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Insurance Law

A sector with a future



Insurance law

The insurance sector is fundamental to Germany's growth and success. Companies are heavily dependent on insurers to cover the risks of doing business. However, insurers themselves also face challenges. Constantly changing markets, new case law, technological progress and the emergence of new risks all require maximum flexibility. Remaining competitive and staying abreast of developments calls for effective risk management and competent legal advice.

CMS Hasche Sigle is one of the leading German law firms for insurance law.

Our insurance team has in-depth industry knowledge. We advise clients on all areas of insurance contract law, insurance intermediary law, regulatory matters and company law as well as insurance competition law.

Our expertise covers product development, product monitoring and the sale of insurance products.

We represent clients both in court and out of court, for instance in cases involving major insurance claims. Our firm has an outstanding reputation for settling disputes in court and out of court, particularly in national and international judicial and arbitration proceedings involving insurance and reinsurance law.

Our business law advice for insurers covers areas such as corporate finance, compliance, M&A, insolvency law, tax law, data protection law, competition law and trademark law, in addition to regulatory and corporate law aspects.

We also regularly advise insurers, insurance brokers and ship owners on matters concerning marine insurance law.

Our clients include major German and foreign insurance companies, reinsurers, Marine Coverholders and insurance brokers.

We pride ourselves on our specialist expertise, performance-oriented approach and commitment to our clients and their concerns. Accordingly, we support our clients' in-house teams with practical, real-world advice.

As part of the CMS organisation, we can also draw on the resources of the CMS Insurance Sector Group, which comprises some 100 lawyers throughout Europe who specialise in insurance law, allowing us to provide highly qualified advice to our clients on cross-border matters spanning different jurisdictions.



Backed by the CMS alliance, the practice is one of the beneficiaries of the increasing internationalisation of insurance business.

Many years of experience in advising foreign insurers.

JUVE, 2013

How we can help you – our services

The services we offer are designed around the needs of our clients.

Insurance regulatory law

We have been advising a large number of insurance companies on issues around insurance regulatory law for many years. We protect our clients' interests in the context of ongoing regulation by BaFin and advise other clients on entering the German insurance market.

Our advice on regulatory matters in the insurance sector includes:

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





Claims handling

We have many years of experience and expertise in all areas of substantive insurance law, including marine insurance and reinsurance law. We act on behalf of insurers and major companies on insurance claims both nationally and internationally, providing advice ahead of proceedings and representing clients in court.

Other areas of insurance law

We also provide support in the following areas:

- Reviewing and updating terms and conditions of insurance wordings and further product documentation
- Product innovation and ongoing development, particularly as a result of changes in supreme court case law
- Advice when entering into insurance contracts
- Queries regarding coverage under existing insurance contracts
- International insurance programmes
- Permissible cooperation between insurance companies under competition law
- Data protection law

Insurance intermediary law

We advise insurance companies and intermediaries on issues around the law of insurance intermediaries and commercial agents. Our portfolio of services covers the full range of insurance sales law, including direct sales and distance selling through to sales via insurance agents and brokers. We act on behalf of clients both out of court and in court where required, such as in liability cases due to mis-selling.

Our services include advice on the following problem areas:

- Insurance intermediary permits in accordance with section 34d of the Trade Regulation Act (GewO)
- Obligations under sections 59 et seq. of the Insurance Contract Act (VVG)
- Preparation of agency and brokerage agreements
- Fee agreements
- Enforcement of claims for clawback of commission
- Breaches of competition regulations
- Suspected fraud by insurance intermediaries
- Access to records
- Cross-border insurance brokerage, particularly in the European Union
- Compliance in sales, e.g. incentives, GDV code of conduct, etc.

D&O insurance

We have a wealth of experience in advising on insurance law matters in complex D&O insurance claims both on behalf of insurers and of policyholders, acting in particular for financial services providers, DAX-listed companies and trading companies.

Our services and expertise extend from conventional advice through the assessment of complex claims with regard to liability and insurance cover aspects (claim monitoring for insurers) to defense in court as well as advice on drafting and agreeing D&O insurance contracts.

On the policyholder side, CMS Hasche Sigle acts in a supporting role to review the position of insured persons (particularly corporate organs) in relation to insurance cover aspects and to defend their claims if necessary.

Team

The core insurance law team is based in Cologne. Our colleagues at other locations also work on insurance law matters, such as in Hamburg, where the team specialises in issues involving marine insurance law.

Our clients benefit from our full-service approach, which allows us to draw on experts from other areas of law when working on your matter. Our extended team thus includes lawyers who specialise in commercial and

corporate law, banking law, employment law, competition law, intellectual property, data protection law and tax law, who work alongside our insurance law experts.

For cross-border matters, we have access to colleagues who specialise in insurance law in the CMS offices and affiliated offices in many European countries and in Russia. Strong ties within the organisation make for effective, seamless collaboration.

Our other added value services

We provide our clients with information on a regular basis as part of our “Insurance Law Breakfast” client events and through workshops and seminars on current issues affecting insurance law.

All team members also regularly publish articles in commentaries and specialist publications on insurance law topics.



Noted for its wide-ranging practice and international capabilities. Acts on D&O insurance mandates for individuals and companies, as well as handling loss monitoring claims. Also assists with insurance company law, regulatory issues and product development. Insurance sales law is another area of expertise.

We choose the firm because the team is extremely high quality and does an exceptional job.

Chambers, 2014

About CMS



59
offices

53
cities

> 800 partners

> 3,000 lawyers

CMS Hasche Sigle is one of the leading commercial law firms. More than 600 lawyers serve their clients in eight major German commercial centres as well as in Brussels, Moscow, Beijing and Shanghai. CMS Hasche Sigle is a member of CMS Legal Services EEIG, a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only of their own act or missions 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.

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