Hogan Lovells

Insurance Horizons

2021

Contents

Introduction

The global pandemic brought a wave of changes and developments that have impacted, and continue to impact, the insurance sector. As we look ahead, we see further change on the horizon.

Around the world, we continue to deal with the human and financial crisis caused by the global pandemic and this is unlikely to end anytime soon. For the insurance sector, some of the impacts of the pandemic have been immediate (such as the various rulings on policy coverage arising out of business interruption cases) but others will only become clear over the long term (for example, the possibility of inflation increasing as we emerge from the global pandemic).

In this year's brochure, we've collected a global snapshot of topics that are on the horizon for the insurance sector and which may impact you and your business over the coming months. We look at some of the emerging "grey swan" risks such as climate and wider Environmental, Social, and Governance (ESG) risks together with other risks that the sector may need to consider. We have also included focuses on M&A, sanctions, reinsurance in Germany, InsurTech, and open finance.

As a global Insurance industry team, we follow industry trends and developments as closely as possible to deliver well-informed perspectives and thought leadership to our clients and contacts. We have included a list of key contacts in this brochure and we encourage you to contect them to discuss any of the topics covered or other issues of interest to you and your business.

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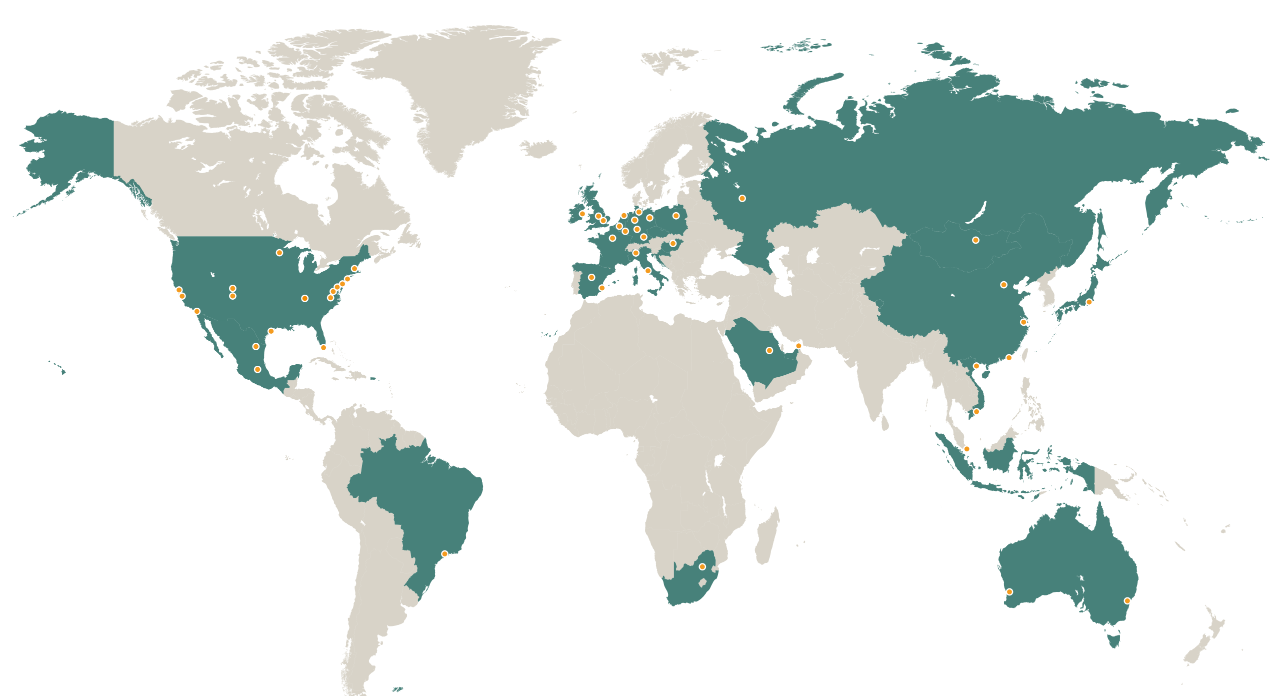
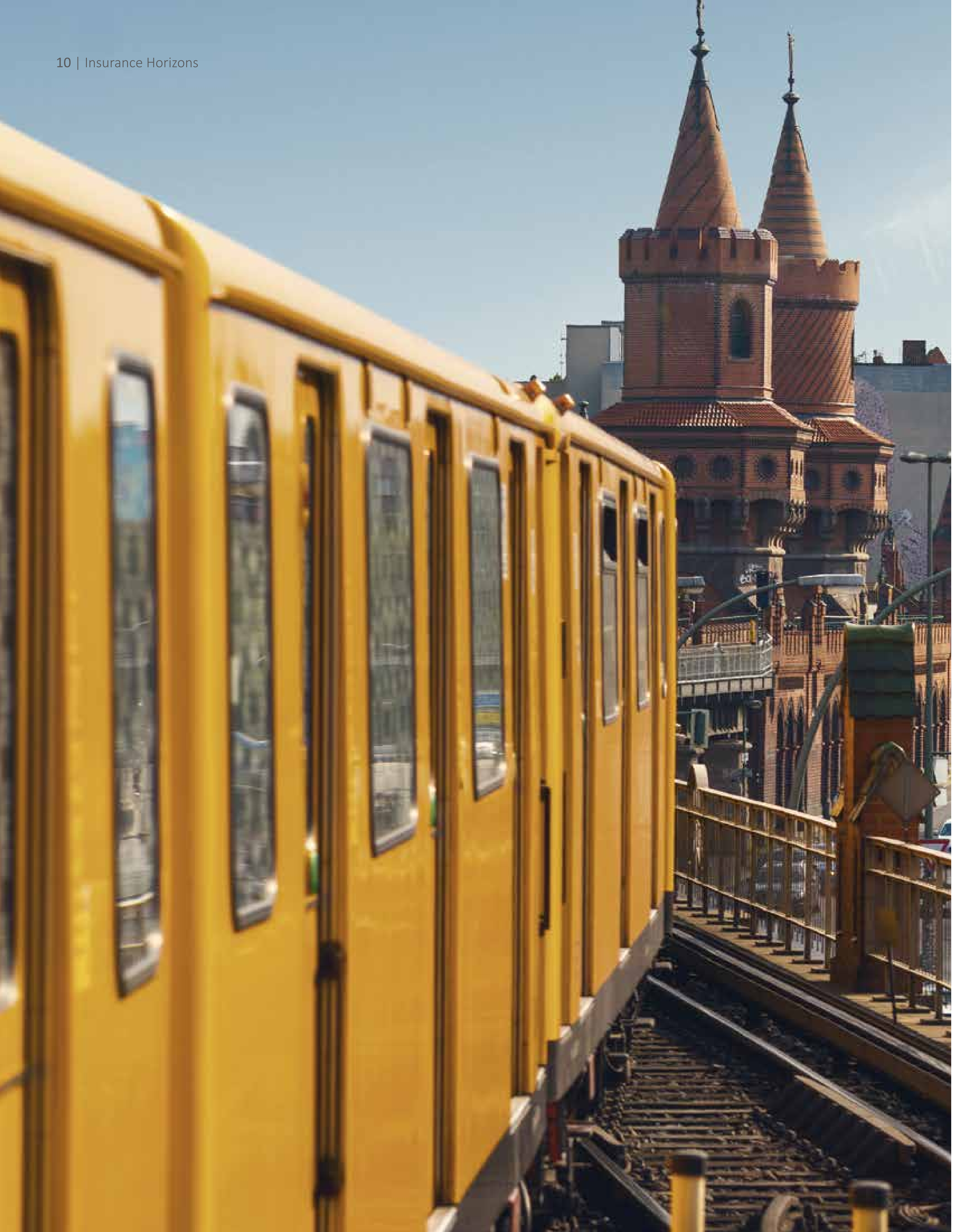
Market recognition

