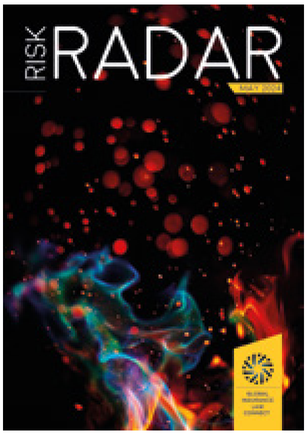
RISK RADAR

MAY 2024

GLOBAL INSURANCE LAW CONNECT

IN THIS EDITION

RISK RADAR
MAY 2024



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Dear Clients

Welcome to our sixth edition of Global Insurance Law Connect's Risk Radar report. In this edition, we are pleased to be able to include entries from our newest member firms: Foran Glennon (United States), KG Law (Greece), Sayenko Kharenko (Ukraine), Stratulat Albulescu (Romania), and Völkl Rechtsanwälte (Austria). With these new members, the network now has 26 members covering 29 jurisdictions, allowing us to truly offer a comprehensive view of insurance law across five continents.

Each of our members in the network is a specialist in insurance law, and it is this detailed, in-depth knowledge combined with a global perspective that makes our Risk Radar report so valuable to our clients. This year, while the report does of course highlight some issues which are relevant to individual markets, there are also a number of themes that are universal among the members, allowing us to see how different governments, markets and insurers are responding to similar pressures.

This report brings to light the most pressing insurance challenges in every jurisdiction. This year, the insurance industry is supporting those affected by climate change, responding to increased cyber threats, and embracing the potential for innovation presented by artificial intelligence, all against a backdrop of increased geopolitical risks. Alongside this, the insurance industry continues to face regulatory and compliance challenges in relation to consumer protection, and in some cases, this is holding back local industry growth potential.

As the risks we face become more global in nature, it is important that each of the markets share its approach, innovation, and expertise. We hope that this edition of Global Insurance Law Connect's Risk Radar report is both useful and informative in highlighting challenges facing the insurance industry around the world, casting a clear light on how markets differ, and how they uniquely approach their own set of risks.

The Risk Radar report has now become something of a standard setter for its reporting on global insurance and legal trends, and feedback from our clients tell us that it is of great value. We hope that once again, it serves as a useful tool for our clients and partners no matter where they are in the world.

Best wishes,

The Board of Global Insurance Law Connect

KEY ISSUES:

- Responding to ongoing natural disasters
- Data protection, cybersecurity and the impact of AI
- Regulatory, obligations and compliance

SPARKE HELMORE LAWYERS

AUSTRALIA

The insurance industry is on an upward growth trajectory, a trend that is predicted to continue for at least the next three years. The mood of insurers is positive, resilient and future-focused with respect to risk mitigation strategies in support of its many stakeholder communities. The industry has concentrated on assisting those affected by climate-driven disruption, responding to a heightened sensitivity to cyber threats, and embracing the potential for innovation presented by artificial intelligence.

Three issues stand out for their importance to the health of the local industry, for their recognition of dynamic industry conditions and for the ability to address the task of ensuring a sustainable insurance market as part of a well-functioning economy: continuing on the path to resilience in the face of ongoing natural disasters; data protection, cybersecurity, and the impact of AI; and regulatory obligations and compliance.

INSURANCE INDUSTRY AT A GLANCE

VERY LOW

The Economist Intelligence Unit's ESG Rating

123

Registered firms

In excess of

$55 AUD BILLION

Mount Sonder, Northern Territory, Australia

RESPONDING TO ONGOING NATURAL DISASTERS

Due to the frequency and magnitude of treacherous weather events in recent years, insurance has become increasingly more costly. Insurers have needed to be agile to find the right balance between policies, placement, risk, and pricing as they work to address affordability and meet demand in a 'hard' market with a low risk appetite. Claims assessment and management has also come under the spotlight.

The Insurance Council of Australia has said, "Boosting investment in stronger homes and local infrastructure can make communities more resilient in the face of worsening extreme weather." The Council, as the voice for the insurance industry, has urged the government to invest now in strengthening communities and to avoid greater costs in the longer-term.

> "INSURERS ARE FACING GREATER RISKS DUE TO THE RISING INCIDENCE OF NATURAL DISASTERS AND THEIR IMPACT ON CONSUMERS AND PRODUCTS."
>
> KILEY HODGES, PARTNER, SPARKE HELMORE

DATA PROTECTION, CYBERSECURITY AND THE IMPACT OF AI

Australian insurers continue to strengthen their cyber security defences and build cyber resilience into operational and strategic decision-making. They are placing considerable emphasis on the issue and are investing in protecting their business and their customers and safeguarding confidential information. There is a progressively fine line between making best use of advances in data analytics and addressing cyber threats.

Insurers are increasingly leveraging AI to streamline market-facing operations, and assist with pricing, claims management, underwriting, sales, distribution, and product design. To enhance the holistic customer experience and reduce time-intensive human input, insurers are implementing chatbots and virtual assistants. But they are aware of the need for transparency and clear parameters around the AI use to protect data privacy and ensure they are acting ethically and without bias.

> "IT IS NOT YET CLEAR HOW CYBER RISK POLICIES WILL ADDRESS RISKS ASSOCIATED WITH AI, INCLUDING ITS USE IN CYBERCRIME."
>
> JEHAN MATA, PARTNER, SPARKE HELMORE

REGULATORY, OBLIGATIONS AND COMPLIANCE

The General Insurance Code of Practice is regularly updated to reflect market developments along with the requirement to respond to community expectations. A two-phase review is currently in progress with a focus on issues relating to extreme weather events and consumer protections. Recommendations are due by 30 June 2024 and 30 June 2025, respectively.

As noted by the General Insurance Council of Australia, the Code is intended to be "a positive influence across all aspects of the general insurance industry including product disclosure, claims handling and investigations, relationships with people who are experiencing vulnerability, and reporting obligations". While the Code is voluntary, insurers are committed to complying with it, including the provisions for an enhanced customer experience.

> "REGULATION OF THE INDUSTRY IS INCREASING, AND INSURERS ARE HAVING TO ADAPT QUICKLY AND COLLABORATE WITH REGULATORS TO PROMOTE MARKET STABILITY."
>
> MALCOLM CAMERON, PARTNER, SPARKE HELMORE

KEY ISSUES:

- ICT Risk
- Claims
- ESG

VÖLKL RECHTSANWÄLTE
AUSTRIA

The Austrian insurance market is characterised by the dominance of national and German insurers, with Generali Group being a notable exception. Forty-one insurers are established in Austria, either as national companies originating in the country or as foreign insurers with associated companies/branches. National insurers range from those focusing on doing business in individual Austrian regions to international insurers with a focus on Austria and Eastern Europe. Some Austrian insurers front foreign insurers in specialty insurance lines such as D&O or W&I.

Due to a sharp rise in claims over the past few years in financial lines products this has become a less attractive option. The Austrian insurance industry is subject to strict administration by the national supervisory authority, the Financial Market Authority (FMA), and the insurance and pensions regulator, EIOPA, on a European level.

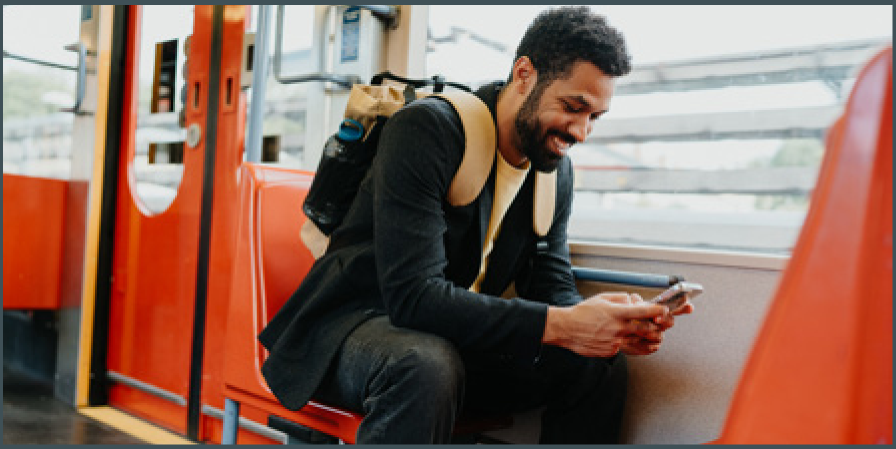
INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

41
Registered firms

In excess of
€19.5 BILLION

Vienna, Austria



ICT RISK

Information and communication technology (ICT) risk is a crucial issue born out of both regulatory and practical issues. The number of cyber incidents has sharply risen, and there are a number of far-reaching regulatory initiatives under way. The EU's Digital Operational Resilience Act (DORA) will enter into force in January 2025.

The European Banking Authority and the European Central Bank are spearheading new ICT regulations and initiatives, publishing guidelines and regulatory technical standards for the banking sector. This is also relevant for insurers, as the FMA is using these provisions as templates for their supervision vis-à-vis insurers and other financial market institutions.

Often, institutions underestimate the time and measures required to renegotiate contracts, do GAP analysis, or adapt governance.

> **"ICT RISK IS UNDOUBTEDLY ONE OF THE BIGGEST CHALLENGES CURRENTLY FACING THE INSURANCE INDUSTRY. FAST ADAPTATION IS ABSOLUTELY NECESSARY BUT OFTEN UNDERESTIMATED."**
>
> CLEMENS VÖLKL, PARTNER

ESG

Environmental disasters have become much more frequent and have mostly impacted Austrian farmers and homeowners. Due to the political importance of these groups, this has become especially sensitive. Initiatives are expected in the coming years requiring insurers to conclude insurance contracts. Even models of compulsory insurance are under discussion, with insurance associations calling for public support as the industry will not be able to handle these challenges.

In this regard, ESG is absolutely relevant, with the FMA screening portfolios under ESG criteria but also performing ESG stress tests.

> **"ENVIRONMENTAL DISASTERS WILL POSE ONE OF THE LARGEST RISKS IN THE NEAR FUTURE, AND INSURERS FACE THE CHALLENGE OF DEVELOPING NEW PRODUCTS, PROBABLY WITH PUBLIC SUBSIDIES."**
>
> CLEMENS VÖLKL, PARTNER

CLAIMS

Claims are growing in frequency across all insurance lines due to a number of factors, not least changing jurisprudence by the Austrian Supreme Court, whose decisions were formerly insurance-friendly. In addition, companies must pursue claims or run the risk of incurring management liability or prosecution for criminal offences. A number of insolvencies have contributed to this development, as liability insurance contributes to the liability fund and the insolvency administrator is obliged to pursue claims.

Finally, class actions have been trending in the past decade, especially for certain life insurance products. Austria has adopted the EU Directive on representative actions for the protection of the collective interests of consumers, but national laws are expected shortly. It is expected that this will have a strong impact on the insurance industry as well as businesses in general.

> **"THE OBLIGATION FOR MANAGEMENT TO PURSUE CLAIMS IS A KEY DRIVER OF THE UPTICK IN INSURANCE LITIGATION. OUTDATED OR OVERLY COMPLICATED T&CS MAKE THE INSURERS' POSITION MUCH LESS FAVOURABLE."**
>
> CLEMENS VÖLKL, PARTNER

KEY ESG ISSUES:

- National catastrophe coverage: closing the nat cat protection gap
- Presence of MGAs on the Belgian insurance market following Brexit (e.g. Lloyd's Brussels)
- AI in consumer-centred tech & ESG

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

92+
Registered firms

€32.1 BILLION
Value of Premia

LYDIAN

BELGIUM

Established, traditional insurers continue to play an important role in the Belgian market. However, the insurers and distributors who are able to develop new products to cater for new requirements associated with, for example, climate change, pandemics and cyber risks, have more chance of being successful in the long run.

Furthermore, we have seen a steady growth in run-off transactions in the Belgian market. We expect that the growth of this market of specialised run-off service providers (risk carriers, service companies, consultants) will continue. Following Brexit, Belgium (and Brussels in particular) has also become a hub for UK insurance businesses, notably Lloyd's of London, to continue to service their EEA clients.

Compliance has also become a crucial focus area for Belgian companies and their board of directors. The compliance function has become more important in recent years, with insurers devoting increasing attention to the evolution of the applicable regulatory framework to ensure proper identification and assessment of non-compliance risks. Data gathering, treatment and analysis is another element that is fast increasing in importance. Insurance distributors with the most data and the capacity to best utilise it are likely to have an increasingly dominant role as market players. Despite 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.

Dinant, Belgium

NATIONAL CATASTROPHE COVERAGE: CLOSING THE NAT CAT PROTECTION GAP

Climate change is leading to increased intensity and frequency of natural disasters, with the number of claims increasing by 49% and the cost of damages by 93% in the period from 2019 to 2022. In 2019, 156,000 claims totalling €337 million were filed for storm and flood damage. This rose to 231,000 claims worth €650 million in damages in 2022.

In addition to storms and floods, drought has also caused a lot of damage in recent years. This evolution is not without consequences: both insurers and reinsurers fully take this into account in their models and pricing.

The current legal regime was found to be inadequate; natural disasters, including the floods experienced in 2021, threatened to be under-insured or even uninsurable under the current regime.

An amendment to the 2014 Insurance Act to increase coverage in the event of natural disasters was introduced in late 2023, quadrupling the applicable intervention ceiling per insurer (which limits the total amount a given insurer will have to disburse further to a natural catastrophe).

Despite this amendment, coverage remains limited; insurers have insisted that full coverage is only achievable via public-private partnerships. Discussions on how to close the 'nat cat protection gap' are ongoing, but the insurance sector regrets that the recent legislative change only related to an increase of coverage without tackling the role of the authorities in this regard.

> "EXISTING INSURANCE LEGISLATION IS NOT ADAPTED TO THE REALITY OF GLOBAL WARMING TODAY, AND DOESN'T ENABLE INSURERS AND DISASTER FUNDS TO COMPENSATE VICTIMS CORRECTLY."
>
> SANDRA LODEWIJCKX, PARTNER, LYDIAN

PRESENCE OF MGAS ON THE BELGIAN INSURANCE MARKET FOLLOWING BREXIT (E.G. LLOYD'S BRUSSELS)

As of the end of the Brexit transition period on 1 January 2021, UK insurance undertakings and intermediaries could no longer rely on the European passport to operate throughout the EEA. Many underwriters were therefore not able to continue 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 in the Belgian market by amending the Insurance Act of 4 April 2014: the 'mandated underwriter' (also known as the 'Managing General Agent' or 'MGA').

Although several insurance intermediaries were already carrying out the duties of mandated underwriter in the Belgian market, their status and role was often unclear. In order to position Belgium as an attractive insurance marketplace post-Brexit, the Belgian legislator decided to take away these uncertainties and to formally regulate this type of insurance intermediary. The purpose was to create transparency on the activities of underwriting agents, both for customers and other insurance intermediaries collaborating with mandated underwriters.

> "SINCE BREXIT, SEVERAL MGAS HAVE SETTLED IN BELGIUM TO CONDUCT DISTRIBUTION ACTIVITIES IN THE OTHER COUNTRIES OF EUROPE THROUGH THE EUROPEAN PASSPORTING SYSTEM."
>
> SANDRA LODEWIJCKX, PARTNER, LYDIAN

AI IN CONSUMER-CENTRED TECH & ESG

For the insurance sector, AI can optimise processes, provide customer-centric solutions and increase overall efficiency, while at the same time keeping the human factor and customer relationships at its core.

The big milestone moment – when AI can completely lift the administrative burden for customers – is still some way off but is approaching fast. The implementation of AI in companies is causing a significant cultural shift, especially in employee support, where AI is increasingly seen as a kind of trusted assistant, helping employees to improve efficiency. However, there remains a strong emphasis on ultimate control resting with humans: AI is not a one-size-fits-all solution and caution should be exercised in its implementation.

The advent of AI raises important questions around liability and responsibility. One crucial issue is the European regulatory framework. This imposes strict rules that state that it must be clear which parameters are introduced 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 insurance sector, and by extension the entire financial sector, trust is critical. Trust is easy to lose, yet hard to win back. The ethical question arises as to how far a company can go in implementing AI models and auxiliary tools. Installing an ethical officer – along the lines of a data protection officer – could eventually become necessary in this regard.

> "WHILE AI PRESENTS A HUGE OPPORTUNITY FOR THE INSURANCE SECTOR, ITS INCREASED USE BY INSUREDS WILL ALSO REQUIRE INSURERS TO REVIEW POLICY WORDINGS AND RELATED RISK EXPOSURE IN VIEW OF NEW LEGISLATION INCLUDING THE EU AI ACT, THE NEW PRODUCT LIABILITY DIRECTIVE AND THE PROPOSED EU AI LIABILITY ACT."
>
> BASTIAAN BRUYNDONCKX, PARTNER, LYDIAN

KEY ESG ISSUES:

- New insurance law
- Open finance
- New regulation more protective of the local market in general

INSURANCE INDUSTRY AT A GLANCE

LOW
The Economist Intelligence Unit's ESG Rating

Insurance companies
134

13 local reinsurers
109 foreign reinsurers
29 reinsurance brokers

125.000
insurance brokers

Value of Premia

US$ 75 BILLION
(not including private health system)

SANTOS BEVILAQUA ADVOGADOS

BRAZIL

The Brazilian insurance market is experiencing a critical moment of transition with the growth of insurtechs, the arrival of artificial intelligence, and the consolidation of the long-term effects of the opening up of the reinsurance market in 2007.

