

Insurance/
Reinsurance

28 January
2016

INSURANCE BULLETIN



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.

In this week's bulletin:

1. Regulation and legislation

UK: PRA updates firms on its approach to the solvency capital requirement under Solvency II

2. Market developments

UK: Final recommendations from the Insurance Fraud Taskforce
International: Threats to global stability and the role of insurance

3. HFW publications and events

HFW publishes briefing on opportunities in Iran following sanctions relief
HFW publishes briefing on the new Saudi companies law and its implications for KSA companies
HFW hosts seminars on changes in insurance law
HFW hosts a seminar on achieving effective risk transfer and claims response through insurance and reinsurance

Andrew Bandurka, Partner, andrew.bandurka@hfw.com
Alison Proctor, Senior Associate, alison.proctor@hfw.com
Will Reddie, Associate, william.reddie@hfw.com





hfw 1. Regulation and legislation

UK: PRA updates firms on its approach to the solvency capital requirement under Solvency II

The PRA has published a letter¹ from Sam Woods (Executive Director, Insurance Supervision) to firms which sets out the PRA's proposed approach to the solvency capital requirement (the SCR) in Solvency II.

The letter explains how the PRA will act when a firm approaches its SCR. Mr Woods states that, when considering a contingency plan, the PRA will take into account the volatility of each firm's capital position, the nature of its business model and the particular risks to which it is exposed. In acknowledging that these factors "*will clearly differ from one firm to another*", Mr Woods suggests that the PRA will tailor its approach to individual firms.

This is supported by Mr Woods' emphasising that the PRA intends to use a judgement-based approach to prudential supervision and that, as he has previously explained², the PRA does not have a fixed point above the SCR which will trigger a formal intervention, as this "*would be incompatible with the intention of legislators to deliver a 1-in-200 level of solvency across Europe*".

In the letter, Mr Woods also notes that the SCR is more similar to the ICAS regime than to the Insurance Groups Directive (IGD) regime and that, in his view, reading across a group's previous IGD position to its new Solvency II position would be "*unlikely to have much information value*".



Mr Woods states that, when considering a contingency plan, the PRA will take into account the volatility of each firm's capital position, the nature of its business model and the particular risks to which it is exposed.

WILL REDDIE, ASSOCIATE

Mr Woods' letter also looks back at the PRA's decision-making process for approving internal model applications. The detailed annexes to the letter contain further information about how the process was operated, and may be useful reading for firms that are considering applying for approval of an internal model.

For more information, please contact Will Reddie, Associate, on +44 (0)20 7264 8758, or william.reddie@hfw.com, or your usual contact at HFW.

hfw 2. Market developments

UK: Final recommendations from the Insurance Fraud Taskforce

The Insurance Fraud Taskforce has published its final report¹ after a year long review into insurance fraud. The overall objective of the review is to reduce costs for consumers. The report sets out a number of recommendations for tackling fraudulent activity whether it be organised, premeditated or opportunistic.

The aim of those recommendations is to improve consumer trust in the insurance sector and raise the public profile of insurance fraud as a criminal activity. They also seek to tackle organised insurance fraud through encouraging data sharing and collaboration between the insurance sector and regulatory bodies.

For more information, please contact Lizzie Gray, Associate, on +44 (0)20 7264 8752, or lizzie.gray@hfw.com, or your usual contact at HFW.

International: Threats to global stability and the role of insurance

The World Economic Forum (WEF) has identified the greatest threat to global stability over the next decade as international conflict. This marks the return of geopolitical risks to the top of the list. The findings were published in the WEF's 2015 edition of its annual Global Risks report, ahead of the WEF meeting in Davos which took place from 21 to 24 January 2016.

1 <http://www.bankofengland.co.uk/pradocuments/solvency2/edletter15jan2016.pdf>

2 See 'UK: The countdown to the implementation of Solvency II – Bank of England update' – http://www.hfw.com/Insurance-Bulletin-12-November-2015#page_2

1 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/494105/PU1817_Insurance_Fraud_Taskforce.pdf



Mr Drzik emphasized how insurance will aid in mitigating the financial effects of such risks and stressed the responsibility of insurers in improving risk resilience: *“The insurance industry has a strong role to play in enforcing common standards that help improve risk assessment and management, from cyber security to flood defences, for example”*.

LUCINDA RUTTER, ASSOCIATE

Risks identified were ranked according to likelihood and impact. Interstate conflict, extreme weather events and climate change, failure of national governance, state collapse and high unemployment were among the most likely risks. The highest ranking risks in terms of impact included water crises, disease pandemics, weapons of mass destruction and failure to adapt to climate change. The experts' assessments of the preparations for dealing with severe weather and climate change were not positive.

