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INSURANCE BULLETIN



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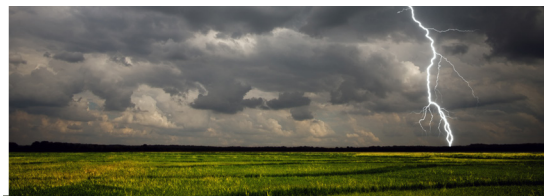
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hfw 1. Regulation and legislation

UK: The Insurance Distribution Directive – first draft UK legislation and FCA rules published

HM Treasury has published a consultation paper¹ on the transposition of the Insurance Distribution Directive (IDD), which will repeal and replace the Insurance Mediation Directive. The consultation seeks views on the government’s proposals for amending legislation to effect the implementation of the IDD and on the draft statutory instrument which will effect the transposition.

Broadly speaking, the questions on which HM Treasury is consulting relate to:

- The regulation of products sold as add-ons.
- The exemption for “*connected contracts*” (i.e. insurance products which are sold as add-ons to a firm’s principal goods or service).
- Whether motor warranties which are contracts of insurance should continue to be subject to regulation.
- The extent to which the mere provision of information should be regulated.
- Whether the draft statutory instrument adequately implements certain powers and functions of the regulators.

As with Solvency II, the IDD will be enacted by a combination of statutory instruments and FCA rules. On 6 March, the FCA published its first consultation² on rules transposing the IDD. The FCA’s first consultation focuses on:

- The application of the IDD.
- Professional and organisational requirements.
- Complaints handling and redress.
- Changes to conduct of business rules for non-investment insurance contracts.
- The regulatory regime for companies whose distribution of insurance products is ancillary to their main business.

The FCA’s second consultation paper will be published later this year. The second consultation will focus on conduct of business rules for life insurance and on areas which are still subject to further work by EIOPA and the European Commission.

HM Treasury has stated that the government intends to make the draft legislation later in 2017. Taking into account the consultation periods of the HM Treasury and the two FCA consultations (the first of which closes on 5 June), time for HM Treasury and the FCA to consider the responses and make necessary amendments, and the summer holidays, it seems unlikely that we will see a final statutory instrument until the autumn and we may not see final FCA rules until the winter or even early 2018.

For a summary of the IDD and the changes it will make, please see our Bulletin of 8 September 2016. For further information on developments relating to the IDD, please click [here](#) for our bulletin of 16 February 2017, and [here](#) for our bulletin of 23 February 2017.

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

UK: Vehicle Technology and Aviation Bill sets out major changes for insurance of autonomous vehicles

The Government has introduced its new Vehicle Technology and Aviation Bill 2016-17 in the House of Commons. The Bill sets out new rules for the insurance of self-driving cars and had its first reading on 22 February 2017, following a consultation period which ended in September 2016.

The 75-page draft Bill sets out important changes to current motor insurance rules, which the Government describes as “*driver-centric*” and under which all vehicles must be insured under the Road Traffic Act 1988. The overarching aim of the new proposals in the Bill is to ensure better protection of drivers by proposing that a single insurance product for automated vehicles will cover both the motorist when they are driving, as well as the car when it is in automated mode. The Bill’s intention is that if there is an accident, the compensation route for the victim should remain within the motor insurance settlement framework, rather than through a product liability framework against a manufacturer. The result should be that victims of collisions with automated vehicles have quick and easy recourse to compensation.

Insurers will in due course need to adapt their current insurance products to meet the requirements of the Bill. The insurance industry has generally endorsed the proposals. David Williams, Head of Underwriting at AXA UK described it as “*a positive step forward that provides clarity to insurers to ensure we design our products appropriately*”. Similarly, the

1 <https://www.gov.uk/government/consultations/transposition-of-the-insurance-distribution-directive>

2 <https://www.fca.org.uk/publications/consultation-papers/cp17-7-insurance-distribution-directive-implementation>



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SIMON BANNER, ASSOCIATE

Association of British Insurers has stated that *"the insurance industry is 100 per cent committed to supporting the development of automated vehicles, which have the potential to dramatically improve road safety and revolutionise our transport systems."*

The industry also expects the eventual impact of automated vehicles to be reflected in fewer accidents, fewer claims and consequently lower premiums.

The Government hopes that the measures will ultimately boost the UK economy by incentivising manufacturers to develop transport technology in the United Kingdom with the confidence that they are operating within a clear insurance and regulatory framework, giving them confidence to exploit early market opportunities. In this regard, the Government has stated that it is deliberately trying to answer the insurance questions *"sooner rather than later"*. However, the question is becoming more and more relevant to the present, not only the future. For instance, new cars are increasingly offering automated technology in

their *"drivetrain"*, the system in a vehicle connecting the transmission to the drive axles, such as automated parking, lane departure warnings, intelligent lighting and assisted emergency braking.

Insurance proposals are just one area covered in the Bill. It extends into several other areas, such as improvements to the provision of electric vehicle charge points, changes to air traffic services and vehicle testing.

The draft Bill is available [here](#).

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hfw 2. Market developments

UK: Lloyd's Market Association publishes guidance on use of ORSA reports

The Lloyd's Market Association (LMA) has published guidance on how own risk & solvency assessment (ORSA) reports can "promote a risk and capital culture" which balances the various competing interests in a business.

The guidance acknowledges that there are tensions between the requirements of the PRA and FCA, which regard the ORSA report as a way to obtain detailed information about managing agents, and managing agents' board members, who it considers tend to engage best with brief, focused reports. The tension is particularly apparent when the purpose of the ORSA is considered – to enable managing agents, rather than the regulators, to assess risks and the amount of capital which is necessary to cover these risks.

The LMA's suggested way of dealing with this tension is for managing agents to treat ORSA as an ongoing process throughout the year, and to create a distinction between the high-level summary which is provided to a managing agent's board and the detailed information which a managing agent provides to the regulators.

The guidance also noted the widespread adoption of ORSA, or a similar requirement, by regulators outside the EU. The guidance contains a list of regulators which have adopted ORSA/similar requirements, and a helpful summary of the requirements they have adopted.

The overall message in the guidance is that the LMA Chief Risk Officers'



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WILL REDDIE, ASSOCIATE

Committee is *"very supportive"* of ORSA, and states that it is a *"material positive feature"* that insurers can develop ORSA in a way that suits them.

The LMA's guidance can be found [here](#).

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