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INSURANCE AND REINSURANCE

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Insurance and reinsurance in the UK (England and Wales): overview

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MARKET TRENDS AND REGULATORY FRAMEWORK

1. What were the main trends in the insurance and reinsurance markets over the last 12 months?

Insurance

The London insurance market continues to be the largest global centre for commercial and speciality insurance risks, controlling more than US$91 billion in gross written premiums. 2017 was a very eventful year for the global insurance and reinsurance sector, with the beginning of the year seeing a continuing soft market with average premium rate reductions on renewals compared with 2016. The 2017 account was then shaken by four hurricanes making landfall in the US, further hurricanes in the Caribbean and elsewhere and four tropical storms, leading to estimates that insured losses could exceed US$100 billion (compared to a long-term average of US$53 billion), making 2017 one of the worst years for catastrophe claims. As a result of the expected losses, insurers and reinsurers have increased premium rates on renewal, with an average increase across all classes of business in the London market for the first time since 2012, but, due to the scale of the 2017 catastrophe losses, many insurers and reinsurers expect to be loss-making in the short-term. Lloyd's of London reported in March 2018 a pre-tax loss for the Lloyd's market of US$2 billion for 2017, its first loss in six years and compared to a profit of a similar size in 2016.

Political events, and uncertainties resulting from them, have been to the fore, affecting both the insurance and reinsurance markets, including:

- The UK's triggering Article 50 of the Treaty on European Union and the uncertainties surrounding any final Brexit outcomes for the reinsurance market.
- The potential loss to UK insurers of the insurance "single market" and the moves by UK insurers (including Lloyd's itself) to establish post-Brexit EU subsidiaries to retain some benefit from the single market.
- The ongoing review into, and uncertainty surrounding, the Ogden discount rate (used in the calculation of awards in the UK for serious injuries requiring long-term care) continues to impact premium rates on UK liability insurance as well as motor insurance.

Cost and scale considerations continued to drive significant mergers and acquisitions activity.

The growing market for cybercrime insurance and the potential for large cybercrime claims was highlighted.

Reinsurance

Many of the challenges facing direct insurers are also being faced by reinsurers, including:

- Investment returns remain low.
- Political events such as Brexit cause uncertainties and a need to consider relocations, and perhaps portfolio transfers, out of the UK to the ongoing EU for EU business presently written in the UK.
- Currency movements (especially sterling: US dollar) have been significant and impacted earnings.

In the aftermath of the 2017 catastrophe losses there was an expectation that reinsurance rates would increase significantly on 2018 renewals, but to date there continues to be an over-supply of reinsurance capacity thus continuing to favour buyers of reinsurance.

The market for alternative capital such as Insurance Linked Securities (ILS) continues to grow as an alternative to traditional reinsurance products and whilst the ILS sector has been hit by the 2017 catastrophe losses, it has continued to attract new capital to replace collateral that has been lost or trapped. The UK has now introduced legislation to provide for the creation and operation of protected cell companies in the UK so as to foster the growth of the ILS market in the UK (*see Question 5*).

2. What is the regulatory framework for insurance/reinsurance activities?

Regulatory framework

The Financial Services and Markets Act 2000 (FSMA) as amended, and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (RAO), provide the framework for the regulation of insurance and reinsurance activities. The Financial Conduct Authority's Handbook and the Prudential Regulation Authority's Rulebook provide detailed rules and guidance on governance, capital and conduct of business requirements.

In the context of groups, the regulators in the UK generally regulate the entity established in the UK but can also act as the group supervisor of a group if so designated by a college of supervisors.

Directive 2016/97/EU on insurance distribution (Insurance Distribution Directive), which will amend and replace Directive 2002/92/EC on insurance mediation (Insurance Mediation Directive) entered into force on 22 February 2016 and was expected to be implemented into national law by 23 February 2018. The implementation date has been delayed until 1 October 2018. Once the Insurance Distribution Directive is implemented into national law, the UK Financial Conduct Authority (FCA) will publish final rules (based on the near-final rules published by the UK FCA on 19 January 2018). The Insurance Distribution Directive deals with the authorisation, passporting and general regulatory requirements for insurance and reinsurance intermediaries/distributors. It also

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encompasses organisational and business requirements for insurance and reinsurance undertakings.

Regulatory bodies

The regulation of insurers and reinsurers in the UK is undertaken by the:

- Prudential Regulation Authority (PRA) for prudential purposes.
- Financial Conduct Authority (FCA) for conduct purposes.

Lloyd's managing agents are regulated by:

- The PRA.
- The FCA.
- Lloyd's itself.

Lloyd's brokers and members' agents are regulated by the FCA and Lloyd's. Intermediaries are regulated by the FCA. The Bank of England and Financial Services Act 2016 makes the PRA a part of the Bank of England. Unlike all other companies in the UK, the company registrar for protected cell companies (PCC) is the FCA and not Companies House. An application to incorporate a PCC must be made to the FCA as part of an application for the PCC to become authorised and regulated by the FCA to perform the regulated activity of "risk transformation".

REGULATION OF INSURANCE AND REINSURANCE CONTRACTS

3. What is a contract of insurance for the purposes of the law and regulation? How does it differ from a contract of reinsurance?

There is no definition of a contract of insurance or reinsurance under the law. In *Prudential Insurance Co v IRC [1904] 2 KB 658*, Channell J held that the essential requirements of a contract of insurance were:

- The payment of one or more sums of money, generally called premiums, by one party (the policyholder). In return for these payments, the other party (the insurer) undertakes to pay a sum of money on the happening of a specified event.
- The event must be one that is adverse to the interests of the policyholder. In *Hall D'Ath v British Provident Association [1932] 48 TLR 240*, it was held that a profit motive was essential for the existence of a contract of insurance.

Also, in order for a contract of insurance to exist there must be:

- An insurable interest.
- An uncertain future event adverse to the interests of the policyholder over which the policyholder has no control.

An insurable interest means that the insured must have a legal or equitable interest in the subject matter of the insurance cover and would either be prejudiced by its loss or benefit from its safety. For reinsurance contracts, there must be an effective transfer of risk.

4. Are all contracts of insurance/reinsurance regulated?

The Financial Services and Markets Act 2000 (FSMA) regulates the two categories of insurance activities set out in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (RAO):

- General non-life insurance.
- Long-term life insurance.