The interconnection of risks was highlighted in the report, for example, the rapid pace of innovation and cyber risk. As John Drzik, president of global risk and specialties at Lloyd's broker, Marsh, pointed out, *“the cost of cyber attacks is estimated now at \$400bn annually”*.

Additionally, Mr Drzik highlighted risks associated with emerging technologies, such as synthetic biology (used in medicine and bio-fuels), which present new socio-economic threats arising out of *“bio-error and bio-terror”* and the importance of adequate governance.

Mr Drzik emphasized how insurance will aid in mitigating the financial effects of such risks and stressed the responsibility of insurers in improving risk resilience: *“The insurance industry has a strong role to play in enforcing common standards that help improve risk assessment and management, from cyber security to flood defences, for example”*.

For more information, please contact Lucinda Rutter, Associate, on +44 (0)20 7264 8226, or lucinda.rutter@hfw.com, or your usual contact at HFW.



hfw 3. HFW publications and events

HFW publishes briefing on opportunities in Iran following sanctions relief

Further to HFW's briefing on the top 10 things to consider in relation to the partial lifting of Iran sanctions¹, HFW has published a briefing² on the opportunities which are now available with regard to trade with Iran. The briefing also identifies some key points to consider before conducting business in or with Iran/Iranian entities. As certain restrictions remain in place, it is recommended that legal advice is sought before conducting business in order to ensure that transactions comply with the remaining sanctions requirements.

For more information, please contact Daniel Martin, Partner, on +44 (0)20 7264 8189 or daniel.martin@hfw.com, or Anthony Woolich, Partner, on +44 (0)20 7264 8033 or anthony.woolich@hfw.com, or Elena Kumashova, Associate, on +32 (0) 2643 3413 or elena.kumashova@hfw.com, or your usual contact at HFW.

HFW publishes briefing on the new Saudi companies law and its implications for KSA companies

HFW has published a briefing³ on the Kingdom of Saudi Arabia's new companies law (the New Law) which will come into force in May 2016 and is set to modernise the current framework under the law enacted in 1965. The briefing explains the key

1 <http://www.hfw.com/Lifting-of-Iran-sanctions-top-10-things-to-consider-January-2016>

2 <http://www.hfw.com/Iran-opportunities-following-sanctions-relief-January-2016>

3 <http://www.hfw.com/The-new-Saudi-companies-law-January-2016>



changes that the New Law will make in relation to the regulation of companies in KSA and suggests some actions that KSA companies should consider prior to the New Law coming into force.

For more information, please contact Wissam Hachem, Partner, on +966 11 276 7372 or wissam.hachem@hfw.com, or Carol-Ann Burton, Consultant, on +971 4 423 0576 or carol-ann.burton@hfw.com, or Josianne El Antoury, Associate, on +971 4 423 0532 or josianne.elantoury@hfw.com, or your usual contact at HFW.

HFW hosts seminars on changes in insurance law

On 27 and 28 January, HFW Partner Nigel Wick presented seminars in Singapore and Hong Kong respectively which discussed the most significant changes to English and Scottish insurance law for more than 100 years. The reforms cover pre-contractual disclosure, conditions and warranties, fraudulent claims, damages for late payment of claims, and third party rights against insurers of insolvent insureds. The seminars discussed the problem areas and practical impact of the key changes to be introduced by the Insurance Act 2015, The Enterprise Bill 2015 and the Third Parties (Rights against Insurers) Act 2010.

For more information, please contact Nigel Wick, Partner, on +44 (0)20 7264 8287 or nigel.wick@hfw.com or your usual contact at HFW.

HFW hosts a seminar on achieving effective risk transfer and claims response through insurance and reinsurance

On 27 January, HFW Partner Graham Denny presented a seminar in Geneva which considered the the issues affecting the negotiation and placement of insurance and payment of insurance claims, the main coverage issues and ways to avoid them whether through contract certainty at time of placement or claims strategies. The seminar also focused on complex claims scenarios in the context of global insurance programmes and included discussion relevant to property, trade credit, political risk insurances, insurance-backed transactions and liability insurances. Graham also discussed the Insurance Act 2015 and its likely effect on policyholders' and insurers' obligations and on coverage issues.

For more information, please contact Graham Denny, Partner, on +44 (0)20 7264 8387 or graham.denny@hfw.com or your usual contact at HFW.

Lawyers for international commerce

hfw.com

© 2016 Holman Fenwick Willan LLP. All rights reserved

Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only. It should not be considered as legal advice.

Holman Fenwick Willan LLP is the Data Controller for any data that it holds about you. To correct your personal details or change your mailing preferences please contact Craig Martin on +44 (0)20 7264 8109 or email craig.martin@hfw.com

São Paulo London Paris Brussels Geneva Piraeus Beirut Riyadh Kuwait Abu Dhabi Dubai
Singapore Hong Kong Shanghai Perth Melbourne Sydney