At the same time, we have the prospect of a new national insurance law that, if approved, will bring a significant degree of intervention in the insurance industry, from underwriting policies to contract wordings and claims proceedings. Finally, associated with the future new law but independent of it, there is also a new regulatory perspective, with the insurance supervisor bringing a more proactive approach that is protective of the local market vision, mainly regarding products and supervision techniques.

The results of all this can be seen in many discussions and will be seen in practice over the next few years, when we expect an intensive demand for legal services.

Rio de Janeiro, Brazil

NEW INSURANCE LAW

We have the prospect of a highly interventionist new insurance law (House Bill 29/2017) which will regulate insurance companies' underwriting policies, contract wordings, and procedures for settling claims and lead to a review of all the insurance regulations.

Given the unusual nature of the probable new insurance law, it is difficult to predict all its impacts. However, the effort to analyse its terms and review practices and contract wordings on the part of insurers and reinsurers will be unprecedented in the last 20 years of the Brazilian insurance market, since the Brazilian Civil Code came into force in 2002.

> "THE EFFORT TO REVIEW PRACTICES AND INSURANCE AND REINSURANCE CONTRACT WORDINGS WILL BE UNPRECEDENTED IN THE BRAZILIAN INSURANCE MARKET OF THE LAST TWENTY YEARS."
>
> JOÃO MARCELO SANTOS, FOUNDING PARTNER, SANTOS BEVILAQUA

OPEN FINANCE

Open finance in Brazil, which basically combines open banking and open insurance, tends to be one of the most developed in the world. The Brazilian financial system is known for its technological advancement, which has supported the issuing of ambitious standards for financial products, services, and insurance.

The approach taken is to include all insurance products in open finance, even though some are naturally more geared towards portability, such as life and pension insurance with accumulation elements, and mass insurance, such as motor insurance.

The scope of inclusion for insurance products in open finance has been much questioned, but government concessions have been limited to extending implementation deadlines.

> "OPEN FINANCE IS A NEW FRONTIER TO BE EXPLORED NEXT YEAR BY INSURANCE COMPANIES, SERVICE PROVIDERS IN GENERAL, AND BROKERS."
>
> JOÃO MARCELO SANTOS, FOUNDING PARTNER, SANTOS BEVILAQUA

NEW REGULATION MORE PROTECTIVE OF THE LOCAL MARKET IN GENERAL

The Brazilian insurance supervisor (SUSEP) understands that the local insurance and reinsurance market must be protected and that its product offering and risk acceptance capabilities must be compatible with the national development project.

On the one hand, this can result in opportunities and partnerships, including within the framework of significant works and government programs (for example, the risk of catastrophes associated with climate change).

On the other hand, one can expect a certain tendency towards more intervention by the Government, with less space for innovation and free competition between different market agents. The market will follow the next steps of the Brazilian Government and Congress with keen interest, paying attention to risks and opportunities.

> "THE NEW GOVERNMENT HAS BROUGHT A NEW VISION OF REGULATION. THE IMPACTS OF THIS ON THE INSURANCE MARKET MUST BE MONITORED CAREFULLY."
>
> ANA PAULA COSTA, PARTNER, SANTOS BEVILAQUA

KEY ESG ISSUES:

ISAPREs (acronym for Institutos de Salud Previsional)

New rules for parametric insurance and other coverages

Fair Market Practices

INSURANCE INDUSTRY AT A GLANCE

LOW
The Economist Intelligence Unit's ESG Rating

Registered firms

33
Life

32
P&C insurance companies

Value of Premia

US$ 15 BILLION

PRIETO ABOGADOS

CHILE

The Chilean insurance market comprises 33 life and 32 P&C insurance companies, with a total annual written premium of US$15.08 billion as of September 2023.

In parallel to health coverage provided by insurance companies – mainly complementary and catastrophic health insurance – there is a private health insurance system managed by entities called ISAPREs, which represents a total annual written premium of US$ 4.27 billion as of December 2023.

Finally, there is a mandatory severance insurance paid out by a fund made up of employers' and employees' contributions, which currently amounts to approximately US$ 13.3 billion. Foreign reinsurers can operate in the Chilean reinsurance market through a registered reinsurance broker or directly, if they comply with certain requirements. There is just one Chilean life reinsurance company.

As of the third quarter of 2023, life insurance companies earned profits of US$ 643.4 million (a 35.6% decrease compared with Q3 2022) and P&C companies earned profits of US$167.1 million (a 23.4% increase over the same period), respectively.

Valparaiso, Chile

ISAPRES (ACRONYM FOR INSTITUTOS DE SALUD PREVISIONAL)

The Chilean health system comprises private entities called ISAPREs and a state-owned entity called FONASA. As a result of a ruling by the Supreme Court sentence stating that ISAPREs should reimburse certain amounts to their insureds to be determined by a new law to be approved by Congress, their financial viability is in question. The bill is currently being discussed and the total reimbursement could reach US$1.1 billion.

Should this amount be charged to ISAPREs the system will probably go bankrupt and obligate its 3.3 million beneficiaries to migrate to FONASA. Apart from the fact that the state-owned health provider is incapable of coping with this avalanche of new customers, other creditors of ISAPREs, like clinics, doctors, laboratories, etc. could also go under, causing a severe health crisis.

> "THE CURRENT GOVERNMENT HAS PROMISED TO TERMINATE ISAPRES AND DOESN'T WANT TO SAVE THEM. HOWEVER, THEY ALSO RECOGNISE THE CONSEQUENCES OF ISAPRES' BANKRUPTCY. IT'S A REAL MESS."
>
> PATRICIO PRIETO, PARTNER, PRIETO ABOGADOS

NEW RULES FOR PARAMETRIC INSURANCE AND OTHER COVERAGES

Chile's new fintech law regulates two novel aspects of the Chilean market that will allow insurers to offer new products and services for the benefit of policyholders. This may cause a significant increase in the number of policyholders and help implement social protection policies.

On the one hand, it authorises parametric insurance, which will make it possible to cover markets which are under-served, either because coverage is unaffordable or because that segment of policyholders has not been profitable for insurers.

On the other hand, the Fintech Law authorises the regulator to establish special rules for inclusive insurance, microinsurance and mass insurance, in terms of coverage, exclusions, issuance of simplified policies or certificates, technological means to be used, receipt and settlement of claims, etc.

> "THE FINANCIAL MARKET COMMISSION HAS NOT YET PUBLISHED THE DRAFTS OF THE NEW REGULATIONS AND THE INSURANCE MARKET IS STILL WAITING TO HEAR ABOUT THEM."
>
> MAITE LARRAÑAGA, DIRECTOR, PRIETO ABOGADOS.

FAIR MARKET PRACTICES

For some time now, the regulator has made it a priority for insurers to take measures to improve market conduct, in the sense of offering fair treatment to clients, adequate management of conflicts of interest, protection of policyholders' personal data, transparency in marketing and advertising and, finally, expeditious handling of claims and requests.

The intensity of supervision by the regulator has clearly intensified. For example, it has recently forced the separate sale of severance and temporary disability coverages, arguing that the practice of selling them jointly meant selling coverage to people not exposed to one of the risks.

The regulator has also reviewed distributions practices, recordings of sales pitches, texts of advertisements etc, sanctioning companies not meeting the standards of its rulings.

> "IMPROVING MARKET CONDUCT IS A LONG-STANDING COMMITMENT OF THE REGULATOR AND COMPANIES WILL HAVE TO STRIVE TO MEET THE NEW STANDARDS."
>
> PATRICIO PRIETO, PARTNER, PRIETO ABOGADOS

KEY ESG ISSUES:

China releases ESG disclosure and reporting guidelines impacting on insurance industry

D&O Insurance under the newly revised Company Law

Big data and AI improve the efficiency of the insurance industry

INSURANCE INDUSTRY AT A GLANCE

HIGH
The Economist Intelligence Unit's ESG Rating

BUREN

CHINA

The Chinese insurance market is evolving in the face of regulatory reforms, technology advancements, and shifting consumer preferences. The increasing awareness of risk management is generating rising demand for insurance products and services. Regulatory authorities have implemented measures to ensure market stability, safeguard consumers' rights, and promote innovation.

In 2024, the introduction of new regulations, such as the Self-Regulatory Guidelines for Listed Companies and the revised PRC Company Law, underscores the government's commitment to fostering a transparent and sustainable insurance industry. Furthermore, the proliferation of digital technologies is transforming distribution channels, underwriting procedures, and interactions with clients, forcing insurers to adapt and innovate.

While the market offers prospects for growth, insurers are confronted with challenges such as regulatory compliance, cybersecurity risks, and intensifying competition. Navigating these dynamics requires strategic vision, agility, and a deep understanding of the evolving landscape in China's dynamic insurance market.

The Great Wall of China, China

CHINA RELEASES ESG DISCLOSURE AND REPORTING GUIDELINES IMPACTING ON INSURANCE INDUSTRY

On 13 December 2023, the Insurance Association of China issued the Guidelines for Disclosure of Environmental, Social and Governance Information by Insurance Institutions (The Guidelines) – China's first industrial self-regulatory ESG disclosure guidelines.

The Guidelines encourage insurers to comprehensively disclose data and descriptions in line with ESG issues and incorporates China-specific characteristics such as investments in rural revitalisation and inclusive finance. On 8 February 2024, the Shanghai, Shenzhen, and Beijing Stock Exchanges respectively issued the Self-Regulatory Guidelines for Listed Companies – Sustainability Report (Trial) mandating sustainability reporting for high-index listed companies.

Listed insurers are required to assess their operations through an ESG lens, considering economic efficiency, climate risks, social responsibilities, and internal governance structures. Embracing the sustainability reporting requirements presents opportunities for insurers to enhance risk management and maximise sustainable value for customers, employees, shareholders and society.

> “THE DECEMBER 2023 ESG GUIDELINES FOR INSURERS ENCOURAGE COMPREHENSIVE DISCLOSURE OF ESG DATA AND DESCRIPTIONS.”
>
> JAN HOLTHUIS, PARTNER, BUREN

D&O INSURANCE UNDER THE NEWLY REVISED COMPANY LAW

The new PRC Company Law coming into effect in 2024 clarifies the legal framework for Directors' and Officers' (D&O) insurance, detailing the fiduciary duties and diligence obligations of directors and senior management.

It additionally outlines the responsibilities of controlling shareholders and actual controllers as "shadow directors" and specifies their joint liability to the company and the shareholders. For the first time, it introduces D&O insurance into Company Law by expressly allowing companies to insure for the loss caused by directors when performing their duties.

Given the regulatory pressure, the reference to D&O insurance in the national legislative texts will increase awareness among companies of the necessity for D&O coverage of their operations. In practice, the D&O insurance market is seeing steady growth as an increasing number of listed companies insure themselves against D&O risks.

> “THE 2024 REVISION OF THE COMPANY LAW FOR THE FIRST TIME INTRODUCES D&O INSURANCE INTO THE LAW.”
>
> JAN HOLTHUIS, PARTNER, BUREN

BIG DATA AND AI IMPROVE THE EFFICIENCY OF THE INSURANCE INDUSTRY

The rapid advancement of insurance technology, driven by big data, artificial intelligence, and other emerging technologies, is reshaping the insurance landscape.

By leveraging big data and artificial intelligence, insurers can improve operational efficiency, risk management, and customer service. Large AI models offer unparalleled capabilities for personalised recommendations, precise marketing, and innovative solutions, driving value creation throughout the insurance ecosystem.

Ultimately, these new technologies will accelerate the industry's evolution towards digital intelligence, enabling insurers to better understand risks, personalise products, and improve service quality, thus fostering sustainable growth and customer satisfaction in a rapidly changing market.

However, the adoption of new technologies may entail risks such as data security breaches and infringement of intellectual property rights. Insurers should ensure compliance with the applicable regulatory frameworks.

> “THE RAPID ADVANCEMENT OF BIG DATA AND AI IS RESHAPING INSURANCE RELATED TECHNOLOGIES, INNOVATING RISK ASSESSMENT AND ACCELERATING PERSONALISED INSURANCE PRODUCTS.”
>
> JAN HOLTHUIS, PARTNER, BUREN

KEY ESG ISSUES:

- Climate change
- Construction claims
- AI

ARK

DENMARK

The Danish market in general is still robust but is also consolidating, with the merger of major local insurers Alm. Brand and Codan having been finalised, creating an entity with a 20%+ combined market share.

Major Norwegian insurer Gjensidige is still focusing on growth and is expected to expand its market share in the coming years, while the trend for smaller/local insurers is increasing challenges with respect to ever-growing compliance demands. Insurers' 2023 annual reports have highlighted the challenges to the historically low combined ratios found among Danish insurers, primarily due to a sizable rise in weather-related claims.

Copenhagen, Denmark

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

€12 BILLION
(Non-life)
Value of Premia

CLIMATE CHANGE

2023 was the rainiest year ever recorded in Denmark causing erosion damage, but also leading to major flooding incidents in several areas. In a low-lying, flat country surrounded by water the effect of the changing climate is being felt by the insurance industry, which is increasingly voicing the concern that property in many parts of the country will no longer be insurable unless a significant effort to secure coastal areas in particular is implemented soon.

> "WITH MAJOR FLOODING NOW OCCURRING SEVERAL TIMES A YEAR, THERE IS A REAL RISK THAT PROPERTY IN SOME PARTS OF THE COUNTRY WILL BECOME UNINSURABLE."
>
> JESPER RAVN, PARTNER, ARK LAW FIRM

CONSTRUCTION CLAIMS

Construction claims are still on the rise following a five-year boom period in the building industry. These include several major new "super-hospitals" which have generated a blame game amongst developers and entrepreneurs, who have seen their profits marginalised by inflation and rising costs for materials. This has again led to major claims against all-risk and liability insurers, leading to a severe rise in the number of conflicts and arbitration as well as bankruptcies.

> "INFLATION AND PRESSURE ON PROFIT MARGINS HAS LED TO A SEVERE RISE IN CONSTRUCTION-RELATED CLAIMS."
>
> JESPER RAVN, PARTNER, ARK LAW FIRM

AI

Generative AI is (still) developing at a massive speed, with the insurance market (and everybody else) trying to keep up. Implementation of generative AI has started, but is not close to being completed with respect to claims handling, underwriting, customer service, fraud detection etc.

The potential scenarios for claims related to AI are unimaginable, but insurers are likely to have a particular focus on coverage of AI-related claims under D&O insurance policies.

> "ONLY THE IMAGINATION SETS LIMITS FOR THE POSSIBILITIES AND CHALLENGES THAT AI PRESENTS FOR INSURERS."
>
> JESPER RAVN, PARTNER, ARK LAW FIRM

KEY ESG ISSUES:

- Cyber crimes expanding the scope of class actions?
- Private pension insurance going upwind
- Reinsurance market faces shifts and scrutiny

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

65
Registered firms

€27.4 BILLION
Value of Premia

SOCRATES ATTORNEYS LTD

FINLAND

In recent years, the Finnish insurance market has demonstrated considerable stability, characterised by a consistent number of companies, robust market share, and steady business volumes.

The market is fairly centralised, as in both the non-life and life insurance sectors the three largest firms collectively control over 70% of the market share, with the largest three firms differing between the two sectors. Occupational pension insurance contributes significantly to the Finnish insurance market, accounting for approximately two-thirds of the total insurance premium income.

Despite facing challenges from adverse socio-economic conditions, the insurance industry has generally maintained its stability. In 2023, while the solvency ratios for both the life and non-life insurance sectors saw a modest decline, they remained largely stable.

Rovaniemi, Finland

CYBER CRIMES EXPANDING THE SCOPE OF CLASS ACTIONS?

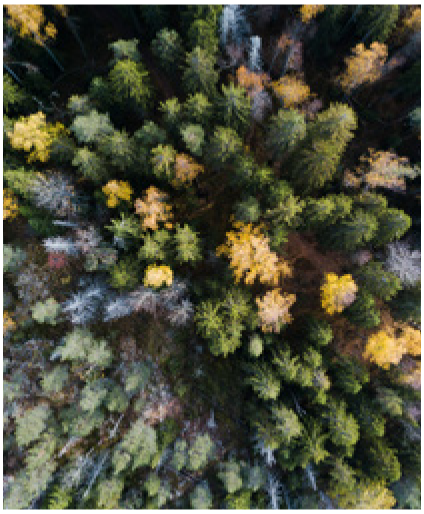
Finland has had a class action law since 2007, but it is only applicable to disputes between consumers and businesses. More importantly, class actions can only be filed by consumer authorities. It has never been utilised in practice and it has only acted as a deterrent to businesses.

However, society has undergone significant changes since the introduction of the class action law, with cyber risks becoming commonplace. This creates pressure to expand the scope of group actions, for example, in cases of cyber crimes where victims are individuals, to ensure legal protection.

