



# Regulatory trends shaping the future of insurance

The end of insurance as we know it?

BEGIN



# Contents

With a panel comprising CMS experts from across three continents, this seminar will compare and contrast the differing approaches being taken in relation to two key issues of the day, AI and product governance:

- 01 Regulation of AI
- 02 Supporting AI innovation
- 03 Product governance and value



The insurance industry constantly faces regulatory changes, mainly due to requirements aimed at enhancing market stability and consumer protection. These can be difficult to keep track of, particularly where different approaches to common issues are being taken around the globe.



# Meet the panel



Sarah Brook  
CMS UK



Thomas Maur  
CMS Germany



Ying Yi Liew  
CMS Singapore



Felipe Bastos  
FAS Advogados  
In cooperation with CMS





# EU AI Act

## What is the subject matter of regulation?

*"AI system' means a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments."*

Article 3 EU AI-Act







# EU AI Act

## Risk-based approach





# EU AI Act

## High-Risk AI Systems

*"AI systems intended to be used for **risk assessment and pricing** in relation to **natural persons** in the case of **life and health insurance**"*

Annex III EU AI-Act

*"However, AI systems provided for by Union law for the purpose of detecting fraud in the offering of financial services and for prudential purposes to calculate credit institutions' and insurance undertakings' capital requirements should not be considered to be high-risk under this Regulation."*

Recital 58 EU AI-Act

*Exemption: "AI system (...) shall not be considered to be high-risk where it does not pose a significant risk of harm to the health, safety or fundamental rights of natural persons, including by not materially influencing the outcome of decision making."*

Article 6 para. 3 EU AI-Act





# German regulator BaFin

*"One aspect is fundamentally important to me when it comes to AI: namely, that companies have adequate governance in place when they use AI. And that they further develop and adapt this governance where necessary.*

*This governance must cover all risks relevant to supervision. And it must include all relevant legal and regulatory requirements. This is the clear responsibility of companies [...] That is why we are working in the EIOPA working group to develop minimum supervisory requirements for such governance."*

Julia Wiens

Executive Director Insurance Supervision

Federal Financial Supervisory Authority (BaFin)

*"(...) So that regulation does not stand in the way of technical progress. We also want the industry to remain innovative and continue to develop, with a view to providing better products and services for customers. But one thing is also clear: the responsibility for the fair and proper use of AI lies with the companies themselves."*

Julia Wiens

Executive Director Insurance Supervision

Federal Financial Supervisory Authority (BaFin)





# Regulation of AI



## Brazil

- Indirect regulation (no standalone AI law in force)
  1. Data Protection Law (LGPD) – Data Protection Authority (ANPD)
  2. Internet Civil Framework (Marco Civil da Internet)
  3. Consumer Code
  4. Civil Code
- Bill of Law No. 2,338/2023
  - Risk –based framework: (i) “Excessive-risk” AI is prohibited whereas (ii) “High-risk” AI is allowed with safeguards

## Singapore

- Principles-based sectoral regulation
- MAS FEAT principles (Fairness, Ethics, Accountability and Transparency)
- Project Mindforge GenAI Riks handbook for insurance in Phase 2
  - Accountability & governance, monitoring & stability, transparency & explainability, fairness & bias, legal & regulatory, ethics & impact, cyber & data security
- MAS AI Model Risk Governance Guidelines

## Germany

- AI-specific regulation across industries: **EU AI-Act**
- Regulators developing additional AI specific rules from **existing general sectoral regulations**, such as Solvency II-directive, DORA, and IDD
  - **EIOPA** Opinion on AI governance and risk management
  - **BaFin** circular on the minimum requirements for the business organization of insurance companies

## UK

- Sectoral regulation with 5 cross-cutting principles:
  1. Safety, security, robustness
  2. Transparency and explainability
  3. Fairness
  4. Accountability and governance
  5. Contestability and redress
- FCA/PRA → reliance on existing frameworks







# Supporting AI innovation



## Brazil

- 2021 National AI Strategy (EBIA)
- Brazilian 2024-2028 AI Plan (PBIA 2024-2028)
- ANPD's technical notes & regulatory stance
- State level initiatives (Goiás)
  - State Supplementary Law 205/2025

## Germany

- **Apply AI Strategy** by European Commission does not cover insurance sector
- BaFin AI roundtables / BaFin Tech Conference
- BaFin consistently emphasizes the opportunities offered by the use of AI and stresses that supervision does not stand in the way of innovation. However, in accordance with its public mandate, BaFin sees itself as a supervisor of the use of AI rather than a driver of innovation.

