

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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HFW co-hosts seminar in Hong Kong on Kidnap, Ransom and Extortion.

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

### **UK: Small claims limit to be increased for personal injury claims including whiplash**

**As part of the Government's Spending Review and Autumn Statement to the House of Commons, it was announced last week that the upper limit for personal injury claims in the Small Claims Court will be increased from £1,000 to £5,000.**

This arguably controversial move, which is in part a way to make it more difficult for people to claim compensation for exaggerated or fraudulent whiplash claims, and is announced alongside the Government's plans to prohibit courts from awarding general damages for pain, suffering and loss of amenity in minor soft tissue injuries (including whiplash claims, which form eight out of 10 personal injury claims following road traffic accidents, according to the Association of British Insurers). Claimants will still be entitled to claim for "special damages" including treatment for any injury and any loss of earnings. On 18 November 2015 the Justice Minister Caroline Dinenage also suggested that the limitation period for making a whiplash claim, which currently stands at three years, may be reviewed, something that will be included in the Insurance Fraud Taskforce Report due out in December this year.

As a result of these changes the Chancellor estimated that annual insurance costs for drivers could fall by between £40 to £50 per year. However, they are likely to put further strain on the court system if the many thousands of road traffic accident claims which currently fall within £1,000 to £5,000 are now dealt with

in the Small Claims Court, and may render almost obsolete the Ministry of Justice personal injury Claims Portal which has been expensive for the Government to establish.

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### **England and Wales: House of Lords publishes briefing on the Mesothelioma (Amendment) Bill 2015**

**The House of Lords has published a briefing<sup>1</sup> on the Mesothelioma (Amendment) Bill 2015 (the Bill), which received its second reading in the House of Lords on 20 November 2015. The Bill seeks to amend the Mesothelioma Act 2014 (the Act) in order to ensure that research into mesothelioma is funded by active insurers.**

Section 13(1) of the Act currently provides for regulations to be made which require active insurers to pay a levy to fund the Diffuse Mesothelioma Payment Scheme. This scheme was set up in order to compensate people with diffuse mesothelioma who were exposed to asbestos by their employer and are unable to bring a claim for compensation against their employer or their employer's provider of employers' liability insurance. Further information about the scheme is available here: <https://mesoscheme.org.uk>.

The Bill will require the regulations which are made under the Act to specify that the levy which is paid by active insurers should include a research supplement of not more than 1% of the levy. The Bill will also specify that the amounts raised by

the supplement would have to be applied by way of grants or other financial assistance for research into mesothelioma, and will require the Secretary of State to consult with insurers, medical charities and research foundations, and other interested parties prior to making any regulations regarding the research supplement.

The Bill is identical to the Mesothelioma (Amendment) Bill 2014-15 which was introduced into Parliament as a private member's bill in the summer of 2014. The Bill has already progressed further than last year's version, which did not receive a second reading in the House of Lords, but it remains to be seen whether the Bill will be adopted.

We will continue to track the Bill's passage through Parliament and will report on its progress.

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**WILLIAM REDDIE, ASSOCIATE**

<sup>1</sup> <http://researchbriefings.files.parliament.uk/documents/LIF-2015-0047/LIF-2015-0047.pdf>

## 2. Market developments

### UK: FCA to conduct examination of use of “Big Data” by insurers

**The Financial Conduct Authority (the FCA) has this week announced that it is conducting a review into how insurers analyse and utilise information about consumers. The FCA has published a “call for inputs” seeking views on how so-called “Big Data” is affecting, and is likely to affect in the future, consumer outcomes and competition in the retail general insurance sector.**

The FCA defines Big Data as *“the use of new or expanded data sets; new technologies to generate, collect and store data; and sophisticated analytical techniques”*.

The analysis and processing of large and complex sets of information, often harvested from one’s use of mobile phones and personal computers, could be used beneficially to enhance consumer choice and optimise industry practices. However, there is increasing concern that big data could be used in ways that could have negative social consequences.

The FCA’s director of strategy and competition said that they are keen to *“talk to both consumers and industry to understand Big Data’s impact on firms’ decisions, and in turn the effects that this is having on consumers”* and *“will then be able to consider what further steps may need to be taken”*.



The FCA is also interested in whether its regulatory framework affects developments in Big Data in retail general insurance.

ANDREW SPYROU, ASSOCIATE

The FCA is also interested in whether its regulatory framework affects developments in big data in retail general insurance. It expects to publish a feedback statement detailing the findings from the call for inputs and their next steps in mid-2016.

For further details of how to respond to the call for inputs, which closes on 8 January 2016, see the FCA website<sup>1</sup>.

For more information, please contact [Andrew Spyrou](#), Associate, on +44 20 7264 8789, or [andrew.spyrou@hfw.com](mailto:andrew.spyrou@hfw.com), or your usual contact at HFW.

<sup>1</sup> <https://www.fca.org.uk/news/call-for-inputs-big-data>

## 3. HFW publications and events

### HFW attends Russian Union of Marine Insurers conference

On 26 November 2015, HFW Partner Jonathan Bruce spoke at the Russian Union of Marine Insurers conference in Moscow. Jonathan’s presentation covered the changes to the law that will be made by the Insurance Act 2015.

For more information, please contact [Jonathan Bruce](#), Partner on +44 (0)20 7264 8773, or [jonathan.bruce@hfw.com](mailto:jonathan.bruce@hfw.com) or your usual contact at HFW.

### HFW co-hosts seminar in Hong Kong on Kidnap, Ransom and Extortion

On 24 November 2015, HFW co-hosted a seminar with Aon and XL Catlin on Kidnap, Ransom and Extortion.

HFW Partner George Lamplough discussed his experiences in dealing with these perils, offering key insights and takeaways when dealing with an incident of this magnitude within a corporate environment.

The seminar also considered the innovative insurance mitigation solutions available in response to kidnap, ransom and extortion, and discussed some recent cases on extortion, illegal detention and disappearance.

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