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INSURANCE & REINSURANCE

United Kingdom

LEXOLOGY

Insurance & Reinsurance

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Generated on: April 27, 2026

Contents

Insurance & Reinsurance

REGULATION

Regulatory agencies
Formation and licensing
Other licences, authorisations and qualifications
Officers and directors
Capital and surplus requirements
Reserves
Product regulation
Regulatory examinations
Investments
Change of control
Financing of an acquisition
Minority interest
Foreign ownership
Group supervision and capital requirements
Reinsurance agreements
Ceded reinsurance and retention of risk
Collateral
Credit for reinsurance
Insolvent and financially troubled companies
Claim priority in insolvency
Intermediaries

INSURANCE CLAIMS AND COVERAGE

Third-party actions
Late notice of claim
Wrongful denial of claim
Defence of claim
Indemnity policies
Incontestability
Punitive damages
Excess insurer obligations
Self-insurance default
Claim priority
Allocation of payment
Disgorgement or restitution
Definition of occurrence
Rescission based on misstatements

REINSURANCE DISPUTES AND ARBITRATION

Reinsurance disputes
Common dispute issues
Arbitration awards
Power of arbitrators
Appeal of arbitration awards

REINSURANCE PRINCIPLES AND PRACTICES

Obligation to follow cedent
Good faith
Facultative reinsurance and treaty reinsurance
Third-party action
Insolvent insurer
Notice and information
Allocation of underlying claim payments or settlements
Review
Reimbursement of commutation payments
Extracontractual obligations (ECOs)

UPDATES & TRENDS

Key developments

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REGULATION

Regulatory agencies

Identify the regulatory agencies responsible for regulating insurance and reinsurance companies.

Under the Financial Services and Markets Act 2000 (as amended) (the FSMA 2000), insurance and reinsurance companies in the United Kingdom are regulated by both the Prudential Regulation Authority (PRA) (which is part of the Bank of England) and the Financial Conduct Authority (FCA), which are responsible, respectively, for prudential regulation and conduct supervision of authorised firms. The PRA and the FCA are under a statutory duty to cooperate on and coordinate their activities. (Re)insurers are referred to as dual-regulated firms – they are regulated by the PRA and the FCA. Insurance intermediaries, such as brokers, are regulated by the FCA only. Lloyd's of London (or the Society of Lloyd's) (Lloyd's) is regulated by the PRA and the FCA. While Lloyd's itself is not a statutory regulatory agency in the same sense as the PRA and the FCA, it oversees and regulates the operation of the Lloyd's market and those operating within it. Lloyd's members underwrite through syndicates that are managed by Lloyd's managing agents. Lloyd's managing agents are dual-regulated firms, in addition to being regulated and supervised by Lloyd's. Members' agents and Lloyd's brokers are regulated by the FCA, as well as Lloyd's.

Law stated - 16 March 2026

Formation and licensing

What are the requirements for formation and licensing of new insurance and reinsurance companies?

A firm intending to conduct (re)insurance business in the United Kingdom must be authorised to do so by obtaining one or more permissions under Part 4A FSMA 2000 (Part 4A permission) from the PRA unless it is exempt (ie, persons exempt from the obligation to become authorised as a result of an exemption order, for example, appointed representatives). The FCA must consent to the PRA's grant of permissions for new (re)insurance companies.

The European Union (EU) passporting regime, whereby EE authorised (re)insurers could operate in the United Kingdom under their home state authorisation and vice versa, ended on 31 December 2020 as far as the United Kingdom is concerned, when the Brexit transition period ended. In connection with the United Kingdom's exit from the EU (Brexit), the PRA and the FCA implemented a 'temporary permissions regime', which permitted non-UK European Economic Area (EEA) firms to continue to passport their services into the United Kingdom until 31 December 2023 pending receipt of a Part 4A permission as a third-country branch. Since 31 December 2023, all non-UK EEA firms (except certain firms based in Switzerland and firms authorised in Gibraltar) have had to obtain a Part 4A permission to conduct (re)insurance business in the United Kingdom.

To obtain a Part 4A permission, an applicant must be able to satisfy the 'threshold conditions' on authorisation and an ongoing basis. These conditions include:

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demonstrating that a firm's head office is in the United Kingdom or that it carries on business in the United Kingdom;

- satisfying the regulator that it is adequately capitalised to conduct the (re)insurance business in question;
- demonstrating that it has appropriate management systems and controls in place; and
- exemplifying that it has suitably qualified and 'fit and proper' persons capable of performing senior management functions.

The PRAintroduced the New Insurer Start-Up Regime (NISU), a joint initiative with the FCA, in December 2024. The NISU is part of the regulators' ongoing work to improve the authorisation process for prospective new insurers in the United Kingdom. The regime is an optional stage that allows the PRA to grant authorisation to new insurance firms that, at the point of authorisation, require more time to meet capital and other regulatory requirements. This provisional authorisation may be granted for a maximum period of 12 months and will be granted subject to business restrictions to ensure policyholder protection.

The government and regulators are developing a new framework for captive insurance companies, with consultations planned for summer 2026 for a potential 2027 launch.

Law stated - 16 March 2026

Other licences, authorisations and qualifications

What licences, authorisations or qualifications are required for insurance and reinsurance companies to conduct business?

Unless an exemption applies, prior regulatory approval must be obtained to carry on 'regulated activities' by way of business in the United Kingdom. 'Regulated activities' are defined in the Financial Services and Markets Act (Regulated Activities) Order 2001 (as amended) and include effecting and carrying out (re)insurance contracts. Insurance mediation activities (ie, broking, distribution and other intermediary services) are regarded as separate regulated activities. Insurance intermediaries (who are not also (re)insurers) must apply to the FCA for permission to carry on intermediary activities in the United Kingdom. The relevant regulator (the PRA, the FCA or both, as applicable) must approve each regulated activity individually. The regulator has the power to impose restrictions on the scope of a (re)insurer's regulated activities.

Directive (EU) 2016/97 (Insurance Distribution Directive) (IDD) (implemented into UK law through the FSMA 2000, associated statutory instruments and the FCA Handbook) governs the authorisation and general regulatory requirements for (re)insurance intermediaries or distributors. It also encompasses organisational and business requirements for (re)insurance undertakings.

Law stated - 16 March 2026

Officers and directors

What are the minimum qualification requirements for officers and directors of insurance and reinsurance companies?

Officers, directors and persons who exercise senior management functions (SMFs) or 'controlled functions' under the FSMA 2000 (eg, the executive director function, chief executive function, actuary function or systems and controls function) must be approved by the PRA or FCA or both, as applicable, before performing such functions. Such individuals must be 'fit and proper' to perform these roles, which essentially means that they should be trustworthy individuals of good repute with the relevant competence, knowledge, experience, training and qualifications to perform their particular role.

Once approved to perform such functions, the person in question becomes subject to the Senior Managers and Certification Regime (SM&CR) and accompanying Conduct Rules that impose several significant responsibilities, including a duty to comply with applicable regulatory requirements, general principles and expectations on an ongoing basis. The SM&CR was extended to cover all PRA- and FCA-regulated (re)insurance firms in December 2018. The SM&CR was further extended to cover all PRA and FCA-regulated firms in December 2019 (subject to a transition period that ended on 31 March 2021 for FCA solo-regulated firms). The primary objective of the SM&CR is to heighten individual accountability and ensure policyholder protection.

Individuals performing a designated SMF will need to be pre-approved by the relevant regulator before being appointed to their role and will be subject to annual fit and proper assessments by their firm. Individuals who are not senior managers but whose job can potentially cause significant harm to the firm or its customers will be certified annually by their firm to check that they are suitable to do their job. Further enhanced requirements apply to the largest and most complex firms, including having in place a management responsibilities map and handover procedures for all senior manager roles.

The SM&CR continues to be under review as part of the government's wider programme of post-Brexit regulatory reform, including the Leeds Reforms announced in July 2025. In July 2025, the PRA and FCA each published consultation papers proposing targeted amendments to the SM&CR framework, alongside a separate HM Treasury consultation on potential legislative changes.

The reforms are structured in two phases. Phase 1 covers changes that the regulators can implement through amendments to their own rules (without primary legislation), including proposals to streamline approval processes, simplify certification requirements, extend certain reporting deadlines and clarify the allocation and scope of senior management responsibilities. Phase 2 contemplates potential legislative reform and longer-term structural changes, subject to HM Treasury's review.

While final policy statements on Phase 1 proposals are anticipated during 2026 and further reform may follow depending on legislative developments, the core SM&CR framework remains in place and continues to apply across PRA- and FCA-regulated firms.

Law stated - 16 March 2026

Capital and surplus requirements

What are the capital and surplus requirements for insurance and reinsurance companies?

UK capital requirements adopted, but also enhanced, the requirements established originally by EU law. Capital requirements have been embodied in Directive 2009/138/EC (Solvency II) and are contained in the PRA Handbook, with further details in the Commission Delegated Regulation (EU) 2015/35 (the Solvency II Delegated Regulation). Slightly different requirements apply to pure reinsurers, with an overarching reserve power of the PRA to impose additional capital requirements (individual capital add-ons) if deemed necessary. Pillar 1 of Solvency II includes quantitative capital requirements at both the solo entity and the group level. Pillar 1 capital requirements have two distinct levels:

- a minimum capital requirement (MCR) representing the minimum amount of capital that a (re)insurer needs to hold to cover the risks to which it is exposed (which goes beyond just underwriting risks); and
- a solvency capital requirement (SCR), which is effectively the amount of capital a (re)insurer requires to operate as a going concern, assessed on a value at risk measure over a period of one year.