There are 18 classes of general insurance and nine classes of long-term insurance.

CORPORATE STRUCTURE

5. What form of corporate organisation can insurers take?

The Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) have their own individual threshold conditions. The FCA, which also regulates entities other than insurers or reinsurers, has different threshold conditions to the PRA. Following the implementation of the Directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II Directive), there is a distinction between those entities that are subject to the Solvency II Directive (whether established in the UK or elsewhere in the European Economic Area) and those entities that are not what the PRA defines as "Solvency II undertakings". Accordingly, for an insurance special purpose vehicle (ISPV), for example, there is no requirement for it to be incorporated, but for "Solvency II undertakings" the PRA requires the applicant for a Part IVA permission to effect or carry out contracts of insurance to be:

- A body corporate (limited or unlimited, including a company limited by guarantee but excluding an LLP).
- A registered friendly society.
- A registered industrial and provident society.
- A member of Lloyd's (other than a managing agent) that may be a body corporate or a Scottish limited partnership.

In response to a demand for UK regulation to accommodate more flexible structures for the growing alternative risk transfer market and insurance linked securities, the PRA and FCA issued the Consultation Paper on the "Authorisation and Supervision of Insurance Special Purpose Vehicles" (PRA CP42/16 and FCA CP16-34). The Consultation Paper set out detailed proposals for the introduction of protected cells structures (PCC) into the UK (as exist already in many other jurisdictions such as Bermuda and the Channel Islands) to facilitate ISPV transactions. Following this, the Risk Transformation Regulation 2017 provides for the creation and operation of PCCs in the UK.

REGULATION OF INSURERS AND REINSURERS

6. Are all insurers and reinsurers regulated? Are they all regulated in the same way?

All insurers and reinsurers are regulated.

All firms that provide insurance, insurance intermediation or reinsurance services by way of business in the UK must be authorised to do so under Part IVA of the Financial Services and Markets Act 2000 (FSMA). The Prudential Regulation Authority (PRA) is responsible for authorising firms to carry out these activities. The Financial Conduct Authority (FCA) is responsible for regulating the conduct of the firm in question on an on-going basis. These firms are known as "dual regulated" firms because they are regulated by both the PRA and the FCA. The level of ongoing regulatory oversight varies according to, among other things:

- The size of the firm.
- The types of business it writes.
- The risks it poses to consumers and the financial system.

7. Can insurers and reinsurers carry on non-insurance business? Are there any restrictions on their business activities?

Firms must have specific regulatory authorisations for the particular insurance or reinsurance business they operate. Insurers can only carry out insurance business and activities that are ancillary to that insurance business. They cannot perform other commercial business activities. A reinsurer must not carry on any business other than the business of reinsurance and ancillary activities such as actuarial advice or risk analysis.

In the UK, an insurer must be separately authorised to write life and non-life insurance business.

8. Are there any statutory limits or other restrictions on, or requirements relating to, the transfer of risk by insurance or reinsurance companies?

A firm can only take credit for reinsurance if there has been an effective transfer of risk from the firm to a third party, as required by the Solvency II Directive and applicable accounting standards.

OPERATING RESTRICTIONS

Authorisation or licensing

9. Does the entity or person have to be authorised or licensed?

Insurance/reinsurance providers

A person must not carry on a regulated activity by way of business or purport to do so unless authorised to do so or unless he or she is exempt from authorisation (*section 19, Financial Services and Markets Act 2000 (FSMA)*).

A firm intending to conduct insurance and reinsurance business must obtain a Part IVA FSMA permission from the Prudential Regulation Authority (PRA), unless it is exempt or able to rely on the EU's passporting regime (however, this is likely to change following the outcome of the UK's referendum on EU membership on 23 June 2016). The Financial Conduct Authority (FCA) must consent to the PRA's grant of permission. Insurance intermediaries must apply to the FCA for permission. To obtain a Part IVA FSMA permission, an applicant must satisfy the "threshold conditions" both on authorisation and on an on-going basis. The "threshold conditions" include satisfying the regulator that the applicant:

- Has its head office in the UK or it carries on business in the UK.
- Is adequately capitalised to conduct the reinsurance business in question.
- Has appropriate management systems and controls in place.
- Has suitably qualified persons that are "fit and proper" and capable of performing senior management functions.

Insurance/reinsurance intermediaries

Insurance and reinsurance intermediaries must be authorised by the FCA. See *Question 2* in respect of Directive 2016/97/EU on insurance distribution (Insurance Distribution Directive).

Other providers of insurance/reinsurance-related activities

Lloyd's managing agents are authorised and regulated by the PRA and the FCA in the same way as insurance and reinsurance firms. The Society of Lloyd's is regulated by the PRA and the FCA. Protected cell companies (PCCs) are authorised and regulated by the FCA.

Insurers and intermediaries regulated in the European Economic Area (EEA) have the right to "passport" their permissions into the UK. While an EEA regulated firm does not need to seek permission from either UK regulator to carry on a regulated activity, it must adhere to the notification requirements.

Directive 2005/68/EC on reinsurance (Reinsurance Directive) entered into force on 10 December 2005 and established a new system for regulating reinsurance in Europe. The Reinsurance Directive follows the framework for regulating primary insurance by adopting the principles of harmonisation and mutual recognition.

Following the UK's vote to leave the EU on 23 June 2016 and the triggering of Article 50 of the Treaty on European Union by the UK Government on 29 March 2017, which started a two-year negotiation process between the UK and the EU, at present the future of passporting rights, if any, is unclear. The Great Repeal Bill White Paper published on 30 March 2017 sets out the UK Government's proposals for ensuring a functioning statute book of existing EU legislation once the UK has left the EU.

10. What are the main exemptions or exclusions from authorisation or licensing?

Insurance/reinsurance providers

For insurers and reinsurers carrying on (or deemed to carry on) insurance or reinsurance in the UK, there are available exemptions and exclusions from the requirement to:

- Be authorised to carry on reinsurance business in the UK.
- "Passport" into the UK from another European Economic Area (EEA) jurisdiction where the company is authorised.
- Be excluded from the regime in Directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II Directive) subject to Prudential Regulation Authority (PRA) regulation and the need to obtain a Part IVA permission or "passport".

