public authorities need to play a crucial role in enhancing resilience and adaptation measures.

GFIA believes that policymakers should ensure that any new regulatory and prudential proposals related to climate risk are proportionate and do not overlap with existing measures that already meet climate risk policy objectives. For GFIA, insurers need to address regulatory pressures but also align with consumer expectations for responsible business practices. In this context, GFIA developed a set of recommendations to help tackle climate change and the natcat protection gap.

Cyber risks

As the digital transformation accelerates, cyber risk has emerged as a critical area for insurers. GFIA has noted a significant uptick in demand for cyber insurance products, driven by the rise in cyberattacks and data breaches. Insurers are adapting their underwriting practices to include comprehensive assessments of cybersecurity measures, ensuring that policyholders are adequately protected against these evolving threats.

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Prioritising financial inclusion and DEI is essential from a moral perspective.

Emerging trends in the insurance sector

Dynamic and evolving trends in the insurance sector are shaping the future of the industry. Rooted in technological advancement, both insurers and consumers are fundamentally shifting the way insurance is viewed and delivered. As technology transforms processes and expectations, GFIA has observed the industry responding with innovative solutions to meet the evolving needs of the market.

3. ‘GFIA Principles on Diversity, Equity and Inclusion’ (2023), available here.

Technological advancements

Technological innovation continues to drive transformation within the insurance industry. The adoption of artificial intelligence (AI), machine learning, and big data analytics is enhancing risk assessment and underwriting processes. Insurers are leveraging these technologies to improve customer experiences through personalised products and efficient claims processing.

Changing consumer expectations

Today's consumers are more informed and demanding than ever. They expect transparency, flexibility and personalised services from their insurers, along with easier and instant access to products, increasingly facilitated by new technologies. Insurers will need to adapt to these changing consumer behaviours by offering tailored products that meet specific needs, including microinsurance. When looking at this issue, it remains important to consider that insurers must use differentiating – particularly in risk-based underwriting – which enables them to provide customised insurance solutions that better meet the needs of each individual customer, including those from diverse backgrounds. Insurance pricing, where not prohibited by local regulation, requires actuaries to apply risk-based differentiation while avoiding unfair discrimination.

> "The global insurance sector is at a critical juncture characterised by rapid change and evolving consumer needs.

Tackling future challenges in the insurance sector

The global insurance sector is at a critical juncture characterised by rapid change and evolving consumer needs. From addressing protection gaps to embracing technological advancements and climate initiatives, insurers must remain responsive in their strategies.

Despite challenges such as inflationary pressures and geopolitical uncertainties, the global insurance sector has shown resilience. That being said, GFIA underscores the importance of collaboration among the industry and policymakers to navigate future challenges effectively. Insurers can enhance their value propositions while contributing positively to global financial stability by leveraging innovation, focusing on consumer-centric solutions and developing public-private partnerships. The ability to adapt rapidly will be paramount for insurers aiming to thrive in this dynamic environment, positioning them to effectively meet the diverse needs of consumers and strengthen resilience against future risks.

BELGIUM

Belgian (re)insurance industry overview and outlook

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Sandra is a partner at Lydian, leading both the Insurance and Reinsurance team within the Commercial and Dispute Resolution practices.

With extensive experience in insurance law, liability issues, pensions law, and litigation, she advises Belgian and international clients, including insurance companies, professional organizations, and intermediaries.

Sandra combines a legal background with six years of experience at ING Insurance, offering a unique perspective on the sector's challenges.

Her expertise spans insurance distribution, regulatory matters, reinsurance, and corporate governance. Recognized as a leader in her field, she is ranked in the "Hall of Fame" by Legal 500 and has been instrumental in the firm's Tier 1 ranking in insurance law.

Sandra is an engaging speaker and lecturer, regularly contributing to the academic and professional insurance community.

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Hugo is a partner at Lydian, heading the Insurance and Reinsurance team within the Commercial and Dispute Resolution practices.

With over 30 years of experience in commercial law and litigation, he specializes in complex liability and insurance claims, including all-risk property, construction, BI insurance, D&O, professional indemnity, and product liability insurance.

Hugo is a trusted adviser to international and Belgian insurers, reinsurers, brokers, and law firms and is recognized as one of the top 10 Thought Leaders in Litigation in Belgium by Who's Who Legal.

He has been involved in many of the largest insurance disputes in Belgium and regularly handles arbitration and mediation cases.

Hugo's expertise, along with Sandra Lodewijckx, has contributed to Lydian's Tier 1 ranking in insurance law.

He is a sought-after speaker and author on insurance topics and holds numerous professional distinctions, including being ranked in the "Hall of Fame" by Legal 500.

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1. The Belgian insurance sector – bird's eye view

By way of reminder, the legislative framework on insurance matters in Belgium consists mainly of the 2014 Insurance Act, aka the law of 4 April 2014 on insurance, which governs, among others, the activity of (re)insurance distribution and implements the EU's Insurance Distribution Directive (IDD). The authorisation and supervision of (re) insurance undertakings is governed by the Insurance Supervision Act (aka the 'Solvency II law'), i.e. the law of 13 March 2016 on the statute and supervision of insurance and reinsurance undertakings, which implements the Solvency II Directive. Additional laws and implementing decrees govern specific aspects of insurance legislation, coupled with regulatory guidance according to the so-called 'Twin Peaks' model by, on the one hand, the national competent authority for prudential supervision, the National Bank of Belgium (NBB), and the national competent authority for supervision of (re) insurance distribution, the Financial Services and Markets Authority (FSMA), on the other.

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> The professionalism and expertise of both parties reduce the need for extensive regulatory intervention.

Established, traditional insurers continue to fill an important position on the Belgian market, generally regarded as conservative and characterized by steady, stable growth. In its most recent 2024 annual report (with comparative data relating to 2023 and 2022), the Belgian federation of insurance undertakings Assuralia notes an increase in overall premium collections by 5.3 %, for a total of € 32.1 billion, at the end of 2023. Notable changes occurred in the collection of individual life insurance with guaranteed interest, known as branch 21 policies, which increased by 5.7 % to € 6.3 billion in 2023. This confirms the previous year's upward trend, when an increase of 4.8 % to € 6.0 billion was recorded. Consumers are opting for security, leading to a decline in collections for branch 23 individual life insurance policies, which are linked to investment funds and thus carry greater inherent risk: these show a sharp 16.3 % decline in 2023, reaching € 2.8 billion, for the second year in a row after a temporary rebound in 2021. In 2022, a 10 % decline was recorded and premium collections amounted to € 3.4 billion. On average, the life segment still noted an overall 1.9 % increase (compared to a decline of -0.4 % in 2022). The non-life segment showed a steady growth of 9.1 %.

Despite this rather traditional mindset, insurers and distributors who are able to concentrate on new products to cater for new needs associated with e.g. climate change, pandemics and cyber risks, are more likely to be successful in the long run.

2. Key issues and recent developments

Throughout recent years, the heightened intensity and frequency of natural disasters has been a topic of heated debate: 156,000 claims were filed in 2019, together accounting for € 337 million in storm and flood damage; this rose to 185,000 claims in 2020 for € 368 million in damages. In 2021, a year marked by catastrophic floods in Belgium, those damages reached an unprecedented peak, with 158,000 claims amounting to € 2.8 billion in damages. In 2022, again 231,000 claims were noted for over € 650 million in damages. This amounts to an increase in the number of claims by 49 % and an increase in damages by 93 % in the period 2019-2022. In addition to storms and floods, drought also caused a lot of damage in this period. In consequence, both insurers and reinsurers fully take this into account in their models and pricing. Under the current regime, natural disasters as in 2021 threaten to become insufficiently insurable, or even uninsurable. Full coverage by insurance companies is not feasible due to prudential reasons and the need to keep premiums affordable. A new law to increase coverage of natural disasters was introduced end of December 2023, raising the applicable intervention ceiling per insurer (which caps the total amount a given insurer will have to disburse further to a natural catastrophe) more than fourfold. Despite this amendment of the 2014 Insurance Act, coverage remains limited; insurers have repeatedly pointed out that full coverage is only achievable via public-private partnerships. Discussions on how to close this so-called 'NatCat protection gap' are ongoing, but the insurance sector initially voiced its regret that the recent legislative change only related to an increase of coverage without addressing the role of the public authorities.

Following Brexit, Belgium (and Brussels in particular) has also become a hub for UK insurance undertakings, notably Lloyd's of London, to continue to service their EEA clients. As of the end of the Brexit transition period on January 1st, 2021, UK insurance undertakings and intermediaries can no longer rely on the European passport mechanism to provide their (re)insurance services across the EU either on the basis of the freedom to provide services or by establishing local branches. Many underwriters therefore had to discontinue their activities in Belgium. The 'Brexit Act' of 3 April 2019 on the withdrawal of the UK from the EU introduced a new category of insurance intermediary by amending the 2014 Insurance Act: the 'mandated underwriter' (aka the 'Managing General Agent' or MGA), defined as an insurance intermediary who, acting on behalf of one (or more) insurance undertaking(s), has the authority to accept the coverage of risks in the name and on behalf of the latter and to underwrite and manage insurance agreements. In order to position Belgium as an attractive insurance marketplace post-Brexit, the legislator decided to formally regulate this type of insurance intermediary, creating greater transparency on the activities of underwriting agents. Lloyd's Brussels has since become an established feature on the Belgian market and meets a growing demand for specialist insurance products, providing its EEA partners with access to expert underwriters licensed to provide tailored (re) insurance solutions for a variety of non-life risks including Liability, Property, MAT, Cyber and Political and Credit insurance, and offering corporate clients and stakeholders certainty and continuity despite Brexit.

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Furthermore, we have seen a steady growth in run-off transactions on the Belgian market. We expect that the growth of this market of specialised run-off service providers (risk carriers, service companies, consultants) will continue.

The compliance function has definitely taken on a more important role lately, with insurers devoting increasing attention to the evolution of the applicable regulatory framework to ensure proper identification and assessment of non-compliance risks. Compliance has also become synonymous with regulatory burden, with successive waves of additional reporting obligations being introduced through new and complex, often directly applicable, European legislation. Notably the Digital Operational Resilience Act (DORA, Regulation (EU) 2022/2554), which entered into force on 17 January 2025, imposes many new measures aiming for a harmonized cybersecurity framework across all financial sector undertakings. DORA demands a considerable investment of time, effort and resources, adding to the compliance burden already imposed by legislation such as the Corporate Sustainability Reporting Directive (CSRD), the Sustainable Finance Disclosure Regulation (SFDR) and the Taxonomy Regulation. The European Commission has recently announced measures to simplify regulatory requirements and lower the exemption threshold for many of these obligations, however.

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Despite Belgium being a rather conservative market, digitisation and innovative InsurTech solutions – coupled with the accelerating introduction of AI – are steadily gaining traction.

Despite Belgium being a rather conservative market, digitisation and innovative InsurTech solutions – coupled with the accelerating introduction of AI – are steadily gaining traction, mainly aiming to make insurance more accessible and consumer-friendly. The insurance sector cannot afford to ignore the growing influence of artificial intelligence. Overall, the implementation of AI is taking place gradually, i.e. in an evolution rather than a revolution. However, the advent of Chat GPT suddenly made the presence of AI very palpable. The sector firmly recognises the potential of AI to optimise processes, provide customer-centric solutions and increase overall efficiency, while keeping the human factor and customer relationships at its core. We see AI being deployed to streamline processes such as fast claims handling, optimisation of underwriting procedures and improving risk models. Nevertheless, there remains a strongly-held belief in intermediaries in the Belgian insurance landscape, who are making use of AI-driven FinTech tools to serve customers. These tools support intermediaries, without taking over their tasks. However, the crucial singularity moment when AI can completely lift the administrative burden for customers is still some ways off.

The advent of AI raises important questions around liability and responsibility. One key issue is the European regulatory framework, imposing strict rules on the clarification of the parameters used to arrive at AI-generated results. In addition, what is legal in one country may be illegal in another. This highlights the continuing need for human involvement and guidance in the use of AI. In the entire financial sector, trust is of crucial importance. Trust is easy to lose, yet hard to win back. Data and its gathering, treatment and analysis is another element fast increasing in importance. AI is increasingly being used as a tool to process the mass of data coming in. Here too, the question arises as to how far an insurer can go in using AI to refine selection criteria and determine insurability? Finding a balance between personalised services and maintaining solidarity and accessibility to insurance is a crucial challenge facing the sector. The ethical question arises as to what extent a company can implement AI models and auxiliary tools. Installing an ethics officer, along the lines of a DPO, could eventually become necessary in this regard.

Nevertheless, there are opportunities to use AI for prevention, especially in the field of natural disasters (NatCat): predictive models and combined analysis of public data and own claims history could allow insurers to assess risks more accurately and suggest preventive measures, possibly linked to insurance premiums. Data sharing can lead to greater collaboration, including with government agencies. It is essential to have quick access to disaster information, so that preventive actions can be deployed rapidly.

The 2008 global financial crisis and a number of financial scandals put the spotlight on directors' liability, exacerbated by the more recent Covid-19 crisis that led (and still leads) to an uptick in bankruptcies, involving potential D&O litigation if mismanagement can be claimed as a contributing factor. It follows from Belgian legal doctrine and case law that the majority of liability claims against directors relate to insolvency. Associated risks have grown due to new regulations that impose more complex responsibilities on directors. All this has led to a steady growth in the uptake of D&O insurance, across all major industries but above all by listed companies and financial institutions, although there is a rising trend in middle-market uptake by SMEs as well.

A major development liable to affect the claims landscape is the new Civil Code being progressively brought in to replace the Napoleonic 'old' Civil Code going back to 1804. The revised provisions regarding contract law, set out in Book 5 of the new Code, entered into force on January 1st, 2023. Particularly the new Book 6 governing extracontractual liability, which entered into force on January 1st, 2025, is likely to have an impact on the conduct of claims down the line; it significantly reforms the country's tort liability regime.