- *The Legal 500:* UK Corporate and Regulatory Insurance law firm of the year 2020
- *The Legal 500* and *Chambers 2019* and 2020: Ranked for insurance in 10+ jurisdictions, including top-tier rankings in the UK, the United States, France, Spain and Poland
- *Law360* – Insurance Practice Group of the Year 2019, 2017, 2016, and 2015
- 39 Lawyers – listed in current legal directories globally for insurance





Why Hogan Lovells

Our vision is to be a bold and distinctive law firm creating valuable solutions for clients.

Our expertise is well-balanced across practices and jurisdictions allowing us to deliver high quality advice. We pride ourselves on our culture which is ambitious, committed and supportive.

Innovation means different things to different people. At one level, innovation simply means the ability to approach a project with an open mind, to adapt to what a particular client needs and to identify ways in which we can improve. We also include the following under innovation:

Helping our clients innovate
We focus on areas where law and regulation are changing, helping our clients realize the potential of a wide-ranging set of developments, market shifts and new technologies, whether that is Big Data, blockchain or Environmental, Social, and Governance. We also work to help in-house legal teams innovate and drive outcomes within their businesses.

Innovating in how we deliver our services
As our clients' priorities change, we are always looking to enhance our mix of services and the way we deliver them. Part of this involves thinking about ways we can use advanced technology or alternative delivery models. But it also involves thinking about the way in which we engage and collaborate with our clients at all stages of a project in order to develop new approaches, improve decision-making and maximize value for the in-house legal team.

Innovating in how we run our business
Our people are our most important resource. Talent-focused innovation in relation to diversity and inclusion, legal learning and citizenship initiatives are therefore all central to our approach. We also operate an internal innovation hub and business incubator, focused on helping our people to test and develop their ideas.

Top 10 most innovative law firms in Europe, North America and Asia

Financial Times – FT Innovative Lawyer Awards 2019 & 2020

ESG: A Global Issue for the Insurance Industry

Environmental, Social, and Governance issues are – in different ways – on the agendas of national governments, regulators and the boards of insurers and reinsurers across the globe. While these topics are discussed and considered to be of critical importance by virtually all players in the European market, there is much less activity in the United States. In this article we give an overview of the current position in the UK, Continental Europe, and the Americas.

United Kingdom

In common with many other markets, environmental and climate-related risks remain the primary ESG focus for the UK's financial services regulators, the Prudential Regulation Authority (PRA), and the Financial Conduct Authority (FCA).

From a prudential perspective, UK firms are required to have embedded the approaches to managing climate-related financial risk set out in the PRA's Supervisory Statement 3/19 by the end of 2021, including implementing appropriate governance up to board level to ensure climate-related risks are monitored and managed and using climate-related scenario analysis. PRA feedback during 2020 suggested that many firms would need to increase their capabilities materially in these areas, and the outcomes from the 2021 Biennial Exploratory Scenario – which will launch in June 2021 and includes stress testing of the resilience of the largest UK banks and insurers to different climate pathways – will therefore be a key indicator of progress in this area when results are published in early 2022.