A firm's SCR can be calculated according to a standard formula, or, with PRA approval to do so, using its own internal model, tailored to the firm's risk profile.

The Solvency II Delegated Regulation and other EU rules were incorporated into UK law when the transition period for Brexit ended on 31 December 2020. However, the government and the PRA have made some changes, notably to reduce the risk margin and changes to the rules for matching long-term liabilities. These provisions, referred to as Solvency UK, now apply in the United Kingdom but most of the Solvency II provisions remain largely the same. However, a more recent significant change has been to transpose most of the Solvency II provisions also into the PRA rulebook giving the regulator power to change them to better reflect the UK market. The UK and EU Solvency II/Solvency UK regimes are therefore diverging slowly over time in certain specific areas, although the principles and framework remain the same.

In July 2025, the PRA released a policy statement PS12/25, which finalises changes from two 2024 consultation papers:

- CP8/24 (Definition of Capital – restating Capital Requirements Regulation (CRR) requirements); and
- parts of CP13/24 (Remainder of CRR – restatement of assimilated law, including securitisation and ECAI mapping).

The restatement is intended to embed existing EU law provisions into UK prudential rules without substantive policy change, while updating some supervisory expectations and clarifications. The majority of the rulebook changes in PS12/25 took effect on 1 January 2026.

Law stated - 16 March 2026

Reserves

What are the requirements with respect to reserves maintained by insurance and reinsurance companies?

Solvency II (as adopted into the PRA Rulebook) introduced material changes from the previous pre-2016 regime to reserving and the calculation of reserves or 'technical provisions'. articles 76–80 of Solvency II set out the basic requirements as to the establishment and possession of technical provisions and as to their calculation. These are supplemented by the Solvency II Delegated Regulation, which, post Brexit, has been incorporated into UK law as 'retained EU law' (please see above). Unsurprisingly, (re)insurers are required to establish technical provisions concerning all their (re)insurance obligations towards policyholders and to calculate those provisions in a prudent, reliable and objective manner. A major challenge introduced in the reserving process by Solvency II, however, is that the technical provisions must not only represent a best estimate of the liabilities but also include a 'risk margin' to cover the cost of capital as prescribed. Also, when calculating technical provisions, (re)insurers must segment their (re)insurance obligations into homogenous risk groups and by lines of business as prescribed, hence raising specific allocation issues. The value of the technical provisions must correspond to the current amount the (re)insurer would have to pay if it were to transfer its (re)insurance obligations immediately to another (Solvency II-regulated) (re)insurer. The UK government introduced a reduction to the risk margin as part of its Solvency II reforms in order to reduce volatility and to release capital from insurers to invest in the economy. HM Treasury's SI substituted a new formula for the calculation of the risk margin, including a tapering factor and reduced the 6 per cent cost of capital rate to 4 per cent.

Law stated - 16 March 2026

Product regulation

What are the regulatory requirements with respect to insurance products offered for sale? Are some products regulated by multiple agencies?

No prior regulatory approval or registration of insurance products is required in the United Kingdom. Instead, the FCA, in the exercise of its statutory objective of consumer protection and its 'outcomes-focused' approach to regulatory supervision, imposes on insurers requirements as to their conduct of business and as to the suitability of insurance products sold to consumers and regulates the selling and administration of insurance contracts, providing detailed rules including on categorisation of customers, communications with and financial promotions to customers, conflicts of interest, record-keeping, disclosures required to be made to customers and product information. Insurers must also comply with the FCA's General Principles for Business and in this context insurers (particularly those selling retail products) must be mindful of the need to 'pay due regard to the interests of customers and treat them fairly' and 'to the information needs of clients and communicate information to them in a way that is clear, fair and not misleading'. The FCA has statutory powers of product intervention that would allow it to restrict the use of certain insurance product features, require that a product not be marketed or sold to certain categories of customer or even ban the marketing or sale of a product.

Changes to consumer protection laws in the United Kingdom (eg, the Consumer Insurance (Disclosure and Representations) Act 2012, the Consumer Rights Act 2015 and the Insurance Act 2015) provided enhanced protection for consumers buying insurance

products and regulate the permitted content of policies, including concerning the use of unfair contract terms, a prohibition on insurers asking consumers to contract out of statutory rights and, in the case of non-life insurance, specific disclosures of product information that has to be provided to the buyer before the insurance contract is formed.

The FCA introduced new rules in July 2022 in relation to a new Consumer Principle of Business whereby 'a firm must act to deliver good outcomes for retail customers'.

Since the Consumer Duty came into force in 2023, firms have been required to undertake fair value assessments to demonstrate if the price a consumer pays for a product or service is reasonable compared to the overall benefits they can expect to receive.

In February 2026, the FCA published a final report on its Premium Finance Market Study, which was launched in 2024. The report findings show that across the market, customers are now saving approximately £157 million per year. Although the market is meeting the needs of many customers, data shows that some customers are still paying high prices. The FCA will continue to review individual firms' fair value assessments and monitor prices to act against individual firms if necessary.

Law stated - 16 March 2026

Regulatory examinations

What are the frequency, types and scope of financial, market conduct or other periodic examinations of insurance and reinsurance companies?

US-style examinations of (re)insurers do not occur in the United Kingdom and there is no public hearing process provided for in the usual conduct of regulatory affairs by the PRA or the FCA. Instead, the UK regulatory approach is to provide regulatory oversight through a combination of reporting, self-reporting, regulatory visits (the frequency of which depends on the size and type of (re)insurer) and regulatory intervention, if required. Regulatory oversight is exercised by the PRA (as to prudential matters) and the FCA (as to conduct), working together under a memorandum of understanding between those regulators. Underpinning the oversight function are the duties imposed on (re)insurers under the FCA's Principles for Businesses and the PRA's Fundamental Rules.

Both the PRA and the FCA conduct visits and in-person interviews with (re)insurers regularly and also perform regular market studies or reviews of a particular aspect of UK (re)insurers' businesses. Governance and reserving are examples of recent industry reviews by the PRA. It also performs regular stress testing of insurance firms.

Law stated - 16 March 2026

Investments

What are the rules on the kinds and amounts of investments that insurance and reinsurance companies may make?

Insurers are required to hold assets to cover their technical provisions and to maintain an adequate available amount of capital on top of the technical provisions. Solvency II introduced a less prescriptive regime as to the nature and identity of eligible assets to

cover the technical provisions and capital requirements, instead implementing the 'prudent investor' concept. Most of the restrictions under Solvency I as to asset admissibility, percentage holding of assets and counterparty exposure limits were removed, giving insurers greater freedom to invest in assets that are appropriate to their business and their individual solvency capital requirement. The prudent investor concept essentially requires insurers to invest in assets that match their liabilities in terms of duration and liquidity and are of sufficient quality to ensure they will be available when needed. Investments in unlisted securities and alternative riskier assets should be kept to a minimum and capital requirements for market risk have been introduced on the asset side of the balance sheet. Hence, insurers may invest in riskier assets but will need to hold capital against the risk of these assets falling in value, whether due to equity risk, spread risk, interest-rate risk, concentration risk, counterparty or credit risk. Relevant stress tests for the different types of market risk are set out in the Solvency II Delegated Regulation.

Increasing flexibility for (re)insurers to invest in long-term assets formed part of the PRA's proposed reforms in connection with the UK's Solvency II review. In particular, its finalised reforms of the matching adjustment framework (a mechanism to allow greater discounting of long term guaranteed liabilities such as annuities) to permit the inclusion of assets with 'highly predictable', as opposed to fixed, cashflows and to permit the inclusion of sub-investment grade assets, are designed to broaden the range of assets into which (re)insurers can invest. Despite this increased flexibility, (re)insurers' investment decisions remain at all times subject to the prudent person principle.

Law stated - 16 March 2026

Change of control

What are the regulatory requirements on a change of control of insurance and reinsurance companies? Are officers, directors and controlling persons of the acquirer subject to background investigations?

Under Part XII of the FSMA 2000, a person must not acquire or increase control in a UK-regulated (re)insurance company without the prior approval of the PRA (it is a criminal offence to do so without such prior approval). 'Control' is defined as the acquisition of 10% or more of the shares or voting power of the regulated entity or its parent entity or the ability to exercise significant influence over the management of the regulated entity (an ill-defined concept) by virtue of any amount of shareholding or voting power in the regulated entity or its parent. Prior regulatory approval will also be required where an existing controller proposes to increase its shareholding or entitlement to exercise voting power in the (re)insurer or its parent to 20 per cent or more, 30 per cent or more or 50 per cent or more. The PRA must consult with the FCA and the FCA may request the PRA to reject the application or impose conditions on the approval of the change in control.

Applications for a change in control in respect of insurance intermediaries are made to the FCA, but the same general rules apply.

The Financial Services and Markets Act 2023 (the FSMA 2023) amended the FSMA 2000 to grant the PRA and FCA the express power to impose conditions on the approval of the change in control. The PRA and FCA's approach largely replicates the previous regime.