This was highlighted by the recent "Vastaamo" case, named after a private psychotherapy company, attacked by cyber criminals who obtained massive amounts of psychiatric patient data, which was then used to extort money from around 33,000 victims.

The Finnish Bar Association is among those arguing that this is an opportune moment to develop a class action mechanism which would encompass, among other things, private liabilities arising in this type of context.

> **"THE EVOLVING LANDSCAPE OF CYBER RISKS NECESSITATES THE EXPANSION OF CLASS ACTIONS TO ENSURE LEGAL PROTECTION FOR INDIVIDUALS."**
>
> JUSTUS KÖNKKÖLÄ, PARTNER, SOCRATES ATTORNEYS LTD



REINSURANCE MARKET FACES SHIFTS AND SCRUTINY

The Finnish Financial Supervisory Authority has announced that reinsurance will be a key focus of its supervision in 2024, along with the European Insurance and Occupational Pensions Authority. Additionally, the Financial Supervisory Authority will conduct an in-depth analysis of reinsurance risks during the year.

It is evident that the reinsurance landscape is undergoing significant changes. Factors such as inflation, natural disasters in previous years, and pandemics have reduced the profitability of reinsurance and intensified market conditions.

This tightening of the reinsurance market may result in increased prices for primary insurers and could lead reinsurers to limit coverage for certain risks or to price out specific risks, such as pandemics, cyber threats, terrorism, or certain secondary perils associated with climate change.

> **"THE REINSURANCE LANDSCAPE IS UNDERGOING SIGNIFICANT CHANGES DUE TO FACTORS LIKE INFLATION, DISASTERS, AND PANDEMICS IMPACTING PROFITABILITY AND MARKET CONDITIONS."**
>
> JUSTUS KÖNKKÖLÄ, PARTNER, SOCRATES ATTORNEYS LTD

PRIVATE PENSION INSURANCE GOING UPWIND

In the current challenging economic environment, the Finnish government has very recently decided to remove tax breaks for private pension insurance, with the change most likely to take effect in 2027.

The change is significant as it will not only weaken the position of those who have already taken out insurance but will also significantly reduce the importance of insurance as an investment tool.

In the insurance industry, the change has been viewed negatively and is considered to be contrary to the direction taken with voluntary pension insurance elsewhere in the EU. However, the significance of the decision may be limited by the fact that a significant part of voluntary pension insurance is currently taken out as group insurance for employees. According to the latest information, such insurances are not affected by the tax change.

> **"SAVING PRODUCTS OFFERED BY INSURANCE COMPANIES MAY FACE A CONSIDERABLE DECLINE IN THE FUTURE."**
>
> ROBERT BÜTZOW, SENIOR ASSOCIATE, SOCRATES ATTORNEYS LTD

KEY ESG ISSUES:

Exclusion clauses in insurance contracts

New insurance obligation for non-EU influencers

The insurability of cyber risks and restraints on the insured

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

741
Registered firms

€240 BILLION
Value of Premia

BYRD & ASSOCIATES

FRANCE

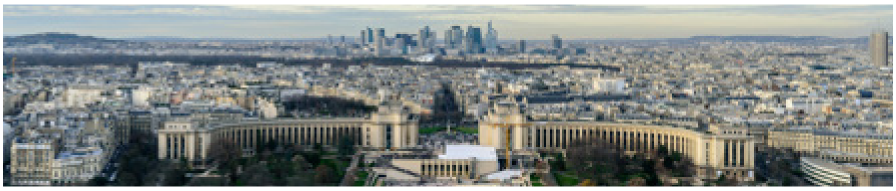
France is a civil law country, meaning that most of its legal rules are codified. However, case law plays an essential role, by interpreting, supplementing and sometimes creating new legal rules.

Therefore, any foreign insurer wishing to enter the French market will need to take into consideration not only the relevant statutes in the French Insurance Code and the legal texts in force, but also review the case law of the judicial courts and, in particular, the jurisprudence of the Cour de cassation (French Supreme Court) which, although not having the force of stare decisis, does have considerable weight in setting legal precedents.

The French legislator has not remained on the sidelines during recent developments and does not hesitate to legislate on topical issues, such as cyber risks and influencers.

For this report, we look at some recent legal developments in the insurance industry which may have an international impact in 2024, or even constitute an extra-territorial application of French law.

Provence, France



EXCLUSION CLAUSES IN INSURANCE CONTRACTS

Pursuant to Articles L. 113-1 and L. 112-4 of the French Insurance Code, exclusion clauses must be "formal and limited", and must be mentioned in a "very apparent" manner (i.e drafted in a way to attract the reader's attention). Exclusion clauses which do not comply with these requirements are null and void. In a case related to an insurance contract governed by Dutch law, the French Supreme Court ruled on 15 June 2023 that the provisions of the French Insurance Code which govern the validity of exclusion clauses are mandatory provisions, which apply regardless of the law applicable to the insurance contract (Cass. 2e civ., 15 June 2023, n°21-20.538).

In its ruling, the Court referred particularly to Article L. 181-3 of the French Insurance Code, which provides that the choice of a foreign law governing the insurance contract may not contradict French law public policy provisions ("dispositions d'ordre public").

> **"THE SUPREME COURT'S RULING ON 15 JUNE 2023 IS SIGNIFICANT FOR FOREIGN INSURERS COVERING RISKS LOCATED IN FRANCE, WHO MUST BE PARTICULARLY ATTENTIVE WHEN DRAFTING EXCLUSION CLAUSES TO ADAPT THEIR POLICIES TO FRENCH LAW."**
>
> ROBERT BYRD, PARTNER, BYRD & ASSOCIATES

NEW INSURANCE OBLIGATION FOR NON-EU INFLUENCERS

France enacted law n°2023-451 on 9 June 2023 aiming to regulate commercial influence and combat misconduct by influencers on social networks.

Article 9 of this law creates a new insurance obligation for influencers whose activity is targeted, even incidentally, towards the public situated in France, to take out a policy with an EU-based insurer to cover the financial consequences of the influencer's professional civil liability. This applies exclusively to influencers established outside of the EEA or Switzerland.

Influencers established outside of the EEA or Switzerland must also appoint a legal representative based in the EU, who will be responsible for guaranteeing compliance of their commercial influence contracts with French law and who will also be the contact point for any requests from the competent administrative or judicial authorities.

It should be noted that there are ongoing discussions on the compatibility of the French Influencer Act with the EU Digital Service Act.

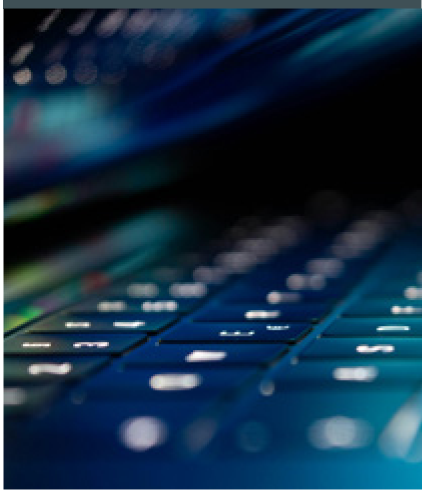
> **"THE INTRODUCTION OF THE FRENCH 'INFLUENCERS ACT' OF 9 JUNE 2023 IS A SIGNIFICANT STEP TOWARDS THE REGULATION OF INFLUENCER COMMUNICATION ON SOCIAL NETWORKS, BY IMPOSING A CIVIL LIABILITY INSURANCE OBLIGATION ON INFLUENCERS BASED OUTSIDE THE EEA OR SWITZERLAND."**
>
> ROBERT BYRD, PARTNER, BYRD & ASSOCIATES

THE INSURABILITY OF CYBER RISKS AND RESTRAINTS ON THE INSURED

France's Orientation and Programming Law of the Ministry of the Interior of 24 January 2023 (LOPMI), which took effect from 24 April 2023, imposes new restrictions on victims of cyber crime who are insured under an insurance policy for losses and damages caused by certain cyber attacks.

LOPMI creates a new Article L. 12-10-1 in the French Insurance Code which places an obligation on victims of cyber crime, who are seeking to claim compensation for losses and damages under a cyber insurance policy, to file a complaint with the competent authorities no later than 72 hours after they become aware of the attack.

> **"WORDINGS FOR NEW OR RENEWING CYBER RISK POLICIES SHOULD BE AMENDED IN 2024 TO TAKE INTO ACCOUNT THE OBLIGATION NOW FOR INSUREDS TO FILE A COMPLAINT WITH THE COMPETENT AUTHORITIES IN FRANCE WITHIN 72 HOURS OF A CYBER ATTACK, TO PRESERVE THEIR RIGHT TO THE INSURANCE COVER UNDER SUCH POLICIES."**
>
> ROBERT BYRD, PARTNER, BYRD & ASSOCIATES



KEY ESG ISSUES:

- Captives
- Assigned D&O claims
- Supply chain disruption

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

Registered firms

506

Excluding reinsurance

Value of Premia

€237 BILLION

Excluding reinsurance

ARNECKE SIBETH DABELSTEIN

GERMANY

Cyber risks and insurance are still a dominant topic in the German insurance market, particularly in the area of D&O insurance. Managers of smaller businesses (50+ employees) can be held liable in the event of cyber attacks if the company lacked proper cyber risk management and monitoring of cyber security by managers. Artificial intelligence is also playing an increasingly important role here for insurers.

Companies are also preparing for the European Supply Chain Duty of Care Act, which is stricter than the German law in force since 1 January 2023, with the focus once again shifting to the insurability of fines.

Compulsory elementary insurance is being discussed in the German Bundestag following several natural disasters in Germany, most recently the major flood in the Ahr valley ("Ahrtal"). Residential building insurance should only be offered with an elementary insurance.

There is continuing consolidation in the broker space. Meanwhile, in response to high insurance prices and scarce capacity, large companies in Germany are increasingly considering the creation of in-house 'captive' insurers.

The insurers' association GDV has presented a new, state-subsidised life insurance product, the "Bürgerrente". The policy does not require premiums to be paid and has a very simple structure, intended to incentivise low-income earners to make private provision.

In the motor market, third party liability insurers are recording losses due to the sharp increase in the cost of repairs and spare parts due to inflation.

Dresden, Germany

CAPTIVES

Captive insurers have recently become increasingly interesting for large German companies, as captive ownership can make insurance solutions significantly more favourable to them. Domestic captive start-ups are not yet favourable, as captives are treated like insurance companies in Germany.

And although France has changed its legislation to enable captive formations, this has not yet really penetrated the market, with companies still relying on the "tried and tested" captive locations of Malta, Dublin and Luxembourg.

Both insurers and brokers have recognised this, with traditional primary insurance brokers looking to enter the reinsurance brokerage sector.

" FOLLOWING THE EXAMPLE OF FRANCE, GERMANY SHOULD CHANGE ITS REGULATORY LEGISLATION SO THAT CAPTIVE FORMATIONS IN GERMANY ARE ALSO ATTRACTIVE. "

DR. CAROLIN SCHILLING-SCHULZ, PRATNER, ARNECKE SIBETH DABELSTEIN

ASSIGNED D&O CLAIMS

In the D&O insurance space, a judgement by the Schleswig-Holstein Higher Regional Court on the suspension of limitation periods in direct actions against insurers has ruled that for claims by a company against the managing director, which the managing director has assigned to the company, the limitation period will not expire as long as the company asserts the claim directly against the insurer.

With this assignment, the company (the policyholder) concludes a so-called pactum de non petendo (agreement not to sue), according to which the company undertakes not to pursue further action against the manager provided they can obtain compensation for the loss from the insurance company, in the now uniform liability and coverage process.

As a result, the limitation period for the liability claim is suspended for the duration of the pursuit of the claim against the insurance company and liability proceedings against the manager are inadmissible during this period.

" THE DECEMBER 2023 VERDICT OF THE HIGHER REGIONAL COURT OF COLOGNE, THAT REVERSAL OF THE BURDEN OF PROOF (ACCORDING TO WHICH, MANAGERS MUST PROVE DUTIFUL BEHAVIOUR) ALSO APPLIES IN CASES OF ASSIGNMENT OF THE CLAIM TO THE COMPANY, IS A FURTHER RULING THAT GOES AGAINST INSURERS. "

DR. CAROLIN SCHILLING-SCHULZ, PARTNER, ARNECKE SIBETH DABELSTEIN

SUPPLY CHAIN DISRUPTION

Supply chain issues will continue to be a concern for insurers and policyholders in 2024 and beyond due to terrorist attacks, particularly in the coastal regions of Yemen and Somalia.

In the event of a claim, repairs can be significantly delayed because urgently needed parts are not available. This, in turn, will lead to longer production downtime and resulting financial losses.

In addition, extreme weather events are expected to have a greater impact on supply chains in the future, due to climate change. Resilience measures and strategies are therefore becoming increasingly important for businesses.

" INSUREDS NEED TO UNDERSTAND THE RISKS TO INDIVIDUAL LOCATIONS AND TRANSPORT ROUTES AND IDENTIFY ALTERNATIVES EARLY ON TO PREVENT DISRUPTION TO SUPPLY CHAINS. "

DR JAN DREYER, PARTNER, ARNECKE SIBETH DABELSTEIN

KEY ESG ISSUES:

- Impact of natural disasters
- Mandatory insurance for increasing risks
- Insurance fraud and AI

INSURANCE INDUSTRY AT A GLANCE

LOW
The Economist Intelligence Unit's ESG Rating

36
Registered firms

€4.8 BILLION
Value of Premia

KG LAW

GREECE

In 2023, consolidation in the Greek insurance market continued at the same pace, with insurance M&A transactions yielding stronger insurance groups.

The M&A rally observed in the international market since the aftermath of the 2008 financial crisis also spread to the Greek market which, since 2016, has been transformed by several important insurance transactions, with a total value exceeding EUR 1.7 billion (as per published figures).

Among these, the most noteworthy are the acquisitions of AXA Insurance by Generali, of Ethniki Asfalistiki (National Insurance) by the fund CVC Capital Partners (both completed in 2020-2021), and of European Reliance by Allianz (completed in 2022-2023).

At the same time, more than 20 deals of varying importance and volume have taken place in the insurance intermediary space.

The market has moved from resilience during the financial crisis to current operational growth, while insurance companies have to deal with a variety of challenges and opportunities, including climate change-driven natural disasters and the economic impact of inflation and interest rates.

Santorini Island, Cyclades, Greece

IMPACT OF NATURAL DISASTERS

In the face of unpredictable events such as earthquakes, fires or floods, insurance policies can offer compensation for property damage, loss of income, and even medical expenses incurred as a result of similar disasters.

The discussion about the role of insurance as a mechanism for supporting State relief has been maturing in Greece during the last few years, and relevant planning is well under way, driven by the alarming rise in the number and severity of fires during summertime as well as the unprecedented floods last autumn which impacted individuals and businesses across the country.

As an indication of the impact of recent disasters, the consequences of Storm Daniel, which hit mainly central Greece in September 2023 has increased the loss ratio across all insurance classes for the first 9 months of 2023 to 56% from 48% and 42% in 2022 and 2021 respectively.

> **" THE INCREASE IN LOSS RATIO ACROSS ALL INSURANCE CLASSES FOR THE FIRST THREE QUARTERS TO 56% IN 2023, UP FROM 48% AND 42% IN 2022 AND 2021, RESPECTIVELY, IS TESTAMENT TO THE IMPACT OF NATURAL DISASTERS – MAINLY STORM DANIEL. "**
>
> KONSTANTINOS S. ISSAIAS, PARTNER, KG LAW

MANDATORY INSURANCE FOR INCREASING RISKS

Discussions about increasing the number of risks covered by mandatory insurance often reappears in the Greek insurance scene. This has recently been revitalised due to emerging risks, especially those relating to climate change and cybersecurity.

This reinforcement of the value of insurance is expected to drive a culture of utilising insurance for mitigating risks by businesses and to diminish the 'protection gap', which in Greece is relatively high in comparison to other countries.

By spreading the risk across a large pool of policyholders, insurance companies can help individuals and businesses recover more quickly, reducing the overall economic strain on affected communities.

Additionally, insurance coverage can incentivise proactive measures to mitigate risk, such as building resilient infrastructure or implementing disaster preparedness plans, which can ultimately reduce the severity of losses.

> **" MANDATORY INSURANCE, FOLLOWING CAREFUL WEIGHING OF THE POSITION OF ALL STAKEHOLDERS (THE STATE, THE INSURANCE MARKET AND PARTIES RUNNING THE RELEVANT RISKS), CAN HELP CULTIVATE A WIDER PREVENTION MENTALITY AND ADDRESS THE EXISTING 'PROTECTION GAP'. "**
>
> KONSTANTINOS S. ISSAIAS, PARTNER, KG LAW

INSURANCE FRAUD AND AI

The Greek insurance market continues to be vigilant against insurance fraud. Since 2022, the Hellenic Association of Insurance Companies had developed a Protocol of Self-Regulation for protection against insurance fraud.

