

Insurance/  
Reinsurance

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Welcome to HFW's Insurance Bulletin, which is a summary of the key insurance and reinsurance regulatory announcements, market developments, court cases and legislative changes of the week.

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Latin America: HFW attends panel discussion on cyber breaches.

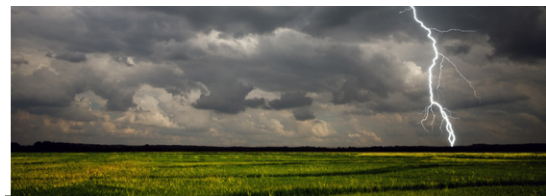
Middle East: HFW attends the 4<sup>th</sup> edition of the Infrastructure Risk Management Forum.

Should you require any further information or assistance on any of the issues dealt with here, please do not hesitate to contact any of the contributors to this bulletin, or your usual contact at HFW.

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## **hfw** 1. Regulation and legislation

### **UK: New duty of responsibility for senior insurance executives**

**Senior insurers and brokers will soon have the same duty of responsibility as bankers under new legislation currently progressing through the House of Lords.**

The changes mean that senior insurance managers and insurers will be subject to higher standards of personal responsibility and accountability. Around 580 insurance firms and 3,400 insurance managers are likely to be affected by the reforms, which are being introduced by the Bank of England and Financial Services Bill. The Bill<sup>1</sup> widens the scope of the Senior Managers and Certification Regime to cover the whole financial services industry, replacing the existing Approved Persons Regime, which has been discredited since the financial crisis. The FCA commented that the Bill *“is an important step in embedding a culture of personal responsibility throughout the financial services industry”*.

The government had initially planned to introduce a “guilty until proven innocent” principle for senior executives, where the onus would be on the individual to prove they were unaware of any wrongdoing. This has been abandoned in favour of the duty of responsibility.

Following the Bill’s second reading in the House of Lords on 26 October 2015, the Bill has been committed to a Committee of the House of Lords. The new rules are expected to come



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into force on 7 March 2016 for banks, building societies, credit unions and PRA-regulated investment firms. It is expected to be extended to the insurance sector by 2018. In view of the timescale for implementation, insurance firms should start to think about identifying the individuals and entities who will be affected by the new rules, and establishing internal structures and systems necessary for compliance with them.

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### **Hong Kong: First commencement notice issued in respect of Hong Kong’s Insurance Companies (Amendment) Ordinance**

We have previously reported<sup>1</sup> that the Insurance Companies (Amendment) Bill 2014 (Bill) was passed by the Hong Kong Legislative Council on 10 July 2015. The resulting Insurance Companies (Amendment) Ordinance (Amendment Ordinance) amends the Insurance Companies Ordinance and will, once the relevant section is in force, rename it the Insurance Ordinance. The Amendment Ordinance will launch in three stages, over two to three years, to allow for a phased-in transition from regulation by the Commissioner of Insurance (OCI) and the existing self-regulatory (SRO) regime for insurance intermediaries to regulation by the independent Insurance Authority.

The latest timetable is set out in a Legislative Council Brief dated 7 October 2015<sup>2</sup>:

- As stage one, the government plans to establish the Provisional Insurance Authority (PIA) by the end of 2015. The PIA will undertake essential preparatory work, such as recruiting key personnel, leasing office premises and procuring office and IT equipment and so on. The PIA will prepare the guidelines for insurers and necessary subsidiary legislation will be ready before stage two commences.
- In stage two, which is likely to take place in late 2016 or in 2017, the PIA will be renamed the Insurance Authority (IA). This body will take over the duties of the Commissioner of Insurance and the OCI such as the prudential

1 <http://www.publications.parliament.uk/pa/bills/lbill/2015-2016/0065/15065.pdf>

1 <http://www.hfw.com/downloads/HFW-Insurance-Bulletin-Weekly-16-July-2015.pdf>

2 [http://www.fstb.gov.hk/fsb/ia/eng/establishment/doc/ia-lb-071015\\_e.pdf](http://www.fstb.gov.hk/fsb/ia/eng/establishment/doc/ia-lb-071015_e.pdf)



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and conduct regulation of insurers and enforcing the anti-money laundering regulatory regime. During stage two, the regulation of insurance intermediaries by SROs will continue but preparations will be carried out for stage three. In particular the IA will prepare, in consultation with the industry and the general public as appropriate, the necessary regulatory tools, including the code of conduct for insurance intermediaries, guidelines on pecuniary penalty, rules and online register of insurance intermediaries and so on.

- Stage three is likely to take place in 2017 or 2018 or later. Stage three is a major shift – a statutory licensing regime for insurance intermediaries will replace the SROs.

In line with the planned staged phased-in transition, on 9 October 2015, the Secretary for Financial Services and

the Treasury published the Insurance Companies (Amendment) Ordinance 2015 (Commencement) Notice 2015 in the gazette<sup>3</sup> which appoints 7 December 2015 as the day on which certain provisions of the Amendment Ordinance come into operation. Those provisions provided relate to stage one – namely, the establishment of the PIA (sections 8, 9, 11 and 90 of the Amendment Ordinance) and related matters such as its powers (section 11), checks and balances and the appointment of industry advisory committees (sections 11 and 90), the employment of staff (section 11), accounting and financial arrangements (section 15). In other words stage one will commence on 7 December 2015 as foreseen.

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## **hfw** 2. Market developments

### **England and Wales: High Court approves Part VII transfer from Excess Insurance Company to Hartford Financial Products International**

On 13 October 2015, the High Court approved a Part VII transfer from Excess Insurance Company to Hartford Financial Products International. The transfer took effect on 15 October 2015.

<sup>3</sup> <http://www.gld.gov.hk/egazette/english/gazette/volume.php?extra=0&year=2015&month=10&day=09&vol=19&no=41&gn=&type=2>



## **hfw** 3. HFW news, publications and events

### Europe

On 28 October 2015, Partner **Andrew Bandurka** and Associate **Ben Atkinson** presented a paper on PI and Products Insurance Cover in Italy.

### Latin America

#### **HFW attends panel discussion on cyber breaches**

On 15 October 2015, Partner **Geoffrey Conlin** attended a panel discussion on cyber breaches with the New York Bar Association in São Paulo.

### Middle East

#### **HFW attends the 4<sup>th</sup> edition of the Infrastructure Risk Management Forum**

On 13 October 2015, Partner **Sam Wakerley** attended the 4<sup>th</sup> edition of the Infrastructure Risk Management Forum in Muscat. The forum considered the complex and evolving risks facing the infrastructure space in the Middle East, and included a key note speech from the CEO of the Oman Airports Management Company.

Lawyers for international commerce

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