Directors and officers of the proposed acquirer will be subject to questions as to their suitability (reputation, integrity and employment history in the regulated sector if relevant). Some may wish to be appointed to the board or to become senior managers of the regulated entity, in which case they will need to apply for approval to exercise SMFs in the regulated target entity and will be subject to background investigations.

Law stated - 16 March 2026

Financing of an acquisition

What are the requirements and restrictions regarding financing of the acquisition of an insurance or reinsurance company?

There are no specific requirements or restrictions in respect of the financing of the acquisition of a (re)insurance company. Where the acquirer is itself a (re)insurance company, any debt or equity raised to fund the acquisition may affect the acquirer's own regulatory capital position and overall availability of resources and so may need prior disclosure to and consent from regulators. It will also need to be considered whether any acquisition financing or debt push down to the target(s) would either come within the financial assistance regime under Part 18, Chapter 2 of the Companies Act 2006 or would otherwise impact the regulatory capital position of the acquirer or the target. It may also affect the group's solvency position post-acquisition. There are no specific UK rules mandating or prohibiting any particular acquisition financing method but the PRA will look carefully at acquisition financing when considering a change of control application and may impose dividend or other restrictions on the target company if it is concerned about the amount of debt at the parent level. Also, dividends are not restricted generally from insurance companies to their parents to pay interest amounts, subject to meeting regulatory capital requirements. However, the PRA should be notified of and can challenge, dividends that may materially change the capital position of the paying insurance company or insurance group.

Law stated - 16 March 2026

Minority interest

What are the regulatory requirements and restrictions on investors acquiring a minority interest in an insurance or reinsurance company?

At less than 10 per cent of voting rights or share ownership, there should be no restrictions unless the acquirer of the minority interest can exercise significant influence over the management of the insurer or reinsurer, which could trigger a requirement for change in control approval.

Law stated - 16 March 2026

Foreign ownership

What are the regulatory requirements and restrictions concerning the investment in an insurance or reinsurance company by foreign citizens, companies or governments?

There are no specific restrictions or prohibitions on investment in a (re)insurance company by foreign citizens, companies or governments.However, the National Security and Investment Act 2021, which came into force in January 2022, introduced changes to the United Kingdom's foreign investment regime, including a requirement for mandatory notifications of mergers and acquisitions in sensitive sectors, which may apply to certain (re)insurance transactions but not all.

Law stated - 16 March 2026

Group supervision and capital requirements

What is the supervisory framework for groups of companies containing an insurer or reinsurer in a holding company system? What are the enterprise risk assessment and reporting requirements for an insurer or reinsurer and its holding company? What holding company or group capital requirements exist in addition to individual legal entity capital requirements for insurers and reinsurers?

Solvency II introduced new provisions concerning group supervision and brought the entire group within the Solvency II framework, requiring groups subject to Solvency II to comply with Solvency II requirements under each of the three Pillars (quantitative, supervisory and disclosure) at both the level of the authorised (re)insurance entities and on a group-wide basis. Groups have to establish their own risk and solvency assessment process for the group as a whole, as well as adequate and consistent risk management and governance procedures throughout the group and satisfy regulatory supervisors as to the adequacy of these measures. Groups also have to comply with all Pillar 3 regulatory and public disclosure requirements for groups.

The group supervisor under Solvency II will usually be the supervisor in the country where the ultimate parent of the group has its headquarters, but groups may be supervised at more than one level and may have more than one group or individual supervisor, working as a college. Reporting and disclosure under Solvency II are required at the group and solo-entity level, although a group may apply for approval to report as a single combined entity.

Primary disclosures are made through annual solvency and financial condition reports (SFCR), as well as through public disclosure of the group SCR. In addition to the annual SFCR, a regular supervisory report (known as an ORSA) will need to be submitted on an annual basis (but need not be publicly disclosed) and quantitative reporting templates will need to be submitted on both a quarterly and an annual basis.

Group solvency, which includes the holding company and all subsidiaries, must be calculated at least annually. The group SCR covers the capital requirements of all the entities in the group calculated on a consolidated balance sheet.

Group solvency must be calculated under the accounting consolidation method as the default method, the deduction and aggregation method or a combination of both methods with supervisory approval. All group solvency calculations are to be carried out at the ultimate

parent insurance entity or insurance holding company level. In the context of global groups, where subgroups exist at the EU level, supervisory authorities may decide to apply the group solvency calculation at the EU sub-group level only and may make decisions as to which entities form part of the group; amendments to the inclusion of non-insurance subsidiaries (which are regulated by other financial sectors) in the group solvency calculation; and as to the introduction of more detailed governance requirements.

Since the United Kingdom left the EU, it has recognised EU jurisdictions as exercising equivalent supervision at the group level so the groups regulated at EU level pre-Brexit continue to be regulated by EU supervisors and the United Kingdom has not challenged this.

Under certain circumstances, the PRA may temporarily allow a group it regulates to use more than one calculation approach when calculating the group SCR. In determining whether or not to grant this modification, the PRA would be exercising its power under section 138B of the FSMA 2000 to modify Group Supervision 11.

The PRA published a Statement of Policy in February 2024, which set out the PRA's approach to certain aspects of insurance group supervision. The publication of the PRA's Supervisory Statement (SS9/15) on 15 November 2024, which became effective from 31 December 2024, provided detailed supervisory expectations for group supervision under the retained Solvency II/Solvency UK regime, including treatment of entities excluded from group scope, choice of group SCR calculation method and consolidated reporting expectations and should be read in conjunction with the Group Supervision Part of the PRA Rulebook.

Law stated - 16 March 2026

Reinsurance agreements

What are the regulatory requirements with respect to reinsurance agreements between insurance and reinsurance companies domiciled in your jurisdiction?

The various rules attached to the content of consumer insurance contracts generally do not apply to reinsurance contracts and there is no specific UK regulatory regime prescribing the content, scope or application of reinsurance contracts governed by English law. In the United Kingdom, reinsurance is generally regulated in the same way as primary insurance and English law on insurance contracts generally applies likewise to reinsurance contracts.

The Insurance Act 2015 applies to non-consumer insurance contracts and also applies to reinsurance contracts. The Insurance Act 2015 abolished some of the draconian consequences of a breach of the duty of utmost good faith or breach of warranties in insurance contracts and instead laid down more proportionate remedies for such breaches, including premium adjustments for certain misrepresentations.

Law stated - 16 March 2026

Ceded reinsurance and retention of risk

What requirements and restrictions govern the amount of ceded reinsurance and retention of risk by insurers?

Cedents need to consider several factors when judging the size of any cession or retention, the starting point being the basic requirement that a cedent may take credit for reinsurance only if and to the extent that, there has been an effective transfer of risk from the cedent to a third party. Solvency UK and the PRA Rulebook provide detailed requirements as to what is required in terms of the counterparty and the reinsurance arrangements themselves for credit to be taken for the reinsurance. A reinsurer that is authorised as an insurance special purpose vehicle (ISPV) will have to fully fund its exposures to risks it assumes through the proceeds of a debt issuance or some other financing mechanism. Both cedent and reinsurer, if regulated in the United Kingdom, will also have to be mindful of the provisions in the PRA Rulebook regarding prudential requirements and risk assessment monitoring and control. While there is no specific rule limiting reinsurance to a certain percentage of the risk, most regulators in Europe prefer some risk retention to align interests, maintain some control and prevent overexposure to one counterparty. The generally accepted minimum retention is 10 per cent unless some other amount can be objectively justified. Also, taxation considerations, including UK-diverted profits taxes, need to be considered and may mandate a higher net retention.

The PRA has, in recent years, focused on the use of funded reinsurance (FundedRe) by UK life and annuity insurers. The PRA continues to take a cautious approach to its supervision of such arrangements, as reiterated in a speech given by the Director for Prudential Policy, Vicky White, in September 2025. The speech echoed the PRA's previous concerns raised in 2024, when it published a final supervisory statement (SS5/24). The policy expectations came into effect immediately and focused on risk management of funded reinsurance agreements. Key aspects of the policy expectations set out include limits on exposure to single or highly correlated counterparties; requirements for collateral policies and recapture plans; and restrictions on the extent to which firms can assume that assets will be recaptured within the matching adjustment portfolio when calculating the SCR. Following the speech, the PRA hosted two roundtables in the latter part of 2025, with policy proposals to follow in Q2 of 2026. In particular, the PRA is questioning the capital treatment of FundedRe as pure reinsurance, instead suggesting it should be unbundled into reinsurance and a loan.

Law stated - 16 March 2026

Collateral

What are the collateral requirements for reinsurers in a reinsurance transaction?

There are no prescribed requirements for collateral to be provided by reinsurers under English law or UK regulation. The ceding insurer and the reinsurer are at liberty to agree to whatever form of collateral (if, any) they choose. Insofar as reinsurance arrangements are collateralised to protect against counterparty risk, they can be structured under English law to qualify as 'financial collateral arrangements' under Directive 2002/47/EC (Financial Collateral Directive), which facilitates the enforcement of security over financial collateral within the EU. Under Solvency II, EU member states are no longer able to impose on reinsurers from an 'equivalent' jurisdiction (or another EU member state) collateral requirements that require the pledging of assets to cover unearned premiums and outstanding claims provisions. However, if collateral is provided, it will need to satisfy the requirements for collateral set out in Solvency II to receive regulatory credit. Since the United

Kingdom has not, as at the date of writing, been deemed equivalent by the EU for Solvency II purposes, EEA insurers may require UK reinsurers to pledge assets to cover unearned premiums and outstanding claims provisions.