In 2023, 35 insurance companies submitted reports about the handling of insurance fraud, showcasing a variety of policies implemented (including in relation to management of operational risks, whistleblowing, codes of conduct, conflict of interests, etc.).

The use of AI is expected to be invaluable for detecting and preventing insurance fraud by leveraging advanced analytics, predictive modelling, pattern recognition, real-time monitoring, and fraud detection models.

By harnessing the potential of AI technologies, insurers can strengthen their fraud detection efforts, minimise financial losses, and effectively protect the interests of policyholders and stakeholders.

> **" THE MARKET IS ALWAYS KEEN ON FIGHTING INSURANCE FRAUD. IN ADDITION TO POLICIES ALREADY DEVELOPED, AI IS EXPECTED TO PROVIDE SIGNIFICANT TOOLS FOR FRAUD PREVENTION. "**
>
> KONSTANTINOS S. ISSAIAS, PARTNER, KG LAW

KEY ESG ISSUES:

- Climate change
- Cyber
- Political /Geopolitical

KHAITAN LEGAL ASSOCIATES

INDIA

Currently, India hosts 25 life insurers, 27 general insurers, 5 health insurers and 1 reinsurer. Additionally, there are 13 foreign reinsurer branches registered in India.

In 2022, India was ranked 10th largest insurance market in the world with a premium volume of US$131 billion (a 1.9% share of global insurance premium). It is projected to become the sixth largest by 2032, with one of the fastest growing insurance markets in the world. The outlook for India is based on strong economic growth, rising disposable incomes, a young population, increased risk awareness, digital penetration and regulatory developments.

During 2022-23, the Indian life insurance industry recorded premium income of INR 7.83 lakh crore, an annual increase of 12.98%. Over the same period, the Indian non-life insurance industry underwrote total direct premium of INR 2.57 lakh crore, equivalent to annual growth of 16.4%. Notably, health insurance experienced significant growth post-pandemic, with growth of 26.27% in 2021-22 and 21.32% growth in 2022-23.

Taj Mahal, Agra, India

INSURANCE INDUSTRY AT A GLANCE

MODERATE
The Economist Intelligence Unit's ESG Rating

CLIMATE CHANGE

Rapid climate change in recent years has been a major threat to the Indian insurers' business model. Large scale weather disturbances, floods, storms and droughts are causing major losses to life and property. The increasing percentage of the population under insurance protection will further exacerbate these loses.

The Himalayas is a particularly sensitive zone and increased human activity in the region is causing a corresponding increase in losses. Insurers have previously relied on catastrophe models which use historical loss data to price future risks. However, unprecedented climate conditions have made modelling future losses more difficult than before. Glacier lake outburst floods due to receding glaciers and global warming have become a major cause of insured loss in the Himalayan region. Indian cities are among the most polluted in the world and the impact on health and productivity will result in higher health and business interruption claims. Indian agriculture is dependent on perennial rivers and underground water and unplanned urban growth and unsustainable agriculture practice are resulting in severe water stress.

"CLIMATE CHANGE POSES A DIRE THREAT TO THE INDIAN INSURANCE SECTOR, AS EXTREME WEATHER EVENTS DRIVE UP THE NUMBER OF CLAIMS, DIRECTLY IMPACTING THE SECTOR'S FINANCIAL RESILIENCE."

SAKATE KHAITAN, SENIOR PARTNER, KHAITAN LEGAL ASSOCIATES

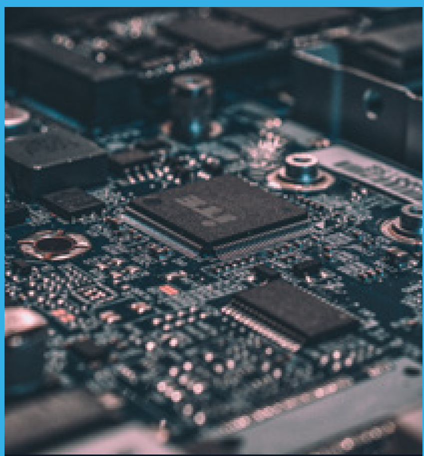
CYBER

The cyber threat will become more pronounced in 2024, with the biggest risks faced by organisations in India over the next 12 months expected to be around cloud-related threats, attacks on connected devices, hack-and-leak operations and software supply chains.

The Indian economy is rapidly digitising with the UPI system by far the largest and fastest-growing mode of payment in India.

Given the poor cyber security consciousness of Indian consumers, the enactment of the Digital Personal Data Protection Act in 2023 will make data privacy a serious concern for businesses as the Act prescribes heavy penalties for non-compliance and breach of personal data.

As a consequence, entities will focus on risk mitigation strategies like cyber insurance to reduce associated financial risks. The constantly evolving cyber risk landscape means both insurers and insureds have limited clarity and lesser visibility around the scope and amount of optimum coverage, and lack of understanding of financial exposures makes the insurers' position quite vulnerable from an underwriting perspective.



"AS CYBER RISKS EVOLVE, THE CHALLENGE OF DEFINING OPTIMAL COVERAGE INTENSIFIES, LEAVING BOTH INSURERS AND INSUREDS NAVIGATING A COMPLEX TERRAIN OF UNDERWRITING VULNERABILITY AND LIMITED VISIBILITY."

SAKATE KHAITAN, SENIOR PARTNER, KHAITAN LEGAL ASSOCIATES

POLITICAL / GEOPOLITICAL

In 2024, geopolitical problems are expected to continue to reverberate across the world, emphasising the importance of managing political risks. To deal with political uncertainty, companies will buy insurance against political risks to stay stable despite the shaky global political situation. These geopolitical issues will become more noticeable, especially in developing countries like India.

In this context, with India's general elections in 2024, there is an increased chance of political unrest, strikes, riots, and civil commotion due to the polarised nature of the wider society. This could increase insurers' exposure qua political risks underwritten in India.

"AS INDIA APPROACHES ITS 2024 GENERAL ELECTIONS, THE DEEP SOCIETAL POLARISATION RAISES THE RISK OF POLITICAL UNREST, STRIKES, RIOTS, AND CIVIL COMMOTION, INCREASING INSURERS' EXPOSURE TO UNDERWRITTEN POLITICAL RISKS."

SAKATE KHAITAN, SENIOR PARTNER, KHAITAN LEGAL ASSOCIATES

KEY ESG ISSUES:

- The digital transformation
- Regulatory changes, in particular the EU's Digital Operational Resilience Act (DORA)
- Cyber risks in hybrid work environments

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

145
Registered firms

€17 BILLION
Value of Premia

BEALE & CO

IRELAND

As the sixth largest insurance market and the second largest reinsurance market in the EU, Ireland stands as a vibrant (re)insurance hub. Characterised by robust growth and a diverse array of entities, the market is dynamically evolving, driven by rapid digital transformation and associated risks.

Incoming EU regulations, notably the EU AI Act and Digital Operational Resilience Act (DORA), are set to further transform the industry. These regulations require both insurers and insureds to critically reassess their business models to align with new standards, demanding a balance of innovation with compliance, particularly in terms of transparency and accountability.

Navigating this complex landscape, insurers must focus on technological advancement and regulatory compliance to address the key challenges of digital transformation, digital resilience, and the emerging risks from hybrid working models. This setting provides a dynamic environment for proactive insurers poised to capitalise on the opportunities of the evolving market.

Howth, County Dublin, Ireland

THE DIGITAL TRANSFORMATION

The digital transformation has already profoundly reshaped the Irish insurance market. AI technologies, particularly generative AI, are being used to automate and refine processes across industries, significantly altering risk profiles and potentially lowering premiums and transforming policy terms.

Similarly, predictive AI is being used by the insurance industry itself to enhance pricing models and risk segmentation, influencing premium strategies and coverage options. The coming EU Artificial Intelligence Act may disrupt this trend, as it will require stringent transparency and accountability for high-risk AI applications, potentially affecting insurer operations and the broader risk landscape.

As insurers begin to adapt, this may lead to more precise risk assessments as AI-driven decisions must be justifiable, offering consumers more tailored insurance solutions and potentially fewer claims disputes.

> “ THE DIGITAL TRANSFORMATION IS A PARADIGM SHIFT IN IRELAND. INSURERS AND INSUREDS MUST ENSURE ONGOING COMPLIANCE AND ADAPTABILITY AS DEVELOPMENTS UNFOLD. ”
>
> TARA COSGROVE, PARTNER, BEALE & CO

REGULATORY CHANGES, IN PARTICULAR THE EU'S DIGITAL OPERATIONAL RESILIENCE ACT (DORA)

The EU's Digital Operational Resilience Act (DORA), effective from January 2025, mandates a robust ICT risk management framework for Irish insurers, emphasising resilience testing, incident reporting, and third-party risk management. DORA aligns with existing Central Bank of Ireland guidelines on outsourcing, operational resilience, IT and cybersecurity, providing a cohesive strategy for digital risk management.

DORA will require insurers to substantially revise their digital frameworks, enhancing ICT risk strategies and embedding firm processes for incident management and resilience testing. DORA also introduces a regulatory framework for monitoring critical ICT third-party service providers, raising security and reliability standards.

Adopting these measures will enhance insurers' operational continuity, safeguard against ICT disruptions, and strengthen the sector's readiness for future technological challenges, ensuring compliance and bolstering resilience.

> “ DORA IS A GAME-CHANGER, COMPELLING INSURERS TO FORTIFY THEIR DIGITAL INFRASTRUCTURES AND ENSURING RESILIENCE IN THE FACE OF ICT THREATS. ”
>
> SEAN O' HALLORAN, PARTNER, BEALE & CO

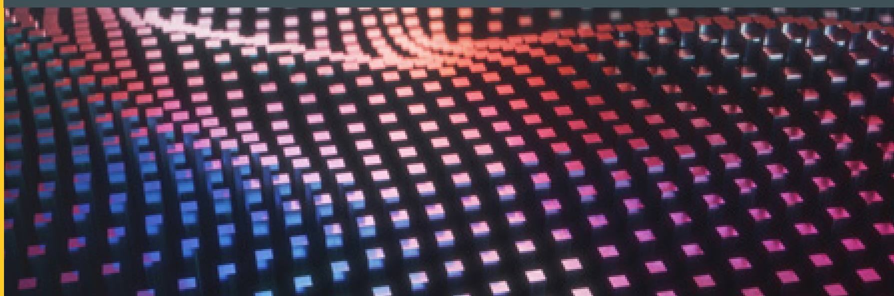
CYBER RISKS IN HYBRID WORK ENVIRONMENTS

Cybersecurity challenges posed by increasingly prevalent hybrid work models continue to affect the insurance market. The expansion of remote working has significantly broadened the attack surface, exposing insureds to a heightened risk of cyber attacks, data breaches, and unauthorised access across dispersed work environments.

Insurers have already witnessed a surge in demand for cyber products that address those risks, including now the need for cover for AI along with data protection and crisis management. Insurers must reassess their premium structures and policy terms to adequately reflect the increased risk associated with hybrid working arrangements.

This evolving landscape necessitates robust risk assessment tools along with innovative insurance, technical and employment solutions to manage the emerging threats in an era where work boundaries are increasingly blurred.

> “ THE HYBRID WORK MODEL ELEVATES CYBER RISKS. INSURERS MUST CONTINUE TO INNOVATE AND ENHANCE THEIR PRODUCTS TO MEET THESE COMPLEX RISKS. ”
>
> TARA COSGROVE, PARTNER, BEALE & CO



KEY ESG ISSUES:

- Cyber incidents
- Business interruption
- Economic crisis

INSURANCE INDUSTRY AT A GLANCE

LOW
The Economist Intelligence Unit's ESG Rating

250
Registered firms

Value of Premia

€110 BILLION
Life insurance

€40 BILLION
Non-life

BTG LEGAL

ITALY

The Italian insurance market remains, in some respects, very traditional, with customers preferring to purchase insurance through intermediaries and focusing on value for money. However, there is a growing desire among insureds for more personalised products.

This trend suggests insurance companies should increase investment in digitisation and data to transform processes, improve value for money of products, and increase the speed of services (such as claims processing/handling). In the last two years, high inflation has eroded the disposable income of Italian families by damaging their monthly savings capacity. It has also decreased the profitability of Italian insurance companies, particularly in the life sector.

In 2024, the performance of the Italian insurance market is expected to continue to improve with increased premia written in the life sector. However, premiums for class III linked policies are decreasing significantly, as the presence of high-yield bond investments and the uncertainty of financial and stock market trends make these products less attractive to Italian households.

Lake Como, Italy

CYBER INCIDENTS

Cyber incidents such as ransomware attacks, data breaches, and IT disruptions are continuing, as in 2023, to rank among the leading business risks concerning companies around the globe and Italy is no different.

Risks associated with increasing dependence on digital devices are likely to become a greater concern for companies in the future, and the expected increase in the use of AI will bring both opportunities and risks. A growing number of incidents are caused by poor cyber security around mobile devices, and the expansion of devices connected to 5G technology is added cause for concern if not handled properly.

While large companies have increased cyber protections, the cyber risks have intensified for small and medium-sized companies, due to increased outsourcing of services, including IT and cybersecurity provision. Early detection is key to managing this phenomenon, with the help of AI and preventive assessment through qualified IT and legal consultants.

> **" TO MEET THE GROWING CYBER THREAT, ITALIAN INSURANCE COMPANIES OF ALL SIZES WILL HAVE TO INVEST IN QUALIFIED PERSONNEL AND CYBER SECURITY SYSTEMS. "**
>
> GIORGIO GRASSO, SENIOR PARTNER, BTG LEGAL

BUSINESS INTERRUPTION

Italy ranks third in the world for business and supply chain disruption. The top three causes of business interruption companies fear most are: i) natural catastrophes; ii) cyber incidents; and iii) fire/explosion. However, other emerging risks can cause disruptions, including climate change (as decarbonisation creates new supply chains), digitisation and geopolitics.

In a rapidly changing world, companies need to conduct regular system audits, test their business continuity plans, and diversify supply chains. However, smaller companies and those operating in specialised, high-value sectors are more limited in their diversification options.

Companies may have a number of options to mitigate their exposure, including changing their business model and, if this is not feasible, reconfiguring their supply chain.

Disruption events can affect companies' reputations, customer confidence, cash flows and more, making this issue a key concern for companies.

> **" ITALIAN INSURANCE COMPANIES WILL HAVE TO MITIGATE THEIR EXPOSURE TO POTENTIAL DISRUPTION TO AVOID LOSING CREDIBILITY WITH CUSTOMERS. THE KEY WORD FOR RISK PREVENTION IS 'DIVERSIFICATION'. "**
>
> SILVIA TRAVERSO, SENIOR PARTNER, BTG LEGAL

ECONOMIC CRISIS

In Italy, economic growth is expected to slow further due to rising interest rates, with companies falling into the trap of conservative strategies, focused on cash management, costs and personnel.

The direct consequences of the economic slowdown include:

i) Financing difficulties, as reduced revenue streams make it crucial to have cash reserves to meet financial commitments, such as debt payments. Access to new financing also becomes more complex, due to increasing risk aversion on the part of lenders.

ii) Increased impact of globalisation driven by technological advancements, amplifying the effect of local economic downturns on a broader level.

iii) A decrease or interruption of revenue flows.

iv) Disruptions in supply chains with negative impacts on liquidity.

v) Staff management challenges, as companies cut costs by reducing headcount.

> **" ITALIAN COMPANIES WILL HAVE TO WAIT FOR INTEREST RATES TO FALL, TRYING TO INVEST AS MUCH AS POSSIBLE – EVEN IF RISKY AT THE MOMENT – IN ORDER TO HELP RESTART THE ECONOMY. "**
>
> ALBERTO BATINI, SENIOR PARTNER, BTG LEGAL

KEY ESG ISSUES:

- Artificial Intelligence
- EU Retail Investment Strategy
- Bill passed by the Chamber of Deputies

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

662
Registered firms

€56 BILLION
Value of Premia

MOLITOR AVOCATS À LA COUR

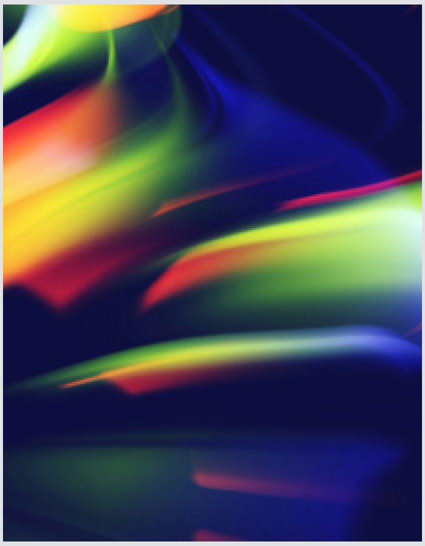
LUXEMBOURG

2023 was a significant year for Luxembourg. It was marked by a commendable review in the Financial Action Task Force (FATF)'s 4th mutual evaluation report, in which Luxembourg achieved a good overall result with certain recommendations to improve the effectiveness of the overall system, and by the general elections, with the resulting coalition government presenting provisions that are of interest to the insurance sector.