## Singapore

- 2021 National AI Programme in Finance
- FSTI Grant 3.0 – S\$100M
- Pathfin.ai – peer learning on AI-powered solutions
- MAS-IBF pilot on how GenAI can augment existing job roles

## UK

- Regulating for growth and tech-positive
  1. AI Live Testing
  2. Smart Data Accelerator
  3. Supercharged Sandbox (w NVIDIA)
  4. Many more...





# Product governance and value



Brazil	Germany
<ul style="list-style-type: none"> <li>• No explicit “fair value” test</li> <li>• Conduct &amp; suitability rules require products and distribution to match client needs (CNSP Resolution 382/2020)</li> <li>• Oversight through sales lifecycle</li> <li>• No price regulation, but abusive clauses barred under the Consumer Code</li> </ul>	<ul style="list-style-type: none"> <li>• Product Oversight and Governance               <ul style="list-style-type: none"> <li>◦ Target Market   Product Testing   Product Monitoring</li> </ul> </li> <li>• POG as a general entrance for supervisory measures against individual characteristics of products → Return of product regulation?</li> <li>• Value for Money as a European trend</li> </ul>
Singapore	UK
<ul style="list-style-type: none"> <li>• No explicit “fair value” test</li> <li>• Product approval/notification (MAS Notice 302/321)</li> <li>• Fair Dealing Guidelines               <ul style="list-style-type: none"> <li>◦ In designing product – assess performance and “<i>likely benefit or value to customers</i>”</li> <li>◦ Balanced assessment of value product offers customers incl. costs and fees</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• General insurance products cannot be sold or distributed if they do not offer ‘fair value’</li> <li>• The concept of ‘value’ is broad</li> <li>• The FCA is <i>not</i> a price regulator...</li> <li>• GAP insurance market shutdown</li> </ul>





# Value for Money | Trend in EU Regulation

## Timeline





# Value for Money | Trend in EU Regulation

## Specific impact on remuneration of intermediaries

- "Surrender value" against the premium paid
  - Reduction in Yield (RIY) or annual net real return after 1 year / half time of recommended holding period (RHP) / at RHP
    - Impact on upfront commissions
- Additional quantitative indicators
  - Amongst others: Entry costs / total costs paid – cumulated until 1 year before RHP
    - Impact on upfront commissions and intermediary remuneration in general

*"The costs indicators should be as low as possible as the RIY, by definition, represents the size of the missed return due to costs."*

EIOPA

**Does every euro of remuneration for the intermediary  
mean less value for money for the customer?**



# Q&A



Sarah Brook  
CMS UK



Thomas Maur  
CMS Germany



Ying Yi Liew  
CMS Singapore



Felipe Bastos  
FAS Advogados  
In cooperation with CMS





Your free online legal information service.

A subscription service for legal articles on a variety of topics delivered by email.  
**cms-lawnow.com**

-----

The information held in this publication is for general purposes and guidance only and does not purport to constitute legal or professional advice.

CMS LTF Limited (CMS LTF) is a company limited by guarantee incorporated in England & Wales (no. 15367752) whose registered office is at Cannon Place, 78 Cannon Street, London EC4N 6AF United Kingdom. CMS LTF coordinates the CMS organisation of independent law firms. CMS LTF provides no client services. Such services are solely provided by CMS LTF's member firms in their respective jurisdictions. CMS LTF and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS LTF and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices; details can be found under "legal information" in the footer of cms.law.

#### **CMS Locations**

Aberdeen, Abu Dhabi, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Bergen, Berlin, Bogotá, Bratislava, Brisbane, Bristol, Brussels, Bucharest, Budapest, Casablanca, Cologne, Cúcuta, Dubai, Dublin, Duesseldorf, Ebene, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Gothenburg, Hamburg, Hong Kong, Istanbul, Johannesburg, Kyiv, Leipzig, Lima, Lisbon, Liverpool, Ljubljana, London, Luanda, Luxembourg, Lyon, Madrid, Manchester, Maputo, Mexico City, Milan, Mombasa, Monaco, Munich, Muscat, Nairobi, Oslo, Paris, Podgorica, Poznan, Prague, Reading, Rio de Janeiro, Riyadh, Rome, Santiago de Chile, São Paulo, Sarajevo, Shanghai, Sheffield, Silicon Valley, Singapore, Skopje, Sofia, Stavanger, Stockholm, Strasbourg, Stuttgart, Sydney, Tel Aviv, Tirana, Vienna, Warsaw, Zagreb and Zurich.

-----

Further information can be found at **cms.law**