In its consultation paper on FundedRe, in addition to concerns around concentration risk, the PRA expressed concern around the liquidity, valuation and correlation of the assets that are commonly held as collateral in such arrangements.

Following feedback, the PRA's supervisory statement on funded reinsurance, which was published in July 2024 (SS5/24), set out its expectations that firms should have collateral policies as part of their risk management that would allow firms to formulate an executable recapture plan under stressed conditions.

In 2017, the EU and the United States announced that they had successfully concluded the negotiation of a bilateral agreement between the EU and the United States on prudential measures regarding insurance and reinsurance (the Covered Agreement). The Covered Agreement addresses three areas of prudential insurance regulation important to internationally active (re)insurers:

- reinsurance;
- group supervision; and
- the exchange of information between insurance supervisors.

The key aspects of the Covered Agreement are intended to provide EU-based (re)insurers with relief from US collateral requirements, to provide US-based (re)insurers with relief from EU local-presence requirements and to free US insurance groups operating in the EU from EU worldwide group supervision, capital, solvency, reporting and governance requirements under Solvency II-applicable implementing legislation. Similarly, in 2018, the United States and the United Kingdom announced that they had also signed a bilateral agreement (the UK–US Covered Agreement), on similar terms to the Covered Agreement, which addresses:

- the elimination of local presence requirements imposed by one party on an assuming reinsurer that is domiciled in the other party;
- the elimination of collateral requirements imposed by a party on an assuming reinsurer that is domiciled in the other party; and
- the role of the host and home supervisory authorities concerning prudential group supervision of a (re)insurance group whose worldwide parent undertaking is in the home party.

Law stated - 16 March 2026

Credit for reinsurance

What are the regulatory requirements for cedents to obtain credit for reinsurance on their financial statements?

The extent to which a ceding insurance company can take credit for reinsurance, including by treating the reinsurer's share of technical provisions as an eligible asset of the ceding company or by reducing the ceding company's solvency requirements or valuing cash

flows for reserves, will depend on whether and, if so, to the extent that the contract of reinsurance effectively transfers risk from the ceding company to the reinsurer. The Prudential Sourcebook for Insurers (INSPRU) 1.1.19 used to set out the basic risk transfer requirement for all reinsurance contracts (including those with an ISPV) and for analogous non-reinsurance financing agreements for which a ceding company might likewise wish to take credit (eg, contingent loans and securitisations) but is not included in the PRA Rulebook. The requirements of INSPRU 1.1.19 have become industry standards (also looked to by auditors and actuaries when considering the valuation of reinsurance coverage programmes) and so the current provisions of the PRA Rulebook on Technical Provisions on the valuation of recoverables from reinsurance contracts and ISPVs should be read with that in mind. Reference should also be made to the Solvency II Delegated Regulation, as now transposed into the PRA Rulebook, which sets out rules relating to technical provisions and the requirements for a reinsurance contract to be eligible as a risk mitigant under Solvency II.

Law stated - 16 March 2026

Insolvent and financially troubled companies

What laws govern insolvent or financially troubled insurance and reinsurance companies?

Under Part XXIV of the FSMA 2000, the PRA and the FCA are given the right to be involved in insolvency proceedings against insurers. The insolvency proceedings available in the United Kingdom against insurers include liquidation, administration, a company voluntary arrangement and the appointment of a provisional liquidator. Insolvent insurance companies can also use a scheme of arrangement under Part XXVI of the Companies Act 2006. Relevant UK legislation includes:

- the Insurers (Reorganisation and Winding Up) Regulations 2004 (2004 Regulations);
- the Insolvency Act 1986;
- Part XXIV of the FSMA 2000 (including as updated in June 2023 by the FSMA 2023); and
- the Insurers (Winding Up) Rules 2001.

The 2004 Regulations set out a governing framework to determine issues arising in insurance insolvencies within the EU and provide for mutual recognition of member states' insurance insolvency and winding-up measures. The 2004 Regulations also establish the priority of payment of insurance and other claims in an insurance insolvency.

The Insolvency Act 1986 provides the basic law and framework for insolvency, administration and voluntary and involuntary liquidation in the United Kingdom and applies to insurers, as it applies to other corporate entities, in respect of procedures for the appointment of administrators and liquidators and the winding up of insurers by court order. The Insurers (Winding Up) Rules 2001 provide detailed rules as to the conduct of an insurance liquidation and the procedures to be followed by the liquidator and for the separation of life or long-term business assets in a liquidation from other assets. Lloyd's has its own procedures if a syndicate or member being in financial difficulties, including a cash call on syndicate members to pay losses, the syndicate year of account being unable to close at 36 months

and being left open in an effective run-off until closure is possible and the liabilities being settled in whole or in part by (and at the discretion of) the Lloyd's Central Fund. The Risk Transformation Regulations 2017 provide for the introduction into UK law of the protected cell company (PCC) to accommodate the demand for a suitable vehicle for insurance-linked securities and alternative risk transfer, akin to structures that have been available in the Channel Islands, Bermuda and other offshore centres for some years. PCCs have their own procedure for dissolution and winding up under the Risk Transformation Regulations 2017.

Law stated - 16 March 2026

Claim priority in insolvency

What is the priority of claims (insurance and otherwise) against an insurance or reinsurance company in an insolvency proceeding?

The Insurers (Reorganisation and Winding-Up) Regulations 2004 provide, inter alia, that preferred creditors (being those with preferential debts, such as monies due to HMRC, social security and pension scheme contributions and employee remuneration) will rank first in order of priority and that (subject to the claims of preferred creditors) direct insurance claims (eg, monies owed to an insurer's own policyholders) will have priority over the claims of all other unsecured creditors (except for preferred creditors), including reinsurance creditors, on a winding up by the court or a creditor's voluntary winding up of the insurance company. In the case of insurers carrying on both insurance and reinsurance business, sums due to direct policyholders are given priority over sums due to cedents.

Instead of making a winding-up order, a UK court may, under section 377 of the FSMA 2000, reduce the amount of one or more of the insurance company's contracts on terms and subject to conditions (if any) that the court considers fit (a write-down order). The PRA must consent before an application for a write-down order may go to court. In the case of preferential debts and in the case of insurance debts, the debts of each class respectively rank equally among themselves and must be paid in full or, if assets are insufficient to meet them, the debts are abated in equal proportions. For a composite insurer authorised to carry on both life and non-life business, the life and non-life debts must be determined separately and life claims settled from only the life assets and non-life claims settled only from non-life assets. FSMA 2023 amends the FSMA 2000 to clarify and enhance the power under section 377 of the FSMA 2000, including the in-scope liabilities, the eligibility of a party to apply to the court for use of the power and the test the court must apply when considering such an application. These changes came into force on 29 August 2023 and in September 2023, the PRA published a policy statement (PS12/23) on the topic of dealing with insurers in financial difficulties. It set out the PRA's expectations in relation to write down orders under the FSMA 2000 and explained the factors that the PRA will consider when deciding whether to consent to a write-down order.

Law stated - 16 March 2026

Intermediaries

What are the licensing requirements for intermediaries representing insurance and reinsurance companies?

The Insurance Distribution Directive (IDD) applies to and requires authorisation both of independent intermediaries (eg, insurance brokers) and of (re)insurers insofar as they conduct (re)insurance mediation activities. All those intermediaries involved in selling and underwriting a (re)insurance contract will require a licence unless they can benefit from an exemption. Third-party administrators will not necessarily require a licence depending on the specific activities they perform. Claims-management companies are subject to licensing by the FCA. The IDD also provides for 'passporting' by intermediaries covered by that directive throughout the EU and for organisational and business requirements. The regulatory requirements applicable to intermediaries mirror, to a considerable extent, many of the requirements applicable to (re)insurers, including principles for business and conduct of business and the approved persons regime. The IDD also enables intermediaries to operate throughout the EU using freedom of services or establishment. EU passporting rights under the IDD no longer apply in the United Kingdom.

Insurance intermediaries in the United Kingdom require authorisation from the FCA primarily, but if the intermediary is part of a group that includes a firm authorised by the PRA, then the FCA will also have to consult with the PRA before granting any Part 4A FSMA 2000 permission for insurance mediation. The IDD includes several exclusions and exemptions from the need for intermediaries to be authorised and the United Kingdom retains the system whereby an intermediary can itself be an 'appointed representative' of another authorised person and thereby obviate the need for individual authorisation of the intermediary, although all intermediaries, including appointed representatives, must be registered on the Financial Services Register.

Law stated - 16 March 2026

INSURANCE CLAIMS AND COVERAGE

Third-party actions
Can a third party bring a direct action against an insurer for coverage?

Under the Third Parties (Rights Against Insurers) Act 1930 and the Third Parties Rights (Rights Against Insurers) Act 2010, as amended by the Insurance Act 2015, a third party with a claim against an insured can bring proceedings against the insurer if the insured's insolvency. It is not possible to contract out of this; however, the same coverage defences that would have been available against the insured remain available to the insurer against the third party. The rights transferred to the third party are the rights of the insured against the insurer under the contract of insurance in respect of the liability in question. Rights that are not referable to that liability are not transferred. The above-mentioned third-party actions do not apply to reinsurance contracts.