Climate-related disclosure also remains a key focus. At a corporate level, premium-listed UK issuers are now subject to a "comply or explain" requirement to make climate-related disclosures in their annual report. Initiatives by both the FCA (due to publish a Consultation Paper on requiring asset managers and life insurers to provide "Task force on Climate Change-related Financial Disclosure" (TCFD) in June 2021) and the Department for Business, Energy & Industrial Strategy (BEIS) (who closed a consultation on extending climate-related disclosures to all publicly-listed companies and large private companies in May 2021) are likely to result in this obligation being extended much more broadly across the sector. At the same time, from a product perspective, the quality of disclosures in relation to ESG/sustainable fund products is also an increasing focus for the FCA and an area that will directly impact life insurers. The FCA is expected to publish an update on the development of its "guiding principles" for the design, delivery and disclosure of such products by the end of Q3 2021.

However, even if environmental issues continue to receive primary attention, other ESG issues are also starting to get more focus. This is particularly true of diversity in the sector, which both the PRA and FCA see as important to improving decision-making, which in turn supports better consumer outcomes and security in the sector. A joint Discussion Paper on Diversity and Inclusion is expected to be released in June 2021, with a data request to key firms later in the year and a consultation paper in early 2022.

Continental Europe

In the European insurance industry, among the ESG criteria, "environmental" is most distinctive and is applied in several areas, the most prominent being (i) investments/asset management, (ii) underwriting and (iii) own operations.

In a position paper adopted in February 2021, the Board of the German Insurance Association (GDV) committed to invest their clients' money (EUR1,700 billion) in a climate-neutral way by 2050 at the latest. Many German and other European insurers have set more ambitious goals for themselves, *e.g.* Allianz with an undertaking to reduce the level of greenhouse gas emissions in its investments in public equity and listed corporate bonds by 25% by 2025 compared to 2019. Also, many insurers invest in infrastructure and renewables assets and operate with negative lists containing investments that do not meet certain criteria and are therefore blocked for investment. Furthermore, many insurers have set up investment plans to support a sustainable recovery in Europe post-COVID, for example Generali with their EUR3.5 billion investment plan "Fenice 190" and AXA's EUR2 billion allocation to the Prêts Participatifs Relance to strengthen SME capital in France.

Insurers are increasingly incorporating ESG criteria in their underwriting guidelines and are excluding certain industries, *e.g.* controversial weapons or coal-based businesses and other carbon-intensive industries, or focussing on sustainable industries such as renewable energy. Many organizations have set themselves goals in respect of their own operations. Talanx for example has committed to achieve group-wide climate neutrality worldwide by 2030 at the latest.

Finally, insurance regulators are focusing on the issue. German BaFin, for instance, made Sustainable Finance one of its focal themes in 2020, and the topic will remain in focus in 2021.

United States

In the United States, the label "ESG" has not taken hold as in the UK and Continental Europe. Because insurance is regulated by each state, individual regulators' approaches to ESG-related issues vary, particularly since the label does not carry a uniform meaning across all state jurisdictions.

In recent years, climate change-related catastrophic risk has been a focus for regulators. For example, in 2020, the National Association of Insurance Commissioners (NAIC) created a new task force focused on "Climate & Resiliency." The stated purpose of the task force includes consideration of "appropriate climate risk disclosures," evaluation of insurers' modeling as it relates to climate risk, and the application of technology to the mitigation of natural disasters.

U.S. regulators continue to expand the use of surveys and mandatory disclosures to try to raise the profile of climate-related priorities. A few examples stand out:

National. The NAIC continues to administer an Insurer Climate Risk Disclosure Survey that has expanded to six states (California, Connecticut, Minnesota, New Mexico, New York, and Washington) and includes insurers writing at least US$100 million in annual direct premium. The survey asks insurers about, for example, organizational efforts to reduce emissions and any climate change considerations that affect insurers' investment management strategy. On June 8, 2021, the California and Washington State Commissioners released a joint statement announcing that they "formally asked all insurers that are currently required to report to them annually on climate change to start reporting their climate risks in alignment with the Task Force on Climate-related Financial Disclosures (TCFD)."

California. In 2020, the California Insurance Commissioner initiated a consumer-facing "green insurance products" database to draw attention to certain policies that address climate risks. In 2016, California's Insurance Commissioner began the Climate Risk Carbon Initiative, which asks California insurers to disclose whether or not they had divested or would divest from thermal coal investments. Insurers with over US$100 million in annual premium are required to publicly disclose their fossil fuel investments (including oil and gas). The Commissioner pursued this expressly with a view towards potentially treating certain fossil fuel investments as "stranded assets," so that they would not count towards required surplus.

New York. In 2020, the New York State Department of Financial Services (DFS) issued an Insurance Circular Letter, which called for integrating questions about insurers' activities related to the financial risks from climate change into DFS's examination process starting in 2021. More recently, in March 2021, the DFS issued "proposed guidance" for insurers on managing the financial risks from climate change. This guidance specifies a number of "expectations" that the DFS has for insurers' consideration of climate risks in their governance structures, business decisions, disclosures, and more.

Not all regulators in the United Statess have expressly endorsed ESG priorities. In November 2020, the U.S. Department of Labor under the Trump Administration issued a final rule for investment managers of ERISA (Employee Retirement Income Security Act of 1974) fiduciaries to evaluate investments "solely on pecuniary factors." A purpose of the final rule was to free ERISA fiduciaries from the burdens of considering "ESG investment trends" and to assure them that they meet their obligations by considering traditional risk-return factors.

As expected, in March 2021, the U.S. Department of Labor under the Biden Administration announced a "non-enforcement policy" for this rule pending further guidance. The Department stated that it heard from industry stakeholders that the rule had a "chilling effect on appropriate integration of ESG factors in investment decisions…."