Throughout 2024, insurers are set to embrace further digitisation, while also preparing for the regulatory changes to come. Notably, the introduction of the EU Digital Operations Resilience Act (DORA) on 17 January 2025, which aims to unify, strengthen, and harmonise the standard of digital resilience frameworks across the entire financial sector, including the insurance and reinsurance markets.

Implementing DORA and adapting to the broader use of AI will require major organisational changes to meet new technical and ICT standards for companies to strengthen against cyber threats and mitigate operational risks.

Old town, Luxembourg



ARTIFICIAL INTELLIGENCE

The Luxembourg insurance industry is grappling with significant challenges regarding artificial intelligence (AI), with some entities considering it a top-tier concern. The primary concern is data itself, which not only has the potential to introduce biases into AI systems but can also be processed in violation of existing personal data protection regulations.

As firms increasingly use AI for risk assessment, fraud detection, and enhancing customer service, they must address compliance with the General Data Protection Regulation.

Moreover, AI systems for life and health insurance risk assessment and pricing are deemed high-risk under the forthcoming AI Act, necessitating stringent data governance frameworks.

> **“AI SYSTEMS FOR LIFE AND HEALTH INSURANCE, WHICH ARE DEEMED HIGH-RISK UNDER THE FORTHCOMING AI ACT, REQUIRE COMPLIANCE WITH STRINGENT DATA GOVERNANCE FRAMEWORKS.”**
>
> MICHEL MOLITOR, MANAGING PARTNER, MOLITOR AVOCATS À LA COUR

EU RETAIL INVESTMENT STRATEGY

On 24 May 2023, the European Commission published the final version of the EU Retail Investment Strategy (the RIS). The RIS focuses on enhancing the regulatory landscape for retail investments, particularly aiming to increase transparency, trust, and participation in the capital markets as it aims to protect and empower retail investors, helping them make well-informed decisions that suit their financial needs.

Legislative updates include proposed changes to the Insurance Distribution Directive (IDD), among others (e.g. MiFID II, AIFMD).

The strategy promotes, in particular, a strengthened focus on customers' interests and more effective management, as well as more transparency on costs, fees and conflicts of interest. In the same vein, a strong emphasis is placed on the “value for money” principle as well as framing marketing practices to ensure that consumers are not misled.

> **“THE RIS IS LIKELY TO HAVE A SIGNIFICANT IMPACT ON RETAIL FINANCIAL MARKETS, INCLUDING INSURERS, WHO SHOULD REVIEW THEIR CURRENT PRACTICES TO ENSURE THEY ARE READY TO INTEGRATE IT AS EFFECTIVELY AS POSSIBLE.”**
>
> JENY CRÉMER, ASSOCIATE, MOLITOR AVOCATS À LA COUR

BILL PASSED BY THE CHAMBER OF DEPUTIES

On 19 March 2024, the Chamber of Deputies adopted bill no. 8184, the two main features of which are (i) the transposition into Luxembourg law of Directive 2021/2118 concerning motor vehicle liability insurance, including the creation of a new public institution (Le Fonds de l'Insolvabilité en Assurance Automobile) responsible for compensating injured parties in the event of an insurer's insolvency, and (ii) the introduction of two provisions aimed at facilitating outsourcing for insurance companies which impact existing rules around professional secrecy.

The bill introduces an exception to the principle of keeping documents in Luxembourg, allowing digital data storage and processing of documents at critical third-party ICT service providers supervised under DORA. In addition, life insurers can presume for existing insurance contracts prior to the law coming into force that policyholders have consented to the insurers' request for outsourcing, provided specific procedures for informing policyholders are followed.

> **“86% OF ACA MEMBERS SAY THEY ARE AFFECTED BY THE NEGATIVE EFFECTS OF PROFESSIONAL SECRECY ON OUTSOURCING AND REFORM ON THIS ISSUE, THEREFORE, IS MOST WELCOME.”**
>
> ARIANE WOURWOUKAS, SENIOR ASSOCIATE, MOLITOR AVOCATS À LA COUR

KEY ESG ISSUES:

- Data and digital era
- Climate change and natural disasters
- Judicial trends

INSURANCE INDUSTRY AT A GLANCE

MODERATE
The Economist Intelligence Unit's ESG Rating

113
Registered firms

$40.4 BILLION
Value of Premia

OCAMPO 1890

MEXICO

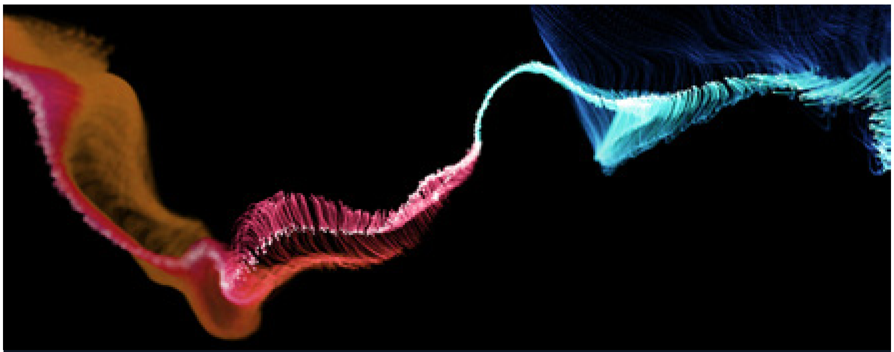
Currently, Mexico is undergoing a significant transformation within its insurance industry. Technological advancements, both in insurance operations and daily life tasks, are markedly increasing, alongside growing concerns about global warming and shifting judicial trends that are likely to continue shaping the market.

Firstly, the pace of technological adoption is rapidly accelerating. Nearly every Mexican insurance company is now vying to offer cutting-edge digital products, paving the way for innovation to revolutionise the entire industry with new products and experiences.

Secondly, natural disasters and climate change issues are at the forefront of the market's agenda. With these events predicted to increase in frequency and severity, insurance claims and products related to these matters are expected to rise.

Lastly, the burgeoning trend towards human and policyholder rights heightens pressure on companies' practices, demanding greater accountability and transparency. These multifaceted developments underscore the need for adaptability and strategic planning within the industry.

Cancun, Mexico



DATA AND DIGITAL ERA

The expanding use of technology in products introduces significant legal considerations, particularly in insurance. Insurance companies are increasingly employing machine learning, algorithms, and big data for risk prediction and tailored products.

Additionally, AI devices, robotics, and automated vehicles are becoming ubiquitous in daily life in Mexico and are likely to develop further. As a result, technology emerges as a crucial concern in the insurance sector, requiring new regulations.

These include rules concerning the integration of technology in insurance products and liability issues. Such developments may catalyse a shift towards innovative technological practices within the industry. As these advancements continue to unfold, policymakers, insurers, and consumers must collaborate to ensure that legal frameworks remain adaptive and conducive to technological progress.

"THE INTEGRATION OF TECHNOLOGIES SUCH AS AI AND ROBOTICS INTO DAILY LIFE UNDERSCORES THE NEED FOR COMPREHENSIVE LEGAL FRAMEWORKS TO ADDRESS EMERGING CHALLENGES."

MARCO ANTONIO TAPIA, RE/INSURANCE LAWYER, OCAMPO 1890

JUDICIAL TRENDS

In recent years, Mexico has seen significant judicial trends aimed at enhancing consumer protection and addressing issues of transparency within the insurance market. These include stricter regulations on insurance practices, increased scrutiny of insurance contracts, and a focus on ensuring fair treatment of policyholders.

As a result, insurance companies in Mexico are facing greater pressure to comply with legal requirements and provide clearer and more comprehensive coverage to consumers. This has led to a shift in the insurance market towards greater transparency, improved customer service, and enhanced product offerings.

Additionally, these trends have resulted in more frequent and significant legal precedents, broadly interpreting laws in favour of policyholders or beneficiaries in legal disputes.

"INCREASINGLY FREQUENT LEGAL PRECEDENTS FAVOURING POLICYHOLDERS SHOWCASE THE EVOLUTION OF MEXICO'S INSURANCE LANDSCAPE TO PROTECT CONSUMERS."

MARCO ANTONIO TAPIA, RE/INSURANCE LAWYER, OCAMPO 1890

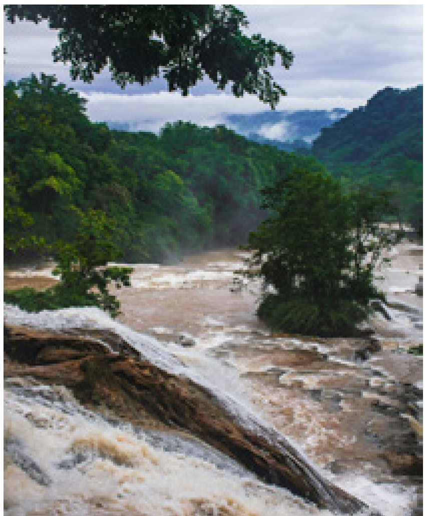
CLIMATE CHANGE AND NATURAL DISASTERS

With the impact of Hurricane Otis in November 2023, natural disasters have become a central topic on the Mexican insurance agenda for 2024 and are likely to remain at the top of that list for many years to come.

According to several experts within the industry, premia will see a considerable increase, particularly in the property segment, due to the threat of increased exposure to natural catastrophes.

Furthermore, it is expected that the market will see a steep increase in insurance claims arising from these unfortunate events, which in turn may give drive new discussions around the force majeure legal doctrine within the judicial arena.

With global warming already affecting the insurance industry, it will certainly be a central topic for all the stakeholders involved.



"ADAPTING PRODUCTS, ADHERING TO NET ZERO REGULATIONS, AND UNDERSTANDING CLIMATE-RELATED CLAIMS ARE NOW CRUCIAL FOR MARKET COMPETITIVENESS AMID GLOBAL WARMING."

MARCO ANTONIO TAPIA, RE/INSURANCE LAWYER, OCAMPO 1890

KEY ESG ISSUES:

- Digitalisation
- Climate-related risks
- Pension system

WIJ ADVOCATEN

NETHERLANDS

The Netherlands has a relatively stable insurance market. The decline in sales of life insurance products has put pressure on the earnings model of life insurers and made them more dependent on investment results. In the non-life market, there has been modest growth in premium volume and improved results in key sub-segments. In recent years, insurers' solvency has gradually improved. Inflation and interest rate developments do require alertness.

The transition to a digital and data-driven organisation is high on the insurance industry's agenda. It offers a range of new opportunities in terms of more efficient operations and improving the customer experience.

Entry of foreign insurers and tech companies into the Dutch insurance market has led to innovation and a sharper and more versatile offering. As such, they complement the domestic market. However, there remains a need for insurers with knowledge of local conditions and national laws and regulations.

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

132
Registered firms

€72.3 BILLION
Value of Premia

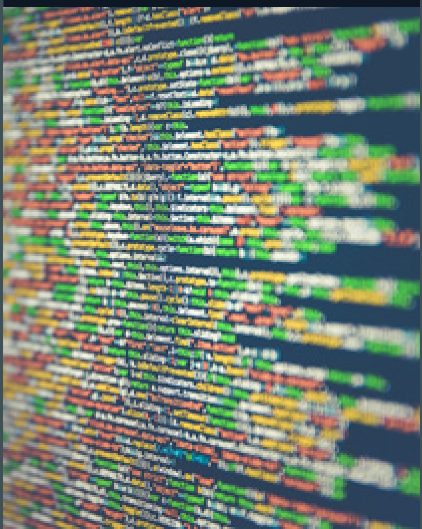
Amsterdam, Netherlands

DIGITALISATION

Increased digitalisation makes society more vulnerable to cyber risks. The cyber insurance market in the Netherlands is relatively small and fast-moving. The manufacturing, wholesale and logistics sectors have been relatively frequent targets of cyber criminals in recent years. Criminals target not only large organisations, but also small and medium-sized enterprises.

The European Union has created an extensive legislative program in the area of technology and digitalisation. These include the Digital Operational Resilience Act regulation for managing IT risks, which aims to increase the digital operational resilience of financial institutions, including insurers and IT supply chains.

The requirements include technical measures, procedures, processes and field tests to support insurers in detecting anomalies, containing and recovering from cybersecurity incidents.



“RESPONDING TO NEW AND CHANGING RISKS PROVIDES OPPORTUNITIES FOR INSURERS TO STRENGTHEN THE FUTURE-PROOFING OF THEIR REVENUE MODEL AND FULFIL THEIR SOCIAL ROLE.”

SUZANNE COLSEN, PARTNER, WIJ ADVOCATEN

CLIMATE-RELATED RISKS

Climate change is accompanied by an increase in weather extremes, such as storms, drought and precipitation. Not all risks due to climate change can be insured.

In the Netherlands, the insurance protection gap is largest for flood risk. The so-called ‘insurance penetration’ for flood risk is estimated at 0-25%, where zero means there is no existing insurance coverage and 100% that insurers provide coverage in all cases.

With the transition to a climate-neutral economy, risks are changing. Changes in energy infrastructure are leading to an increasing need to insure, for example, solar panels, electric vehicle fleets and the use of alternative fuels.

“THE FLOOD RISK IN THE NETHERLANDS IS HIGH BUT WITH LIMITED INSURABILITY. A PRIVATE-PUBLIC PARTNERSHIP COULD PROVIDE A SOLUTION.”

DAPHNE GOUWELOOS, PARTNER, WIJ ADVOCATEN

PENSION SYSTEM

On July 1, 2023, the Future of Pensions Act (WTP) came into effect. This is the biggest change since the introduction of the pension system in the Netherlands, requiring, among other things, the conversion of pension assets.

The intention is that everyone who accrues a pension will do so in a premium scheme. The transition period will last until January 1, 2028 at the latest.

The total pension assets consist of more than EUR 1.8 trillion. Of this, EUR 1.6 trillion is held by pension funds. Most communication about the WTP therefore focuses on pension funds, but insurers and the products brought under the umbrella of an insurer will also see the effects of the proposed changes to the pension system.

“THE SYSTEM CHANGE UNDER THE WTP PROVIDES OPPORTUNITIES FOR INSURERS TO INCREASE THEIR STAKE IN THE PENSION MARKET.”

MARIJKE LOHMAN, PARTNER, WIJ ADVOCATEN

KEY ESG ISSUES:

- Climate change claims in the courts
- Legislation update with the Insurance Contracts Bill
- Privacy breaches

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

85
Licensed insurers

NZD$ 8.19 BILLION
Value of Premia (Year End 2022)

DUNCAN COTTERILL

NEW ZEALAND

Mandatory reporting of climate-related disclosures for large financial institutions, including insurers, is coming into force in New Zealand. The intention is that improving transparency and revealing climate-related information within financial markets will result in our financial system becoming more resilient and climate change risks will be addressed.

This may soon be tested, as the New Zealand insurance market is currently being significantly affected by climate change, with 2023 having the largest volume of weather-related insurance claims in New Zealand's history.

Insurers will also be looking closely at climate change related proceedings currently underway in the courts, with the potential that they will need to cover risk that was previously not contemplated.

At the same time, legislation has been introduced to update and reform insurance law, particularly in the realm of consumer insurance.

South Island, New Zealand

CLIMATE CHANGE CLAIMS IN THE COURTS

The New Zealand Supreme Court has released a decision in *Smith v Fonterra* allowing a novel claim alleging the existence of a new 'climate change tort' to proceed to a hearing.

Mr Smith is an elder, and a climate change spokesperson for a national forum of tribal leaders. He is suing seven of New Zealand's largest companies involved in releasing greenhouse gases or manufacturing and supplying products that release greenhouse gases when used.

Smith alleges the companies have contributed materially to the climate crisis and have damaged, and will continue to damage, New Zealand's land and sea, including places of customary, cultural, historical, nutritional and spiritual significance. He alleges public nuisance, negligence, and a new tort described as a "climate system damage tort".

> **"SMITH V FONTERRA INTRODUCES UNCERTAINTY FOR UNDERWRITERS, WHO WILL NEED TO CONSIDER THE POSSIBILITY OF A NEW CLIMATE CHANGE EXPOSURE, EVEN WHERE AN INSURED HAS COMPLIED WITH STATUTORY REQUIREMENTS."**
>
> AARON SHERRIFF, PARTNER, DUNCAN COTTERILL

PRIVACY BREACHES

There have been some large and highly publicised recent privacy breaches in New Zealand, covering data hacks to deliberate leaks and inadvertent disclosures. However, despite growing awareness of cyber breach risk and the key role that insurance can play in responding, cover levels are still low. Similarly, education about risk still lags behind other countries.

As a result, the Office of the Privacy Commissioner (OPC) is taking a stronger stance on breaches, with the requirement that it be notified within 72 hours of a significant breach.

This has resulted in parties notifying out of an abundance of caution where, in many cases, legal advice and the assistance of insurers may have meant the notification was not required.