In ***Rashid v Direct Savings Limited*** [2022] 8 WLUK 108, the court concluded that the limitation period continues to run after a winding up order for the purpose of claims made under the Third Parties Rights (Rights against Insurers) Act 2010. The third-party claimant cannot benefit from a suspension of limitation from the date of the insured's liquidation as they would have done in respect of a similar claim made under the Third Parties (Rights against Insurers) Act 1930 because, unlike the 1930 Act, the 2010 Act allows the third party to make a direct claim against insurers and does not need the insured's liability to be established first by way of separate proceedings. In ***Scotland Gas Network PLC v QBE UK*** [2024] CSIH 36, the

Scottish Court of Session held that if a third party obtains a default judgment against the insurer, this is sufficient to establish liability in order to bring a third-party claim within the terms of the 2010 Act. This case has recently been held to be of 'considerable persuasive value' in obiter comments in the English Court in ***Makin v (1) Protec Security Group Ltd (2) QBE Insurance (Europe) Ltd*** [2025] EWHC 895 (KB), where it was considered that a previous judgment on liability which had been 'definitely determined' would be binding for the purposes of a third-party claim under the 2010 Act.

Law stated - 16 March 2026

Late notice of claim

Can an insurer deny coverage based on late notice of claim without demonstrating prejudice?

In commercial policies, there is usually an express requirement to notify the insurer within a specified time frame from the occurrence of the event giving rise to the claim. If the contract is silent, notification is expected within a reasonable time. The consequences of late notice will depend on whether the notice requirement is a 'condition precedent' to the insurer's liability or solely a condition. If the former, the insurer will be able to avoid paying the claim even if the delay in notifying the claim did not prejudice the insurer's position. This was affirmed by the Commercial Court in ***Arch Insurance (UK) Ltd v McCullogh*** [2021] EWHC 2798. In the case of the latter, the insurer can seek damages for breach of contract but only if they can demonstrate that they were negatively impacted by the delay. In ***Taylor v Builders Accident Insurance Ltd*** [1997] PIQR P247, it was held that the delay in notifying the claim to the insurer deprived the insurer of its right to investigate and defend the claim, thus amounting to a repudiatory breach, even though the condition breached was not expressly stated as a condition precedent. The court will look at the facts in each case and consider each policy on a case-by-case basis and it may conclude that a notification clause should be treated as a condition precedent even if it has not expressly been classified as such.

Law stated - 16 March 2026

Wrongful denial of claim

Is an insurer subject to extra-contractual exposure for wrongful denial of a claim?

As a general principle, English law does not provide a remedy in damages for the insured for any additional losses suffered if a wrongful denial of claim by the insurer. The burden of proof will be on the insured to show that any loss was caused by an insured peril (***Rhesa Shipping v Edmunds (The Popi M)*** [1985] 1 WLR 948).

Law stated - 16 March 2026

Defence of claim

What triggers a liability insurer's duty to defend a claim?

The notification by the insured of an event or circumstance within the terms of the policy for which the insurer may be liable triggers the insurer's duty to defend a claim.

Law stated - 16 March 2026

Indemnity policies

For indemnity policies, what triggers the insurer's payment obligations?

To succeed in a claim on an indemnity policy, the insured must demonstrate to the insurer that the insured is under a legal liability to one or more of those claiming against the insured and that the loss in question is covered by the policy (*Peninsular & Oriental Steam Navigation Co v Youell* [1997] 2 Lloyd's Rep 136, CA).

Law stated - 16 March 2026

Incontestability

Is there a period beyond which a life insurer cannot contest coverage based on misrepresentation in the application?

Subject to any provision to the contrary in the terms of the policy, there is no general incontestability period beyond which a life insurer cannot contest coverage based on misrepresentation in the application for coverage.

Law stated - 16 March 2026

Punitive damages

Are punitive damages insurable?

Subject to the terms of the insurance policy, as a matter of general principle and public policy, damages awarded by a court, whether ordinary or punitive, are insurable (although the availability of punitive damages remains under debate in English law). The courts will not, of course, enforce a contract of any kind if it is tainted by illegality, so an insured cannot recover any liability for punitive damages under a policy where the liability arises because of illegal conduct.

Law stated - 16 March 2026

Excess insurer obligations

What is the obligation of an excess insurer to 'drop down and defend', and pay a claim, if the primary insurer is insolvent or its coverage is otherwise unavailable without full exhaustion of primary limits?

Subject to a contractual provision to the contrary, an excess insurer will not be under a duty to 'drop down and defend' or pay the claim unless the primary insurer's limit of cover is fully exhausted. The order of 'drop down' and the triggers for 'drop down' were considered by the

Supreme Court in *Teal Assurance Company Limited v WR Berkley Insurance Europe Limited* [2013] UKSC 57, which held that the primary insurer could not adjust the order of payment of claims for its own convenience and to maximise its own insurance liabilities (so as to maximise its reinsurance recoveries).

Law stated - 16 March 2026

Self-insurance default

What is an insurer's obligation if the policy provides that the insured has a self-insured retention or deductible and is insolvent and unable to pay it?

In *Teal Assurance Co Ltd v WR Berkley Insurance Europe Limited* [2013] UKSC 57, the Supreme Court held that a requirement in a policy for the insured to have 'paid' the amount of the self-insured retention or deductible before the insurer indemnifying the insured under the terms of the policy did not mean that the insured had to have made a monetary payment. Instead, the word 'paid' should be understood as being used as a measure of liability incurred so that the liability insurance can meet the aim of providing the insured with an indemnity to avoid the insolvency that third-party claims might otherwise threaten.

Law stated - 16 March 2026

Claim priority

What is the order of priority for payment when there are multiple claims under the same policy?

There is no particular order of priority for the payment of claims in circumstances where multiple claims are presented under the same policy. Each case will depend upon the exact wording of the policy.

The court will look at the reality and facts of each case (see ***Mabey and Johnson Ltd v Ecclesiastical Insurance Office plc*** [2004] Lloyd's Rep IR 10 as per Morrison J).

Claims are usually paid in chronological order once they have been fully proved.

Law stated - 16 March 2026

Allocation of payment

How are payments allocated among multiple policies triggered by the same claim?

As a starting point, the insured may not recover more than the loss sustained. The insured may choose, subject to the terms of the policy, which policy they wish to claim under. The insurer who covers the loss may then be able to seek a contribution from the other insurer under the equitable doctrine of contribution (***Boag v Economic Insurance Company Ltd*** [1954] 2 Lloyd's Rep 581); however, insurers will often include wording to exclude cover if there is

more than one policy. The obligation to contribute applies even though a co-insurer's policy may be narrower or broader in its coverage, provided that:

- the co-insurer's policy is in force and has not been repudiated (e.g, due to a breach of the duty to disclose);
- the co-insurer's policy conveys the same risk as the policy under which the claim was paid;
- the same risk under both co-insurer's policies led to the loss;
- the insured had the same interest in the subject matter of each insurance policy; and
- the policies are effected by, on behalf of or provide benefit for, the same insured.

Law stated - 16 March 2026

Disgorgement or restitution

Are disgorgement or restitution claims insurable losses?

There is no statutory definition of 'insurable losses'. In ***Prudential Insurance Co v Commissioners of Inland Revenue*** [1904] 2 KB 658, it was held that to be insurable, the loss must have the following characteristics:

- there must be an element of uncertainty about whether, when and how the loss will occur;
- if it were to happen, the loss must have an adverse effect on the insured; and
- the insured must have an insurable interest in the subject matter of the loss.

Disgorgement is available only when the insured has breached an obligation of good faith or loyalty. Consequently, disgorgement is not an insurable loss. On the other hand, restitution claims are capable of being an insurable loss (***Royal and Sun Alliance Insurance Ltd & Ors v Tughans*** [2023] EWCA Civ 999).

Law stated - 16 March 2026

Definition of occurrence

How do courts determine whether a single event resulting in multiple injuries or claims constitutes more than one occurrence under an insurance policy?

The terms 'occurrence' and 'event' are often not precisely defined in insurance contracts. In ***Kelly v Norwich Union Fire Insurance Society*** [1989] 2 All ER 888, the Court of Appeal held that the word 'event' referred to the peril rather than the damage in respect of various claims that had been made.

In ***AXA Reinsurance UK Ltd v Field*** [1996] 1 WLR 1026, the House of Lords defined an 'event' as something that happens at a particular time and in a particular place and way, whereas a 'cause' was less constricted and could be a continuing state of affairs or the absence of something happening. In ***Caudle v Sharp*** [1995] Lloyd's Rep 433 (considered

in*AXA Reinsurance*), Evans LJ accepted that the underwriting of each of the 32 contracts was an 'occurrence', however it was unclear whether the losses from this occurrence could be described as 'arising out of one event'. Yet, in ***Mitsubishi Electric v UK Ltd Royal London Insurance (UK) Ltd*** [1994] 2 Lloyd's Rep 249, the court had aggregated several separate losses as one loss, holding that all the losses arose from the same occurrence. In ***Lloyds TSB General Insurance Holdings LTD v Lloyds Bank Group Insurance Co Ltd*** [2003] Lloyd's Rep IR 623, the House of Lords emphasised that each case must depend upon the exact choice of wording in the relevant 'occurrence' clause. Further, it stressed that in clauses of this kind, it is essential to focus on the question of the causes of the various losses.