Mexico and Brazil

Although Mexico and Brazil ratified the Paris Agreement in 2016, in recent years under the Andrés Manuel López Obrador and Jair Bolsonaro administrations, Mexico and Brazil have trended away from a focus on ESG issues. Insurers' investment portfolios are tightly regulated in Mexico, for example, and are focused on capital preservation. As of now, it appears ESG is not a regulatory priority.

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Hogan Lovells Impact Financing & Investing

Financial institutions and the products and services they offer have a central role in delivering the UN Sustainable Development Goals and supporting the goals of UN Global Compact. Hogan Lovells Impact Financing & Investing is a unique global platform launched in 2019 to ensure that we are offering our clients best-in-market support in this mission-critical area.

At Hogan Lovells, we have a long history of collaborating with our clients on transactions that promote positive social and environmental impact – often high profile and/or innovative transactions. However, we felt we needed to do more to help our clients stay ahead in this rapidly evolving and increasingly regulated space.

Impact Financing & Investing at Hogan Lovells covers every aspect of the relationship between the providers and the users of financial and risk-mitigation products. That relationship is now rapidly evolving in response to the global demand for financial products that are both responsible and sustainable.

We support our clients as they navigate across a wide spectrum of products, which range from social and development bonds, green finance, financial inclusion products, green infrastructure transactions to gender lens investing. Yet our offering extends beyond the purely legal; for example, we are working with a number of clients developing detailed and transformational internal ESG investment policies.

Finding innovative solutions to the challenges facing the impact financing and investing sector is a priority for us. We work with our clients to share knowledge, raise awareness and navigate the challenges and opportunities resulting from financing with impact.

Our goal is to create strong partnerships and collaborations in order to develop innovative and efficient financial solutions to overcome the challenges facing the impact economy.

SUSTAINABLE DEVELOPMENT GOALS

17 PARTNERSHIPS FOR THE GOALS

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InsurTech: Focus on Innovation

As we look to life after the pandemic, there is no doubt that there is much change to come, particularly driven by increasing use of digital channels or digitalization (which has been at the forefront of our lives throughout lockdown).

For the insurance market, so-called InsurTech covers a myriad of different innovations and changes taking place to introduce efficiencies, enable digitalization, and develop and improve insurance service offerings.

In this article we focus on some of the key developments in the market and the associated reaction of the policy makers and regulators.

Smart contracts

Emerging technologies such as distributed ledgers have been identified as a way to enable "smart contracts" *i.e.* computer programs which run automatically (in whole or in part) without the need for human intervention. As such, smart contracts can be used to record and perform the obligations of a legally binding contract in which some or all of the terms are recorded in or performed by code on a distributed ledger (like blockchain). This may take the form of: (i) a natural language contract where performance is automated by computer code; (ii) a hybrid contract consisting of natural language and coded terms; or (iii) a contract which is written wholly in code. Smart contracts are expected to increase efficiency and certainty in business and reduce the need for contracting parties to have to trust each other; the theory being that the trust resides instead in the code.

However, despite the opportunities offered by this new technology, questions remain about the circumstances in which a smart contract will be legally binding, how smart contracts are to be interpreted, how vitiating factors such as mistakes can apply to smart contracts, and the remedies available where the smart contract does not perform as intended.

In the UK, this has culminated in the Law Commission issuing a Call for Evidence in December 2020, the results of which are due later on this year.

What does this mean for the insurance sector?

Smart contracts bring with them many potential benefits for insurance. Automated claims processes linked to smart contract technologies are already in use and should mean policyholders will get paid more quickly and reduce claims administration costs due to increased efficiencies (not to mention the reduction in fraudulent claim risk). Mid-term policy adjustments could also be handled using data fed into such technologies in response to certain pre-determined events or information received.

Whilst the use of smart contracts is likely to initially develop in the commercial parametric insurance market, particularly covering environmental risks in response to physical triggers (such as wind speed or location and magnitude of earthquake); with the rise of the Internet of Things (and the data collected from individuals' devices), consumer insurance may follow swiftly thereafter.

That being said, such innovation does not come without risk. Code used to create a smart contract may execute in an unforeseen way due to a malfunctioning oracle (an independent data source which the parties to the smart contract agree should provide the required data for the smart contract), a system failure on the platform on which the code is deployed or there may be interference by malware. In addition, parties will need to grapple with disputes arising in the context of smart contracts and the remedies applied. This may be particularly critical where third parties are used to 'translate' the agreement into code, which may not reflect the common intention of the insurer and the insured.

In the UK, the pre-contractual disclosure obligations required for a fair presentation of the risk become more challenging because of the remedies for breach under the UK Insurance Act 2015 which include avoidance, non-payment of claims, and alterations to both contract terms and premium payable.

In addition, as part of a closely regulated market, the regulators are likely to push for transparency of process particularly in relation to consumer outcomes.

Therefore, a key question for the insurance industry looking to adopt smart contract technology is if and how legal and regulatory obligations can be met. From whether or not the insurance contract in question constitutes an enforceable binding contract; to if the smart contract can meet transparency and fairness requirements.

What else is happening in InsurTech?

Artificial Intelligence (AI) remains top of the agenda, with EU Commission's recent announcement of its proposals for a regulation on "artificial intelligence systems" described as the first ever legal framework for AI (which is likely to capture most (if not all) of the participants in the insurance distribution chain).

In the UK, the recent publication of the independent FinTech Report: 'The Kalifa Review' commissioned by the government, has also identified that the use of AI and machine learning models by financial services institutions and FinTechs offers potential efficiency gains and may improve the quality of decision-making (*e.g.* through use of better data). However, there can also be significant risks where AI models are involved in making decisions about consumers, including concerns regarding bias, discrimination, or lack of fairness. In many cases, there may be insufficient understanding of the impact of these models, which in turn could lead to inadequate management and oversight of these issues.