Another key legal development is the ongoing vast overhaul of the Belgian Criminal Code. The new Code will eventually replace the outdated Criminal Code, which goes back to 1867. Some of the reforms being introduced could also have an impact on directors' criminal liability (and hence on D&O insurance policies down the line), but this will only become clear once the new rules take effect.

Due to the new obligations for companies to report on their Environmental, Social and Governance (ESG) measures, environmental considerations have become more important to companies. Directors who fail to comply with this reporting obligation may be sanctioned with private damage actions or administrative sanctions. Note that these will not always be insured under D&O insurance policies.

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The 2008 global financial crisis and a number of financial scandals put the spotlight on directors' liability.

3. What is on the horizon for the insurance sector

After many trials and tribulations, the formation of a new Belgian federal government was finally agreed by the negotiating parties last 31 January 2025. The freshly issued policy statement and Coalition Agreement 2025-2029, totalling just over 200 pages, outlines the main policy choices and intended measures. These are manifold and far-reaching, such as a tax reform aimed at increasing the competitiveness of the economy, a thorough overhaul of labour policies and unemployment regulations, a pensions reform, a forceful and effective competition policy and furthering sustainability. A cursory reading reveals a number of focus areas for the insurance sector.

First and foremost, in consultation with regional authorities, a clear legal framework for natural catastrophe (NatCat) insurance will be developed, preferably via a synergistic public-private partnership, to regulate the liability and coverage of the various stakeholders. This must ensure that premiums remain stable, that risks are spread, and provide clear procedures and deadlines for effective and timely compensation, all without jeopardizing the sector's financial stability. Pending this, insurers must fulfil their legal obligations. In a recent press release, insurance federation Assuralia enthusiastically welcomed the government's stated aim to provide a distinct legal framework for protection against natural disasters, something the sector has been urging ever since the catastrophic floods of 2021.

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> The 'right to be forgotten' was already the subject of successive amendments to the 2014 Insurance Act in recent years.

The recent law of 17 March 2024 on terms and sanctions regarding insurance benefits greatly simplified and harmonized the rules for terminating an insurance policy and switching to another insurer, as well as the terms for the payout of claims. These provisions will be the subject of further evaluation and simplification, in consultation with the supervisory authority FSMA. The aim consists in stimulating competition while guaranteeing continuity of coverage; for simple risks, contracts could be standardised to a certain extent.

The government also intends to conduct an investigation into the impact of the various insurance intermediaries on general market forces and the price level of insurance products compared to neighbouring countries; the results will inform potential follow-up measures.

The 'right to be forgotten' was already the subject of successive amendments to the 2014 Insurance Act in recent years. The law of 30 October 2022 extended this right to allow people who have been declared cured of cancer for at least 8 years (5 years for young patients diagnosed before the age of 21) to take out outstanding balance or guaranteed income insurance. This will be broadened even further, with new disorders to be included. In this regard, a bill extending the right to be forgotten to all types of travel cancellation insurance and lifting the disclosure obligation entirely 5 years after completion of a successful treatment was recently voted through.

Other measures impacting the financial sector as a whole include facilitating equity investments for certain types of institutional investors (e.g. pension funds, insurers, etc.) to promote investment in the real economy, strengthening supplementary pensions (second pillar) through fiscal stability, the fight against cybercrime, the ongoing digitalisation and sustainable finance.

These objectives announced by the incoming administration to a large extent address the main concerns and social developments prioritized by the insurance sector, as set out in the political memorandum issued by insurance federation Assuralia in the run-up to the coalition negotiations: coverage in the event of natural disasters, pensions and health care and the transition to a more sustainable society, with digitalisation and new technologies as an underlying theme throughout.

COLOMBIA

Legal principles of reinsurance contracts as defined by the Supreme Court of Justice

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Lucas served as president of INSURALEX, the largest global network of insurance and reinsurance law firms and is a member of the Colombian Association of Insurance Law – ACOLDESE.

He holds a Law degree from Universidad de los Andes, two graduate degrees, one in Insurance Law from Pontificia Universidad Javeriana and the other in Transport Law from Universidad Externado, and a Master of Comparative and European Law from Maastricht University in the Netherlands.

In January 2025, he was awarded "Insurance Lawyer of the Year" by Legal 500.

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Juan Marín is a Senior Associate in the Insurance and Reinsurance Team. He has a strong background in insurance and reinsurance regulation, having worked for the Colombian Financial Regulator, the Financial Superintendence, and as Deputy Director of Financing and Financial Inclusion at the Secretary of Economic Development of Bogotá.

Juan specializes in providing regulatory, contractual, claims, and insurance commercialization advice to national and international companies in the insurance sector. His work includes representing insurers and reinsurers before the Financial Superintendence to obtain authorization for the incorporation and launch of operations of local insurance carriers.

Juan holds a Law degree and a graduate degree in Financial Law from Universidad de los Andes. Also, Juan Holds a master's degree in Regulation from the London School of Economics and Political Science.

He previously worked at Brigard Urrutia from 2012 to 2015 and returned in 2024.

Brigard Urrutia

Legal principles of reinsurance contracts as defined by the Supreme Court of Justice

Brigard Urrutia

Reinsurance plays an important role in ensuring the stability and growth of the insurance market.

It is essential for industry professionals and for anyone seeking a deeper comprehension of risk management mechanisms to understand the fundamental legal principles that govern reinsurance operations in Colombia. These principles allow a better understanding of how reinsurance works and how it can accommodate complex transactions.

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> The professionalism and expertise of both parties reduce the need for extensive regulatory intervention.

In this article, we will explore the key elements that characterize reinsurance operations in Colombia, shedding light on how they shape the market dynamics and contribute to the management of risks, by following a recent ruling issued by the Supreme Court of Justice[1].

1. Context of Reinsurance Contracts in Colombia

The general norms that regulate insurance contracts contain the foundational principles of reinsurance contracts. In this sense, as defined in Article 1037 of the Commercial Code, both an insurance and a reinsurance contract are agreements where one party transfers risks that could affect their assets or physical integrity to another party, a carrier, authorized to undertake such risks.

Article 1134 of the Commercial Code defines reinsurance as an indemnity contract between two insurers. One, known as the ceding insurer, transfers risks to the other, the reinsurer, who assumes responsibility for covering them. Essentially, reinsurance serves as a second layer of coverage, ensuring that the ceding insurer can protect their assets and reduce their exposure to catastrophic events.

The reinsurance contract benefits the ceding insurer, not the original insured, as it is designed to safeguard the insurer’s financial position rather than provide a direct benefit to the original policyholder or original insured.

The limited regulation of reinsurance in Colombia is due to the balanced relationship between the parties involved (both are professional entities with the necessary technical, economic, and legal knowledge to manage risk effectively).

The professionalism and expertise of both parties reduce the need for extensive regulatory intervention. Consequently, the parties’ self-sufficiency in negotiating their terms becomes a fundamental aspect of reinsurance agreements. Mandatory legal principles, however, constrain this autonomy by ensuring that reinsurance practices align with broader ethical and legal standards.

2. Principles Governing Reinsurance Contracts

Key principles ground the regulatory framework of reinsurance in Colombia, guiding the relationship between the ceding insurer and the reinsurer. These principles, as outlined in the Colombian Commercial Code, not only ensure the fair execution of reinsurance contracts but also contribute to the stability of the insurance market. The primary principles that govern reinsurance contracts in Colombia are those of **following the fortunes** and **good faith.**

1. Supreme Court of Justice of Colombia. Proceeding No. 11001-31-03-013-2011-00079-01. September 7, 2020.

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According to Article 1134 of the Commercial Code, these principles represent the minimum standards that should guide the reinsurance activity. They must be considered throughout the life of the contract, from its inception to its termination. Another principle discussed in this article, as developed in the ruling of the Supreme Court of Justice, is the right of **subrogation.**

2.1. Follow the fortunes

Reinsurance contracts are founded on the principle of "follow the fortune". It refers to the shared participation of both the ceding insurer and the reinsurer in the results of the underlying insurance contract, whether they are favourable or adverse. This principle ensures that the reinsurer is directly impacted by the economic, technical, and legal outcomes of the original insurance contract.

In practical terms, this means that the consequences of the primary insurance contract—whether it involves a claim or a financial loss—also affect the reinsurer. The connection between the risks covered by both the original insurance and the reinsurance contracts is not merely theoretical; it is causal. When an insured event occurs under the primary contract, the same event triggers the corresponding obligation of the reinsurer.

This principle ensures that the reinsurance contract is not an isolated agreement but is intrinsically linked to the performance and outcomes of the primary insurance contract. Both the ceding insurer and the reinsurer share responsibility for the risks, making it a mutual and interdependent relationship.

2.2. Good Faith

The principle of good faith is another fundamental tenet governing reinsurance contracts. As with insurance contracts, the parties involved in reinsurance are expected to act with honesty, transparency, and fairness throughout the duration of the agreement. Good faith is particularly important during the negotiation, execution, and fulfilment of the reinsurance contract, as both the ceding insurer and the reinsurer must rely on the accurate and timely exchange of information.

In the context of reinsurance, good faith is reflected in the mutual obligation of both parties to disclose all material facts that may influence the terms and conditions of the reinsurance agreement. This includes the accurate reporting of risks, claims, and the financial standing of both parties. Any failure to act in good faith, such as withholding critical information or misrepresenting facts, can undermine the integrity of the reinsurance contract and potentially lead to its invalidation.

The principle of good faith serves three functions in the reinsurance contract: (i) it integrates additional obligations into the reinsurance contract; (ii) it serves to construe the contract; and (iii) it maintains the economic equilibrium or balance between the parties.

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Reinsurance contracts are founded on the principle of "follow the fortune".

The integration function allows good faith to incorporate all secondary or additional obligations not foreseen by the parties when entering into and executing the reinsurance contract. In terms of the interpretation of reinsurance contracts, good faith serves to clarify ambiguous, imprecise, or unclear clauses. Also, it establishes a hermeneutic standard, which consists of always preferring the interpretation that best satisfies the interests of the parties involved, within a framework of honesty, loyalty, and integrity. Finally, good faith serves to preserve and restore the contractual equilibrium between the contracting parties.

In conclusion, it is important to highlight, under the principle of utmost good faith, that reinsurance contracts oblige the reinsured party to act with integrity and professional diligence and to communicate transparently and promptly all facts relevant to the assessment of risk, payment, recovery, and other matters related to the agreed-upon subject.

2.3. Subrogation

The right of subrogation is a key principle that governs the relationship between insurers and insureds in the context of insurance contracts. This principle allows the party that has paid a claim to step in for the insured and recover the amount paid from the third party responsible.

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> In reinsurance, this right comes from the principle of fairness and the duty to act honestly in head of the insured.

According to Article 1096 of the Commercial Code, when an insurance company pays a claim to the insured person or beneficiary, it can “subrogate”. This means that the insurer has the right to seek recovery from the third party who caused the loss, up to the amount paid in the insurance claim.

In the context of reinsurance, this principle is complex. The issue is that Article 1096 of the Commercial Code does not give reinsurers the right to take legal action, even if they have paid for some or all the loss covered by an insurance policy.

In reinsurance, this right comes from the principle of fairness and the duty to act honestly in head of the insured. The party that originally insured the loss must repay the reinsurer for the amount it paid out from the money received from the party responsible.

In conclusion, in the reinsurance contracts, subrogation means that the insurer must carefully and responsibly use their right to pursue claims, so they protect their own interests as well as those of the reinsurer.

3. Notes regarding the ruling from the Supreme Court of Justice

As noted above, the purpose of this article is to reflect on key principles governing reinsurance contracts and to illustrate their practical application in our jurisdiction through a recent ruling by the Supreme Court of Justice. This chapter presents the dispute between an insurer and a reinsurer and analyses how the Supreme Court applied these principles to resolve the case.

The controversy arose when the insurer settled a compensation claim for a loss suffered by the original insured due to the default of a third party. Upon indemnification, the insurer exercised its subrogation right, replacing the original insured in its claims against the responsible party. In turn, the reinsurer compensated the insurer for 75% of the indemnity and, lacking direct action against the responsible party, relied on the insurer’s recovery efforts to follow the fortunes of the insurance company.

In this case, the Supreme Court of Justice found that the insurer breached its obligations under the reinsurance contract and failed to duly perform according to the principles of subrogation and “follow the fortune”. Instead of diligently pursuing the recovery of the indemnified amount, the insurer unilaterally assigned the subrogated credit to a third party for less than half of its actual value, without notifying the reinsurer. This action deprived the reinsurer of its rightful share of the recovered funds.

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The Court reaffirmed that under Article 1134 of the Commercial Code, the reinsurer and the insurer share the economic outcomes of the insurance contract. The insurer, having been indemnified by the reinsurer, had a duty to recover the loss in proportion to the contributions made by each party. By ceding the credit without preserving the reinsurer's interest, the insurer violated this principle.

The Court emphasized that good faith is an essential part of reinsurance contracts, requiring insurers to act transparently and in the best interest of all parties involved. The insurer's unilateral decision to transfer the credit without consulting the reinsurer and at a significantly reduced price, constituted an act of bad faith, as it resulted in an unjustified loss for the reinsurer and an enrichment for the assignee.

3.1. Case summary

3.1.1. Reinsurance Agreement

- The reinsurer and the insurer concluded a proportional reinsurance treaty.
- The coverage limit was set at COP 5,000,000,000, with a claim's distribution of 75% for the reinsurer and 25% for the insurer.
- The policy covered non-compliance of contracts.

3.1.2. Occurrence of the Loss and Compensation

- One of the insured debtors failed to meet its contractual obligations.
- The insured filed a claim and an indemnity request amounting to COP 4,144,000,000.
- The claim was paid by the insurer and reinsurer as per their share on the reinsurance treaty.
- The insurer then subrogated the rights of the beneficiary.
- The subrogation granted the insurer with a privileged credit against the third party responsible of the loss.