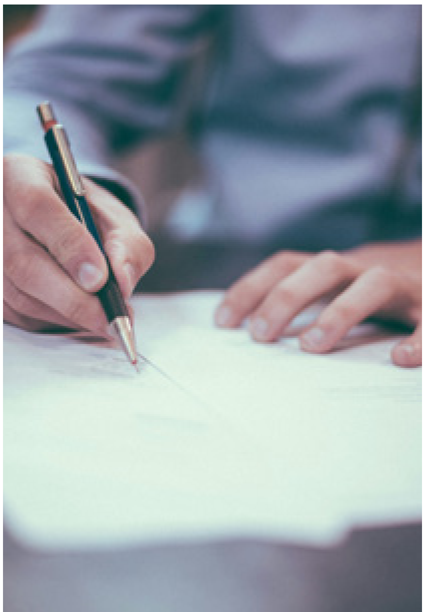
The OPC is also calling for an amendment to the Privacy Act, to increase the current maximum fine from $10,000.

> **"UPTAKE OF CYBER COVER IN NEW ZEALAND IS STILL LOW, ALTHOUGH THIS IS LIKELY TO CHANGE AS FINANCIALLY-MOTIVATED CYBER ATTACKS EXCEEDED THOSE LAUNCHED BY NATION STATES FOR THE FIRST TIME IN 2023."**
>
> TANYA WOOD, PARTNER, DUNCAN COTTERILL

LEGISLATION UPDATE WITH THE INSURANCE CONTRACTS BILL

The Ministry of Business, Innovation and Employment has recently reviewed New Zealand's insurance contract law to ensure it is playing an effective role in facilitating well-functioning insurance markets. New legislation has now been introduced to Parliament which will, if passed, consolidate all insurance contract law into one place and update the consumer protection requirements.

Many insurers have been preparing for this change by undertaking policy reviews to ensure that they operate fairly. However further changes will be needed if the legislation is passed, as new unfair contract terms will come into effect, alongside updated requirements for the information insureds must disclose when entering into policies.



> **"THE NEW INSURANCE CONTRACT LEGISLATION WILL PROMOTE AN EFFECTIVE, FAIR AND TRANSPARENT MARKET FOR INSURANCE PRODUCTS, AND ENSURE THE INTERESTS OF CONSUMERS ARE APPROPRIATELY RECOGNISED AND PROTECTED."**
>
> ROB COLTMAN, PARTNER, DUNCAN COTTERILL

KEY ESG ISSUES:

- KYC and AML
- ESG
- Natural disasters – changes in the natural damage pool

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

23
Registered firms

84.75 BILLION NOK
Value of Premia

RIISA & CO

NORWAY

ESG plays an increasingly important role in the Norwegian insurance market. The insurance industry is subject to ever-tightening ESG requirements but also, among other things, to Anti-Money Laundering (AML) and Know Your Customer (KYC) regulations.

This means that several Norwegian insurance companies are now making greater demands on their customers, for instance, setting requirements for the customers' work with ESG and integrating ESG and sustainability into the policy terms.

We have recently seen examples of policies held by insurance customers being terminated due to AML and KYC regulations. In April 2024 we received a preliminary clarification from the Supreme Court of Norway that there were grounds for terminating an insurance agreement because there was uncertainty about the ownership in the company. Furthermore, we are waiting for a new case regarding a similar topic that will be tried before the Supreme Court in June.

Lofoten Islands, Norway

KYC AND AML

There is currently an increased focus on KYC and AML in Norway. The Supreme Court of Norway recently passed a ruling concerning the insurance company IF's termination of an insurance agreement with a fish farming company. The insurer argued that the termination was based on an unclear ownership structure and the fish farming company immediately filed an injunction against IF to set aside or suspend the termination.

The Supreme Court ruled that the actual beneficiary and ownership structure must be consistent and clear, and that upon any uncertainty or inconsistency, further investigation would normally be required. Accordingly, the injunction request was not successful.

" NORWEGIAN INSURERS SHOULD METICULOUSLY SCRUTINISE THEIR CUSTOMERS IN THE YEARS TO COME AS AN INCREASING FOCUS ON KYC AND AML COULD LEAVE THEM EXPOSED TO SANCTIONS. "

YNGVE SKOGRAND, PARTNER, ADVOKATFIRMAET RIISA

NATURAL DISASTERS – CHANGES IN THE NATURAL DAMAGE POOL

In 2023, we saw more extreme weather events such as heavy rains, storms and floods, and it is likely that these events will become more frequent. Extreme weather events have a large impact on insurers, and this is causing particular challenges for property insurers.

New regulations on natural damage insurance have been adopted and will come into force on 1 January 2025.

The new regulations involve significant changes in the natural damage pool's tasks and activities. Insurers must prepare to set aside substantial and rising natural damage capital in a fund managed by the Norwegian Natural Damage Pool.

The scheme entails that the natural damage capital must grow and be profitable this year and that the insurers must be able to cover losses in years where natural damage compensation has exceeded the payments.

" AS DARK CLOUDS LURK ON THE HORIZON, NORWEGIAN INSURERS MUST PREPARE TO SET ASIDE SUBSTANTIAL CAPITAL FOR THE NORWEGIAN NATURAL DAMAGE POOL. "

ODA JEPSEN, PARTNER, ADVOKATFIRMAET RIISA

ESG

ESG issues are becoming increasingly important for insurers. A current example of the increasing relevance of ESG is a pending case concerning IF's termination of the insurance policy for the club house of the Hells Angels motorcycle club.

The insurer is arguing that it has reasonable grounds to suspect that the Hells Angels are connected to organised crime, and that IF then is at risk of being exposed to accomplice liability.

The termination has been challenged by the Hells Angels, who argue the termination is unlawful in relation to the Norwegian Constitution and that it is a valid and legally established motorcycle club where there is no basis to conclude that it is connected to organised crime.

IF has been unsuccessful in the first and second instances and the case has now been brought before the Supreme Court.

" THE NORWEGIAN INSURANCE SECTOR IS EAGERLY AWAITING THE SUPREME COURT'S RULING ON WHETHER OR NOT AN INSURER CAN KICK HELLS ANGELS OUT OF THEIR BOOK. "

JOACHIM MIKKELBORG SKJELSBÆK, PARTNER, ADVOKATFIRMAET RIISA

KEY ESG ISSUES:

- Strengthening of insurance supervision
- New bancassurance legal regime
- D&O claims

INSURANCE INDUSTRY AT A GLANCE

LOW
The Economist Intelligence Unit's ESG Rating

52
Registered firms

PLN 78.9 BILLION
Value of Premia

WKB LAWYERS

POLAND

The Polish insurance market is stable but competitive. Smaller insurers are being bought by larger groups, so fewer players are dominating the market. However, there have also been new entrants such as Euroins and Balancia.

The life insurance market in Poland has been facing difficulties after new rules regarding unit-linked policies were introduced making their distribution much more difficult than before. The life insurance market represents 29% of total premium written by both life and non-life insurers.

The insurance mediation market, which is also consolidating, has been attracting the interest of foreign investors in recent years.

More and more policies are being taken out online with both insurers and intermediaries using new technologies. For example, smaller claims are often handled by AI bots. Insurers are seeking competitive advantage through innovation. At the same time traditional and simple products (in particular motor third-party liability (MTPL)) still play an important role in the portfolio of insurers addressing their offer to household customers.

Old Town Warsaw, Poland

STRENGTHENING OF INSURANCE SUPERVISION

The Polish supervision authority (KNF) seems to be, more and more, a challenging partner to insurers. It can be seen involving itself during control proceedings that are often meticulous, long – lasting and very formal.

The KNF has also issued a number of recommendations to the insurance industry that deal with very detailed aspects of insurance activities. The KNF is not only keen on safeguarding the solvency of insurers but also focuses on consumer protection regulations in the insurance market.

Recently, the KNF has focused among other things on the adequacy of compensations paid out by insurers for MTPL claims. In the aspect of consumer protection, the KNF's activity overlaps with the activity of the President of Competition and Protection Office that along with the Financial Ombudsman plays an important role in the insurance sector. Hence offering insurance products to consumers has become more demanding from a regulatory point of view leading to some insurers being heavily fined by the authorities.

"THE LEGAL ENVIRONMENT FOR INSURERS HAS BECOME MORE CHALLENGING DUE TO THE INCREASED ACTIVITY OF THE POLISH SUPERVISION AUTHORITY (KNF), THE PRESIDENT OF COMPETITION AND PROTECTION OFFICE AND THE FINANCIAL OMBUDSMAN."

JAKUB POKRZYWNIAK,
PARTNER, WKB LAWYERS

NEW BANCASSURANCE LEGAL REGIME

The bancassurance market is preparing itself to the implement the KNF's 'Recommendation U' that was issued in 2023 and will come into force on 1 July 2024. The recommendation, that ensures good practices in the bancassurance sector, is formally addressed to banks but also impacts insurers. Its purpose is to enhance customer protection (it is worth noting that it also covers non-consumers). One of its main goals is to assure good value for money for customers. For example, the KNF expects that a minimum loss ratio indicated in the recommendation shall be assumed for every bancassurance product.

At the same time two market organisations: the Polish Chamber of Insurance and the Polish Bank Association have elaborated on a set of good practices regarding the CPI (credit protection insurance). This document was prepared under the auspices of the KNF and it will supplement the Recommendation U.

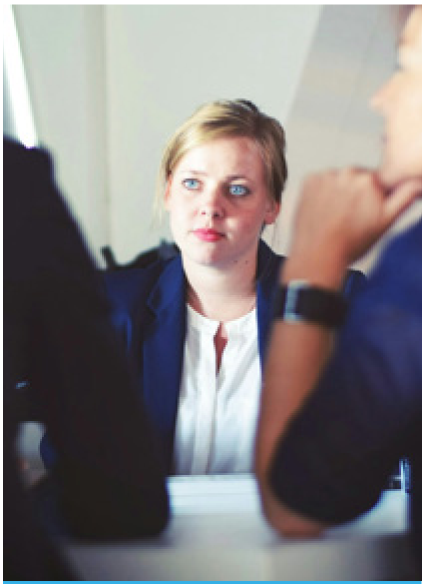
"THE 'RECOMMENDATION U' REGARDING GOOD PRACTICES IN THE BANCASSURANCE SECTOR ISSUED BY THE KNF AS WELL AS SET OF GOOD PRACTICES FOR THE CPI PRODUCTS PREPARED BY THE POLISH CHAMBER OF INSURANCE AND THE POLISH BANK ASSOCIATION WILL INTRODUCE NEW STANDARDS IN THE POLISH BANCASSURANCE MARKET."

JAKUB POKRZYWNIAK,
PARTNER, WKB LAWYERS

SOCIAL AWARENESS

D&O policies have been offered in the Polish market for over 20 years. They have also become popular among state-owned companies. In 2023, after the October elections the government changed in Poland which also entailed changes in the companies controlled by the state where new directors were appointed. Insurers expect that it will have an influence on the number of D&O claims, in particular those regarding former managers of the aforementioned state-owned companies.

Some claims notifications have been made so far. A number of lawsuits are also expected. According to recent news, this could include criminal proceedings. In this context, coverage of defence costs in D&O policies has growing importance for insureds in Poland.



"AFTER THE CHANGE OF GOVERNMENT IN POLAND IN 2023 A NUMBER OF CLAIMS AGAINST FORMER MANAGERS OF STATE OWNED COMPANIES ARE EXPECTED BY INSURERS. IT IS HARD TO PREDICT AT HIS MOMENT WHAT IMPACT IT WILL HAVE ON THE INSURANCE INDUSTRY."

JAKUB POKRZYWNIAK,
PARTNER, WKB LAWYERS

KEY ESG ISSUES:

Increase in compulsory motor third party liability policy prices, after the cap is lifted

Political and economic issues – elections in 2024 (local, parliamentary, European Parliament and presidential)

Amendments in legislation regarding gambling guarantees

INSURANCE INDUSTRY AT A GLANCE

LOW

The Economist Intelligence Unit's ESG Rating

25

Registered firms

RON 4 BILLION

Value of Premia

STRATULAT ALBULESCU

ROMANIA

In the first quarter of 2024, the Romanian insurance market has stabilised, since the problematic mandatory car insurance policies, the main driver of market activity, has been capped until the end of June 2024, in order to dampen the impact of the two recent bankruptcies of large insurers, namely City Insurance and Euroins Romania Asigurare Reasigurare.

The other main market insurers have diversified their portfolio, in order to include a variety of more stable insurance policies, along with the more lucrative mandatory car insurance policies. Premium increases have been recorded in the areas of health insurance, travel insurance and professional insurance. Since 2024 is an election year, with four separate elections taking place, events in the second part of 2024 are likely to have a long-term impact on the insurance and financial markets alike.

Colibița, Romania

INCREASE IN COMPULSORY MOTOR THIRD PARTY LIABILITY POLICY PRICES, AFTER THE CAP IS LIFTED

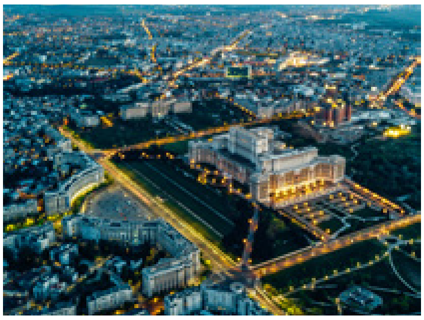
After the significant bankruptcies of two of the most important Romanian insurance companies, City Insurance and Euroins Romania Asigurare Reasigurare, the insurance market was faced with a new national hierarchy of insurance companies, following which insurers diversified their portfolios and premium prices grew overall.

The Romanian Government was forced to intervene, following several protests from transport firms, and the price of compulsory motor third party liability policies were capped. This cap is scheduled to last for the first 6 months of 2024.

Once the cap is lifted, the value of such policies will most likely see a significant increase, which is like to drive further strikes from transporters and transporters' associations.

Given 2024 is an election year, it is difficult to assess whether the cap will be lifted, or the measure is prolonged instead.

> "APART FROM CONSERVATIVE MEASURES, SUCH AS THE PREMIUM CAP, A PROPER REGULATION OF MANDATORY CAR INSURANCE IS HIGHLY WELCOMED."
>
> ROXANA CATEA, COUNSEL, STRATULAT ALBULESCU



POLITICAL AND ECONOMIC ISSUES – ELECTIONS IN 2024 (LOCAL, PARLIAMENTARY, EUROPEAN PARLIAMENT AND PRESIDENTIAL)

2024 is an important year from a political and economic perspective, since all four elections – for the appointment of local representatives, European Parliament representatives, Romanian parliament representatives and the appointment of the Romanian president – will take place.

These elections will have an impact on the Romanian insurance market, which is still feeling the impact of the recent bankruptcy of Euroins Romania Asigurare Reasigurare, which had the largest market share of mandatory car insurance.

The involvement of the National Supervisory Authority, whose members are appointed by the Romanian Parliament, in regulating mandatory insurance policies should focus on stabilising the market, while continuing to avoid unnecessary interventionism.

Political decisions taken after the elections regarding mandatory insurance policies should be preceded by in-depth analysis of their financial consequences on consumers and companies alike.

> "WE LOOK FORWARD TO CONSTRUCTIVE CHANGES IN THE INSURANCE FIELD FOLLOWING THE 2024 ELECTIONS, AIMED AT STRENGTHENING THE ROMANIAN MARKET."
>
> ROXANA CATEA, COUNSEL, STRATULAT ALBULESCU

AMENDMENTS IN LEGISLATION REGARDING GAMBLING GUARANTEES, WHICH SHALL GENERATE THE NEED FOR NEW INSURANCE POLICIES, WHICH CURRENTLY DO NOT EXIST

The Romanian gambling legal framework was recently amended through Emergency Ordinance no. 82/2023, introducing new and very high values for the guarantees that gambling companies must provide. The values of these guarantees start gradually from EUR 500,000 and are dependent on the company's income level.

Since these guarantees have been substantially increased, gambling companies have expressed their need for an insurance product, which has not yet been developed, in order to deal with this mandatory condition of having a higher guarantee.

Discussions have been carried out with the National Financial Supervisory Authority but no conclusion has been reached, since the insurance product would be an optional solution, meaning the Authority's intervention is limited in relation to the risk and business policies of insurers.

> "INSURERS AND GAMBLING COMPANIES SHOULD FOSTER A DIALOGUE FOR CREATING AN INSURANCE PRODUCT AIMED AT GUARANTEEING GAMBLING ACTIVITIES, WHICH WOULD HAVE MUTUAL ADVANTAGES."
>
> ROXANA CATEA, COUNSEL, STRATULAT ALBULESCU

KEY ESG ISSUES:

- Cyber
- Climate change
- High level competition

INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

176
Registered firms

€76.46 BILLION
Value of Premia

B&A BLANCO Y ASOCIADOS ABOGADOS

SPAIN

In 2024, the insurance industry in Spain faces a challenging and dynamic environment, marked by continued technological evolution, regulatory changes and growing awareness of emerging risks such as climate change and cybersecurity. Insurers are expected to adopt more proactive and customer-centric approaches, using advanced data analytics and artificial intelligence tools to personalise products and services.

Digitisation and automation will play a crucial role in optimising internal processes and improving the customer experience. In addition, collaboration with the insurtech sector and other industries will be critical for innovation and product diversification.