In April, the Law Commission in the UK also published a call for evidence on digital assets, designed to seek views about, and evidence of, the ways in which digital assets are being used, treated and dealt with by market participants. This includes the proposed approach to the possession of crypto/intangible assets and any wider impact on their use in smart contracts.

In short, there is plenty happening in the InsurTech sphere in 2021, including the continued attempts to address the tension between encouraging innovation and protecting the rights of consumers.

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Blockchain Hub on HL Engage Online Platform

Our Blockchain Hub is a global guide to developing regulatory requirements within the insurance industry sector and beyond.

Blockchain technology could revolutionize supply chains, agreements, contracts, currencies and more. With the Hogan Lovells Blockchain Hub toolkit you can take advantage of the technology's huge potential and disruptive impact, while avoiding falling foul of ever -developing regulatory and legal requirements.

The insurance industry is arguably one of the sectors that stands to be a great beneficiary of blockchain technology. With characteristics of an immutable ledger, real-time tracking, and a single version of the truth, it is ideal for the future of the insurance industry.

Current concerns for insurance companies are the large amounts of fraudulent claims or inaccurate information in the system, reported to be in the region of US$40 billion per year in the United States. The immutable ledger will be able to trace every transaction and incident to be able to ascertain what is valid and invalid. At the same time, it will be able to prevent the duplication of records.

Another benefit of blockchain is the speed at which it operates. With blockchain technology able to process claims up to three times quicker than the current process and at a much cheaper rate, there are benefits of its introduction to all parties of the process. The introduction of blockchain can also bring new products to the industry. For example, when combined with smart sensors that monitor the transportation of goods, there can be a clearer picture of what has caused the issue e.g. A drop in temperature ruining the product.

To see our Blockchain Hub on our HL Engage Online Platform, **please click here**

The Blockchain Hub covers

200+
regulators

120+
jurisdictions and supranational organizations

20
applications, topics and sectors

Use the Hub to

Keep up to date with the latest Blockchain legal developments

See where the technology is shaking up industries

View the legal positions for cryptocurrency and token sales in various countries

Compare regulatory developments across the world

Create bespoke reports with developments across multiple countries

Download useful Blockchain resources including reports, infographics and training slide

Why Will Open Finance Change the Insurance Landscape in the UK?

With the recent publication of the FCA's Feedback Statement (FS21/7) on Open Finance, the opportunities and challenges of applying Open Banking principles to the insurance market in the UK is a hot topic for 2021.

Based on the premise that data supplied and created on behalf of financial services customers is owned and controlled by those customers, for insurers and insurance intermediaries, Open Finance could be a real game changer. It would see the re-use of insurance customer data by third party providers (subject to the insureds' consent) to offer tailored products and services.

However, for insurers and intermediaries customer data they hold forms a critical part of their business model and is used to inform their distribution strategy, target markets, product design, underwriting and claims handling. Sharing such data with other market participants (including licensed third parties and potentially direct competitors) is therefore likely to present some challenges to the current insurance market norms.

What are the opportunities?

The latest from the FCA is that Open Finance could transform how financial services, such as insurance are used, allowing firms to develop services that benefit consumers and businesses, improve competition, financial capability and inclusion.

Examples include the provision of personal financial management dashboards offering like-for-like product comparisons based on features the consumer is most interested in (in contrast to current available comparisons based on the features that a price comparison website chooses to show). Open Finance could also enable aggregation services that allow customers to see all of their policies in one place, making it easier to identify whether they are over or under insured; acting as a potential means for assisting with the FCA's aim of ensuring good product value being provided to customers.

The application of Open Finance to insurance could also allow for bespoke deals and products to be developed based on a customer's lifestyle and/or financial habits, which are better suited to their needs, including the proliferation of 'on-demand' insurance. This might also feed into insurance market participants offering services to monitor changes to the consumer's circumstances which could then flag if changes to a particular policy may be needed.

Open Finance is also seen as a tool which could allow the pre-population of insurance quotes to facilitate streamlined switching. This could extend to consumers being able to share all data held by their current insurer with a number of prospective alternative providers who could then offer competitive quotes. On one view, enabling such switching would go some way to addressing the FCA's concerns surrounding poor customer outcomes in relation to pricing and the so-called "loyalty penalty" (where firms target price increases at customer they consider less likely to switch provider).

But such opportunities do not come without certain risks

Any auto-switching tool provided as part of the Open Finance initiative could lead to disengagement from customers (rather than increased engagement) as customers are no longer part of the decision making process. In particular, there could be a risk that Open Finance could lead to the exclusion of particular categories of customers (for example, those who opt out of data sharing or who do not have access to technology) which might cause disadvantageous pricing for those customers, including for some vulnerable customers.

The FCA has also identified that the risk-pooling nature of insurance provision could be threatened by increased data sharing and corresponding bespoke insurance, potentially resulting in uninsurable groups and higher prices for many.

Not to mention, the perils of data mis-use arising out of the sharing of out-of-date or incomplete datasets and the related risk of potential bias arising from use of such data by algorithms which decide on access to, and the cost of, insurance. Given the breadth and depth of data that might be involved in insurance, including potentially sensitive data relating to health (for example), such consumer protection, data ethics, and financial inclusion challenges are heightened.

What does all this mean for insurers?