These exemptions and exclusions fall broadly into two categories:

- A common law test on whether the company is effecting and carrying out contracts of insurance by way of business in the UK (the business test).
- Whether certain threshold tests in the Solvency II Directive, as adopted into the PRA Rulebook, have been satisfied (the threshold test).

The business test is complicated and depends on the specific facts of the case, including, for example, whether the company:

- Is actually carrying on business in the UK.
- Actually takes all decisions, binds risks, collects premiums and pays claims outside the UK, therefore possibly not "carrying on business in the UK" even if the insured is a UK resident.

The threshold test in the PRA Rulebook adopts, among other things, Article 4 of the Solvency II Directive, which contains exclusions from being subject to the Solvency II regime (but not from the application of the "business test") for insurers who have, for example, gross written premium income not exceeding EUR5 million and certain other *de minimis* thresholds.

Insurance/reinsurance intermediaries

Regulation of intermediaries is largely a function for the Financial Conduct Authority (FCA), on whose register an intermediary must be entered if it is to be authorised to intermediate in the UK or for the intermediary to exercise passporting rights if authorised elsewhere

in the EEA. There is also an "appointed representative" system where an intermediary that is not itself authorised can be "grandfathered" by an authorised intermediary that appoints it as its appointed representative and under whose authorisation it operates. The appointing authorised person is responsible for the conduct and compliance of its appointed representative.

As with insurers, there are certain "business test" exemptions from the need for intermediaries to be authorised in the UK and certain exclusions under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (RAO).

Other providers of insurance/reinsurance-related activities

The authorisation regime focuses on the activity being conducted (for example, if it is a "regulated activity" under the RAO) and the jurisdictional and other elements of the "business test", both in considering the activities of mainstream insurers and when considering the activities of Lloyd's and organisations such as friendly societies. Therefore, there are exemptions and exclusions applicable to Lloyd's and friendly societies.

RESTRICTIONS ON OWNERSHIP OR CONTROL

11. Are there any restrictions on the ownership or control of insurance-related entities?

It is a criminal offence to acquire or increase control in a UK-regulated insurance or reinsurance company without the prior approval of the Prudential Regulation Authority (PRA) (*Part XII, Financial Services and Markets Act 2000 (FSMA)*). "Control" is defined as the acquisition of 10% or more of the shares or voting power of the regulated entity or its parent entity with an overarching (and ill-defined) concept of the ability to exercise significant influence over the management of the regulated entity by virtue of a shareholding or voting power in the regulated entity or its parent. Prior regulatory approval is also required where an existing controller proposes to increase its shareholding or entitlement to exercise voting power in the insurer or reinsurer or its parent above 20%, 30% or 50%. The PRA must consult with the Financial Conduct Authority (FCA), and the FCA can request the PRA to reject the application or impose conditions on the approval of the change in control.

Applications for a change in control of insurance intermediaries are made to the FCA. Directors and officers of the proposed acquirer may have to apply to become senior managers in respect of exercising senior management functions in the regulated target entity and are subject to background investigations.

For insurance intermediaries, the FCA must approve acquisitions or changes in control above 20%. Any person seeking to acquire control of a Lloyd's of London managing agent by 10% or more must obtain prior approval from the PRA, FCA and Lloyd's of London. Notification of the change of control must be made to Lloyd's of London before and after the proposed change of control.

There are no age, nationality or foreign investment restrictions on acquiring regulated entities in the UK.

12. Must owners or controllers be approved by or notified to the relevant authorities before taking, increasing or reducing their control or ownership of the entity?

See *Question 11* for the acquisition of, and increasing control in, a regulated entity. Where there is a reduction of control from 50% of the shares or voting power in a regulated entity or its parent entity, or if the reduction reduced by any of the 30%, 20% or 10% thresholds, it must be notified to the relevant regulator in writing. There is no particular form for this notification and the regulator is not required to approve the reduction of control.

ONGOING REQUIREMENTS FOR THE AUTHORISED OR LICENSED ENTITY

13. What are the key ongoing requirements with which the authorised or licensed entity must comply?

Regulated entities are subject to on-going regulatory monitoring and oversight. The regulated entity must comply with the detailed requirements set out in the Prudential Regulation Authority's (PRA) Rulebook and the Financial Conduct Authority's (FCA) Handbook on governance, regulatory capital requirements, systems and controls and other conduct matters. They must also comply with the principles for business and threshold conditions on an on-going basis. The regulated entity must ensure that its senior managers are fit and proper as well as suitably qualified to carry out the functions they are responsible for in the regulated entity on an on-going basis.

There are no specific rules mandating or prohibiting any particular transaction. However, intra-group transactions and the issuance of debt or equity can affect the solo insurance entity's (or the group's) regulatory capital position under Directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II Directive). It must also be considered if any of the acquisition financing or debt "push down" to the target or targets within a group would come within the financial assistance regime under Part 18, Chapter 2 of the Companies Act 2006.

PENALTIES FOR NON-COMPLIANCE WITH LEGAL AND REGULATORY REQUIREMENTS

14. What are the possible consequences of an entity failing to comply with applicable legal and regulatory requirements? What recourse do policyholders have if they have done business with a non-approved entity?

Insurance/reinsurance providers

Insurers are dual regulated by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA). Each of these regulators has a rulebook or handbook and principles for business and threshold conditions that need to be complied with by the insurer and by its executives (and possibly parent executives) who are subject to the Senior Insurance Managers Regime. The FCA is the conduct regulator for insurers prudentially regulated by the PRA, but the PRA and the FCA have statutory duties to co-ordinate in policymaking and supervision and do so through a memorandum of understanding. Failure to comply with the applicable regulations at a corporate or individual level can result in the imposition of:

- Regulatory enquiries.
- Statutory investigations.
- Financial penalties.
- Public censures.
- Prohibition orders.
- The withdrawal or curtailment of permissions to conduct insurance and other regulated activities in the UK.

The PRA and FCA also have the power to institute criminal proceedings for certain offences. The regulators can take action for a breach of the principles for business alone.

The Consumer Rights Act 2015 introduced enhanced enforcement powers against insurers who have been found to use policies containing unfair terms or have been found to breach consumer law. These measures include:

- Requiring insurers to make compensatory payments to consumers who have suffered as a result of the use of unfair terms.
- Enabling consumers to terminate an insurance contract.