In ***AIOI Nissay Dowa Insurance Company Limited v Heraldglen Limited and Advent Capital (No. 3) Ltd*** [2013] EWHC 154, a case that considered the definition of 'event' or 'occurrence' in the context of the terrorist attacks of 11 September 2001 on the Twin Towers of the World Trade Centre in New York, Field J held that the 'four unities' of intention, cause, timing and location of the 'event' or 'occurrence' represented a useful test for establishing whether there was one or more 'event'. It was accepted that, 'an "occurrence"' (which is not materially different from an event or happening, unless perchance the contractual context requires some distinction to be made) is not the same as a loss, for one occurrence may embrace a plurality of losses'. 'occurrence'. In ***AIG Europe Limited v Woodman and others*** [2017] UKSC 18, one question for the court to determine was the true construction of the phrase 'a series of related transactions' in the aggregation clause in the standard minimum terms and conditions of solicitors' compulsory liability insurance. The Supreme Court determined that the application of the aggregation clause must be judged objectively considering the transactions in the round and that there must be some connection between the matters or transactions.

In ***The Financial Conduct Authority v Arch and Others*** [2021] AC 649, the Supreme Court held that, in the context of notifiable disease clauses, each single case of covid-19 amounted to a separate 'occurrence' triggering cover for business disruption, since an 'occurrence' was equivalent to an 'event' – something which happens at a particular place and time and in a particular way. Further, in the recent Court of Appeal case of ***International Entertainment Holdings Ltd and others v Allianz Insurance Plc*** [2024] EWCA Civ 1281, it was held that a single case of covid-19 could properly be regarded as an 'incident' 'likely to endanger life' amounting to an 'event or occurrence' as the Supreme Court held in ***The Financial Conduct Authority.***

Law stated - 16 March 2026

Rescission based on misstatements

Under what circumstances can misstatements in the application be the basis for rescission?

The Insurance Act 2015 abolished 'basis of contract' clauses in insurance contracts. Such clauses have the effect of elevating pre-contractual representations made by the insured to the status of contractual warranties. If the insured's answers are, in fact, material misstatements, the insurer may rescind the contract. A misstatement is material if it would influence the judgment of a prudent insurer in pricing the premium or deciding whether to take the risk. Under section 10(2) of the Insurance Act 2015, an insurer has no liability under a contract of insurance in respect of loss occurring or attributable to something happening

after a warranty (express or implied) in the contract has been breached before the breach has been remedied. Further, section 3 of the Insurance Act 2015 imposes a duty of fair presentation on the insured to disclose risk information to insurers before entering into an insurance contract. Where the breach of this duty leads to an insurer concluding that, had they known the actual circumstances of the insured, they would have:

- written the risk on different terms; or
- charged more premium, the contract can be treated as if it had been entered into on those different terms and the amount of the claim to be indemnified can be reduced proportionately.

Where the breach of this duty is deliberate or reckless, the insurer may avoid the contract, refuse all claims and need not return any of the premiums paid. Where the breach was neither deliberate nor reckless, the insurer may avoid the contract and refuse to pay all claims but must return the premiums paid.

Law stated - 16 March 2026

REINSURANCE DISPUTES AND ARBITRATION

Reinsurance disputes

Are formal reinsurance disputes common, or do insurers and reinsurers tend to prefer business solutions for their disputes without formal proceedings?

There are no special procedures for reinsurance disputes under English law. Most reinsurance contracts contain an arbitration or choice of forum clause. Where the English courts have exclusive jurisdiction, disputes are likely to be referred to the Commercial Court, which has experience in dealing with reinsurance disputes. If a reinsurance contract contains an arbitration clause, disputes arising from that contract may be resolved by an arbitral tribunal. Parties to a reinsurance contract may also choose to reach a settlement before initiating formal proceedings; the Pre-Action Protocols under the Civil Procedure Rules require that attempts to settle out of court be made before litigation is commenced. In recent times, various alternatives to litigation and arbitration have been devised to fast-track a solution and keep costs low. These include expert appraisal (early neutral evaluation), expert determination, final offer arbitration, mediation-arbitration and the structured settlement procedure.

Law stated - 16 March 2026

Common dispute issues

What are the most common issues that arise in reinsurance disputes?

As a general rule, reinsurance disputes tend to be resolved before the commencement of a formal dispute process. However, to the extent such a process is engaged, the issue of aggregation of claims, whether in connection with the approach to 'event' and 'occurrence' under a typical excess of loss catastrophe bond treaty or aggregation over a specified period often arises as a significant issue between parties. The issue in the context of covid-19

claims was addressed in a series of three related cases in 2022, *Stonegate Pub Co v MS Amlin*, *Greggs Plc v Zurich Insurance* and *Various Eateries Trading Ltd v Allianz Insurance Plc*, whereby the judge held that the imposition of each lockdown measure by the UK government amounted to a separate 'occurrence' for aggregation purposes. Jurisdiction disputes also arise in reinsurance disputes (see *Faraday Reinsurance Co Ltd v Howden North America Inc & Another*> [2012] EWCA Civ 980); and in the context of arbitration clauses *Tyson International Company Ltd v GIC Re, India, Corporate Member Limited* [2026] EWCA Civ 40). Follow-the-fortunes and 'cut-through' clauses are also often disputed.

Law stated - 16 March 2026

Arbitration awards

Do reinsurance arbitration awards typically include the reasoning for the decision?

It is a well-established principle of English law that arbitral tribunals must give reasons for their decision. Arbitrations that have their seat in England and Wales are governed by the Arbitration Act 1996 (the AA 1996), as amended by the Arbitration Act 2025. If the parties do not agree on the form of an award, then section 52(4) of the AA 1996 requires that an award 'shall contain the reasons for the award unless it is an agreed award or the parties have agreed to dispense with reasons'. The International Chamber of Commerce and the London Court of International Arbitration are commonly used arbitral institutions with their own independent rules to govern the proceedings, which include provisions with respect to reasoned arbitral awards. Alternatively, the reinsurance parties may adopt 'ad hoc' arbitration procedures under which non-institutional, bespoke policies and procedures or the domestic arbitration law are relied upon to supplement what has been agreed between the parties. In insurance and reinsurance, this process has coalesced into the ARIAS (UK) Arbitration Rules and the ARIAS Fast Track Arbitration Rules. Similarly, these require the arbitrators to give reasoned awards.

Law stated - 16 March 2026

Power of arbitrators

What powers do reinsurance arbitrators have over non-parties to the arbitration agreement?

Non-signatories to a contract may, in certain circumstances, claim the benefits of that contract as third-party beneficiaries under the Contracts (Rights of Third Parties) Act 1999 (the C(RTP)A 1999). In such circumstances, the third party may either invoke or be bound by an arbitration clause contained in the contract. It is generally accepted that if a third party is bound by the same obligations stipulated by a party to a contract and this contract contains an arbitration clause or, concerning it, an arbitration agreement exists, such a third party is also bound by the arbitration clause or arbitration agreement, even if it did not sign it. Note, however, that where the C(RTP)A 1999 has been expressly excluded (as it frequently is in reinsurance contracts), a non-party beneficiary may not be able to claim the benefits of that contract before an arbitral tribunal formed under the arbitration clause in the contract.

In addition to statute, third parties who were not originally parties to the arbitration agreement may also be bound by, or take the benefit of, an arbitration agreement in certain circumstances, including:

- if a party to the arbitration agreement has assigned or transferred contractual rights or causes of action that were subject to the arbitration agreement to a non-party;
- if an insurer is subrogated to contractual rights that are subject to an arbitration agreement; and
- if an original party to the arbitration agreement is replaced by a non-party by way of novation.

The AA 1996 provides, via section 82(2), that third parties may be bound by an arbitration agreement as a party to such agreement where they are claiming under or through a party to the agreement.

ICTSI Middle East DMCC v Sudan [2021] EWHC 1391 (Comm) is an example of a case where a third party tried to rely on an arbitration clause, contained in a contract made between the other party to a dispute and an associated entity, to defend a summary judgment application made in court proceedings, but without providing any legal basis as stated above for that position. The English Court simply dismissed the assertion as providing no realistic defence and granted summary judgment.

Law stated - 16 March 2026

Appeal of arbitration awards

Can parties to reinsurance arbitrations seek to vacate, modify or confirm arbitration awards through the judicial system? What level of deference does the judiciary give to arbitral awards?

Under section 58(1) of the AA 1996, a tribunal's award is final and binding between the parties. However, a party may apply to the High Court to challenge an arbitration award. This may be on very limited grounds, including, as per section 67-69 of the AA 1996:

- where the tribunal lacked jurisdiction;
- where there were serious irregularities relating to the tribunal, the proceedings or the award; or
- unless the parties have contracted to the contrary, to address an error on a point of law arising from an award made in the proceedings.

Depending on the nature of the application, the court may confirm, remit, vary, set aside or declare non-effective an award.

The English courts have afforded substantial deference to international arbitration proceedings, for example, in respect of the high threshold they have applied for findings of serious irregularities in such proceedings: 'It is not a ground for intervention that the court considers that it might have done things differently' (see *ABB AG v Hochtief Airport GmbH* [2006] EWHC 388 (Comm), paragraph 67). Rather, an award will be annulled where the arbitral process was 'so removed from what could reasonably be expected of the arbitral process

that the court should be expected to intervene' (see *Latvian Shipping Company v Russian People's Insurance Company* [2012] EWHC 1412 (Comm).