The sharing of customer data, including potential mandatory prescribed access, brings with it significant operational concerns relating to the challenge of addressing legacy IT systems and the requirement to standardize data metrics for sharing across the market. Whilst the insurance market is making great strides to digitalization through projects such as the Lloyd's Blueprint digital transformation delivery plan (as well as the more recent modernization changes driven by the pandemic), legacy systems are still seen as one of the main barriers facing insurance companies looking to boost their digital touch points. Therefore, IT development and change management will be of concern, and are likely to have an impact on the desirability and feasibility of both the timetable and scope of the Open Finance project in the insurance ecosystem; particularly given the regulators focus on operational resilience which may be impacted where firms are required to make significant changes to their IT systems to support Open Finance.

It goes without saying that whilst potentially transformative, Open Finance could come with a substantial price tag, requiring data to be digital and sufficiently standardized. Developing APIs, new security and legal arrangements takes time and can involve significant costs. From those costs associated with technology development (which could particularly affect those with large back books or extensive legacy systems), to costs of the individual businesses themselves and the costs of any regulatory compliance.

What are the next steps for Open Finance and so-called Open Insurance, more particularly?

The FCA recommends that a legislative framework will be needed for Open Finance to develop fully, but that it will only flourish if the right commercial incentives exists for firms to invest and participate on a sustainable, and most likely reciprocal basis.

According to the FCA, the implementation of Open Finance should, therefore, be proportionate, phased and ideally driven by credible consumer propositions and use-cases. On top of this, the FCA sees any regulatory framework needing support from industry-led common standards, coupled with an implementation entity to coordinate development of a directory, authentication protocols and API tech standards.

All of which needs to be set against the background of digitalization more generally. Including the Smart Data initiative run by BEIS, Digital Identity and the EIOPA discussion paper on Open Insurance (to name only a few).

Open Finance, without a doubt, can facilitate industry-wide innovation and increase the agility of businesses in responding to changes in customer needs and expectations. However, it could also give rise to new or amplified risks such as data security, cyber risks and interoperability challenges.

The key question is whether it is possible for open insurance solutions to find a balance between regulatory objectives related to data protection and competition, while supporting innovation, efficiency, consumer protection and financial stability.

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Insurance Connect: Opportunities and Challenges as Hong Kong and China Move Closer to Opening up for Cross-border Services

Several years after the initial "Insurance Connect" proposal was put forward by the Hong Kong Insurance Authority (IA), recent news reports suggest that the scheme is close to becoming a reality as details of the cross-border scheme are now being finalized by the China Banking and Insurance Regulatory Commission and the IA. If it does finally see the light of day, it will be a significant milestone in the financial integration of the Greater Bay Area.

Given the growing number of mainland citizens traveling to Hong Kong to purchase insurance policies, in 2018 (and no doubt inspired by the "Stock Connect (2014)" and "Bond Connect (2017)" schemes which allowed investors on either side of the border to invest in shares and bonds respectively), the IA suggested that Hong Kong insurance firms should be allowed to set up service centers in the Greater Bay Area[1] through an "Insurance Connect" scheme to provide after-sales services. In his speech at the "Guangdong-Hong Kong-Macao Greater Bay Area Summit Forum 2018," Dr. Moses Cheng, Chairman of the IA, emphasized that Hong Kong and mainland policy holders should be able to enjoy broader insurance coverage and streamlined insurance services under "Insurance Connect".[2]

Although to date, little has been made publicly available in respect of the specifics of "Insurance Connect", some commentators expect that in the initial phase, Hong Kong insurers will be allowed to set up logistics centers in mainland cities in the Greater Bay Area, where policy holders can pay renewal premiums, make claims and receive other after-sales services. The second phase of "Insurance Connect" would enable cross-border sales of insurance products within the Greater Bay Area.[3]

"Insurance Connect" will no doubt expand business opportunities for Hong Kong insurers, but we believe it will also pose certain challenges. One of the major challenges will be the sharing and transferring of personal data in relation to insurance policy holders as between Hong Kong and mainland China, given that Hong Kong and mainland China have different data protection frameworks. To give one example, there is currently no prohibition under the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO) on transfer of personal data to places outside Hong Kong, as section 33 of the PDPO which restricts such transfers is not yet in force. Similarly, the Cyberspace Administration of China published a draft Cross-Border Personal Information on Transfer Security Assessment Measures in June 2019 ("Draft Cross-border PI Transfer Rules"), which stipulated that "before any personal information is exported from the PRC, network operators must report to the local provincial-level network information department for a security assessment with respect to a cross-border transfer of personal information." These rules are not in force either.

To date, no concrete timetable has been given indicating when these provisions under the PDPO and the Draft Cross-Border PI Transfer Rules will come in force. The Draft Cross-Border PI Transfer Rules, with its default position of a security review, has proven to be particularly controversial due to its potential impact on foreign-owned businesses in China that rely on frequent cross-border transfers of personal information. Insurers who wish to participate in "Insurance Connect" will need to give consideration to how a Greater Bay Area Insurance Connect operation would function if such provisions came into effect (it being a possibility that the authorities could bring the legislation into force as a coordinated effort or independently at different times). This is particularly the case on the China-Hong Kong leg, where (assuming no change in the final legislation) repatriation of personal data from mainland China logistics centers could be delayed or even blocked due to a security review. A possible solution would be to pre-emptively put in place an agreement as required to be submitted under the Draft Cross-border PI Transfer Rules, so that they are ready to meet the requirements if and when they become law.

1 In 2020, the Greater Bay Area has a combined population of over 86 million people and GDP of around US$1,671.7 billion.