3.1.3. Credit Assignment to a Third Party

- The insurer, without informing the reinsurer, assigned the subrogated credit to a third party.
- The transaction price (paid by the third party) was significantly lower than the value acknowledged by the third party responsible of the loss, impacting the reinsurer's recovery rights.
- This assignment hindered the reinsurer from reclaiming 75% of the paid indemnity.

3.1.4. Legal proceeding

- The first instance Judge ruled in favour of the reinsurer, acknowledging the breach by the insurer.
- The second instance Judge reversed the ruling, finding no proof of bad faith by the insurer when assigning the credit. The court found justification in the assignment based on economic and practical considerations.
- The Supreme Court of Justice reversed the second instance ruling and found that the insurer breached the principles of the reinsurance contract as described in this document.

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The Court emphasized that good faith is an essential part of reinsurance contracts, requiring insurers to act transparently and in the best interest of all parties involved.

4. Conclusion

Reinsurance plays a critical role in the stability of the insurance industry, particularly in Colombia, where the regulatory framework allows insurers and reinsurers to negotiate terms based on mutual expertise and professionalism.

Understanding the legal principles that govern reinsurance contracts is essential for those involved in risk management and insurance operations. The principles of "follow the fortunes," "good faith" and "subrogation" ensure that reinsurance contracts are executed fairly and transparently, fostering trust between parties and contributing to the overall stability of the market.

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Understanding the legal principles that govern reinsurance contracts is essential for those involved in risk management and insurance operations.

Recent case law, such as the ruling by the Supreme Court of Justice, underscores the importance of these principles in practice. The Court's decision highlights the duty of insurers and reinsurers to act in good faith, particularly when it comes to managing recoveries and ensuring that all parties receive their fair share of any compensation. By upholding these principles, the Colombian legal system helps maintain the integrity of reinsurance agreements and reinforces the professionalism and trust that underpin the insurance industry.

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We provide legal advice and support in all areas of business law. We represent our clients in a wide variety of matters, including transactional advice, non-transactional advice, litigation and conflict resolution. All our partners and associates are fluent in at least one language other than spanish and many of them are admitted to practice in foreign jurisdictions (most notably in the State of New York).

Our professionals have graduated from the top universities in Colombia and most of them have post-graduate studies and masters in US or European law schools. Additionally, we have an extensive record as a supplier of first-rate legal services to a global clientele formed by industrial, commercial and service companies, banks and other financial institutions, private equity funds, insurance companies, as well as national and foreign government agencies and companies.

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He was formerly the Director of Corporate and Regulatory Affairs at the SCOR Global Life Ireland, where he managed the firms' regulatory relationship with the CBI and was responsible for corporate governance matters and the company secretarial requirements for Irish group companies.

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Introduction

For more than thirty years, Ireland has been an appealing destination for international (re)insurance groups seeking to establish a European Union ("**EU**") presence. The sector remains diverse and internationally focused, providing capacity in a wide range of geographical markets. International (re)insurance groups are attracted by Ireland's status as an English-speaking EU jurisdiction, with a stable political environment and a common law tradition. It benefits from what is often viewed as a strong yet effective insurance regulator in the Central Bank of Ireland ("**CBI**"). Complementing these advantages is access to a sophisticated financial services ecosystem with a deep pool of skilled talent including professional advisers and service providers.

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> The Mobility Regulations introduce new procedures when contemplating EU cross-border transactions (both into and out of Ireland).

Ireland's insurance sector, as with other countries, faces ongoing regulatory changes. With a dynamic landscape shaped by technological advancements and evolving customer expectations, there are both opportunities and challenges. We identify here some key developments impacting Ireland's insurance sector and recent market trends. These include:

1. **EU Cross-Border Restructuring** – Following transposition of the EU Mobility Directive on cross-border conversions, mergers and divisions, we see the new "cross-border conversion" process being increasingly used by EU groups.

2. **Increased Digitalisation of the Sector (including use of artificial intelligence)** – The CBI's 2025 supervisory priorities signpost that increased digitalisation of the insurance sector remains a key focus. The sector is increasingly leveraging technology to enhance efficiency, improve customer experiences and drive innovation. This is especially in terms of the interactions between artificial intelligence ("**AI**") and insurance.

3. **Key Legislative Developments** – The growth of regulation at EU and national level remains a focus. Regulatory developments anticipated for the year ahead include:

- the CBI's revised Consumer Protection Code;
- the EU Insurance Recovery and Resolution Directive; and
- the EU Corporate Sustainability Reporting Directive and the EU Corporate Sustainability Due Diligence Directive.

EU Cross-Border Restructuring: A New Era for (Re) Insurance M&A Activity?

Ireland has implemented the EU Mobility Directive through the European Union (Cross-Border Conversions, Mergers and Divisions) Regulations 2023 ("**Mobility Regulations**"). The Mobility Regulations introduce new procedures when contemplating EU cross-border transactions (both into and out of Ireland). These procedures, known as cross-border divisions and cross-border conversions, offer companies a more streamlined and straightforward procedure when considering the movement of businesses and assets from one EU Member State to another. The Mobility Regulations also introduce simplified rules for cross-border mergers (a process which has been in existence for 15 years or so). We anticipate that the new cross-border mechanisms will prove popular for groups considering EU restructuring options. Given Ireland's attractiveness for (re)insurance businesses, the country may be a net beneficiary of this new regime as groups consider moving activities into Ireland.

In the past, groups involved in cross-border business, when contemplating changing head office location to or from Ireland, would most likely need to engage in a complex and costly cross-border merger transaction. Given the requirement to merge into an entity in the EU transferee jurisdiction, it involved the dissolution of the transferring company and was also treated as a separate Solvency II (re)insurance transfer. For Ireland, this means requisite court sanction in most contexts.

This is now no longer necessary in all cases. Although the cross-border merger approach remains and should continue to prove a useful restructuring tool where, for example, a group wants to consolidate at least two existing EU (re)insurers, the Mobility Directive regime introduces the new "conversion" approach.

Notwithstanding many similarities with the cross-border merger process, the fact now that a transferring company maintains its same legal personality means it is a more straight-forward and cost-effective way for (re)insurers to change jurisdiction within the EU. The process effectively allows a corporate entity to be 'dragged and dropped' from one Member State into another. The continuance of the corporate entity in the new EU jurisdiction is possible without the requirement to individually transfer the (re) insurance business or other assets, contracts, employees or liabilities.

Importantly, the conversion process is a corporate one. It does not dispense with applicable Solvency II (re)insurance regulatory elements. From a regulatory perspective, a transferring (re)insurer moving EU jurisdiction will need to apply for authorisation in that 'receiving' EU Member State (and renounce its existing authorisation in the 'departing' EU Member State). In an Irish context, this process would be undertaken in parallel with the conversion process under the Mobility Regulations. Early engagement with the CBI would be advisable.

Typically, from an Irish perspective, a regulatory new authorisation application filed with the CBI may take between 9 and 12 months from the date of filing a complete submission. Although EU (re)insurance regulators may not welcome the prospect of "jurisdiction shopping" that may be amplified by the Mobility Directive, with a good business case and underpinning rationale (e.g. a desire to move to an EU jurisdiction with a larger insurance sector infrastructure, such as Ireland) the expectation is that regulators will be open to such conversions.

Digitalisation and AI: Transforming the Future of Insurance

While the increased digitalisation of the insurance sector is not unique to Ireland, it is worthy of discussion given Ireland's status as an international financial services centre and a nucleus for global technology firms. Ireland has a growing reputation as a FinTech hub. In recognition of this growth, the CBI has identified monitoring of the digitalisation of the insurance sector, including the increased use of AI in underwriting and pricing processes as one of its 2025 priorities. EIOPA's Consumer Trends Report 2024 similarly notes that national competent authorities expect AI to have a "transformative impact" on the insurance sector.

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From an Irish perspective, a regulatory new authorisation application filed with the CBI may take between 9 and 12 months from the date of filing a complete submission.

AI is anticipated to significantly transform the sector by enhancing risk assessment, pricing and operational efficiency. This transformation includes more rapid and intuitive claims management from the customer's perspective. Innovations such as robo-advisors and chatbots provide continuous support and streamline policy and claims handling processes. Recent advancements in Generative AI technology ("**Gen AI**") are expected to amplify and expedite the impact of AI within the sector, particularly in non-life insurance lines such as motor, health, and household insurance. The benefits derived from Gen AI parallel those of other AI systems but are more pronounced; they encompass increased efficiency in digital distribution of insurance, customisation of products to align with consumer preferences, and enhanced risk coverage due to more accurate risk assessments.

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> The CBI's Deputy Governor of Financial Regulation in a recent interview noted that AI remains a very live issue which requires a "back-to-basics" approach by firms.

The EU AI Act seeks to create a legal framework that ensures that AI systems are safe, respects fundamental rights, fosters innovation and introduces strict rules on the deployment and use of certain AI systems. The AI Act applies with direct effect, with the first rules on prohibited AI systems taking effect since 2 February 2025 and subsequent rules taking effect on a phased basis. Many of the use cases of AI within insurance, particularly within life and health insurance are deemed high-risk and are subject to onerous requirements on usage. These requirements include the use of data governance practices to avoid biases and ensure transparency in how AI outputs are interpreted. To manage the potential overlap with existing insurance regulation, limited derogations are introduced, particularly for entities regulated by Solvency II.

As with international developments, Irish domestic regulatory changes are designed to be "technology neutral". This includes the Consumer Insurance Contracts Act 2019, which relates to policy wordings and dealings in areas such as claims, and the CBI's revised Consumer Protection Code (the "**CPC**"). All require varying degrees of protection of customers' interests. The CBI is particularly live to risks associated with the use of customer data in combination with AI. The combination has the potential to create information mismatches, where the insurer has much greater knowledge about a customer. This can ultimately impact on how insurance products are marketed, priced and sold. In the current CPC consultation, the CBI emphasises that regulated firms should not use data and profiling to identify behaviours, habits, preferences or biases for the purposes of exploiting these to target customers, resulting in customer detriment.

The CBI's Deputy Governor of Financial Regulation in a recent interview noted that AI remains a very live issue which requires a "back-to-basics" approach by firms. We anticipate that as the CBI continues to think about the implementation of the AI Act and the implications of AI on policyholders and customers more broadly, in Ireland it will remain a key talking point in 2025.

Further Regulatory Evolution: Customer Protection, IRRD, CSRD and beyond

It is impossible to ignore the growth of regulation at both an Irish domestic and an EU level. This is imposing a high burden on insurers. According to Insurance Europe, the number of legislative texts affecting insurers at a European level has grown from 12 legislative texts in 2012 to an anticipated 70 in the near future. The expectation is that Ireland's well-resourced insurance sector will be better equipped than some jurisdictions to cope with increasing regulatory expectations.

We devote attention below to some key regulatory developments that are anticipated over the coming year. These include the CBI's revised CPC; the EU Insurance Resolution and Recovery Directive ("**IRRD**"), whose influence on the Irish regulatory landscape remains to be fully understood; and the EU Corporate Sustainability Reporting Directive ("**CSRD**") alongside the EU Corporate Sustainability Due Diligence Directive ("**CSDDD**").

Revised CBI Consumer Protection Code

The CBI is currently undertaking a review of the CPC, with publication of the finalised text expected during 2025. This is a similar document to the UK's "COBS" sourcebook addressing conduct matters. For those in the insurance sector, there is a significant amount of work in getting on top of the new regime. This includes considering the cross-sectoral dimensions that must be complied with by all financial services firms as well as the specific pieces under the revised CPC, applicable to insurers (and, in some cases, reinsurers) and intermediaries. The assessments, gap analyses and related adjustments will need to be done between now and 2026.

A lot of what appears in the revisions will be familiar to those in scope of the existing CPC. The duty to act in the best interest of customers remains but it will be further developed through a new express duty to "secure customers' interests". This reflects a move by the Irish regulator, like in other jurisdictions, more towards ensuring there are "positive outcomes" for policyholders. It is like the UK's recent "consumer duty" changes and is a recognition of the increasing complexities, including due to technology, in the regulation of the financial services sector.

A particularly notable aspect of the CBI's new regime is that, whilst described as relating to a "consumer" code, some of the changes would extend to B2B relationships. This would happen through so-called Standards for Business which form part of the revised CPC. The area is also inter-linked with Ireland's recent introduction of a "senior managers" regime. Again, this is similar to the UK and other jurisdictions. In Ireland this is through a so-called "Individual Accountability Framework". As well as new areas (for insurers) such as responsibility mapping, certain broad duties under "conduct standards" will apply to a broad range of firms. Under the proposed CPC changes, some of these changes may affect not just consumer relationships but also certain B2B dealings (e.g. by reinsurers).

EU Insurance Recovery and Resolution Directive

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The CBI is currently undertaking a review of the CPC, with publication of the finalised text expected during 2025.

The IRRD aims to establish harmonised recovery and resolution tools and procedures, to ensure that insurers and relevant authorities in the EU are better prepared for situations of significant financial distress. It will facilitate the early and quick intervention of the authorities, especially in cross-border contexts. It entered into force at EU level on 28 January 2025 with national transposition required within 24 months. In 2021, Ireland introduced dedicated regulations requiring pre-emptive recovery planning by Irish authorised (re) insurers along with supporting CBI guidance. To a certain extent, we await to see the impact of the transposition of the IRRD on our domestic regulations, and if it meets the Department of Finance and CBI's current expectations for a resolution framework.

EU Corporate Sustainability Reporting Directive and EU Corporate Sustainability Due Diligence Directive

Like other jurisdictions, Ireland has implemented the various EU initiatives related to sustainability and ESG. For (re)insurer groups, this is now seen in action through the CSRD as concerns applicable sustainability reporting requirements. While the focus of the CSRD is on modernising and strengthening the rules concerning the social and environmental information that companies have to report, the CSDDD is more onerous in its expectations. It means identifying and addressing areas such as adverse human rights and environmental impacts of a group's actions. Whilst principally affecting an Irish (re)insurer company, importantly within group structures, both the CSRD and CSDDD can have a potential application both inside and outside European operations. Irish (re)insurers like other European insurers are still considering the implications of these directives. This will include consideration now as well of European Commission's proposed omnibus simplification package, aimed at simplifying sustainability reporting obligations.