However, the sector also faces challenges in terms of cyber attacks and the need to maintain consumer trust in an increasingly digitised and connected world. In summary, the insurance industry in 2024 is expected to be characterised by technological innovation, adaptability and proactive management of emerging risks.

Catalonia, Spain

CYBER

Cyber security represents a significant issue for insurance companies, as the constant evolution of technology will require insurers to keep up to date with the latest defences and security techniques. Potential cyber attacks can expose sensitive personal and financial customer information, eroding customer confidence and damaging an insurer's reputation.

In addition, we must not forget the strict data protection regulations which insurers are subject to, such as the European Union's General Data Protection Regulation. Failure to comply with such regulations can result in significant fines with legal penalties, resulting in large financial losses.

Cyber security is a critical issue for insurers, as a security breach can have serious financial, legal and reputational consequences. It is crucial that insurers implement robust cyber security measures and proactively manage the risks associated with data protection and IT security.

"THE INSURANCE SECTOR MUST BE PROACTIVE IN INSURING CYBER RISKS, INCLUDING ADDITIONAL COVERAGE AND HIGHER INSURED SUMS."

SANTIAGO MARTÍN, PARTNER, BLANCO Y ASOCIADOS

CLIMATE CHANGE

Climate change is an emerging risk that has direct consequences for insurance claims, contributing to the increase in disasters and high-impact weather events that cause large-scale property damage and, consequently, economic losses for insurers.

Year after year, we are seeing an increase in climatic events with greater repercussions for insurers and policyholders. The increase in natural disasters has caused insurers to face a greater number of claims for property damage, as well as business interruptions and closely related losses.

It is necessary to remember that in Spain, where the Insurance Consortium is the entity in charge of indemnifying large-scale natural disasters, the requirements that must be met in order that insurance companies are not held responsible for these claims are difficult to comply with.

"IN A FEW YEARS, NATURAL DISASTERS WILL OCCUPY THE TOP THREE LOSS RATIOS FOR INSURERS."

FERNANDO BLANCO GIRALDO, MANAGING PARTNER, BLANCO Y ASOCIADOS

HIGH LEVEL COMPETITION

The high level of competition in the insurance sector is another significant risk that will have a major impact on the way insurance companies operate in 2024.

The emergence of technology companies in the insurance sector has increased competition in the market. These new companies offer innovative products and services that challenge the traditional insurance model.

To attract customers in such a competitive market, insurance companies must differentiate themselves by offering unique products and services, and potentially by reducing profit margins through lowering prices, making greater marketing investments, etc.

It is also becoming increasingly common for customers to require a fully customised and personalised experience, which means increased effort from insurers across the board.

Competition and industry pressure are key challenges against which companies will need to develop innovative strategies to stay ahead.

"DIFFERENTIATION AND EXCLUSIVE PERSONALISED ATTENTION FOR EACH POLICYHOLDER WILL BE TWO ESSENTIAL FACTORS TO ATTRACT CUSTOMERS IN A SECTOR THAT FACES INCREASING COMPETITION EVERY DAY."

FERNANDO BLANCO GAMELLA, PARTNER, BLANCO Y ASOCIADOS

KEY ESG ISSUES:

- AI and robots
- PFAS – the 'forever chemicals'
- Climate change

GBF ATTORNEYS-AT-LAW LTD

SWITZERLAND

The Swiss insurance market is characterised by robustness and innovation and is one of the most developed in the world. Swiss insurers offer a wide range of products, from life and health to property and casualty, reflecting a mature market with high penetration rates.

In recent years, the sector has faced challenges such as low interest rates and regulatory changes, prompting a shift towards more sustainable and digital solutions. Swiss insurers are at the forefront of digital technology integration, using artificial intelligence and data analytics to improve customer service and streamline operations.

The market is closely monitoring and adapting to the complexities of modern risks, including robotics and AI, PFAS (so-called 'forever chemicals') and emerging climate change-related liabilities.

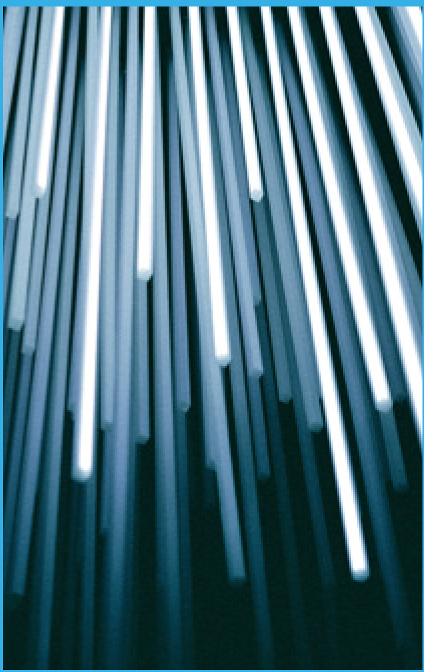
INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

194
Registered firms

CHF128.9 BILLION
Value of Premia

Bachalpsee Lake, Switzerland



AI AND ROBOTS

Artificial Intelligence (AI) is transforming sectors such as industry, healthcare and everyday life through its wide range of applications. AI technologies, including virtual assistants and autonomous robots, are becoming increasingly common in the manufacturing and medical sectors.

As AI rapidly evolves and replaces human decision-making, failures are inevitable, leading to significant legal challenges regarding liability. These legal cases often involve complex and conflicting expert testimony about the performance of the AI system, the causal relationships between its components, and the attribution of responsibility for AI behaviour to entities or individuals.

This evolving legal landscape highlights the need for a comprehensive approach to the consequences of AI failures.

“COMPLEX AI SYSTEMS WILL INEVITABLY MALFUNCTION, LEADING TO SIGNIFICANT LEGAL CHALLENGES IN TERMS OF LIABILITY.”

DOMINIK SKROBALA, PARTNER, GBF ATTORNEYS-AT-LAW

PFAS – THE 'FOREVER CHEMICALS'

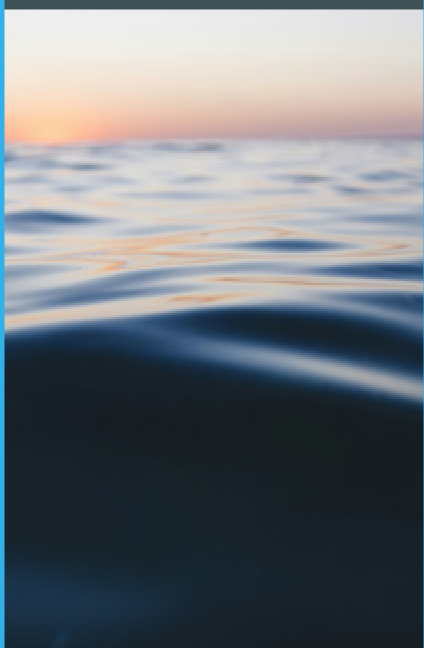
The insurance industry is bracing for what could be the costliest loss in its history from claims related to per – and polyfluoroalkyl substances (PFAS). These persistent chemicals could surpass the financial impact of the mid-20th century asbestos scandal.

One of the challenges for insurers is that PFAS are extremely persistent and do not break down easily in the environment. This means that contamination can remain in soil, water and air for long periods of time, increasing the likelihood of long-term health effects and liability claims.

The industry is still in the early stages of legal challenges, but the trend of PFAS-related claims has been increasing for years. A conclusive study linking PFAS to human health issues could trigger a massive wave of litigation with profound implications for the insurance sector.

“WHILE THE FUTURE PFAS RISK LANDSCAPE IS STILL UNCERTAIN, PFAS COULD EASILY SURPASS THE ASBESTOS SCANDAL.”

DOMINIK SKROBALA, PARTNER, GBF ATTORNEYS-AT-LAW



CLIMATE CHANGE

The Intergovernmental Panel on Climate Change (IPCC) warns that global warming will lead to more severe and prolonged extreme weather events such as storms, droughts and frosts. Switzerland, like other nations, cannot escape these effects, which include melting glaciers and thawing permafrost, increasing the risk of floods and landslides.

Climate change is also leading to an increase in litigation. In a long-awaited decision, the European Court of Human Rights ruled that the Swiss authorities are responsible for failing to implement an effective climate change policy.

In the wake of this ruling, companies could face legal action for failing to adequately reduce CO_2 emissions or for mismanaging the transition to a post-fossil era. Management decisions and misinformation about sustainability practices could also lead to shareholder lawsuits under directors' and officers' liability insurance policies.

“IT IS NO LONGER A QUESTION OF IF, BUT WHEN, COMPANIES WILL FACE CLIMATE CHANGE LITIGATION.”

DOMINIK SKROBALA, PARTNER, GBF ATTORNEYS-AT-LAW

KEY ESG ISSUES:

- Labour shortages
- Construction claims
- Greater regulation and increased personal liability

INSURANCE INDUSTRY AT A GLANCE

HIGH
The Economist Intelligence Unit's ESG Rating

62
Registered firms

AED50 BILLION
Value of Premia

BEALE & CO

UAE

The insurance sector in the Gulf Cooperation Council (GCC) countries has historically played an important role in the gross domestic product of the region. Approximately 60% of GCC insurance companies are local and 40% are foreign-owned.

The importance of the sector is set to increase over the next few years as the United Arab Emirates (UAE) and the Kingdom of Saudi Arabia (KSA) implement their 2030 Visions which seek to increase economic, social and cultural diversification and move away from the dependence on oil revenues.

In order to achieve this, a significant population increase will be required which, in turn, will increase demand for insurance products in all sectors. Construction is the predominant sector driving the vision with large infrastructure projects including highways and railways, housing developments and leisure facilities required for an increasing population.

There are a number of risks associated with this potential 'hockey stick' growth including labour shortages, a construction claims culture and increased regulatory scrutiny of business activities.

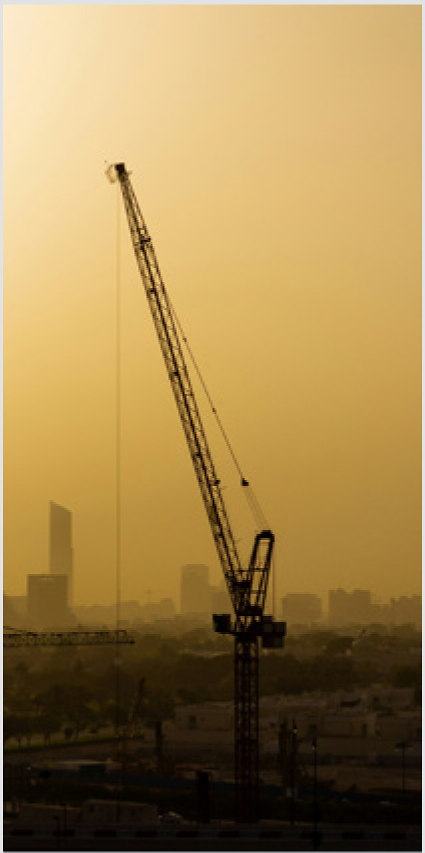
Dubai, United Arab Emirates

LABOUR SHORTAGES

As part of the UAE and KSA Visions, there is a requirement for businesses to employ nationals in certain roles. The aim of this policy is to encourage local talent to stay in the region and eventually take on senior roles in international companies.

In conjunction with this, there is a dearth of workers in a large number of industries. Pressures of staff retention and high turnover due to employers competing for talent could lead to disruption in the market with a knock-on effect for businesses ability to comply with contractual and statutory obligations.

This, in turn, may result in claims arising from a number of areas due to non-performance generally or sub-standard service.



" A BUSINESS IS ONLY AS GOOD AS ITS WORKFORCE, AND ANY PRESSURE ON STAFF RETENTION COULD AFFECT DELIVERY AND SERVICE. "

LYNDON RICHARDS, PARTNER, BEALE & CO

CONSTRUCTION CLAIMS

The UAE's construction market was estimated to be around US$39 billion in 2023 and is set to increase considerably in order to achieve Vision 2030.

Similarly, the 17 or so Saudi "GIGA" projects alone were estimated to be valued at US$850 billon in 2024. Delivering these complex projects within tight timescales leads to inevitable design and construction issues, and while a large majority are resolved amicably, it is inevitable that a few will result in policy claims.

The projects in Saudi Arabia are in the relatively early stages and in insurance terms they mirror the claim cultures in western countries, with the propensity for pressure on insurers and premia likely to increase substantially.

" CLAIMS AGAINST CONSULTANT PI POLICIES COULD INCREASE AS A RESULT OF INCREASING COMPLEX DESIGNS IN CONJUNCTION WITH UNREALISTIC DELIVERY DATES. "

LYNDON RICHARDS, PARTNER, BEALE & CO

GREATER REGULATION AND INCREASED PERSONAL LIABILITY

The Middle East is changing as governments strive to bring the region more in step with its global counterparts and this had led to a number of initiatives, particularly in relation to ESG. In Dubai, the government established the Task Force on Sustainable Finance which published a paper entitled "Climate and Environmental Risk Management" to which businesses in the region must comply.

Similarly, in Saudi Arabia in 2022 the Public Investment Fund launched the Green Finance Framework and announced it would invest $6.4bn into recycling initiatives by 2035. There have also been new labour laws introduced in Bahrain and Oman which are aimed at improving working conditions generally and are focused in particular on closing the gender pay gap.

In the last year or so the Dubai Financial Services Authority has levied fines against individual directors, predominantly in the Financial Services sector and the source of investments are especially under the microscope.

" THE MIDDLE EAST IS SEEKING TO PLAY A MORE CENTRAL ROLE IN GLOBAL COMMERCE AND THE INCREASE IN REGULATION IS A STEP TOWARDS FULFILLING THAT AIM. "

NATHAN PENNY-LARTER, PARTNER, BEALE & CO

KEY ESG ISSUES:

- Redesign of the legal framework
- War risk insurance
- Western border blockade

INSURANCE INDUSTRY AT A GLANCE

MODERATE
The Economist Intelligence Unit's ESG Rating

12
Life insurance

86
Non-life insurance

UAH 5.1 BILLION
Life

UAH 41.8 BILLION
Non-life

SAYENKO KHARENKO

UKRAINE

After Russia launched a full-scale invasion in 2022, Ukraine faced its hardest times since gaining independence in 1991. The Russian war is still holding the Ukrainian economy back from steady growth. Even though Ukrainian GDP has not yet reached its pre-war level, it is nonetheless growing again and is expected to reach close to US$170 billion by the end of 2024.

The same can be said about the insurance market in Ukraine. According to the National Association of Insurers of Ukraine, insurers in 2023 started to make a strong recovery, with premia growing 7.2% compared to 2022. It is still less than in 2021, but the overall trend looks promising. In an effort to continue that pace of growth in 2024 and beyond, market players will look closely at the significant changes in insurance legislation, the elephant in the room – war risk insurance – and troublesome events on the Polish border with Ukraine.

Kyiv, Ukraine

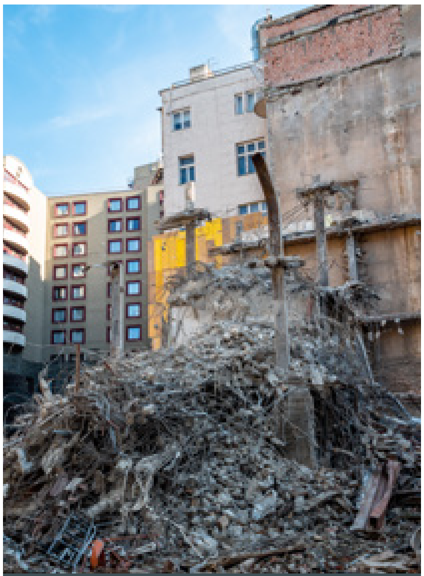
REDESIGN OF THE LEGAL FRAMEWORK

Undoubtedly, the biggest focus for the Ukrainian insurance market in 2024 is an ongoing overhaul of its legal framework. Aiming to bring its insurance system in line with European Solvency II requirements and fulfilling its commitments to the IMF, Ukraine commenced a huge insurance reform as early as 2021. Now the marathon project is in its final phase.

The new law on insurance, as well as the law on financial services and financial companies, came into force on 1 January 2024. Among other important changes, the new legislation imposes higher solvency standards and alters some requirements for non-resident insurers. The legislator expects insurers to have complied with a new legal framework by the end of June 2024. However, the insurance market believes that this is not enough time to make the necessary changes.

"THE NEW INSURANCE LAW AND LAW ON FINANCIAL SERVICES AND FINANCIAL COMPANIES BRINGS SOME NEW CHALLENGES THAT INSURERS WILL HAVE TO ADAPT TO. NOTWITHSTANDING, WE SEE IT AS A PROMISING SHIFT FOR THE UKRAINIAN INSURANCE MARKET OVERALL."

VOLODYMYR SAYENKO, PARTNER, SAYENKO KHARENKO



WAR RISK INSURANCE

War risk has been a challenge for businesses since the annexation of Crimea and the instigation of war actions in the East of Ukraine by Russia in 2014. The 2022 full-scale Russian invasion of Ukraine has made this issue even more critical.