Carrying on a regulated activity in the UK without authorisation or the benefit of an applicable exemption, such as effecting and carrying out contracts of insurance, is a criminal offence for which the PRA or FCA can instigate proceedings and for which, on conviction, a fine or imprisonment can be imposed under section 23 of the Financial Services and Markets Act 2000 (FSMA). Notwithstanding the illegality of the unauthorised insurance contract in question, the FSMA provides that the contract (although unenforceable by the insurer) is enforceable by the insured insofar as the insured can nevertheless recover sums paid under the policy.

Insurance/reinsurance intermediaries

See above, *Insurance/reinsurance providers*.

Other providers of insurance/reinsurance-related activities

See above, *Insurance/reinsurance providers*.

RESTRICTIONS ON PERSONS TO WHOM SERVICES CAN BE MARKETED OR SOLD

15. Are there any restrictions on the persons to whom insurance/reinsurance services and contracts can be marketed or sold?

The marketing and sale of insurance products is regulated by the Financial Conduct Authority (FCA). The FCA Handbook imposes both principles and rules on how customers and potential customers can be approached and marketed to, and on the requirements on the suitability of products and customer needs to be assessed. Different rules apply to different types of product:

- The FCA Insurance Conduct of Business Sourcebook (ICOBS) applies to the selling and administration of non-investment insurance contracts by insurers and intermediaries, including on the formation and execution of the contract, paying claims and promoting and marketing products. ICOBS requirements include that:
  - insurers and intermediaries must ensure that their advice is suitable for the customer;
  - the customer is given appropriate information about a policy in good time and in a comprehensible way so they can make an informed decision. Appropriate information includes information about price;
  - insurers and claims handlers must treat customers fairly when handling claims; and
  - claims must be paid "promptly" (which begs comparison with the requirements of the Insurance Act 2015 (*see Question 20*)).
- The FCA Conduct of Business Sourcebook (COBS) governs investment products (for example, life insurance). ICOBS does not apply to activities relating to reinsurance contracts.
- The FCA's overarching principles for business also apply. Of particular relevance in this context are:
  - Principle 6, which requires an authorised person to "pay due regard to the interests of its customers and treat them fairly"; and
  - Principle 7, which requires that an authorised person must "pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading".

REINSURANCE MONITORING AND DISCLOSURE REQUIREMENTS

16. To what extent can/must a reinsurance company monitor the claims, settlements and underwriting of the cedant company?

It is open to the cedant and the reinsurer to agree the terms of whatever monitoring (or more stringent) provisions they choose. However, given that there is no specific legal or regulatory requirement dictating these terms, it would be unusual and contrary to the reinsurer's interests for there not to be clauses requiring the cedant 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. Most facultative reinsurances contain "follow the settlements" clauses that make the reinsurer liable for claims that the cedant has settled in a "bona fide and business-like fashion". Accordingly, the reinsurer has a fundamental commercial interest in claims and settlement activity by the cedant and would therefore protect its interests by requiring either:

- A claims co-operation clause (obliging the cedant to notify the reinsurer of any loss, provide information to the reinsurer and generally giving the reinsurer the ultimate right to contest settlements if it is to be bound by them).
- A claims control clause (that gives the reinsurer the right to control and settles claims direct with the assured and to the exclusion of the cedant).

17. What disclosure/notification obligations does the cedant company have to the reinsurance company?

Before the Insurance Act 2015 came into force in August 2016, a cedant had been under a duty of utmost good faith requiring it to disclose to the reinsurer, before the reinsurance contract is entered into, all material circumstances that the cedant knows or ought to know.

Under the Insurance Act 2015, a reinsurance contract is classified as a "non-consumer insurance contract" meaning that:

- The cedant's disclosure obligation is re-characterised as a "duty of fair presentation".
- The cedant's fair presentation of the risk must be reasonably clear and accessible to a prudent reinsurer.
- The cedant must disclose every material circumstance that it knows or ought to know or, failing that, must give the reinsurer sufficient information to put a prudent reinsurer on notice that it needs to make further enquiries.

The Insurance Act 2015 also substantially reformed the previous law on what should have been known to a cedant. The Act introduces a new concept that the cedant should have known anything that would reasonably have been revealed by a reasonable search of "information" available to the cedant. For this purpose, "information" includes any held within the cedant's organisation or by any other person (not merely the cedant's agent or broker).

INSURANCE AND REINSURANCE POLICIES

Content requirements and commonly found clauses

18. What are the main general form and content requirements for insurance policies? What are the most commonly found clauses?

Form and content requirements

There are few form and content requirements applicable under the law. General contractual principles usually apply to insurance and reinsurance policies as with any other contract, subject to some significant exceptions such as:

- The requirement for a written policy in some cases (such as under the Marine Insurance Act 1906 and under the Life Assurance Act 1774).
- The specific requirements applicable to consumer insurance under the Consumer Rights Act 2015 and the Consumer Insurance (Disclosure and Representation) Act 2012.
- The regulatory requirement for consumer insurance contracts to be written in plain intelligible language.
- The use of the Market Reform Contract in the London market.
- The Shariah law requirements applicable to Takaful and reTakaful policies:
  - the UK reinsurance market provides both Shariah law-compliant insurance (Takaful) and reinsurance (reTakaful) products. Takaful is fundamentally different to conventional reinsurance in that, unlike reinsurance which aims to transfer risk from the reinsured to the reinsurer, Takaful shares risk between the community members who "donate" money to a Shariah-compliant reinsurance fund with no right or expectation of repayment. Although English law contracts of insurance can be Shariah-compliant; it is the identity and structure of the insurer that causes most issues under Shariah law and requires specific structuring to be Takaful.

Commonly found clauses

Insurance and reinsurance policies usually contain (among other things) clauses covering the following:

- Identity of the reinsured.
- Scope of cover.
- Premium and payment.
- Exclusions from cover.
- Warranties and conditions.
- Applicable law and jurisdiction.
- Dispute resolution.

19. Is facultative or treaty reinsurance more common? What are the most commonly found clauses in reinsurance policies?

Facultative/treaty reinsurance

In terms of overall premium income, overall facultative (including direct business) income is more than three times the size of treaty income in the London market, according to figures released in 2016. There are reconciliation differences between Lloyd's and non-Lloyd's information, but the relative sizes of facultative and treaty business in London are apparent. Reinsurance has fallen to less than 31% of premiums of the London market, down from 35% in 2010, whilst over the same period the global reinsurance market's share grew by 1.2% per annum.