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The EU and Irish (re)insurance sectors continue to evolve, driven by regulatory change and technological advancements.

Conclusion

The EU and Irish (re)insurance sectors continue to evolve, driven by regulatory change and technological advancements. The transposition of the EU Mobility Directive and changes such as increasing digitalisation in the sector and the use of AI will be a momentum for this. With the advancements come challenges, particularly in the realm of regulatory compliance.

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ITALY

Regulatory insights in the Insurance Sector: challenges and compliance in Italy

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Nicolò is highly specialized in insurance law from a contentious point of view advising insurance companies, brokers, MGAs, TPAs on a wide range of claims (e.g. D&O, PI, PO, MedMal, G.L., cyber, etc.) as well as from a non-contentious point of view advising clients on regulatory matters, corporate issues (e.g. establishment of branch), in negotiating, drafting or localizing contracts (e.g. distribution agreements) and insurance products. He also represents and assists clients before IVASS (the Italian Insurance Regulator) for alleged infringements of insurance law and regulations.

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1. The Regulatory framework in Italy

In Italy, insurance, reinsurance, and insurance and reinsurance intermediation activities are regulated sectors that can only be conducted by legal entities meeting specific requirements and obtaining prior authorization from the Italian Institute for the Supervision of Insurance (IVASS). IVASS plays a key role in overseeing these sectors, ensuring that companies and intermediaries comply with legal and regulatory frameworks. It also monitors their financial stability to protect policyholders and maintain market integrity. In addition, IVASS is dedicated to safeguarding consumer rights by promoting transparency and fairness in insurance contracts and addressing complaints. Furthermore, it develops and enforces regulations that implement the principles outlined in the Codice delle Assicurazioni Private (Private Insurance Code), which serves as the primary legislative framework for insurance in Italy. IVASS also collaborates with European and international supervisory bodies to align Italian practices with global standards, ensuring the stability and proper functioning of the market.

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> The Italian legislator, in accordance with European regulations, has defined the conditions for carrying out insurance activities in Italy.

In the first section of this article, we offer a high-level overview of the key requirements that businesses and insurance intermediaries must fulfill to operate in the fields of insurance, reinsurance, or insurance intermediation in Italy.

In the second section, we focus on some of the most recurring issues and exceptions in the handling of insurance claims in Italy.

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2. Insurance, reinsurance and insurance intermediation in Italy

2.1. How to conduct insurance activities in Italy

The Italian legislator, in accordance with European regulations, has defined the conditions for carrying out insurance activities in Italy, distinguishing between cases where these activities are conducted by a company with its legal headquarters in Italy, another EU member State, or a foreign country. It should be premises that insurance companies are limited to carrying out life or non-life insurance activities, with some operations prohibited (for example, tontines, associations of underwriters, insurance for administrative sanctions and insurance for the payment of ransoms in case of kidnapping). Any breach of these prohibitions will make the contract void.

For an insurance company with its legal headquarters in Italy, the company must comply with specific legal and financial requirements. These include registering as a particular type of company, meeting minimum capital requirements, and establishing a head office in Italy. Additionally, the company must fulfill all conditions set by applicable Italian laws and regulations and obtain authorization from IVASS.

For an insurance company from the European Economic Area (EEA) to operate in Italy, it must notify its home country regulator of its intention to conduct business within Italy, under one of two regimes: the right of establishment or the freedom of services.

Under the right of establishment, an EEA insurance company must set up a branch in Italy by establishing an office or a permanent presence, such as an independent person with permanent authority to act on behalf of the company. This regime allows the company to have a physical presence in the country.

Under the freedom of services regime, a company can carry out insurance activities in Italy without establishing a branch or permanent presence. The distinction between this regime and the right of establishment lies in the temporary nature of the operations. If an insurance company conducts business in Italy for an indefinite period through a permanent presence, it will typically be considered under the right of establishment rather than the freedom of services.

To begin operations in Italy, a foreign EEA insurer must first notify its home country regulator of its intent to operate and specify the class of business it plans to engage in. The home country regulator must then inform IVASS, the Italian Institute for the Supervision of Insurance. If IVASS does not respond within 30 days of receiving this information, the silence is considered acceptance, allowing the insurer to begin operations in Italy.

For insurers operating under the right of establishment, the EEA company must wait for IVASS to confirm the general provisions to ensure the insurer complies with Italy's regulatory standards. IVASS is required to provide this confirmation within 30 days of receiving the notification. If IVASS does not respond within that period, the insurer may proceed with its operations in Italy.

For operations under the freedom of services, the EEA insurer must notify IVASS through its home country regulator, providing all required information. This includes a detailed program outlining the establishments from which the company plans to operate, the Member States where it intends to expand, the nature of the risks and obligations, and any other information IVASS may request. Once IVASS acknowledges receipt of the notification, or if no response is received within 30 days, the insurer is permitted to begin its operations in Italy.

For a non-EEA insurance company to operate in Italy, it must first obtain prior authorization from IVASS. Unlike EEA insurance companies, which can operate under the freedom of services regime, non-EEA insurers are not permitted to conduct business in Italy without establishing a physical presence. This means that they must set up a branch office in the country. Additionally, the company must appoint a general representative who is a resident in Italy and has the authority to act on its behalf. This requirement ensures that the company complies with local regulations and is properly represented within the Italian market.

2.2. How to conduct re-insurance activities in Italy

A company operating as a reinsurer must focus solely on reinsurance business and related or ancillary activities and must be authorized by IVASS. This authorization will apply not only within the territory of the Italian Republic but also across other Member States, in accordance with the rules of that State under the right of establishment or the freedom to provide services, as well as in Third States.

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Under the freedom of services regime, a company can carry out insurance activities in Italy without establishing a branch or permanent presence.

IVASS will grant authorization if the following conditions are met: the undertaking must be a joint-stock company; general direction and administrative offices must be in Italy; it must met the minimum capital requirements and minimum solvency requirements; the undertaking must submit a scheme of operations describing the kind of reinsurance arrangements which it proposes to make; it must met good repute requirements; it must grant compliance with the system of corporate governance; the natural people charged with the administration, management and control functions and those who are responsible for the key functions must met the professional, good repute and independence requirements; companies must not have any relationship capable to obstacle IVASS' supervisory role.

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> Italy has implemented the EU Insurance Distribution Directive (2016/97) by Legislative Decree no. 68 of 2018, which amended and supplemented the Code of Private Insurance.

Pursuant to the Private Insurance Code, the establishment of companies within the Italian Republic with the exclusive purpose of conducting reinsurance business abroad is prohibited.

However, the pursuit of business in the territory of the Italian Republic by special purpose vehicles with head office in the territory of the Italian Republic is subject to IVASS' prior authorization.

In addition, IVASS has an obligation to notify EIOPA and the supervisory authority of the host Member State when the scheme of operations of a home company indicates that a relevant part of its' activities will be based on the right of establishment or the freedom to provide services in another Member State, and that those activities are likely to be of relevance with respect to the host Member State's market.

2.3. How to conduct insurance distribution activities in Italy

Italy has implemented the EU Insurance Distribution Directive (2016/97) by Legislative Decree no. 68 of 2018, which amended and supplemented the Code of Private Insurance. The relevant regulation is also provided for by IVASS Regulation no. 40 of August 2, 2018.

Pursuant to the Private Insurance Code, it is defined as an insurance (or reinsurance) intermediary "any natural or legal person, other than an insurance or reinsurance undertaking or their employees and other than an ancillary insurance intermediary, who, for remuneration, takes up or pursues the activity of insurance (or reinsurance) distribution". Only intermediaries enrolled in a special register held by the IVASS (Registro Unico degli Intermediari or "RUI") or in the Annex Register for intermediaries which have a registered office in other EU states are authorized to perform insurance and reinsurance mediation in Italy.

The RUI is subdivided into several sections, which refer to different categories of intermediaries:

A. agents (letter A) which operate in the name of one or more insurance and reinsurance companies;
B. brokers (letter B) which operate on behalf of an insured and has no power of representation of insurance or reinsurance companies.;
C. direct producers (letter C) which are natural people who, even as a secondary activity to their main job, carry out insurance brokerage in the life, accident, and health insurance sectors on behalf of and under the full responsibility of an insurance company, and who work exclusively for that company without any obligations in terms of time or results;
D. banks, financial intermediaries, payment institutions, stock brokerage firms and Poste Italiane spa (letter D);
E. the so called "external collaborators" (letter E) which are those involved in distribution activities outside the premises of intermediaries registered in letter A, B, D and F of the RUI;
F. insurance intermediaries operating on an ancillary basis under the mandate of one or more insurance companies (letter F).

Letter A and B: agents and brokers are natural people or companies that could operate in the insurance sector once meeting the RUI's requirements. These are indicated under article 110 of the Private Insurance Code which requests that natural people must have civil rights, must not have been declared insolvent, IVASS must assess their professional and technical capacity, and they must take on a professional insurance policy. In addition, article 10 of the Regulation requests to agents and brokers registered in the RUI not to have a relationship that could jeopardize IVASS' supervisory role. The requirements for companies are listed under article 112 of the Private Insurance Code: companies must have their registered office in the Italian territory, be solvent, they must entrust the responsibility over the distribution activity to at least one natural person registered in the RUI (compliant with all the requirements stated above, indicated in the subscription form to the RUI), they must take on a professional insurance policy and they must have the capital limit imposed by IVASS. Also in this case, article 13 of the Regulation requests that companies must not have any relationship capable to obstacle IVASS' supervisory role.

Letter C: As described above, the requirements for a natural person's registration in the RUI are listed under article 110 of the Private Insurance Code. In addition, direct producers must not be public employees with a full-time contract or a part-time one exceeding half of full-time working hours, and they must have appropriate professional training in brokerage.

Letter D: they operate in the insurance industry entrusting the responsibility of insurance distribution to one or more natural people falling under the categories indicated above. Furthermore, the entities registered under letter D must not be controlled over 10% of their share capital and they must indicate in the register form the shareholders' names. In any case, they must avoid any relationship that could obstacle the IVASS' supervisory role.

Letter E: natural people must comply with the provisions stated above for direct producers under letter C, excluding the mandatory registration in the RUI which is not requested in this case (article 22 point 3 of the Regulation). The responsibility to assess the compliance of the intermediaries with the provisions above is on the intermediary that requests the RUI's subscription under letter E. On the other hand, in case of companies, they should meet the requisites listed under article 112 of the Private Insurance Code, they must not be controlled by public entities or acts directly or indirectly by another company. In addition, they must entrust the responsibility over the distribution activity only to natural people registered under letter E.

Letter F: such intermediaries includes natural people or companies (compliant with the requisites described under letter A, B and D) that operate as insurance intermediaries on an ancillary basis on behalf of one or more insurance companies.

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Agents and brokers are natural people or companies that could operate in the insurance sector once meeting the RUI's requirements.

The legislator has outlined the conditions for intermediaries to operate in the European territory as follows:

- **by an intermediary with registered office in Italy:** an intermediary must meet all the conditions set by the Regulation, must be authorized by IVASS and registered in the RUI;
- **by intermediaries which operate in other Member States:** an intermediary must notify its home country regulator of its intention to conduct business in Italy under one of two regimes: the right of establishment, or freedom of services. The home country authority must communicate it to IVASS. The intermediary must be registered in the Annex Register indicating the following information: fiscal data; regime of activity carried out; (under the right of establishment) secondary place of business in the territory of the Republic and the name of the person responsible; supervisory authority of the home country; date of commencement of the activity in the Italian territory; date of the measure, if any, adopted by IVASS; address of the website where the home country's intermediary register can be consulted.

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> An intermediary must meet all the conditions set by the Regulation, must be authorized by IVASS and registered in the RUI.

3. How to deal with a claim in Italy

Another aspect that may be of interest to insurance companies already operating in the Italian market or looking to enter it concerns the management of insurance claims and the rules governing this activity. The core rules on claims are outlined in the Italian Civil Code, with the following being particularly relevant.

- claim notice: the insured persons must report the claim to the insurer within three days of its occurrence (but policies generally provide for longer deadlines). If they willfully fail to fulfil this obligation, they lose the right to insurance benefits; otherwise, if the late notification is not willful, the insurer is entitled to reduce the indemnity in proportion to the prejudice suffered;

- obligation to reduce damage: the insured persons shall do everything possible to reduce or avoid the loss resulting from a claim; the costs thereof shall be borne by the insurer;

- right of subrogation of the insurer: after having paid the indemnity to the insured, the insurer is entitled to pursue the party that caused the loss to the insured to recover the indemnity paid;

- duty of fair presentation: if the policyholder fails to disclose every circumstance material to the risk before signing the contract, the insurer is entitled to annul or terminate the contract. Moreover, in case of claim, if the non-disclosure was made with malice or gross negligence, the insured loses the right to the insurance benefits, while in the other cases the insurer is entitled to reduce the indemnity due.

- direct action against insurers: only the insured can bring legal action against the insurer, with some exceptions in motor vehicle third-party liability, hunting insurance and in case of medical liability;

- limitation period: claims arising from insurance contracts are generally subject to a two-year limitation period from the date of the loss or notification of a third-party claim.

- defense costs: covered up to 25% of the policy limit.

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NETHERLANDS

Navigating the Dutch insurance landscape: legal framework, regulatory trends, and market dynamics

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Mariska is head of our Financial Markets Regulation practice and co-head of our Financial Institutions group. She focuses on matters of strategic importance to financial institutions in both advisory and transactional matters. Mariska has a specific focus on private equity-related matters, governance, regulatory capital, recovery and resolution.