The Arbitration Act 2025 amended the AA 1996, including by providing clarity to the law applicable to arbitration agreements, codifying a duty of disclosure for arbitrators and making changes to the process for challenging an award for lack of substantive jurisdiction – namely, that there will be no full rehearing for challenges on jurisdictional grounds.

Law stated - 16 March 2026

REINSURANCE PRINCIPLES AND PRACTICES

Obligation to follow cedent

Does a reinsurer have an obligation to follow its cedent's underwriting fortunes and claims payments or settlements in the absence of an express contractual provision? Where such an obligation exists, what is the scope of the obligation, and what defences are available to a reinsurer?

In the absence of a contractual provision to the contrary, the burden of proof to establish that the loss was covered and that there is an actual liability for the reinsurer to pay is on the reinsured.

Follow-the-settlements clauses, which oblige reinsurers to indemnify their reinsured against compromises of the insured's claim without requiring proof of liability, are common in reinsurance agreements, as are various types of follow-the-fortunes clauses.

Claims-cooperation clauses, which impose an obligation on the insured to cooperate with the reinsurer, are also popular. The scope of the obligation and the defences available to the reinsurer is determined by the terms of the reinsurance contract. There are also claims-control clauses (which give the reinsurer the right to control and settle claims directly with the assured and to the exclusion of the cedent) where the reinsurer has a 100 per cent or a high percentage of the liability, for example, where it is, to all intents and purposes, taking over the business.

Recent authority confirms that whether (and how) a claims co-operation clause qualifies a follow-the-settlements clause depends on the precise drafting; the clauses will be read together and one will not lightly be treated as overriding the other absent clear language (see *Royal & Sun Alliance v Equitas* [2025] EWHC 2704 (Comm).

Law stated - 16 March 2026

Good faith

Is a duty of utmost good faith implied in reinsurance agreements? If so, please describe that duty in comparison to the duty of good faith applicable to other commercial agreements.

The starting point in general commercial contracts rests on the principle of caveat emptor, which places the duty of establishing the facts that are the subject matter of the agreement on the buyer. Per contra, before the Insurance Act 2015, contracts of insurance used to be based on the principle of utmost good faith, which placed the insured under a duty to disclose all material facts and circumstances that could influence the insurer in its decision about the acceptance or the price of the risk in question. Breach of this duty used to render the insurance contract voidable.

Section 14 of the Insurance Act 2015 modifies the concept of utmost good faith in contracts of insurance by introducing a statutory duty of fair presentation in section 3 of the Insurance Act 2015. Consequently, it is no longer possible to avoid the contract of insurance on the basis that the duty of utmost good faith has not been observed. The Insurance Act 2015 introduces proportionate remedies for non-disclosure and other breaches. Note that contracts of insurance include reinsurance contracts under UK regulation except where expressly stipulated.

Law stated - 16 March 2026

Facultative reinsurance and treaty reinsurance

Is there a different set of laws for facultative reinsurance and treaty reinsurance?

Although the two types of reinsurance operate under the same basic legal framework, historically, unlike facultative reinsurance, treaty reinsurance was generally not strictly regarded as a contract of reinsurance (see ***Glasgow Assurance v Symondson*** (1911) 16 Com Cas 109). ***In Citadel Insurance Co v Atlantic Union Insurance Co*** [1982] 2 Lloyd's Rep 543, it was held that, while in facultative reinsurance the duty of disclosure exists up to the time that the reinsurer agrees to take the risk, in treaty reinsurance. Although the duty exists until the conclusion of the treaty, it may not persist where the reinsurer is bound to take the risks ceded, given that there is no opportunity for the reinsurer to exercise judgment in respect of those risks. However, if treaty reinsurance or open cover enables the reinsurer to query or refuse the risks or both, the duty of disclosure is likely to continue throughout the obligations assumed (see ***The Litsion Pride*** [1985] 1 Lloyd's Rep 437).

Law stated - 16 March 2026

Third-party action

Can a policyholder or non-signatory to a reinsurance agreement bring a direct action against a reinsurer for coverage?

As a matter of general principle, the doctrine of privity of contract prevents a person who is not a party to a contract (ie, the reinsurance contract) from relying on or having rights under the contract (eg, bringing a direct action for coverage under the reinsurance agreement). A reinsurance contract is an agreement between the reinsured and the reinsurer. The primary insured is not a party to the reinsurance agreement and therefore has no rights under it. However, unless expressly excluded by the terms of the reinsurance contract, the Contracts (Rights of Third Parties) Act 1999 (the C(RTP)A 1999) enables a third party to

bring proceedings under the contract where the contract expressly enables this to happen or where the contract purports to confer a benefit on him or her. In practice, most reinsurance agreements expressly exclude the C(RTP)A 1999.

In certain circumstances, a reinsurance contract may include a 'cut-through' clause, allowing a direct claim by the policyholder, but absent such a clause, the doctrine of privity would apply.

Law stated - 16 March 2026

Insolvent insurer

What is the obligation of a reinsurer to pay a policyholder's claim where the insurer is insolvent and cannot pay?

There is no general obligation on a reinsurer to pay a policyholder's claim if the insurer being insolvent and not being able to pay the claim. As a matter of English law, reinsurance proceeds are ordinarily payable to the insolvent insurer (or its administrator or liquidator) and form part of the insolvent estate to be distributed in accordance with insolvency law.

The doctrine of privity of contract applies to reinsurance contracts, which are agreements between the reinsured and the reinsurer. Accordingly, absent an effective cut-through clause or other contractual mechanism (such as a trust arrangement), a policyholder has no direct right of action against a reinsurer.

Unless expressly excluded (as is commonly the case in reinsurance contracts), the C(RTP)A 1999 may, in principle, enable a policyholder to rely on the reinsurance policy where the insurer is insolvent and cannot pay and where the contract expressly confers a benefit on that third party. In practice, however, reinsurance agreements almost invariably exclude the application of the Act.

The reinsurance contract will generally contain provisions as to what should happen on an insurer's insolvency. Such provisions often provide for the reinsurance to be paid to the insurer's administrator or liquidator who will then deal with policyholder claims.

The Third Parties (Rights Against Insurers) Act 2010 provides a statutory route for third parties to bring claims directly against the liability insurer of an insolvent insured, but it does not create any general right of action against reinsurers. The reinsurer's obligations, therefore, remain governed by the terms of the reinsurance contract and insolvency law.

Law stated - 16 March 2026

Notice and information

What type of notice and information must a cedent typically provide its reinsurer with respect to an underlying claim? If the cedent fails to provide timely or sufficient notice, what remedies are available to a reinsurer and how does the language of a reinsurance contract affect the availability of such remedies?

There are no prescribed provisions under UK law or regulation as to the notice provisions to be included in a reinsurance contract. It is for the cedent and reinsurer to agree to such terms as they see fit and to possibly take account of basic provisions in the Interpretation Act 1978 as to timing and deemed service of notice. It is in the interests of the reinsurer to be careful as to the notice provisions, given its exposure on follow-the-fortunes and other grounds, so a reinsurance treaty would usually contain detailed provisions on service (and often seek to exclude deemed service) of notice by the cedent insurer. The basic common law rule is that the description of the event or claim must be sufficient for the reinsurer to be able to understand the nature of what is being notified, to be at liberty to enquire further if it so elects. The consequence of failure to notify to the contractual standard as to timing and detail applicable will depend on the terms of the reinsurance contract, a key point being whether strict compliance with the notice clause has been expressed as a condition precedent (any breach of which would enable the reinsurer to avoid liability under the contract) or merely as a condition (breach of which would give the reinsurer a right to damages depending on whether the reinsurer can show loss arising from breach of the condition). Generally, it would be unusual under current UK practice for failure to provide a sufficient and punctual notification to give the reinsurer a right of repudiation of the reinsurance contract and damages would usually (depending on the precise contractual wording) be the only realistic remedy (the loss suffered by the reinsurer due to late or inadequate disclosure (or both) being a key and potentially difficult issue for it to prove).

Law stated - 16 March 2026

Allocation of underlying claim payments or settlements

Where an underlying loss or claim provides for payment under multiple underlying reinsured policies, how does the reinsured allocate its claims or settlement payments among those policies? Do the reinsured's allocations to the underlying policies have to be mirrored in its allocations to the applicable reinsurance agreements?

The allocation of underlying claim payments or settlements depends on the wording of the reinsurance agreement. Excess of loss reinsurance is generally provided on a 'loss occurring' basis so that the reinsured must prove that it suffered the loss during the policy period. A reinsured cannot choose the order of allocation of payments or settlements. Once a layer has been exhausted, the next excess policy becomes the underlying policy. Consequently, that layer and its reinsurer are liable once the liability of the insured has been established.

Law stated - 16 March 2026

Review

What type of review does the governing law afford reinsurers with respect to a cedent's claims handling, and settlement and allocation decisions?

There are usually clauses in reinsurance agreements, particularly in treaties, which require the cedent to provide regular underwriting information (including premium income, claims notified and claims paid) to the reinsurer, together with rights of audit and inspection for the reinsurer.