2 https://www.ia.org.hk/english/infocenter/files/The_Guangdong_Hong_Kong_Macao_Greater_Bay_Area_Summit_on_Insurance_Connect.pdf

3 https://www.thestandard.com.hk/section-news/section/2/222575/Insurance-connect-on-track-for-launch-this-year

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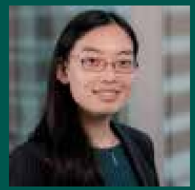

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Looking Both Ways: Insurance Regulatory Developments in the UK and EU post Brexit

With Brexit 'done', but no agreement yet reached on the long term future of the relationship covering financial services, the UK government and European Commission are busy with their own plans for changes to insurance regulation. EU insurers with UK business who have entered in the UK's temporary permissions regime will be regulated by any new insurance regime introduced by the UK government. Likewise, UK insurers who have business in EU member states will be regulated by the member state in which they become authorized. Although it is too soon to say to what extent the Solvency II regimes in the UK and EU might diverge, it is inevitable that over time the rules will change and insurance and reinsurance companies with a presence in both jurisdictions will need to get to grips with two 'similar, but different' regulatory regimes. However, the ongoing development of an international capital standard by the International Association of Insurance Supervisors will influence the direction of travel for both the UK and EU and keep them on similar paths.

UK: Solvency II review – a delicate balance

Post Brexit the UK government was quick to announce a review of the financial services regulatory framework and separately, a review of the Solvency II regime. The aim of this review is to ensure that the UK's prudential regulatory regime for the insurance sector is better tailored to support the particular structures, products and business models of the UK insurance industry. It is clear that there is no appetite for wholesale changes, although the scope of this review is broader than the Treasury Committee's previous inquiry in 2016. Certain issues are being revisited such as risk margin, matching adjustment, calculation of the SCR and TMTP and reporting requirements. These are all areas where extra flexibility might be welcomed by UK insurers, but where using that flexibility might prejudice the chances of equivalence with the EU. New areas for review include branch capital requirements for foreign insurance firms, thresholds for regulation by the Prudential Regulation Authority (PRA) under Solvency II, mobilization of new insurance firms and the transition from LIBOR to OIS rates. In addition, industry participants and stakeholders were invited to provide comments and evidence on any other issues about the Solvency II regime.

Feedback from the government is due in June 2021. This will be followed by a quantitative impact study by the PRA of the effect of possible reforms to the Solvency II regime, leading to a formal consultation on proposals in 2022.

EU: Solvency II review - 'evolution rather than revolution'

The European Commission's review of the Solvency II regime is more advanced. The European Insurance and Occupational Pensions Authority (EIOPA) delivered its Opinion in December 2020. EIOPA concluded that overall the Solvency II framework is working well and consequently EIOPA's approach to formulating its recommendations was to focus on improving the existing regulations considering prudential experience and economic changes – an approach EIOPA describes as 'evolution rather than revolution'.

The Commission's proposals for changes are expected in July 2021. In a recent speech by John Berrigan, the Director General of the Commission's department for financial stability, financial services and capital markets union, he indicated that the Commission's priorities for post-pandemic recovery and transition to a green economy will influence the consideration of any changes to the Solvency II regime.

Resolution and recovery

Since the financial crisis in 2008, the idea of a recovery and resolution regime for the insurance sector has been mooted but not taken forward by the EU or UK. At an international level, the Financial Stability Board published in 2011 the Key Attributes of Effective Resolution Regimes for Financial Institutions which were supplemented by guidance – the Key Attributes Assessment Methodology for the Insurance Sector in August 2020. The UK is not fully aligned with these international standards and in May 2021, the UK government announced that alongside proposals to update the existing insurance insolvency arrangements, it will also be developing a proposal for a specific resolution regime for insurers. In the EU, EIOPA has recommended the development of a minimum, harmonized and comprehensive recovery and resolution framework for insurers which will need to be taken forward by the Commission. In addition, EIOPA has called for the development of national insurance guarantee schemes.

To keep up to date with UK and EU regulatory developments, subscribe to our weekly Insurance Regulatory News on **Engage**.

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Insurance M&A: Trends in Europe

Contrary to expectations, 2020 was globally one of the most active years for insurance M&A since the financial crisis. Over US$93 billion in M&A deals were signed with the largest being the Aon/Willis merger for around US$30 billion. The largest insurance company deal was the US$9.6 billion takeover of RSA by Tryg and Intact. A number of deals were however delayed as a result of the COVID-19 pandemic but by the end of the year in Europe, the deal volume was only slightly down on 2019.

European insurance M&A in 2020

The factors driving insurance M&A in Europe have been reasonably consistent for the last few years, including high capital requirements under Solvency II, low interest rates and Brexit. For both the life and non-life sectors, there are also a significant pool of consolidators and run-off specialists with substantial amounts of capital to invest provided by private equity and other investors, as well as cheap acquisition finance.

Partly as a consequence of these factors, we have seen some new trends emerging. In the life sector, this includes a shift towards integrated wealth management with life insurers offering a broad range of pensions and other savings products with low or no policy guarantees.

Allianz and Aviva have been two of the most active companies in European M&A – Allianz as a buyer and Aviva as a seller. Aviva is currently undertaking a disposal program of its Continental European businesses in order to implement its new strategy focusing on its core businesses in the UK, Ireland and Canada. Allianz has been active on the buy-side with acquisitions in the UK of LV's and L&G's general insurance businesses, Aviva's Italian general insurance business and also Aviva's Polish life and general insurance business. Allianz is now the second largest general insurer in the UK. We advised Aviva on the sale of its Polish businesses and the French insurer, CNP, on the acquisition of Aviva's Italian life insurance business.

Although German insurers have been active buying businesses outside Germany, there have been only a few M&A transactions in 2020 involving German insurance companies as targets. This is perhaps surprising given that the sale of Generali's life insurance business to Viridium in 2019 was then heralded as a game-changer for the German life run-off market.

Amongst the insurance consolidators, Monument Re has been very active. We advised Monument Re on its acquisition of a closed Italian life business from Cattolica Life and on the acquisition of a significant block of European life and annuity reinsurance liabilities.