Mariska regularly advises financial institutions including banks, insurance companies and payment institutions on topics like structuring and restructuring, governance and conduct of business, as well as on dealings with the regulators. In addition, she is frequently involved in M&A transactions and negotiations regarding investments and divestments, including for private equity clients.

As part of De Brauw's corporate practice, Mariska also advises regulated clients on corporate structuring and governance.

Legal 500 named Mariska a Next Generation Partner for the investment management sector in 2024.

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Eva has a broad regulatory practice and advises banks, insurance companies, payment institutions and pension funds on the regulation of Dutch and EU financial markets and pension matters. This includes advice about governance, outsourcing, capital requirements and interactions with supervisory authorities.

Eva assists clients in regulatory matters that are of strategic importance, in both transactions and litigation. She has a specific focus on complex transition processes, such as where undertakings face financial distress or pension funds need advice in the ongoing consolidating trend. Eva also advises about licence applications.

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Navigating the Dutch insurance landscape: legal framework, regulatory trends, and market dynamics

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1. Legal framework for (re)insurers in the Netherlands

The legal regulatory framework governing (re)insurers in the Netherlands is predominantly shaped by European Union (EU) legislation, most notably the Solvency II framework, which establishes harmonised prudential standards across the EU to ensure insurer solvency and policyholder protection. The relevant EU legislative acts are transposed into Dutch national law, primarily through the Financial Supervision Act (Wet op het financieel toezicht), enacted in 2007, which consolidates rules for financial institutions, including (re)insurers, and is supplemented by secondary regulations, ministerial decrees, and policy guidelines.

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> In short, the Dutch legal framework for insurers is designed to ensure insurer solvency, consumer protection and clear oversight by regulators.

In the Netherlands, insurers are broadly categorised by their coverage offerings: (i) life insurance, (ii) non-life insurance (including healthcare insurance), (iii) funeral expenses and benefits in kind insurance (which is considered a specialised form of life insurance), and (iv) reinsurance.

The Dutch Central Bank (De Nederlandsche Bank, DNB) and the Dutch Authority for the Financial Markets (Autoriteit Financiële Markten, AFM) serve as the primary regulatory bodies for insurers, with DNB overseeing prudential matters such as capital adequacy, risk management and governance. The AFM, on the other hand, is primarily responsible for enforcing market conduct rules, transparency, and consumer protection standards. For health insurance (zorgverzekering), the Dutch Healthcare Authority (Nederlandse Zorgautoriteit, NZa) plays a primary role in regulating health insurers (zorgverzekeraars). Everyone who lives or works in the Netherlands is legally required to take out standard health insurance under the Dutch Health Insurance Act (Zorgverzekeringswet).

Consumer protection is a cornerstone of the Dutch legal insurance framework. Under the regulatory framework, the AFM actively monitors sales practices and intervenes against mis-selling. Similarly, for health insurance, the NZa enforces rules on premium adjustments, policy standardisation and claims processing to safeguard public interests. At the same time, the Dutch Civil Code (Burgerlijk Wetboek) establishes key obligations for insurers towards policyholders, including transparency and fairness in policy terms, and the overall duty to act in good faith.

In short, the Dutch legal framework for insurers is designed to ensure insurer solvency, consumer protection and clear oversight by regulators. Strong prudential standards (predominately derived from harmonised EU legislation), diligent conduct of business supervision and robust consumer protection continue to serve as the cornerstones of the framework.

2. Regulatory trends and overview: DNB's and the AFM's approach to (re)insurers companies

DNB

In 2024, DNB intensified its supervisory focus on risks in the insurance sector through targeted thematic reviews, prioritising four key areas: mortgage and real estate exposures, AI, cyber resilience and sustainability.

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DNB conducted on-site analyses of insurers' mortgage portfolios, refined tools for assessing sector-wide exposures and, in some cases, scrutinised commercial real estate valuations. Separately, DNB launched a supervisory initiative in line with the EU's upcoming AI Regulation, assessing insurers' AI deployment strategies and related risk controls. The assessment of cyber resilience focused on operational recovery capabilities post-attack, as well as on expertise within boards and compliance with the revised Dutch Corporate Governance Code provisions concerning cyber and cyber-related outsourcing risks. Sustainability risks were embedded in prudential supervision through sector-wide sustainability assessments, while preparations for the revised Solvency II Directive (Revised SII), scheduled for implementation in 2026, accelerated.

DNB's 2025 agenda focuses on Revised SII readiness, compliance with the Digital Operational Resilience Act (DORA), and thematic reviews of governance effectiveness, capital calculation methods, and assumptions underlying Expected Profits in Future Premiums (EPIFP). In addition, DNB will monitor the impact of the Dutch Future of Pensions Act (Wet toekomst pensioenen, WTP) on insurers and maintain a dialogue on the use of AI and data integrity in the Annual Integrity Report (IRAP).

The AFM

For 2025, the AFM has prioritised risks for insurers arising from embedded finance, digitalisation and cross-border activities, among other topics. Embedded finance models—where non-financial companies offer insurance at the point of sale, such as when purchasing a car or bike, or traveling—raise concerns about consumer transparency, mis-selling and overinsurance. The AFM also highlights the concentration risks posed by insurers' heavy reliance on a small number of cloud providers as well as the growing threat of cyberattacks, exacerbated by geopolitical tensions. Separately, sustainability remains a key focus, with the AFM urging insurers to integrate ESG factors into product design while avoiding exclusionary practices or excessive caution when insuring green technologies.

Meanwhile, the expansion of cross-border insurance services in the Netherlands, particularly in non-life insurance, presents challenges in aligning consumer protection standards across jurisdictions. Host regulators, like the AFM, often have limited enforcement powers in these cases. To address this, the AFM is advocating for stronger EU supervisory coordination and enhanced mandates for host authorities. It is also working closely with national supervisors, as well as with ESMA, EIOPA and other international bodies to harmonise supervision across borders.

3. Recent mergers and acquisitions activity in the Dutch insurance sector

The Dutch insurance mergers and acquisitions landscape has been notably active across various sectors, including life insurance, non-life insurance, and brokerage services. This surge has been driven by both domestic realignments and international strategic moves.

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For 2025, the AFM has prioritised risks for insurers arising from embedded finance, digitalisation and cross-border activities, among other topics.

One of the most significant recent transactions was the strategic partnership announced in November 2024 between Achmea, Lifetri and Sixth Street in the Dutch pension and life insurance market. This collaboration merges Achmea's and Lifetri's pension and life insurance portfolios into Achmea Pension & Life Insurance, creating a top-three Dutch pension and life insurance provider serving over 2.1 million customers. Completion of this transaction is expected in the second half of 2025.

Another key development was the merger of Aegon's Dutch operations with a.s.r. in exchange for cash and a strategic stake in a.s.r. Completed in July 2023, this deal was transformative for both insurers and had a major impact on the Dutch insurance market as a whole.

Separately, in 2022, NN Group acquired the life insurance operations of ABN Amro Verzekeringen and later announced its intention to divest part of its Polish pension business to Generali. In 2022, NN Group also completed the sale of its asset manager NN Investment Partners to Goldman Sachs Group. Most recently, in September 2024, Zurich Türkiye announced its intention to acquire NN Group's Turkish operations.

> "The Revised SII in so far as it relates to sustainability will have an impact on the Dutch insurance sector.

Finally, there has been considerable mergers and acquisitions activity in insurance brokerage, at least partially driven by considerable private equity interest. In 2024, Aon sold its Dutch personal lines brokerage and MGA business to BlackFin Capital Partners, while VLC & Partners was acquired by Howden. In October 2024, the American insurance broker Brown & Brown expanded its European presence by acquiring Quintes, one of the largest independent insurance brokers in the Netherlands.

4. Sustainability trends in the Dutch insurance sector

DNB's approach in recent years includes prioritising the inclusion of sustainability-related risks in its supervision. Notably, in March 2023, DNB published a document titled "Guide to Climate and Environmental Risk Management", which also contains specific guidance for the insurance sector, including an elaborate set of best practices. DNB has now launched a consultation for an updated version of this document which follows a similar format, running until 26 March 2025. Further, the fact that DNB considers sustainability a sector-wide focus of attention point for the insurance sector led to a thematic review of the implementation of sustainability-related risks in 2024.

For 2025, DNB expects further integration into the regular supervisory process. Significant initiatives include expanding the sector-wide analysis of non-financial risks (SBA NFR) with questions regarding the embedding of sustainability in the day-to-day operations of insurers, and adding sustainability-related indicators to the scoring system for risk components.

Understandably, the Revised SII in so far as it relates to sustainability will have an impact on the Dutch insurance sector. In particular, the EU legislature has introduced an obligation for insurers to develop transition plans. This obligation will be transposed into Dutch law (expected by January 2027) and will further be made concrete and harmonised by means of regulatory technical standards currently under development. An interesting issue in the Dutch jurisdiction could be that the supervisor of Revised SII transition plans, DNB, might not be the same as the (still undecided) supervisor of the CSDDD transition plans–for those large insurers subject to that obligation– giving rise to potential differences in the supervision of these two plans.

Finally, the governance around delivering transition plans and managing climate risks will be a focus point in supervision by DNB and the AFM.

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5. Dutch Future of Pensions Act

The adoption of the WTP introduced a far-reaching overhaul of the second pillar of the Dutch pension system. The WTP came into effect in 2023 and must be fully implemented by 1 January 2028.

One of the most significant changes is that all future pension schemes must be defined contribution schemes. This means that, rather than the pension benefit, the pension commitment will always be key. New pension accrual will have to take place on the basis of a defined contribution agreement, with several possible variants. Offering a pension agreement that constitutes a defined benefit agreement or capital agreement will no longer be an option. Parties in the pension sector have been preparing for the WTP for some time. To ensure that they make the transition in a timely manner, the legislature has set milestones for the key transition steps in the WTP.

Employers with a pension scheme to be administered by an insurer must share the amended pension agreement and transition plan with the insurer no later than 1 October 2027. The insurer must submit the implementation plan and communications plan to the supervisory authority no later than 1 October 2027.

The WTP could very well give an additional push to the ongoing consolidation trend in the Dutch pension sector. This could also mean that more pension funds will opt for a buy-out by an insurance company.

6. Insurance recovery and resolution (directive) from a Dutch perspective

The Insurance Recovery and Resolution Directive (IRRD) entered into force in January 2025, with a transposition obligation for EU member states until January 2027. Resolution objectives include protecting the collective interest of policy holders, beneficiaries and claimants; maintaining financial stability, in particular by preventing contagion and by upholding market discipline; ensuring the continuity of critical functions; and protecting public funds by minimising reliance on extraordinary public financial support. The Dutch jurisdiction was among those that already had a national recovery and resolution framework for insurers (Wet herstel en afwikkeling van verzekeraars), with DNB designated as the resolution authority. The existing Dutch framework is to a great extent aligned with the IRRD but will have to be amended to fill in the gaps with the IRRD.

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The adoption of the WTP introduced a far-reaching overhaul of the second pillar of the Dutch pension system.

An important aspect of the IRRD is the introduction of pre-emptive recovery planning, explicitly requiring that 60% of the Dutch life and non-life insurance market is subject to pre-emptive recovery planning, as opposed to an obligation to develop a recovery plan only after the determination that the insurer is not compliant with its SCR. The IRRD will likely also broaden the scope of insurers for which DNB will have to draw up resolution plans, resulting in 40% of the Dutch life and non-life insurance market being subject to resolution planning. A significant addition is the introduction of ‘solvent run-off’ as a resolution tool on top of those that Dutch law already provides for. Specific requirements apply to group and cross-border resolution and to recognition and enforcement of third-country resolution proceedings. Finally, it seems likely that the threshold for resolution will be lowered; while the text of the provisions on the conditions for resolution is at first glance similar, DNB’s (pre-IRRD) interpretation of resolution action being ‘in the public interest’ implies a limited applicability of resolution.

7. Mass claims and their impact on the Dutch insurance sector

In the Netherlands, unit-linked insurance (**beleggingsverzekeringen**) became popular in the 1990s. They were often promoted as a way for homeowners to build up savings to pay off their mortgages or as a way for individuals to build up a supplementary pension pot for retirement. These policies allowed policyholders to invest their premiums in funds linked to the capital markets, with the expectation that the investment returns would be sufficient to meet these long-term financial commitments, such as fully repaying a mortgage or providing additional income for retirement. However, widespread mis-selling soon became, and continues to be, a serious issue.

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> Recent legal reforms have arguably increased litigation risks for insurers.

A 2008 report by the AFM found that about half of the 5.7 million policies in force on 1 January 2008— around 2.6 million policies—were subject to excessive costs. Opaque management fees, surrender charges and commissions significantly eroded returns, leaving many policyholders with much smaller payouts than they had expected. These cost structures led to the policies being referred to in the media as **woekerpolissen** (“usury policies”).

Since then, litigation over these policies has been extensive—and, in some cases, remains ongoing. Legal action has primarily taken the form of collective actions, where organisations representing groups of policyholders have sought to hold insurers liable for these policies. As recently as last year, 2024, settlements were reached with large insurers in the Netherlands.

Recent legal reforms, particularly the 2020 Act on Redress of Mass Damages in Collective Action (**Wet afwikkeling massaschade in collectieve actie**, WAMCA), have arguably increased litigation risks for insurers. WAMCA enables representative organisations to claim monetary damages—previously excluded under the collective action framework—without requiring affected individuals to opt in, thereby possibly lowering the threshold for mass claims. In order to mitigate the legal and financial risks due to mass claims, proactive management of potential claims is recommended.

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NORWAY

An overview of the cyber insurance landscape in norway: challenges and opportunities

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Kristian Lindhartsen is a seasoned expert in insurance law, with a specialised focus on the intricacies of maritime insurance. His expertise is particularly pronounced in the resolution of marine insurance disputes, where he adeptly handles complex cover disputes and direct-action cases that arise within the maritime sector.