Commonly found clauses

Reinsurance policies of the facultative kind usually strike a balance between incorporating into the reinsurance the terms of the direct policy and adding those clauses that are necessary to supplement or distinguish reinsurance and reinsurer's rights from those in the direct policy. Therefore, clauses such as "leading underwriter" clauses in the direct policy are ancillary but exclusive jurisdiction clauses, arbitration and choice of law clauses are usually expressly stated in the reinsurance policy rather than merely incorporated by reference to the direct policy.

Other clauses that reinsurers wish to draft specifically into the policy or treaty include those on:

- "Follow the fortunes" or "follow the settlements" (*see Question 16*).
- Claims co-operation or control (*see Question 16*).
- Inspection and audit of the cedant's records.
- Reporting and bordereaux.

IMPLIED TERMS

20. Are there any terms that are implied by law or regulation (even if not included in the insurance or reinsurance contract)?

Insurance and reinsurance contracts are subject to the usual legal principles on implied terms, but with some additional provisions specific to reinsurance contracts.

The general principles on implied terms are, in summary, that:

- If, having regard to the express words of the contract, it is not possible to ascertain their true meaning, the court may be willing to imply certain terms if there is a persuasive reason for doing so, but in general courts are reluctant to look behind the express words or imply new words into a contract.
- Terms implied by law, custom or dealing can be implied if the express wording of the contract is not at odds with the implied terms. A course of dealing may be sufficient to imply terms if those terms have been the ones on which the parties dealt in practice.
- The presumed intentions of the parties is implied if it is necessary for business efficacy or if so obvious as to go without saying that a reasonable reader of the contract knowing all its provisions and the surrounding circumstances at the time would judge it as such.

Against this background, specific reinsurance issues regarding implied terms include:

- The implied duty of fair presentation under the Insurance Act 2015.
- Incorporation in reinsurance contracts (*see Question 19*).
- Reinsurance industry custom and practice (including use of slips) and market-recognised terms.
- The term implied in every contract of insurance that, if the insured makes a claim under the contract, the insurer must pay any sums due in respect of the claim within a reasonable time (*section 13A, Insurance Act 2015*).

CUSTOMER PROTECTIONS

21. How do customer protections in the general law affect insurance contracts? What customer protections are

generally included in insurance policies to supplement this?

General law

The general law provides enhanced protections for consumers under insurance policies. Although there is no single codification of applicable laws and regulations, the principal sources applicable to insurance contracts with consumers include the:

- Financial Services and Markets Act 2000.
- Financial Conduct Authority (FCA) Insurance Conduct of Business Sourcebook (ICOBS).
- Consumer Insurance (Disclosure and Representations) Act 2012.
- Consumer Rights Act 2015.
- Insurance Act 2015.

Provisions formerly in the Unfair Contract Terms Act 1977 or in the Unfair Terms in Consumer Contracts Regulations (SI 1999/2083) are now within the Consumer Rights Act 2015.

Insurance policies

To give effect to the general law, insurance policies provide enhanced protections for consumers in the following areas (among other things):

- **"Utmost good faith".** The duty of utmost good faith is abolished for consumers and replaced with a duty to take reasonable care not to make any misrepresentations when applying for cover.
- **Information.** The insurer must specifically ask for information in a manner that is clear to consumers, rather than rely on the insured to disclose all material facts.
- **Remedies.** Rights of the insurer to terminate for non-disclosure (short of fraud) are reduced in consumer insurance.
- **Contracting out.** Any contractual terms of a consumer contract that would put the insured in a worse position under the law on warranties and representations made by the insured, insurer's rights and remedies for breach of warranty or as to fraudulent claims, as in each case established in the Insurance Act 2015, are void.
- **Unfair contract terms.** In addition to requirements as to clarity of language and the need to be brought to the consumer's attention, contract terms that are unfair are unenforceable.

In the case of non-life insurance, there are specified disclosures of product information which must be provided to the potential insured before the insurance contract is concluded, as well as the specific format and paper size on which the product information must be provided (*Commission Implementing Regulation (EU) 2017/1469 laying down a standardised presentation format for the insurance product information document*).

STANDARD POLICIES OR TERMS

22. What are the main standard policies or terms produced by trade associations or relevant authorities?

In the London insurance market, there are many standard policy wordings produced by Lloyd's or the International Underwriters Association (IUA) and through various market committees adopted as standard wordings. Wordings are available from the Lloyd's Wordings Repository and the London Market Association. The IUA also makes available the IUA Clauses Document Library. The Market Reform Contract is available for download and use from the London Market Group and its participating bodies (*see Question 18*). Other trade bodies have produced standard policies or terms for use by their members.

INSURANCE AND REINSURANCE POLICY CLAIMS

Establishing an insurance claim

23. What must be established to trigger coverage under an insurance policy?

In the absence of any statutory or regulatory requirements governing the notification of claims or the identification or happening of the insured event giving rise to the claim by the insured (except for consumer insurance contracts where claims and notification requirements must not be unfair), the establishment of a claim and its notification are left to the terms of the insurance policy.

Under common law, there must have been an event or loss that is an insured event. Different types of insurance provide coverage against different events or losses.

The insured must then notify a claim to the insurer. The procedure for notifying the claim based on the occurrence of the insured event or loss varies between an occurrence-based policy (under which the policy will only respond to losses occurring during the policy period) and a claims-made policy (under which the insured must submit a claim during the policy period but where the liability on the insured may have occurred prior to the policy). In either case, the policy has a claims notification procedure and often a time limit for claims to be notified. If the notification clause is drafted as a condition, then the insured's failure to comply with the notice clause enables the insurer to avoid liability even if the insurer suffers no prejudice through late or non-compliant notification.

Notification is important to insurers not least given their rights to pursue third parties for claims that the insurer may be liable to the insured. Under this doctrine of "subrogation", applicable in indemnity contracts principally, the insurer can step into the shoes of the insured and pursue in the insured's name or require the insured to pursue claims that may lie against third parties in respect of the insured event giving rise to a claim under the policy. To trigger subrogation, it is necessary (at common law) for the insured to be fully indemnified as a condition to the insurer exercising subrogation rights. In practice, the extent of, and circumstances for, exercise of subrogation and procedures applicable is specified in the policy.