According to the OECD classification (OECD 2023), Ukraine had the highest possible risk level, on par with Afghanistan, Cuba, Iraq, and several African republics. The Ukrainian economy has had to deal with these challenges and work to overcome them. Accessible and reliably working war risk insurance would help to tackle this challenge.

The National Bank of Ukraine, Ministry of Economy and Ministry of Finance, together with international donors, such as EBRD, are all working on delivering a concept note which would bring a fully functional war insurance system in Ukraine to life.

"THE WAR RISKS MECHANISM IS A CENTRAL TOPIC FOR THE INSURANCE MARKET RIGHT NOW. IT IS CRUCIAL TO HAVE THIS WORKING PROPERLY."

VOLODYMYR SAYENKO, PARTNER, SAYENKO KHARENKO

WESTERN BORDER BLOCKADE

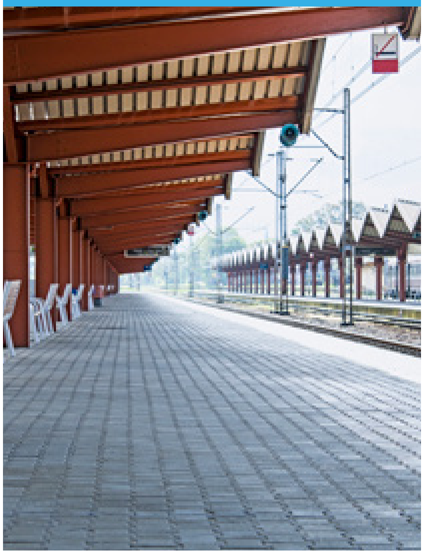
Understandably, Ukraine has been forced to close its skies to everything other than military purposes. Due to the occupied southern territories, Russian sea mines, and their military presence in the Black Sea, Ukraine also has limited sea access. Commercial marine routes from Ukraine have become extremely difficult and risky.

As a result, commercial logistics now rely heavily on the rail and road network through the western border of Ukraine. The border with Poland is vital, which is why the Polish farmers' strikes which blocked the Polish-Ukrainian border were so damaging to Ukrainian businesses.

According to 36 European Business Association (EBA) member companies, the total bill of losses since the strikes began amounted to at least €24.8 million, which is almost €700 thousand per company. This not only impacts businesses but insurers too.

"UNCONTROLLED DISRUPTIONS OF COMMERCIAL LOGISTICS ARE ALWAYS AN UNWANTED RISK FOR INSURERS. WE NEED TO KEEP AN EYE ON THE SITUATION, PARTICULARLY FROM A LEGAL PERSPECTIVE."

VOLODYMYR SAYENKO, PARTNER, SAYENKO KHARENKO



KEY ESG ISSUES:

- Regulatory creep
- The impact of AI
- The changing geopolitical landscape

UK INSURANCE INDUSTRY AT A GLANCE

VERY LOW
The Economist Intelligence Unit's ESG Rating

920
Registered firms

£366 BILLION
Value of Premia

BEALE & CO

UNITED KINGDOM

It is an intriguing period in the UK insurance market. What was an extremely hard market during the pandemic has softened considerably. We are seeing traditional insurers competing with managing general agents (MGAs) from jurisdictions such as Bermuda, offering cover at competitive rates. At the same time, notifications of circumstances that may give rise to a claim are increasing, as is the severity and frequency of claims.

In our experience, insurers are taking more work back in-house while grappling with regulatory changes such as the impact of the Financial Conduct Authority's Consumer Duty, which insists on insurers obtaining good outcomes for their insureds. This all falls against the backdrop of the uncertain geopolitical situation in many regions of the world. The global outlook of the London market means that the many current conflicts can and will influence the risk outlook for insurers.

Seven Sisters Country Park, Sussex, England

REGULATORY CREEP

Concern is growing in the UK that regulators are beginning to stretch the boundaries of their intended remit in the name of consumer protection but at the expense of business growth. We are seeing a raft of business failures citing the unrelenting regulatory burden.

The FCA's Consumer Duty is expected to impose a heavy regulatory burden on insurers, brokers and regulated insureds in delivering "good outcomes". In addition, the Financial Ombudsman Service (FOS), responsible for resolving consumer disputes in the financial services sector, has recently increased its maximum award limit again to £430,000.

This, coupled with the FOS's broad jurisdiction to decide what is fair and reasonable, even if it is outside the letter of the law, represents a further cause for concern among insurers.

> "THE EVER-GROWING REGULATORY BURDEN ON FIRMS CAN STIFLE BUSINESS GROWTH AND LEAD TO AN INCREASE IN PRICES TO THE CONSUMER'S DETRIMENT."
>
> JOE BRYANT, FINANCIAL & SPECIALTY RISKS PARTNER, BEALE & CO

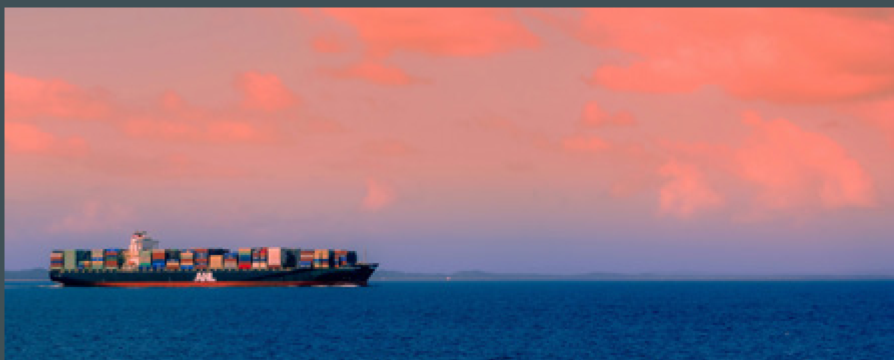
THE IMPACT OF AI

AI promises to promote personalised policy coverage and improve risk prediction and analysis. For example, Hiscox recently announced the successful conclusion of a proof of concept with Google Cloud to use AI to extract key data from emails to enable underwriters to make a quotation in under three minutes.

AI creates amazing opportunities for efficiencies in underwriting, claims processing, fraud prevention and risk management but we can expect an emergence of new claims and regulatory challenges to arise from the deployment of AI.

Concurrently, it is advisable that UK entities with operations overseas stay conscious of the recently approved EU AI Act and the EU's Digital Operational Resilience Act in relation to their digital frameworks and Information and Communications Technology risks.

> "THE USE OF NEW AI TECHNOLOGY IS CREATING INCREDIBLE OPPORTUNITIES FOR GROWTH AND INCREASED EFFICIENCIES. IT ALSO POSES SOME SERIOUS RISKS LEADING TO AN INCREASED RISK OF REGULATORY BREACHES."
>
> ROSS BAKER, FINANCIAL & SPECIALTY RISKS PARTNER, BEALE & CO



THE CHANGING GEOPOLITICAL LANDSCAPE

Conflicts in Ukraine and the Middle East and growing tensions between China and Taiwan are creating increased levels of geopolitical risk. The global outlook of the UK market means it is not immune to the effects of war. Drone and missile attacks on commercial ships in the Red Sea, for example, can have a profound effect on global supply chains, meaning marine insurers have to brace themselves for an influx of claims.

Recent global tensions have caused significant increases in the cost of energy, materials and labour and escalated inflation and interest rates, generating a significant elevation in company insolvencies. Insolvencies in England and Wales have reached 2009 levels, with the highest (18%) in the construction sector, traditionally a driver of high value, complex insurance claims.

> "INTERNATIONAL BY NATURE AND ACCUSTOMED TO THE CYCLICAL IMPACT OF GEOPOLITICAL RISKS. THE UK INSURANCE MARKET MUST CONTINUE TO RESPOND PROACTIVELY TO THE RISKS ARISING FROM GLOBAL CONFLICT."
>
> NATHAN PENNY-LARTER, FINANCIAL & SPECIALTY RISKS PARTNER, BEALE & CO

KEY ESG ISSUES:

- Climate change
- Infrastructure
- Cyber security

INSURANCE INDUSTRY AT A GLANCE

LOW
The Economist Intelligence Unit's ESG Rating

5929
Registered firms

US$1.5 TRILLION
Value of Premia

FORAN GLENNON

UNITED STATES

The US insurance market finds itself at a critical juncture, grappling with multifaceted challenges stemming from climate change, infrastructure vulnerabilities, and escalating cybersecurity threats.

Climate change-induced natural disasters have led to a surge in insurance claims, prompting insurers to reassess risk models and adapt underwriting practices. Similarly, the deteriorating state of US infrastructure, coupled with the increasing frequency of extreme weather events, has heightened insurers' concerns over infrastructure-related risks and liabilities. Moreover, the ever-evolving landscape of cybersecurity threats presents complex challenges, as insurers navigate the complexities of accurately assessing and mitigating cyber risks while ensuring the adequacy of coverage.

Addressing these interrelated issues requires a multifaceted approach, encompassing innovative risk management strategies, collaboration with policymakers, and investment in resilience-building measures. The US insurance market must proactively adapt to these emerging realities to safeguard against potential economic and societal disruptions in the face of evolving climate, infrastructure, and cyber security landscapes.

Arches National Park, Utah, USA

CLIMATE CHANGE

Climate change presents continuing challenges due to increased frequency and severity of natural disasters. Insurers face difficulties in accurately assessing and pricing risks, as traditional actuarial models may no longer reliably account for climate-related factors.

This leads to uncertainties in underwriting, potentially resulting in inadequate coverage or skyrocketing premiums. Climate change-impacted events/conditions such as hurricanes, floods, wildfires, or rising sea levels, can cause widespread property damage and economic losses, straining insurers' financial reserves and triggering disputes over coverage and liability.

As a result, insurers are under pressure to adapt their risk management strategies, incorporate climate science into underwriting practices, and collaborate with policymakers to develop sustainable solutions that ensure affordability and availability of insurance coverage in a changing climate landscape.

> **"CLIMATE CHANGE REQUIRES INSURERS TO ADAPT, INTEGRATING SCIENCE INTO UNDERWRITING FOR SUSTAINABLE AND ACCESSIBLE INSURANCE SOLUTIONS AMID EVOLVING RISKS."**
>
> PETER BILLIS, SHAREHOLDER AT FORAN GLENNON

INFRASTRUCTURE

Insuring infrastructure in the United States is plagued with issues arising from aging assets, insufficient upkeep, and out-of-date design. This increases vulnerability to natural disasters and physical damage events caused by human factors, greatly impacting insurer exposure.

Insurers attempting to accurate assess and underwrite these risks accordingly face serious challenges. Climate change exacerbates risk, with extreme weather events affecting the frequency and value of claims. Insurers must also navigate complex regulatory frameworks and varying standards, complicating underwriting and claims.

Additionally, updated and new infrastructure presents its own risks; smart technologies can be failure points, and sourcing for replacement or repair of such technologies can create turmoil when losses occur. Collaborative efforts between insurers, government agencies, and infrastructure stakeholders are crucial to address these emerging challenges.

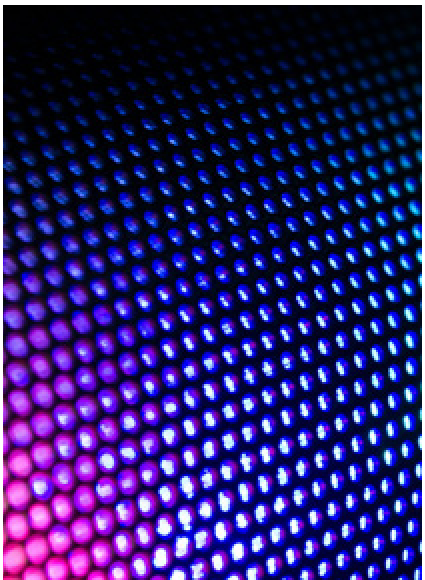
> **"BOTH CLAIMS AND UNDERWRITING ARE EXPERIENCING SERIOUS CHALLENGES ARISING FROM ANTIQUATED DESIGN, AGING INFRASTRUCTURE, AND INADEQUATE MAINTENANCE OF US INFRASTRUCTURE RISKS."**
>
> JOHN EGGUM, SHAREHOLDER AT FORAN GLENNON

CYBER SECURITY

Insurers continue to grapple with the complexities of accurately assessing and quantifying cyber risks amidst rapid technological advancements and evolving threat landscapes. The lack of standardised risk assessment frameworks further complicates underwriting practices, leading to uncertainties in pricing and coverage adequacy.

Moreover, the interconnected nature of digital infrastructure and the proliferation of smart devices increases the vulnerability and insurers' exposure to potential liabilities and claims. Regulatory compliance requirements, such as those stipulated by the GDPR and CCPA, add another layer of complexity, requiring insurers to stay abreast of evolving legal and regulatory frameworks.

Collaborative efforts between insurers, cyber security experts, policymakers, and businesses are essential to effectively mitigate cyber risks and ensure the resilience of insurance coverage in the face of escalating cyber threats.



> **"CONTINUED CONCERN IS WARRANTED ABOUT VEILED CYBER RISKS OF THE TYPE THAT BIPA AND GIPA GAVE RISE TO FOR INSURERS."**
>
> OLIVIA M. ROBERTS, ATTORNEY AT FORAN GLENNON

RADAR: CONTACTS

Please contact any of our members for more information

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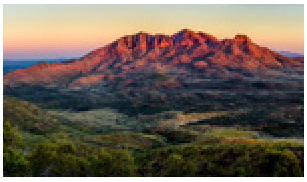

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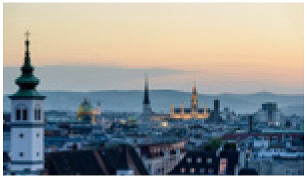

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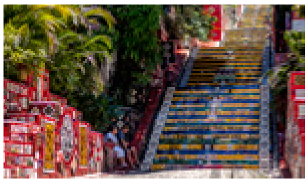

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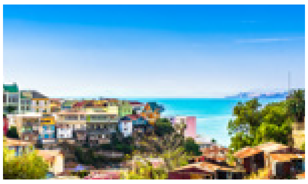

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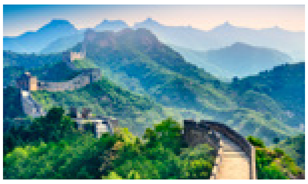
China



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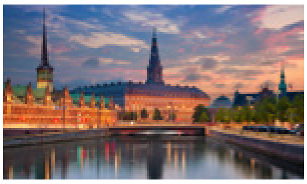

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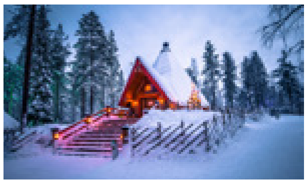

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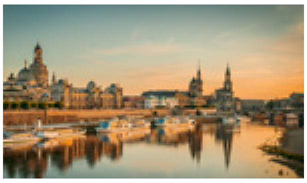

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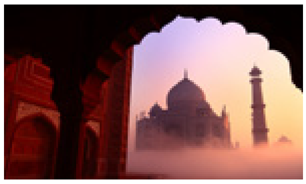

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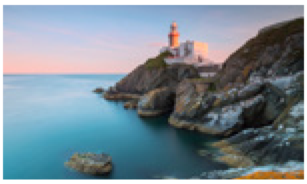

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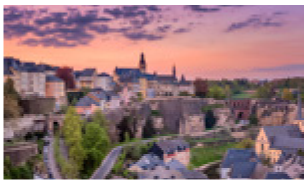

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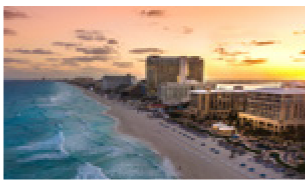

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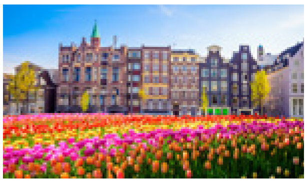

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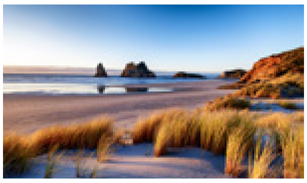

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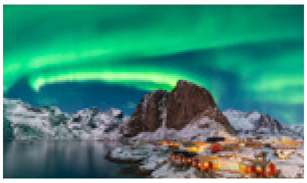

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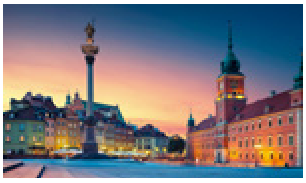

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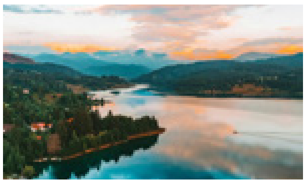

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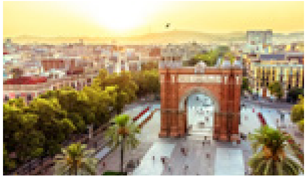

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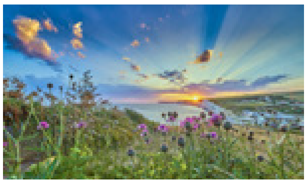

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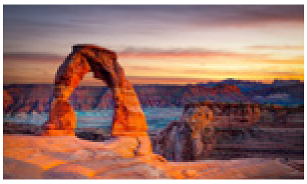

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