Lindhartsen's proficiency extends to providing strategic advice to insurers, shipowners and charterers, guiding them through the nuances of marine insurance policies as they navigate operational challenges. His counsel is invaluable in matters pertaining to charterparties, contracts of carriage, and commercial agreements, all through the lens of insurance coverage and risk management.

With a strong litigation background, Lindhartsen brings a wealth of experience to the table when representing clients in insurance disputes before ordinary courts and in arbitration settings. His litigation strategy is informed by a deep understanding of insurance law.

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Runar Kristing is an experienced lawyer specialising in insurance law, tort law and surety law. Runar has broad expertise in insurance law, covering most insurance categories and in particular liability, property and project insurance, as well as surety and cyber insurance.

In Kvale, Runar works interdisciplinary and with his background in risk management and insurance, he offers expertise in business and product development, project management and claims handling.

As a former claims manager, Runar has solid experience in handling large and complex cases, claims settlements and litigation.

In addition to his practical experience, Runar contributes to knowledge development and regularly gives lectures and courses on insurance, guarantees and risk management. Runar is a valuable and trusted partner for Norwegian and international insurance companies, policyholders and third parties. With his combination of analytical approach, practical experience and execution, he delivers results that protect and promote clients' interests.

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Tobias Kilde is a key member of Kvale's insurance team, bringing experience to the table in advising clients on a broad range of insurance matters. His expertise has been sought after by numerous Norwegian entities for guidance on the intricacies of insurance policies and their application in various scenarios.

Kilde's proficiency is not limited to advisory roles; he has represented both insurers and insured parties in legal disputes, demonstrating his balanced understanding of insurance law in court settings. He possesses specialised knowledge in maritime claims and operational issues.

In addition to his insurance expertise, Kilde is well-versed in anti-corruption and compliance matters within Norway. He offers valuable insights and advice to both national and international clients, ensuring they navigate the complexities of regulatory compliance with confidence.

KVALE

An overview of the cyber insurance landscape in norway: challenges and opportunities

1. Introduction

In recent years, the rising frequency and severity of cyberattacks have brought cyber insurance into the spotlight as an essential element of corporate risk management strategies. Aon's 2023 Global Risk Management Survey list cyber-attacks and data breach as the number one global risk issues on industry leaders' mind[1]. Aon also predicts this to continue to be the number one risk into the next years.

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> Cyberattacks have proven to be a significant financial threat to businesses across Norway.

Norwegian businesses, both large and small, have increasingly fallen victim to sophisticated cyber threats, incurring substantial financial losses to mitigate the damages. Cyber insurance, also known as cyber liability insurance, is designed to assist organisations in managing the financial risks associated with cyber-related security breaches, data breaches, ransomware attacks, and other incidents.

This article provides an overview of the Norwegian cyber insurance market, highlighting its current challenges and shortcomings, such as pricing uncertainties, coverage limitations, and regulatory ambiguities. It also underscores the vulnerabilities that small to medium-sized businesses (SMBs) face when it comes to cyber threats and the evolving regulatory landscape that affects them.

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2. Overview of the market: Cyberattacks poses A Growing Financial Burden

Cyberattacks have proven to be a significant financial threat to businesses across Norway. One of the most notable recent incidents occurred on 18 March 2019, when Hydro, a leading international Norwegian aluminium producer, was hit by a large-scale cyberattack[2]. The attack, conducted using the LockerGoga ransomware, was designed to encrypt critical company data and demand a ransom in cryptocurrency. When the attack unfolded, it paralyzed Hydro's IT systems across its global network, with no one fully understanding the scope or potential consequences in the early stages. Senior managers were woken up in the early hours of the morning, and they had to respond quickly to contain the damage. Despite the pressure and uncertainty, Hydro made the decisive choice not to pay the ransom, realising that even if the attackers were paid, they would likely still have access to their systems.

Hydro's immediate response was to shut down all network links and servers, which meant employees couldn't access the company's central IT platform or its supporting infrastructure. With most of their systems down, employees were forced to rely on manual operations. The company faced significant production disruptions as many of its processes relied on the compromised IT platform. However, certain business areas, including Hydro's hydropower facilities, were largely unaffected because they were kept separate from the company's main IT systems, in compliance with Norway's emergency preparedness regulations. In other locations, employees had to quickly adapt to working without access to essential resources, such as customer lists and order books, using whatever means available to keep operations running.

1. The survey can be found here: https://assets.aon.com/-/media/files/aon/reports/2023/aon-global-risk-management-survey-key-findings-2023.pdf
2. For further coverage, see: https://www.hydro.com/en/global/media/on-the-agenda/cyber-attack/

The immediate financial toll of the cyberattack was substantial. While Hydro initially estimated the cost of the attack to be around 600 million Norwegian kroner, further assessments revealed that the total financial damage eventually ballooned to approximately 800 million kroner. This figure accounted for the full extent of the production delays, recovery efforts, and business interruptions. However, Hydro's decision to invest in cyber insurance provided some relief, with the policy covering nearly 780 million kroner of the total loss. This incident not only underscores the devastating monetary impact a cyberattack can have on a large-scale organisation, but it also highlights the importance of cyber insurance in mitigating the financial consequences of such a crisis.

Despite the scale of the disruption, Hydro's response to the attack ultimately helped the company learn important lessons about cybersecurity. The experience reinforced the importance of preparedness, from regular drills to robust backup systems, and the need for strong communication strategies. Hydro also recognized that reliance on fully automated systems could be problematic in the event of a cyberattack, as some of its facilities had to revert to manual operations to resume production. This reinforced the value of maintaining a balance between automation and manual control, ensuring that critical systems could still function even during a major technological crisis.

In another incident, Green Mountain, a Norwegian data centre provider with high-profile international clients such as TikTok, DNB, and DNV, was targeted by a phishing attack[3]. The attackers gained unauthorized access to the company's systems, which could have exposed third party data in Green Mountain's possession. This case underscores the growing risk faced by smaller companies, particularly those in the supply chain, which can be targeted by cybercriminals seeking access to larger organisations' networks.

The financial consequences of cyberattacks extend beyond direct costs such as system downtime and data loss. Companies may also face claims from severe reputational damage and third-party claims, including clients and the public sector, adding to the financial burden. Cyber insurance is intended to play a crucial role in helping businesses mitigate these types of losses, offering protection against an increasingly unpredictable and costly risk landscape.

3. Current challenges and shortcomings in the Norwegian Cyber Insurance Market

3.1 Lack of experience

Despite the growing recognition of cyber insurance as a critical risk management tool, the Norwegian market is facing several challenges due to its relative immaturity and limited experience in addressing cyber threats. According to the Cybercrime Survey 2023, [4] a significant concern for insurers and policyholders alike is the lack of sufficient expertise in the field of cybersecurity. This lack of experience has led to uncertainties in various aspects of cyber insurance, including pricing, liability caps, coverage scope, and regulatory compliance.

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Green Mountain, a Norwegian data centre provider with high-profile international clients such as TikTok, DNB, and DNV, was targeted by a phishing attack.

3. For further coverage from Norwegian news source: https://www.nrk.no/innlandet/dataangrep-mot-green-mountain-1.17091888
4. The survey can be found here: https://bcfc.dk/wp-content/uploads/2023/11/cybercrime-survey-2023.pdf

3.1. Pricing Uncertainties

Another pressing challenges facing the Norwegian cyber insurance market is the uncertainty surrounding pricing. Insurers struggle to accurately assess the potential monetary impact of cyberattacks due to the rapidly evolving nature of cyber threats and the limited data available on the actual losses incurred. This results in risk-averse pricing, which can make cyber insurance prohibitively expensive, especially for small to medium-sized enterprises (SMBs). The lack of comprehensive historical data on cyber incidents further exacerbates the difficulty in setting premiums that accurately reflect the true risk of cyberattacks, transferring this risk to the customer by pricing in the uncertainty.

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> A recurring issue with cyber insurance products is the lack of clarity in the conditions and policies that govern coverage.

3.2. Coverage Limits and Liability Caps

In the Norwegian cyber insurance market many insurance policies offer limited coverage, particularly in terms of liability caps. In many cases, the liability caps on Norwegian cyber insurance policies are too low to fully cover the costs of large-scale cyberattacks. Additionally, insurers often exclude coverage for significant loss items, such as third-party loss claims or indirect losses, which further limits the effectiveness of the coverage.

As a result, larger Norwegian companies often seek coverage from international insurers who are more willing to assume greater risks and offer higher coverage limits. However, accessing these international markets can be difficult, particularly for smaller businesses that may not have the necessary broker connections or expertise to navigate the complex landscape of global cyber insurance offerings.

3.3. Ambiguities in Coverage Conditions and Policies

A recurring issue with cyber insurance products is the lack of clarity in the conditions and policies that govern coverage. Coverage conditions refer to specific requirements that must be met for an insurance policyholder to be eligible for compensation under a cyber insurance policy. For example, if a policyholder has not implemented the necessary cybersecurity measures such as firewalls, antivirus software, or regular data backups, the insurer may deny coverage for any losses resulting from a cyberattack.

Policy for coverage refers to the rules that allow insurers to adjust or reduce the financial compensation in the event of a claim. For instance, if the policyholder has contributed to exacerbating the damage (for example, by delaying incident response actions). In other cases some insurance companies operate with a panel requirement, meaning that coverage for incident response services is only provided if the policyholder uses providers pre-approved by or in partnership with the insurer. This raises interesting regulatory questions about whether an insurer can deny coverage if the policyholder’s use of a non-panel provider actually limited the loss.

These ambiguities in coverage conditions and policy adjustments can create significant challenges for both insurers and policyholders, especially for small and medium-sized businesses that often lack the technical expertise to understand the intricacies and meet the specifics of cybersecurity requirements.

3.4. The Vulnerability of Small to Medium-Sized Businesses (SMBs)

SMBs represent a particularly vulnerable target group in the face of rising cyber threats. Not only are these businesses directly exposed to cyberattacks, but they are also often used as a gateway for cybercriminals to breach larger organisations' networks. According to the Cybercrime Survey 2023, over 50% of cyberattacks are conducted through third-party channels, making SMBs both direct targets and indirect threats to their larger business partners.

The vulnerability of SMBs underscores the importance of robust cybersecurity measures and comprehensive cyber insurance policies to protect against the growing risk of cyberattacks. Unfortunately, many SMBs in Norway face significant barriers when it comes to accessing affordable and sufficient cyber insurance. This is largely due to the immaturity of the Norwegian cyber insurance market, which has yet to fully cater to the unique needs of smaller businesses.

In the yearly threat report of the Norwegian Police Security Service, the rapid evolvement of how cyberattacks are carried out, is highlighted as one of the main issues related to cyber security. [5] Staying at the forefront of cyber security requires in depth and up to speed knowledge of the cyber security landscape, which often requires resources which can be challenging to muster for SMBs.

Additionally, the rapidly evolving regulatory landscape, driven by initiatives such as the NIS2 Directive, is adding further pressure on SMBs to develop effective cybersecurity practices. The NIS2 Directive is an EU directive imposing stringent cybersecurity obligations on entities classified as "important entities," requiring them to establish risk management processes and report serious cyber incidents. These requirements also apply to SMBs. Non-compliance can result in substantial fines, potentially reaching up 1.4% of global turnover. The directive also holds top management personally accountable for cybersecurity failures, with the possibility of criminal sanctions for gross negligence. The directive came into effect on 18 October 2024, in the EU, and will be incorporated into Norwegian law within the upcoming years.

These developments highlight the growing importance of cyber insurance for SMBs, not only as a financial safety net but also as a key component of comprehensive risk management. However, as previously mentioned, the current challenges in pricing, coverage, and regulatory requirements make it difficult for many SMBs to access the protection they need.

3.5. Conclusion

In conclusion, the cyber insurance market in Norway faces several challenges that limit its effectiveness, particularly for small to medium-sized businesses. The issues of pricing uncertainty, limited coverage options, and regulatory ambiguities must be addressed in order to ensure that businesses, regardless of size, have access to the protection they need to mitigate the risks of cyberattacks.

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In the yearly threat report of the Norwegian Police Security Service, the rapid evolvement of how cyberattacks are carried out, is highlighted as one of the main issues related to cyber security.

There is a clear and growing need for more accessible, comprehensive, and transparent cyber insurance solutions from Norwegian insurance companies, particularly for SMBs, who are increasingly exposed to cyber threats. Addressing these challenges will require collaboration between insurers, policyholders, and regulatory bodies to create a more mature and effective cyber insurance market in Norway.

5. The report can be found here: https://www.pst.no/globalassets/2024/nasjonal-trusselvurdering-2024/nasjonal-trusselvurdering-2024_uuweb.pdf

4. Kvale's Expertise in Cyber Insurance and Cybersecurity

Kvale stands out as a go-to legal advisor in the Norwegian cyber insurance market due to its deep expertise in both insurance law and cybersecurity. By fronting a multidisciplinary collaboration between legal experts and cutting-edge data technology providers, Kvale offers a holistic and effective approach to cybersecurity, ensuring that its services are not only comprehensive but also seamlessly integrated. This unique synergy allows Kvale to assist clients in navigating the complexities of the ever-evolving cyber insurance landscape with greater precision and foresight. Especially in an environment where challenges such as pricing uncertainties, coverage limitations, and regulatory ambiguities are common, Kvale's integrated strategy positions clients to effectively manage and mitigate cyber risks while remaining compliant with the latest legal standards.

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Kvale stands out as a go-to legal advisor in the Norwegian cyber insurance market due to its deep expertise in both insurance law and cybersecurity.

Kvale leverages its comprehensive expertise to adeptly assist all market participants through every phase, including the drafting of policies, initiation of insurance relationships, and the effective management and recovery of incidents and claims, ensuring a seamless and informed experience across the entire spectrum of insurance processes.