THIRD PARTY INSURANCE CLAIMS

24. What are the circumstances in which third parties can claim under an insurance policy?

An insured can assign his or her rights under a contract of insurance to a third party.

Under the Third Parties (Rights Against Insurers) Act 1930 and the Third Parties (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 in the event of the insured's insolvency. It is not possible to contract out of this. 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 do not relate to that liability are not transferrable. The above-mentioned third-party actions do not apply to reinsurance contracts. It may be possible to bring a third-party claim under the Contracts (Rights of Third Parties) Act 1999. However, in practice, most reinsurance contracts exclude the Contracts (Rights of Third Parties) Act 1999.

In *Shirley Redman (Administratix of the Estate of Peter Redman, Deceased) v (1) Zurich Insurance Plc; (2) ESJS1 Ltd (AKA the Humber Electrical Engineering Co Ltd) [2017] EWHC 1919 (QB)*, Turner J held that under section 1 of the Third Parties (Rights Against Insurers) Act

2010, anyone who had become insolvent for the purposes of the Act incurred a liability when the damage was caused, not when a claimant had established a right to compensation. The transitional provisions did not provide for the 2010 regime to be applied retrospectively. However, Schedule 3 to the 2010 Act expressly made it clear that the Third Parties (Rights against Insurers) Act 1930 continued to apply where, before 1 August 2016, someone had become insolvent for the purposes of the 2010 Act and had incurred a liability against which they were insured.

In *BAE Systems Pension Funds Trustees Ltd (Applicant/Claimant) v Royal & Sun Alliance Insurance Plc (Respondent) & (1) Bowmer & Kirkland Ltd; (2) Geofirma Soils Engineering Ltd; (3) Twintec Ltd (in administration); (4) Te Little & K Bent (practising as Sprigg Little Partnership) (Defendants) [2017] EWHC 2082 (TCC)*, O'Farrell J held that in order for a claimant to apply under section 2 of the Third Parties (Rights Against Insurers) Act 2010 to join an insurer as a co-defendant to proceedings against its insured, it was not necessary for the claimant to establish that the insured was liable under the claim and that the insurance policy covered such liability. Section 2 provided a mechanism for establishing liability. The applicant applied to join the respondent insurance company as a co-defendant.

TIME LIMITS

25. Is there a time limit outside of which the insured/reinsured is barred from making a claim?

There is no specific statutory limitation period for making a claim under an insurance or reinsurance contract. Insurance contracts are subject to the normal limitation period under the Limitation Act 1980 for causes of action founded on breach of contract (that is, six years from the date on which the cause of action accrues).

A contract of insurance is a contract of indemnity. A breach arises as soon as the insurer fails to hold the insured harmless against the relevant loss. Usually, the cause of action and right of recovery against the insurer accrues on the happening of the loss. However, the terms of the policy can specify that the indemnity is not payable until a later time, in which case the cause of action only accrues at the later time.

As well as the statutory limitation period, insurance and reinsurance contracts typically include a notification clause requiring the insured to give the insurer notice of claims or losses, or of circumstances which give rise to a claim or loss, in a particular manner (usually in writing) and within a particular period (for example, "as soon as reasonably practicable"). An insured can lose the right to an indemnity for failure to comply with a notification clause where compliance is a condition precedent to bringing the claim.

The Enterprise Act 2016 gives policyholders a legal right to enforce prompt payment of insurance claims (*see Question 36*).

ENFORCEMENT

26. Can the original policyholder or other third party enforce the reinsurance contract against a reinsurer?

A contract of reinsurance is a contract between the reinsured (the primary insurer) and the reinsurer. The starting point is that there is no privity of contract between the original policyholder and the reinsurer. Consequently, the original policyholder or a third party has no rights under the reinsurance contract. The original policyholder's rights are solely against the primary insurer. Where the primary insurer is insolvent, or where the contract of primary insurance is for some reason defective, the original policyholder cannot rely on the reinsurance arrangements in the same way as the insolvent insurer could have.

The Contracts (Rights of Third Parties) Act 1999 allows for third party enforcement in certain circumstances. For example, an original policyholder may be able to enforce a contractual term in the reinsurance contract if either:

- He or she is specifically mentioned in the contract as someone who has rights under the reinsurance contract.
- The reinsurance contract seeks to confer a benefit on him or her.

In practice, contracts of insurance and reinsurance usually exclude the Contracts (Rights of Third Parties) Act 1999.

REMEDIES

27. What remedies are available for breach of an insurance policy?

Insurer

Section 3 of the Insurance Act 2015 introduced a statutory duty of fair representation on the insured.

Prior to the Insurance Act 2015, which came into force in August 2016, contracts of insurance used to be based on the principle of utmost good faith (*uberrimae fidei*). This 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 price of the risk(s) in question. Breach of this duty used to render the insurance contract voidable. Section 10 of the Insurance Act 2015 abolished this. However, 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.

Insured

An insured can sue an insurer to recover a valid claim. However, the law did not historically provide any additional remedy for the insured where an insurer has unreasonably refused to pay a claim or paid it only after unreasonable delay.

Provisions relating to the late payment of insurance claims were incorporated into the Enterprise Act 2016, which inserted additional provisions into the Insurance Act 2015, by introducing an implied term into every insurance contract that insurers must pay claims within a "reasonable time".

PUNITIVE DAMAGE CLAIMS

28. Are punitive damages insurable? Can punitive damages be reinsured if they are covered by an underlying policy?

Subject to the terms of the insurance contract, as a matter of general principle and public policy, damages awarded by a court, whether ordinary or punitive, are insurable. This insurance can be reinsured in the ordinary way.

INSOLVENCY OF INSURANCE AND REINSURANCE PROVIDERS

29. What is the regulatory framework for dealing with distressed or insolvent insurance or reinsurance companies, or other persons or entities providing insurance or reinsurance related services? What regulatory and/or other protections exist for policyholders if the insurance company is insolvent?

Relevant legislation includes:

- The Insurers (Reorganisation and Winding Up) Regulations 2004 (2004 Regulations).
- The Insolvency Act 1986.
- Part XXIV of the Financial Services and Markets Act 2000 (FSMA).
- 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 and applies to:

- Insurers.
- Other corporate entities.
- Procedures for the appointment of administrators and liquidators and for the winding-up of insurers by court order.