In the absence of a follow-the-settlement clause, the reinsured must prove the loss, as a part of which it may be necessary to review the insured's documents. In ***Pacific & General Insurance Co Ltd (in liquidation) v Baltica Insurance Co (UK) Ltd*** [1996] LRLR 8, it was held that although each case depends upon its own specific facts, where the reinsurer makes a timely request for inspection of the reinsured's documents, the court is likely to grant the request (unlike in cases where the reinsurer makes an application for inspection of the reinsured's documents when a summary judgment against it is imminent).

In ***Commercial Union Assurance Co plc v Mander*** [1996] 2 Lloyd's Rep 640, the reinsurer applied for disclosure of documents relating to the insurer's liability under the original contract of insurance. The insurer argued that such documents were privileged and, in any event, unnecessary to dispose of the dispute fairly. It was held that the test of relevance was wide and included documents that may lead to a train of inquiry that may enable the party applying for discovery to either advance his or her own case or damage that of the opposing party. The test was not restricted to documents that would be admissible in evidence. Documents relating to negotiations leading to a settlement of a dispute may be relevant and disclosable.

Law stated - 16 March 2026

Reimbursement of commutation payments

What type of obligation does a reinsurer have to reimburse a cedent for commutation payments made to the cedent's policyholders? Must a reinsurer indemnify its cedent for 'incurred but not reported' claims?

The reinsurer's obligations to reimburse the cedent for its commutations with the underlying insured will depend on the terms of the reinsurance contract, particularly concerning the provisions as to follow-the-settlements and as to the claims-settlement authority vested in the cedent.

Usual follow-the-settlements clauses in the London market will generally commit the reinsurer to follow a settlement, including a commutation, made by the cedent (up to the reinsurance policy limit) where the cedent has entered into a loss settlement or compromise of liability or quantum or both. The reinsurer will tend to be bound by a commutation payment where the cedent has entered into the commutation in a 'bona fide and business-like fashion' (***Insurance Co of Africa v Scor (UK) Reinsurance*** [1985] 1 Lloyd's Rep 312) and so the onus will be on the reinsurer to establish a lack of bona fides or business-like dealing on the part of the cedent given that the reinsurer may be bound even if it is proved subsequently that the policy did not, in fact, create a liability to the insured or that the insured's claim was otherwise ineligible (eg, due to misrepresentation or fraud by the insured).

A well-constructed commutation agreement between a cedent and its underlying insured will include incurred but not reported claims (IBNR) within its scope, both as to valuation and to include IBNR within the full and final termination and settlement of liabilities under the commutation. From the reinsurer's perspective, IBNR by its very nature represents an estimate of claims that might be made in future but are not yet claims made under the insurance policy or loss settlements to which, in either case, the reinsurer would respond. Depending on the breadth of the follow-the-settlements, the reinsurer may accordingly be able to deny liability for IBNR.

Law stated - 16 March 2026

Extracontractual obligations (ECOs)
What is the obligation of a reinsurer to reimburse a cedent for ECOs?

Extracontractual obligations (ECOs) stem from acts or omissions of an insurer towards its insured that are found by a court to constitute an event for which the insurer is liable to its insured outside the strict boundaries of the policy, perhaps for negligence, bad faith or misconduct (often in claims handling) and which leads to a monetary award being made against the insurer, sometimes by way of punitive damages. The sum in question is 'extra-contractual' because it falls outside the contractual bounds of the coverage provided under the insurance policy. The London Market standard ECO clause is NMX 100.

The ability of the insurer to then recover from its own reinsurers for liability to ECOs will depend on the terms of the reinsurance contract. Some reinsurance treaties include coverage for the cedent's ECOs within specific monetary and coverage limits, while others may expressly exclude ECOs or be silent on coverage for ECOs.

Coverage for ECOs will usually exclude claims arising through fraud or bad faith and may operate in excess of any concurrent errors and omissions coverage.

Given that in the United Kingdom (unlike in the United States) courts do not award punitive damages, reinsurers' concerns as to coverage of ECOs arising from an award of punitive damages against the reinsured are less acute.

Law stated - 16 March 2026

UPDATES & TRENDS

Key developments
Are there any emerging trends or hot topics in insurance and reinsurance regulation in your jurisdiction?

2025 Life Insurance Stress Test (LIST 2025)

The 2025 Life Insurance Stress Test (LIST 2025), conducted by the Prudential Regulation Authority (PRA) and the first under the new Solvency UK regime, assessed the resilience of 11 major UK life insurers active in the bulk purchase annuity (BPA) market to a severe but plausible three-stage financial market stress involving falling interest rates, equity and property price declines, widening credit spreads and downgrades. The results showed that the sector remains robustly capitalised, with the aggregate solvency capital requirement (SCR) coverage ratio falling from 185 per cent pre-stress to 154 per cent post-stress under the core scenario and all firms maintained capital levels above regulatory minima, demonstrating resilience to the tested shock.

The exercise also included exploratory scenarios on asset concentration and funded reinsurance, which likewise indicated sector resilience and highlighted areas for supervisory focus. For the first time, individual firm results were published to enhance transparency

and market discipline, although the test remains forward-looking and non-binding for capital requirements.

Solvency UK

The restatement of Solvency UK requirements into the PRA Rulebook is now final (this was only one area and mostly focused on Capital Requirements Regulation (CRR). The exercise primarily reorganises and embeds retained EU law into the UK prudential framework rather than introducing substantive policy change, but the PRA is reviewing requirements and has issued a consultation paper on own funds under Solvency II and is proposing certain targeted changes to simplify the rules and correct minor errors. Responses are due by 24 April 2026.

Investment strategies

The PRA is continuing to monitor firms' investment strategies, particularly into synthetic and structured products and less liquid assets.

From September 2026, certain firms (particularly larger life insurers) will be subject to enhanced liquidity risk reporting requirements, reflecting the PRA's increased focus on liquidity monitoring under stressed conditions.

In addition, the PRA is looking at firms' audit assessment frameworks and firms should pay particular attention to exposures to private credit. Like many regulators, the Bank of England is monitoring the exposure of the financial sector, including insurers, to private credit and is launching a system-wide explorations scenario in 2026 to focus on how private capital flows could affect market dynamics and financial stability.

Insurance special purpose vehicles

In July 2025, the PRA published a policy statement PS9/25 finalising reforms to the UK insurance special purpose vehicle (ISPV) regulatory framework. The reforms somewhat modernised the UK ISPV regime by introducing accelerated authorisations, simplified processes, flexible structures and funding/capital clarifications to enhance competitiveness and growth. However, in a December 2025 supervisory statement (SS2/25), the PRA tightened its supervisory stance on the use of ISPVs and flagged that capital relief, diversification benefits and risk transfer assumptions will be closely scrutinised.

The PRA is also intending to consult in summer 2026 on a new UK captive regime which follows on from HM Treasury plans to develop the onshore market.

Use of AI

There has been an increased focus on the safe adoption of AI within the insurance industry. In 2024, the FCA published its AI Update and set out its work in the AI space and its intentions for the use of AI in the future. It updated its stance on AI in December 2025 and continues to be focused on how firms can safely and responsibly adopt the technology as well as understanding what impact AI innovations are having on consumers and markets.

The FCA runs the Digital Sandbox, which allows for testing of AI technologies. The FCA's AI lab also adds a new AI focus to its Innovation Services and is currently made up of several different projects, including:

- AI Spotlight;
- AI Sprint;
- AI Input Zone; and
- Supercharged Sandbox.

In a recent speech in January 2026 at the FCA's Supercharged Sandbox Showcase event, Sheldon Mills announced that the FCA is leading a long-term review into AI and retail financial services, reporting to the FCA Board in the summer with recommendations. Its regulatory approach, however, remains outcomes-based and technology-neutral.

Consumer Duty

Under its strategy for 2025 to 2030, the Consumer Duty (the Duty) remains a priority for the FCA's work to deepen trust, rebalance risk, support growth and improve lives.

To understand how firms are improving consumer outcomes, the FCA intends to carry out a handful of multi-firm projects to look at how the Duty is being embedded across sectors.

In 2026, areas of supervisory focus include consumers' engagement with and understanding of pure protection insurance, transparency of charges across the value chain of unit-linked pensions and long-term savings and the fairness of motor and home insurance financing deals. The FCA published an interim report in January 2026 on its market study into pure protection insurance, with a final report expected in Q3. In July 2025, it published interim findings on its market study into premium finance, identifying potential concerns around value, competition and consumer understanding and indicating that it may consider further regulatory intervention following its conclusions.

FundedRe

The PRA has, in recent years, focused on the use of funded reinsurance (FundedRe) by UK life and annuity insurers and this is set to continue. The PRA has expressed its concern regarding the use of FundedRe, citing asset risk, complexity of the transactions and lack of transparency as the root of these concerns. In a speech held in September 2025 by Vicky White, director for prudential policy at the PRA, it was explained that the PRA may consider splitting future transactions into a collateralised loan and longevity swap, for solvency capital purposes and that the regulators will consider whether the ISPV framework may offer an alternative to FundedRe. The PRA also updated its FundedRe supervisory statement SS 24/15, first published in December 2023, in October 2025 to reflect the Matching Adjustment Investment Accelerator. It is expected that the PRA will further report back on funded reinsurance in Q2 of 2026.

Law stated - 16 March 2026