The firm's commitment to staying ahead of regulatory developments and offering innovative solutions to address gaps in the market further solidifies its reputation as a trusted partner for businesses seeking to navigate the complex cyber insurance terrain in Norway.

KVALE

Kvale is a top legal advisor in Norway's cyber insurance market, blending expertise in insurance law and cybersecurity.

By partnering with data technology providers, Kvale offers a seamless, integrated approach to help clients navigate challenges like pricing, coverage gaps, and regulatory complexities.

Supporting at every stage — from policy drafting to claims management — Kvale ensures clients stay ahead of regulatory changes and effectively manage cyber risks with innovative solutions, making us the trusted partner in a fast-evolving landscape.

Kvale, a leading Norwegian business law firm with over 110 lawyers, assists Norwegian and international clients, whether they are large companies or smaller enterprises. Additionally, we provide assistance to public authorities and organizations.

www.kvale.no/en/

SPAIN

The Future of the Spanish Insurance Sector: How Cybersecurity, Artificial Intelligence, Sustainability, and Consumer Protection are driving a transformative change and shaping the industry's evolution

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Cristina earned her Law degree and went on to pursue a dual Master's in Legal Practice and an LLM in Technology at IE Law School. She also completed a postgraduate course in Digital Law and Cybersecurity at CES Cardenal Cisneros.

In 2023, Cristina joined Deloitte, where she works in the Digital Law department. Throughout her career, she has acquired significant expertise, working with leading law firms and specializing in New Technologies law.

In addition to her professional work, Cristina serves as Vice Secretary of the ESYS Foundation, has been the Coordinator of the Working Subgroup at the National Cybersecurity Forum since 2022, and teaches in the Master's Program in Business Legal Advisory at Universidad Europea, a role she has held since 2022.

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Marta completed her degree in Law and subsequently pursued a Master's in Legal Practice.

She became part of Deloitte Legal in 2019, joining the Regulatory & Compliance department within the Insurance and Pension Funds sector. Throughout the course of her professional career, Marta gained valuable experience in the legal and regulatory aspects of the insurance industry.

Over the past few years, Marta has specialized in providing regulatory and compliance advice to various insurance companies, as well as to insurance brokers. Her expertise extends to Due Diligence projects, where she has actively contributed to initiatives involving the implementation of regulatory frameworks. Her work has focused on key areas such as insurance distribution, governance systems, and sustainability, where she has assisted clients in ensuring their compliance with evolving regulations and best practices in these areas.

Deloitte. Legal

Deloitte. Legal

As an integral part of the financial system, the insurance sector continues to face ongoing transformation due to regulatory changes aimed at adapting it to a globalized economic environment and new social and technological demands. These changes are primarily driven by a high regulatory burden that encompasses both local and European regulations, with the goal of ensuring resilience, solvency, transparency, and consumer protection.

More specifically, the main current impacts on insurance companies in Spain stem from regulations on cybersecurity, artificial intelligence, sustainability challenges and obligations, and consumer protection. Notably, changes related to accessibility, as well as complaint and claim management, stand out in consumer protection.

> "Artificial intelligence emerges as a transformative factor, both in optimizing operational processes and in enhancing the customer experience.

In January, two years after its entry into force, Regulation 2022/2554 on the digital operational resilience of the financial sector, known as the DORA Regulation, was applied. It is undoubtedly the most comprehensive and demanding regulation regarding digital security, requiring an exhaustive compliance adaptation process for insurance companies. This regulation marks a before and after in the search for a regulatory framework that protects the European sector against growing cyber threats.

Insurers must have comprehensive capabilities that enable strong and efficient management of technological risks. This approach has a significant impact on the company's cybersecurity governance, including the new responsibilities of the board of directors. Furthermore, DORA provides obligated entities with favorable legal tools to manage the technological risks associated with external providers, as well as a well-defined internal regulatory framework that reinforces the legal security of the companies.

From the results of the "Dry Runs" to prepare for DORA conducted by the European Authorities and the self-assessment forms required by the Spanish authorities, it has been observed that, in general, entities have good governance, cybersecurity, and business continuity measures in place. However, in many cases, there is a lack of periodic reviews or follow-up of these reviews, indicating that further work is needed to ensure comprehensive management of technological risks, aligned with the standards required by DORA.

On the other hand, artificial intelligence emerges as a transformative factor, both in optimizing operational processes and in enhancing the customer experience. This requires constant adaptation by insurers to incorporate these technologies efficiently and securely. In fact, it is a sector that is pioneering the adoption of AI, even ahead of the industrial sector or public administrations. Artificial intelligence is used in various areas, such as predictive risk analysis, claims management, and product personalization, allowing companies to offer more efficient, faster, and tailored solutions to customer needs. In fact, the Regulation itself has addressed how AI systems used for risk assessment and pricing related to individuals in the case of life and health insurance are considered high-risk.

In this context, most Spanish insurers have dedicated departments focused on digitization and are currently working on AI-related projects. Many of them already have these projects embedded in their daily operations, with a focus on customer loyalty.

However, this transformation also presents challenges related to data management, privacy, and transparency in the algorithms used, which requires constant adaptation to technological advancements and proper risk management associated with their implementation. Therefore, since the AI Act came into force a few months ago, insurance companies have had to adapt to it, although it has not posed a significant challenge given that they are already accustomed to adapting their structures and processes to new regulatory changes.

One of the areas where its impact is being felt most profoundly is in the relationship between companies and their customers. Putting the customer at the center of AI means using this technology in a way that enhances the consumer experience by retaining as many customers as possible, optimizing support and response processes, and enabling unprecedented service personalization, while also preventing fraud.

Thirdly, the insurance sector is also influenced by the growing pressure to comply with the requirements arising from sustainability regulations, which present challenges and obligations that advocate for the integration of environmentally and socially responsible practices. These regulations are driving a significant shift in how insurers manage their investments, products, and services. In the European Union, environmental policies are taking a central role, driven by the Green Deal and the Green Taxonomy, which provide guidelines for companies, including insurers, to align their strategies with environmental, social, and governance (ESG) sustainability principles. Insurers must integrate these principles into their investment decisions, product design, and risk management. Additionally, the regulations impose transparency and disclosure obligations, requiring companies to demonstrate their commitment to sustainability and the environmental impacts of their operations.

As a result, Spanish insurance entities will face various regulatory obligations throughout the next year. Among other things, they will need to incorporate the evolution of sustainability risk analysis in the Financial and Solvency Position Report (ISFS), including ESG aspects related to governance, investments, and insurance products, as well as progress in complying with European and Spanish obligations. They will also need to prepare a Report on the Financial Impact Assessment of risks associated with Climate Change (which has been voluntary until now, but it is unclear whether it will remain so in 2025). They must also develop Key Underwriting Activity Indicators in line with the Taxonomy Regulation, incorporate ESG content in the Annual Risk Management Function Report and the Actuarial Function Report, develop and justify a Climate Change Risk Materiality Test model for the Entity's investments and insurance products, and, based on those results, if there is positive materiality, prepare stress tests for investments and insurance products and incorporate ESG risk into the ORSA. Additionally, they will need to prepare a Sustainability Report.

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Spanish insurance entities will face various regulatory obligations throughout the next year.

Finally, and related to sustainability, in the field of consumer protection, the most notable changes focus on the accessibility of products and services, as well as the improvement of complaint and grievance resolution mechanisms. This approach not only aims to comply with regulations but also to ensure greater transparency, trust, and customer satisfaction, especially in an increasingly competitive and digitalized environment.

The current regulations require insurers to ensure that their products are understandable and accessible to everyone, regardless of their characteristics or abilities, including vulnerable groups such as people with disabilities or the elderly. Additionally, there is a push for greater efficiency in customer service processes, particularly regarding the management of complaints and claims. This means that insurers must have more agile and effective systems for resolving disputes, in addition to being accessible, which in turn requires increased investment in training, technologies, and the implementation of customer service processes that are transparent, quick, and satisfactor.

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> Insurance companies are accustomed to constantly adapting to new regulatory changes.

Despite this, many insurers are making progress in ensuring universal accessibility before the European Directive 2019/882, which has already been transposed into Spanish law, becomes applicable to both new products and service contracts, as well as to existing ones, for which a longer adaptation period is anticipated.

One of the most significant advancements in this area is digital inclusion. Through this, the aim is to ensure that anyone, regardless of their limitations, can use the tools provided by insurance companies, such as their websites or customer apps. For example, even if a person has a visual or hearing impairment, they should be able to navigate the website of the insurer with whom they wish to purchase insurance or already have an existing policy, with the highest level of accessibility guaranteed. Some of the most common examples include the use of clearer language, the incorporation of a narrator function, ensuring an appropriate font size, or even increasing the contrast between text colors to enhance readability.

In summary, in the current context where technology plays a key role in the interaction between consumers and businesses, insurance companies have the responsibility to ensure that all users, regardless of their personal circumstances, can access and use their digital platforms without difficulty. Therefore, it is expected that they will develop further advancements that eliminate digital barriers for all users. In fact, relating this to the second impact discussed (AI), it can help insurance companies adapt interfaces to the individual needs of users through machine learning, for example, by adapting virtual assistants or chatbots. In this way, the experience can be personalized, promoting equal opportunities and offering clients a broad range of options, as if a user feels uncomfortable using digital platforms alone, they should be able to access support via phone or email.

The aforementioned is linked to two highly relevant regulations for the Spanish insurance sector, which are currently in the bill stage, awaiting final approval. These regulations have the potential to generate a significant impact on the sector, and their approval will be closely monitored by insurance companies.

On one hand, one of the regulations mentioned, which is expected to be approved in 2025, has a direct impact on customer service in the insurance sector. Among other aspects, it aims to ensure that this service is free, efficient, universally accessible, inclusive, non-discriminatory, and measurable, while guaranteeing personalized attention. Therefore, insurance entities will need to ensure that their employees receive ongoing specialized training, including specific training related to vulnerable individuals, such as those with disabilities or advanced age.

As previously mentioned, insurance companies are accustomed to constantly adapting to new regulatory changes. In this context, and proactively, they have already started making their initial adjustments to comply with the new requirements, reflecting the sector’s commitment to inclusion and adherence to regulations aimed at ensuring equitable and accessible service for all customers.

A prominent example of these actions is the creation of video interpretation services for individuals with hearing impairments. These services, promoted in collaboration with specialized associations, enable customers with this disability to purchase insurance products, make inquiries related to the services and products of insurers, manage claims, or request assistance, among other task.

Finally, in relation to the aforementioned, a regulation is pending approval that will establish the creation of an Independent Administrative Authority for the Defense of the Financial Customer. Its objective is to replace the three existing sectorial complaint services (Bank of Spain, Stock Market National Commission, and Directorate General of Insurance and Pension Funds).

The creation of this new Authority will have a significant impact on banking and insurance entities, both economically, legally, reputationally, and operationally. This transformation will require a thorough analysis of current complaints to assess the potential impact it may have on Spanish insurance companies.

In conclusion, the Spanish insurance sector is undergoing a significant transformation driven by technological innovation, sustainability demands, and new regulations aimed at improving accessibility, resilience, and consumer protection. The integration of artificial intelligence is redefining the customer experience and operational efficiency, but it also presents challenges in terms of privacy, transparency, and, especially, cybersecurity.

At the same time, sustainability regulations are forcing insurers to adopt more responsible practices in their investments and products, requiring continuous efforts to meet new regulatory requirements and improve the disclosure of their environmental impacts, among other things.

On the other hand, accessibility to products and services is an increasing priority, with a particular focus on ensuring that all users, regardless of their abilities, can access and use digital platforms effectively. Digital inclusion and specialized staff training are key steps to ensure that insurers meet their responsibilities and promote equal opportunities.

The regulations currently under approval, such as those related to customer service and the creation of an Independent Administrative Authority for Financial Consumer Protection, signal profound changes that will affect both internal operations and the relationship with consumers. In summary, the insurance sector is in a constant stage of adaptation and evolution, where innovation, sustainability, and customer care combine to build a more equitable, inclusive, and transparent environment.

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In relation to the aforementioned, a regulation is pending approval that will establish the creation of an Independent Administrative Authority for the Defense of the Financial Customer.

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Ashley leads the firm's insurtech initiative and has spoken at various global conferences.

Ashley is a member of the LMG working group on government affairs and a member of the LMG's Government Affairs taskforce.

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Introduction

The UK continues to be at the forefront of the global reinsurance market, acting as a hub for some of the most innovative and active reinsurance transactions, not just for UK risks but also structuring and placing cross-border reinsurance across the world. In addition to the vibrant London Market which is the largest specialty (re) insurance market for complex risk, some of the largest and most novel reinsurance structures are designed and led out of the (re)insurance ecosystem in London. This includes the longevity reinsurance market, where having written longevity reinsurance transactions for decades, the London ecosystem leads the charge in longevity transactions in new jurisdictions.

> “The Solvency UK regime aims to “reduce bureaucracy, facilitate competition, and support UK economic growth and competitiveness without lowering prudential standards or weakening policyholder protection.”

In recognition of the importance (re) insurance plays in the UK, the UK has implemented an extensive set of reforms to the insurance regulatory framework aimed at supporting the industry, which came into effect on 31 December 2024.

Alongside the new insurance regulatory framework, there is an increasing demand for alternative capital solutions. The UK has seen the success of the Lloyd’s of London’s (“**Lloyd’s**”) London Bridge ILS platform demonstrating the potential of the UK ILS regime and proposals for a new UK captive regime.

Digital transformation is also being embraced by the reinsurance marketplace, with Lloyd’s digital transformation strategy Blueprint 2 leading the way.

The UK is also seeing new and innovative structures in life reinsurance. The continued and further projected growth of the pensions risk transfer (“**PRT**”) market has led to new insurance and reinsurance players coming to the market and private equity participants taking an increasing interest and role in these transactions.