Lloyd's has its own procedures where a syndicate or member is 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 effective runoff until closure is possible.
- The liabilities being settled in whole or in part by (and at the discretion of) the Lloyd's Central Fund.

One key point of the insolvency regime for insurers (as opposed to companies that are not subject to Prudential Regulation Authority (PRA) or Financial Conduct Authority (FCA) regulation), is the statutory powers vested in the regulators to be notified of, and involved in, insolvency proceedings, and to initiate them if they wish to apply for the compulsory winding-up of an insurer.

Policyholder protection in an insurance company insolvency is overseen by the PRA or FCA as part of their statutory function of consumer protection, but in the event of an insurance insolvency, policyholders may also have direct rights under the:

- Financial Services Compensation Scheme (FSCS):
  - in the event of the insolvency of an insurer or insurance intermediary (including a branch of an EEA entity) and where a default is declared by the FSCS, which can happen when an entity with UK authorisation is considered to be unable or unlikely to meet claims against it (even if not yet wound up), the FSCS may pay compensation;
  - there is no upper financial limit for the amount of claims for FSCS protection, but whereas claims under life insurance, compulsory insurance and certain injury, sickness and disability policies are protected 100%, other types of claim may be limited to 90% of value.
- Detailed eligibility rules for FSCS protection are included in the FCA Compensation Sourcebook (COMP).
- Third Parties (Rights Against Insurers) Act 2010.

In the event of an insured (whether an individual or a corporate entity) becoming insolvent or dying insolvent at a time when the insured has insurance against liabilities to third parties, either before or after the insolvency, then the third party to whom the insured had incurred the liability can claim directly against the insurer in the manner that the insured could have done. The effect of the Third Party (Rights against Insurers) Act is to prevent claims available to third parties against an insolvent insured that held indemnity insurance falling into the general assets of the insured, rather than being preserved for the third party claimant.

Protected cell companies (PCCs) have their own procedure for dissolution, whether voluntarily or by reason of an insolvency event such as administration or liquidation (*Chapter 17, Risk Transformation Regulations 2017*).

30. Can excess insurance policies "drop down" to provide coverage if the primary insurer goes into insolvency?

Excess of loss reinsurance cover typically provides layers of reinsurance that operate in excess of each other and in a "stack" above the original insurer(s) for whose reinsurance cover the stack is created. Insolvency of the insured is not usually a trigger for liability on the part of the excess layers (subject to contractual wording). The usual policy provision is that liability under the excess layer only attaches as and when the primary insurer(s) pay, or admit, or are held liable to pay, the original insured(s)'s ascertained liability, and this liability exhausts the primary policy and triggers the attachment point under the excess reinsurance layer. 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.*

31. Is a right to set-off mutual debts and credits recognised in an insolvency proceeding involving an insurer or reinsurer?

If the insolvent entity is a company (as will be the case for most authorised reinsurers), the insolvency will be subject to the provisions of the:

- Insolvency Act 1986.
- Insolvency Rules 1986 (as amended).

Rule 4.90 of the Insolvency Rules governs mutual credits and set-offs. Rule 4.90 provides that if, before the company goes into liquidation, where there have been mutual credits, mutual debts or other mutual dealings between the company and any creditor of the company, then (subject to certain important exceptions and exclusions) an account is taken of what is due from each party to the other in respect of the mutual dealings, and the sums due from one party (be it the insurer or the creditor) are set off against the sums due from the other.

Where the company, as a third party, is subrogated to the rights of another party under an insurance policy by reason of the Third Party (Rights against Insurers) Act (*see Question 24*), the insurer cannot set off against the company's subrogated claim any arrears of premium due by the third party under the policy.

TAXATION OF INSURANCE AND REINSURANCE PROVIDERS

32. What is the tax treatment for insurers, reinsurers, and other persons or entities providing insurance and reinsurance-related services?

There is a distinction between life assurance (long-term business) and general (non-life) insurance business in the tax regime as operated by HM Revenue & Customs (HMRC).

General insurance business is a class of insurance business as specified in Schedule 1 to the Regulated Activities Order 2001 (SI 2001/544). Insurers that write healthcare insurance can write both long-term and general business but can account for all their business within the tax regime applicable to long-term business,

rather than separately applying the different tax regimes for long-term and general businesses. Composite insurers that carry on both long-term and general business are treated for tax purposes as carrying on only one undivided trade but are nevertheless required to prepare separate tax computations for long-term and general business, which are then combined to compute the overall figure of profit or loss.

A company carrying on general insurance business in the UK, or an intermediary trading in the UK, is subject to normal taxation rules governing the taxation of companies in the UK. That is, the company is subject to corporation tax on the annual profits or gains arising or accruing from its trade.

Different taxation treatment applies to life insurers and to Lloyd's corporate members.

For life assurance, the advent of Directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance and the discontinuance of the Financial Services Authority (FSA) Return (previously the basis for corporation tax computations) led to the introduction of a new regime in 2013 for taxing life insurers. In place of the FSA Return, corporation tax on life insurers is assessed by reference to their profit before tax, according to their statutory accounts. If the life insurer is carrying on different types of long-term business, the profit must be allocated between the different types of business and is taxed differently according to the type of business, a distinction being made between:

- Basic life assurance and general annuity business (BLAGAB).
- Other long-term business.

BLAGAB is taxed as though it were separate, and investment income and gains on the business is taxed by HMRC as they arise each year, with a deduction for business expenses. Other long-term business that is not basic life and general annuity business is taxed according to the normal rules for UK trading companies (*see above*), with some specific insurance provisions applicable. The rules for taxing the BLAGAB of a life insurance company seek to tax both the company's profits from writing life insurance business and the policyholder's investment return. New rules were introduced by the Insurance Companies (Taxation of Reinsurance Business) Regulations 2018 to prevent the life insurance company reinsuring its BLAGAB with a reinsurance company (not generally within BLAGAB) and avoiding the tax on the policyholder's investment return by the imputation of an investment return to the cedant in circumstances provided for in the Regulations.

A further amendment to insurance company taxation rules was introduced retrospectively with effect from 1 April 2017 by the Finance (No. 2) Act 2017 so as to cap the amount of profit that can relieved by carried forward losses. Insurers have been given an exclusion from the cap in respect of "shock losses" arising from loss events but are subject to a significant restriction (in that carried forward shock losses cannot be used against aggregate profits or surrendered as group relief).