1. Regulatory Reforms & UK Competitiveness

Solvency UK

Following the UK’s exit from the European Union (“**EU**”), the PRA launched a comprehensive review of the Solvency II framework to tailor it to the unique dynamics of the UK (re) insurance market. The aim was to foster a more vibrant, innovative, and competitive sector. These reforms took effect on 31 December 2024. Extensive revisions to the PRA Rulebook and guidance have been implemented along with several new Statements of Policy being adopted. This marks a significant milestone in reshaping the UK’s (re) insurance regulatory landscape.

The Solvency UK regime aims to “reduce bureaucracy, facilitate competition, and support UK economic growth and competitiveness without lowering prudential standards or weakening policyholder protection.” This should translate into a regulatory environment that lowers barriers to entry for new (re)insurers (and new UK branches of overseas (re) insurers) whilst ensuring that risk management practices remain robust. Key focus areas include improving internal model and matching adjustment approval processes, increasing flexibility to the matching adjustment requirements and capital measures such as reforms to the risk margin—particularly relevant to the life and long-term (re)insurance sector. These measures aim to strike a balance between market growth and financial stability, equipping the UK’s regulatory framework to handle the complexities and large-scale risks inherent in (re)insurance arrangements.

Meanwhile, the EU has also reformed its Solvency II framework, with a new directive published in the Official Journal of the European Union in early 2025. The EU's revised Solvency II directive allows Member States until 29 January 2027 to implement the changes into domestic law. Whilst some of the EU amendments align with those in the UK e.g. the risk margin and the streamlining of reporting requirements, not all of them do and the UK has moved ahead with its reforms at a faster pace than the EU. This has therefore resulted already, in some divergence between the EU and UK.

Recovery and Resolution

A key component of a globally competitive regulatory regime is resilience in managing potential failures or instability in the (re)insurance sector. To this end, HM Treasury has proposed the Insurer Resolution Regime ("**IRR**"), designed to strengthen the ability of newly designated resolution authority, the Bank of England, to manage the instability of (re)insurers. Among its key provisions, it expands the scope of the bail-in process to include certain reinsurance creditors—specifically those holding subordinated floating charges—potentially resulting in a write-down of their claims and aligning their treatment with that of direct policyholders in insolvency scenarios. Additionally, the IRR proposes overriding pay-as-paid clauses, which could require reinsurers to fulfil obligations even if cedants reduce payments, a move which could increase the counterparty risk for reinsurers in distressed situations. The UK government has yet to set a definitive date for the IRR's implementation.

ESG and Climate Change

A key aspect of the evolving regulatory landscape in the UK (re)insurance sector is the role that Environmental, Social, and Governance ("**ESG**") plays in their risk framework and the role (re)insurers play in insuring climate risks and investing in ESG compliant assets. Since 2022, climate risk has been supervised by regulators in the UK.

Many UK (re)insurers have already made strides toward integrating ESG considerations into their operations. This includes workforce training on climate risk, revising investment strategies, and engaging with companies they invest in to promote better climate-related practices. UK cedants are also integrating ESG considerations into their reinsurance arrangements.

2. Growth of Alternative Capital & Insurance-Linked Securities (ILS)

The global ILS market continues to thrive with growth of 10.5% year-on-year in 2024 and forecast inbound investment of in excess of $50 billion this year. This growth is partly due to the hard market of recent years and the demand for US natural catastrophe risk cover but is also benefiting from increased diversification of underwriting with cyber risk and, to a lesser extent, terrorism risk attracting increasing ILS capital.

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A key component of a globally competitive regulatory regime is resilience in managing potential failures or instability in the (re)insurance sector.

While the global market remains dominated by Bermuda, the UK is committed to positioning itself as a competitive player in the global ILS market and, through the Lloyd's "London Bridge" UK PCC platforms, there is increased traction for the UK as an ILS hub. By late 2024, the London Bridge platforms achieved a capital deployment milestone of USD 1.92 billion, with institutional investor commitments exceeding USD 2.55 billion. Notable UK-led transactions include the launch of the Fidelis Partnership Syndicate 3123, and Blackstone's backing of AIG Syndicate 2478.

The PRA has also proposed adjustments to the Insurance Special Purpose Vehicle ("**ISPV**") framework, aimed at increasing the competitiveness of the UK ILS regime including grace periods for the fully-funded-at-all-times requirement and expedited authorisation processes with standardised structures like Rule 144A catastrophe bonds reduced from 4-6 weeks to 10 working days. While the UK's ISPV regime has seen limited uptake since the introduction of a new protected cell company framework under the Risk Transformation Regulations 2017, these measures signal an effort to compete with established ILS hubs like Bermuda and Guernsey.

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> Digital transformation is a critical priority for Lloyd's and the wider London Market in 2025.

In addition to the ILS market, the UK has signalled its firm intent to attract captive capital to the UK, with HM Treasury's long awaited consultation on a UK captive insurance regime issued in November 2024 and targeted for mid-2025 implementation. This initiative recognises that, similar to ILS, the UK is well positioned to leverage its global insurance expertise to attract alternative capital. However, the existing leading captive markets in Bermuda and Guernsey take a proportionate approach to supervising captive risk and the success of the UK captive regime will therefore depend on its ability to take a similarly proportionate approach to its own captive regime.

3. Digital Transformation and Innovation in Lloyd's and the London Market

Digital transformation is a critical priority for Lloyd's and the wider London Market in 2025. Lloyd's digital transformation strategy, Blueprint Two, is a generational operational change aimed at modernising the market and bringing much needed efficiency by streamlining processes through data, automation and standardisation. While the initial cutover to phase one digital services has been subject to delays, it is expected to complete in 2025.

As a data-heavy industry, UK reinsurers remain highly focused on the successful integration of AI into their operations. According to an Ernst & Young (EY) survey, 99% of (re)insurers are either investing or planning to invest in generative AI to enhance efficiency in areas like policy summarisation, content creation, language translation, and code generation. The Ki Syndicate, the first algorithmically-driven and fully digital Lloyd's syndicate, has been operating at Lloyd's since 2021 and is an excellent example of innovative underwriting within Lloyd's (it deploys a "follow only" model) and is well established having passed over $1bn in GWP in 2024.

At the same time, we expect reinsurers to tread relatively cautiously given the increased risks that arise with automation, in particular generative AI, from both an underwriting and operational perspective. This caution will be heightened by the FCA's stated focus on operational resilience of UK reinsurers (among others) and associated scrutiny of dependencies on third party outsourcings and critical IT infrastructure.

4. Pensions Risk Transfer and the Role of Private Equity on UK Reinsurance

The UK pension risk transfer ("**PRT**") market has experienced substantial growth over the past five years with deal volumes reaching a record high of £50 billion in 2023 and final results for 2024 anticipated to exceed £40 billion. The UK de-risking market is expected to remain strong into 2025 and beyond, reflecting strong scheme funding levels and a sustained appetite from trustees and sponsors to transfer risk to insurers.

Reinsurance has been a key facilitator of this expansion as UK insurers leverage a range of reinsurance solutions to enhance their capacity for transactions, including flow, facultative longevity, and funded reinsurance. Cross-border funded reinsurance in particular has accelerated the uptake of BPA transactions, enabling cedants to manage exposures without straining the market's finite capacity.

The buoyancy of the UK life and annuity sector and the demand for cross-border funded reinsurance has given rise to a growing trend of private capital firms investing in the life (re)insurance sector. This represents a structural shift in the life insurance market. (Re)insurers are expanding the universe of their investments with increased investment in alternative asset classes with the potential to generate greater returns. Partnerships with life and annuity reinsurers accordingly enable private capital firms to access stable 'permanent' capital, diversify their portfolios and maximise assets under management. Key examples of this are Blackstone's strategic partnership with Resolution Life, and Apollo/Athene's investment and strategic partnership with Athora, and most recently the authorisation of Brookfield Wealth Solution's new UK insurer Blumont Annuity Company UK Ltd, focused on bulk annuity solutions.

The PRA has however raised concerns about the potential rapid accumulation of risks in the UK life insurance market due to the accelerating use of cross-border funded reinsurance. The PRA considers that UK insurers could be exposed to a high concentration of risk among a limited pool of counterparties, underestimation of counterparty risk, and inappropriate asset exposure as a result of the emergence of reinsurance counterparties utilising asset origin capabilities of affiliated alternative asset managers. Regulatory scrutiny of funded reinsurance is expected to continue in 2025 but while heightened regulatory pressures may increase costs and complicate deal structuring, we expect the PRT market to remain resilience and the use of funded reinsurance to continue in the long term.

Conclusion

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The PRA has however raised concerns about the potential rapid accumulation of risks in the UK life insurance market due to the accelerating use of cross-border funded reinsurance.

The UK reinsurance market is in a position of real strength and poised for continued growth in 2025. This growth is underpinned bya combination of strategic regulatory reforms, technological innovation, market demand and the expertise of the London Market. In particular, the competitiveness objective for the PRA alongside the Solvency UK reforms means the UK has more agility in a fast paced and changing global reinsurance market. Similarly, the UK's efforts to develop its ILS market and introduce a captive insurance regime reflect a deliberate strategy to compete with established hubs like Bermuda and Guernsey that present a genuine opportunity to attract new capital to the UK reinsurance market.

The success and innovation of structures used in life insurance and the pension risk transfer market, in large part driven and complimented by the increasing participation of private capital firms, provides further evidence that the UK (re)insurance market is a robust and evolving one. More broadly, the access to global markets provided through the London Market and the well-established principles of English common law mean that the UK reinsurance market remains highly attractive to the largest international private capital funds.

Whilst regulatory reforms seek to enhance the UK market's competitiveness on the world stage, there remains regulatory scrutiny over increasingly novel and complex structures, operational resilience and diversification of reinsured and retroceded risks.

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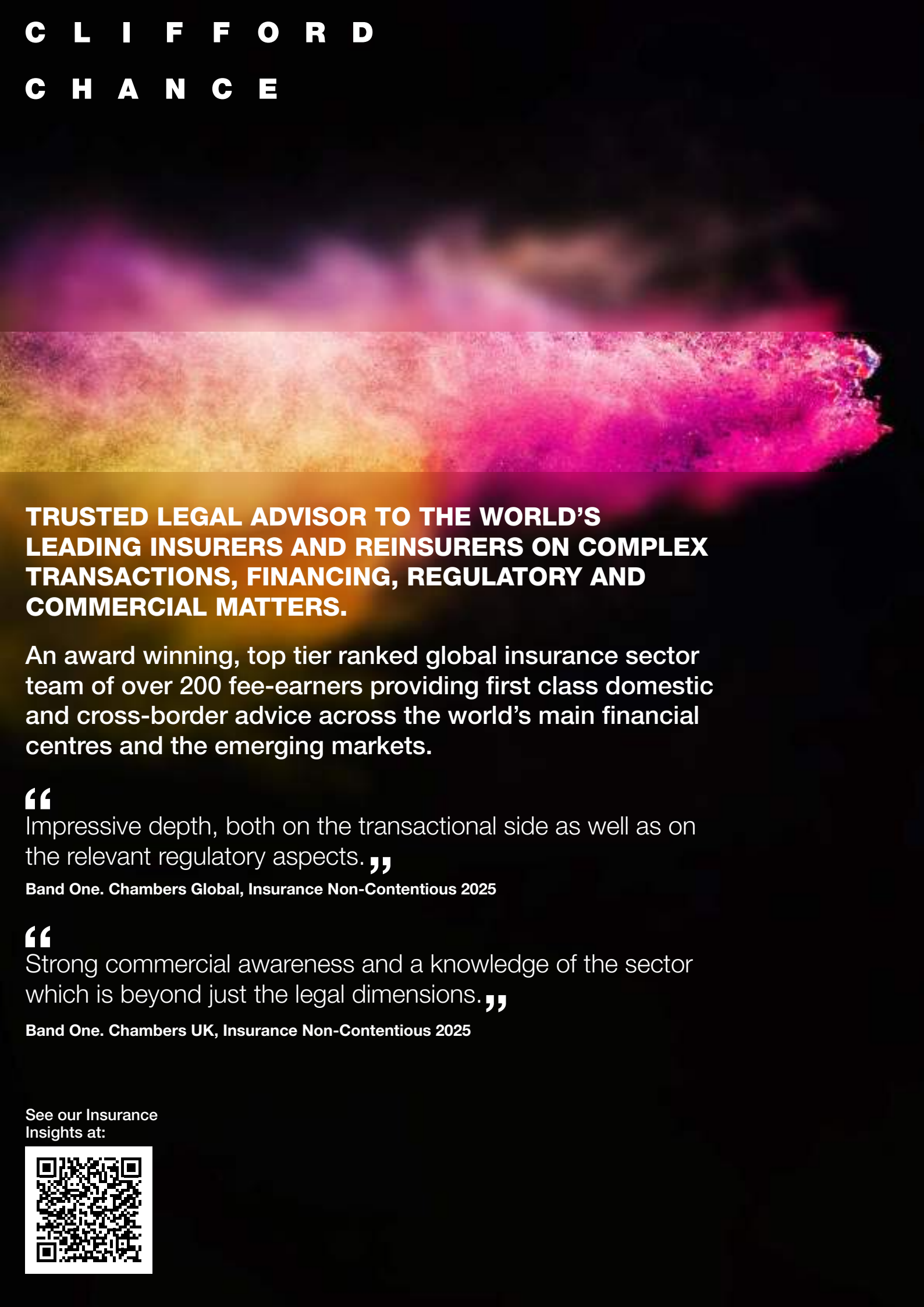
The access to global markets provided through the London Market and the well-established principles of English common law mean that the UK reinsurance market remains highly attractive to the largest international private capital funds.

It is therefore critical to the ongoing success of the UK reinsurance marketplace that the proposed and recently implemented reforms function efficiently and proportionately in order to continue to attract new market participants and drive growth. The scale and expertise of the existing reinsurance market and experts in the UK remain market-leading therefore if the regulators work with industry to implement reforms effectively there is every opportunity for the UK reinsurance market to continue to strengthen and to deliver wider benefits to the UK economy.



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