INSURANCE AND REINSURANCE DISPUTE RESOLUTION

33. Are there special procedures or venues for dealing with insurance or reinsurance complaints or disputes?

For litigation, these disputes are usually heard in the Commercial Court, which is a part of the Queen's Bench Division of the High Court of Justice of England and Wales. These hearings are governed by the Civil Procedure Rules that are slightly modified in the Commercial Court. The Commercial Court publishes its own Guide or Practice Direction that should be consulted by parties wishing to litigate there.

The International Chamber of Commerce (ICC) and the London Court of International Arbitration (LCIA) are frequently used international arbitration venues with their own rules for governing the proceedings. In the absence of any provision to the contrary in the arbitration clause in the reinsurance contract, the parties to an arbitration can choose to adopt the Insurance and Reinsurance Arbitration Society's Arbitration Rules.

The courts have afforded substantial deference to arbitration proceedings. An arbitration award is generally only annulled if the arbitral process was "so removed from what could reasonably be expected of the arbitral process that the Court should be expected to intervene" (*Latvian Shipping Co v Russian Peoples' Ins Co [2012] EWHC 1412 (Comm)*).

34. Are arbitration clauses in insurance and reinsurance agreements enforceable?

Arbitration clauses in insurance and reinsurance agreements are enforceable.

35. Are choice of forum, venue and applicable law clauses in an insurance or reinsurance contract recognised and enforced?

Choice of forum, venue and applicable law clauses in an insurance or reinsurance contract are recognised and enforced.

REFORM

36. What proposals are there for reform of the law, regulation or rules relating to the provision of insurance or reinsurance services?

Recent years have seen significant changes to the relating to reinsurance, particularly the Third Parties (Rights against Insurers) Act 2010, the Consumer Rights Act 2015 and the Insurance Act 2015.

The law on damages for losses caused by rioters has also been updated in the first significant revision since 1886 in the Riot Compensation Act 2016 (in force from April 2017). On the horizon are two initiatives published by the Law Commission in its Thirteenth Programme of Law Reform which could have a major impact on insurance:

- Electronic signatures.
- "Smart contracts".

It remains to be seen whether Brexit will lead to the UK insurance sector being denied access to the EU single market and the right to "passport" insurance services. The UK's exit from the single market would likewise deny insurers in the ongoing EU the right to passport into the UK, unless new UK legislation provided for such access.

The change to the Ogden discount rate (*see Question 1*) announced in February 2017 is now the subject of a consultation process announced by the Ministry of Justice, following complaints from the reinsurance industry as to the financial impact on the industry.

MAIN INSURANCE/REINSURANCE TRADE ORGANISATIONS

Association of British Insurers (ABI)

Main activities. The ABI represents insurers and seeks to provide consumers of insurance services with general information on insurance and related products and services. It is also an advocate on insurance issues in the insurance and wider financial services industry.

W *www.abi.org*

British Insurance Brokers Association (BIBA)

Main activities. BIBA is the leading general insurance intermediary organisation representing the interests of insurance brokers, intermediaries and their customers.

W *www.biba.org.uk*

International Underwriting Association (IUA)

Main activities. The IUA represents non-Lloyd's insurance and reinsurance companies operating in the London market.

W *www.iua.co.uk*

Lloyd's Market Association (LMA)

Main activities. The LMA represents the interests of Lloyd's and provides professional and technical support to its members. All Lloyd's managing and members' agents at Lloyd's are members of the LMA.

W *www.lmalloyds.com*

ONLINE RESOURCES

Financial Conduct Authority (FCA)

W *www.fca.org.uk*

Description. This is the official website of the FCA.

Prudential Regulation Authority (PRA)

W *www.bankofengland.co.uk/pra*

Description. This is the official website of the PRA.

Parliament website

W *www.parliament.uk*

Description. This is the official website of the UK Parliament.

Parliament legislation

W *http://services.parliament.uk/bills/2015-16/bankofenglandandfinancialservices.html*

Description. This is the official website of the Parliament of the UK that tracks the progress of draft legislation through Parliament. Maintained by the government, it contains official up-to-date information.

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Recent transactions

- Management shareholders of Argenta Holdings plc in the sale of Argenta (Syndicate 2121 at Lloyd's and the Lloyd's members' agent Argenta Private Capital Limited) to Hannover Re.
- Global Atlantic Financial Group in the sale of its Bermuda and Lloyd's insurance and reinsurance businesses to BTG Banco Pactual.
- GreyCastle Holdings in its US$570 million acquisition, backed by a consortium of investors, of the run-off Life Reinsurance operations of XL Group.
- A subsidiary of Berkshire Hathaway in its acquisition of Hartford Life International Limited, an Irish domiciled variable annuity writer, for about US$285 million.

Publications

- *"United Kingdom – Insurance & Reinsurance", Getting The Deal Through, July 2017.*
- *"The Importance Of Being A Global Systemically Important Financial Institution", Insurance Day, April 2016.*
- *"Development of International Regulatory Capital Standards Continues", Insurance Day, September 2015.*
- *"The EU Solvency II Regime For Insurers: An Update On Implementation", FC&S Legal, May 2015.*
- *"The Shape Of EU Banks To Come", Banking Law Journal, April 2014.*
- *Insurance and Investment Management M&A Deskbook by Debevoise & Plimpton LLP, April 2015.*

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Recent transactions

- AmTrust in its US$218.7 million acquisition of ANV Holding BV.
- AIG with the preparation of a Resolution Plan under section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- American International Group in the proposed sale of AIA Group Limited to Prudential plc for US$35.5 billion.
- A subsidiary of Berkshire Hathaway in its acquisition of Hartford Life International Limited, an Irish domiciled variable annuity writer, for approximately US$285 million.

Publications

- *"United Kingdom – Insurance & Reinsurance", Getting The Deal Through, July 2017.*
- *"The Importance Of Being A Global Systemically Important Financial Institution", Insurance Day, April 2016.*
- *"Age of Aquarius for Individual Accountability in Financial Services?", Journal of International Banking Law and Regulation, Issue 3, 2016.*
- *"Development of International Regulatory Capital Standards Continues", Insurance Day, September 2015.*
- *Insurance and Investment Management M&A Deskbook by Debevoise & Plimpton LLP, April 2015.*