Finally, there were a number of insurtech investments made by insurance companies during 2020. Although these deals tend to be at the smaller end of the market, their strategic importance should not be under-estimated with many insurers looking to digitalize their customer interface and make IT enhancements to other parts of their businesses. Allianz X, the digital investment unit of the Allianz Group, for example, acquired a majority stake in Control Expert, a company specializing in handling motor insurance claims (we advised Allianz X on the deal).

Busy times ahead

We expect the factors which have driven insurance M&A over the last few years to continue to apply. Interest rates will probably not increase significantly, if at all, and the reviews of Solvency II being undertaken by the UK's HM Treasury and by the European Commission are unlikely to result in significant reductions in solvency requirements. A number of insurers and reinsurers will be considering their strategies as a result of the difficult business conditions and the need to adapt their business models and invest, for example for the digitalization process which appears to have been accelerated as a result of the COVID-19 pandemic. Another factor for insurers to consider is IFRS 17 which is due to take effect on January 1, 2023.

Even in the more consolidated markets, there is likely to be activity with run-off specialists picking up legacy portfolios via a combination of portfolio transfers and reinsurance, to allow sellers to reinvest capital in new business activities. The scope of portfolio transfer processes in Europe varies from very basic mechanisms reflecting the requirements of Solvency II through to the "gold-plated" Part VII process in the UK. It was interesting to see the Italian transfer process extended at the beginning of the year to include transfers of portfolios comprising only claims.

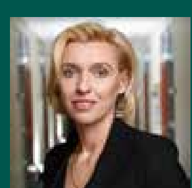
One trend to look out for is the impact of consolidation in the European banking industry on the insurance industry. Bancassurance is used extensively in a number of European markets, including France, Italy and Spain. The recent takeover by Intesa SanPaolo of UBI resulted in the termination of UBI's bancassurance arrangements with Aviva and BNPP (we advised BNPP in relation to the termination of their relationship with UBI).

The use of SPACs (Special Purpose Acquisition Companies) is another trend which we could see more of over the next few years. SPACs were one of the most significant factors for M&A in 2020, and so far in 2021 that trend has only accelerated. A total of U.S. 244 SPAC vehicles came to market in the United States in 2020, raising a total of US$78 billion, but that huge total had been reached by new U.S. listings in the first few months of 2021 alone. And while the vast majority of vehicles have to date been U.S.-listed, not only is that likely to change as markets in other jurisdictions such as Amsterdam try and grab some of the action, but their merger targets have been global in range.

To date, most of the SPAC activity in the insurance sector has been focused on insurtechs, where the SPAC model offers high-growth companies a simpler transition onto the public markets than the traditional IPO. Deals struck to date in 2021 include home insurance start-up, Hippo, with a US$5 billion equity valuation, and data and tech provider CCC Information Services, which achieved a US$7 billion equity valuation. However, a number of SPAC vehicles have been set up with wider insurance targets in mind. The views of regulators on SPACs as owners of insurance businesses will of course be important – the investment made by Liberty Holdings, a Cayman incorporated SPAC, in Phoenix in the UK in 2009 however demonstrates that it can be done, but may not be a particularly valuable precedent given the circumstances of the transaction.

How will IFRS 17 affect insurance companies?

IFRS 17 represents the most significant change to insurance accounting requirements in over 20 years. Not only will the new standard result in changes in profit emergence patterns, but it will also speed up the recognition of losses on insurance policies that are expected to be onerous. New disclosure requirements will also create greater transparency in relation to the profitability of different product lines, and this, together with the greater consistency in accounting for insurance contracts which IFRS 17 will achieve across the insurance industry, will be easier for the market as a whole to assess the performance of different insurance companies. Insurance companies will undoubtedly be assessing the implications of IFRS 17 and making decisions in relation to the reshaping of their businesses and the possible disposal of non-core and loss-making portfolios.



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Global Guide to Electronic Signatures

Produced by our transactional lawyers across our offices, this guide provides answers to those questions which frame whether or not, and if so how, commercial agreements can be electronically executed by corporate entities in various jurisdictions. We also consider the cross-border aspects to this issue.

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Hogan Lovells Global Guide to Electronic Signatures

Find out more about the cross-border guide on Engage Premium here.

Operating Reinsurance at the Beginning of the 21st Century: The German Perspective

According to § 15 para. 2 p. 1 of the German Insurance Supervision Act (the Versicherungsaufsichtsgesetz) (VAG), reinsurance undertakings may only conduct reinsurance business and related transactions and services. Now: where are the limits?

The basis for answering this question is the factual and the norm:

Reinsurers have always offered services of various kinds, often within the framework of reinsurance treaties, but also independently vis-à-vis cedants, based on their comprehensive know-how and in-depth market knowledge.

Legal scholars often do not go beyond paraphrasing § 15 para. 2 p. 1 VAG, combined with the statement in the explanatory memorandum to the 2006 amendment to the Insurance Supervision Act, that reinsurers need the leeway made possible by the international nature of their business.

This question is becoming more explosive because the field of consultancy is gaining in importance:

- Instead of risk management through (re) insurance, attempts at risk prevention are increasingly taking place upstream.
- The know-how that reinsurers have acquired is increasingly needed as a 'production factor' by all kinds of industries.
- Advancing global digitalization and networking are leading to an exponential growth of risks, and hardly any industry lends itself to the analysis and management of this multitude of new types of risks as much as the (re) insurance industry.

Another driver for the expansion of the range of activities of reinsurers is that their core business remains commercially demanding:

- The tendency to reduce reinsurance cessions is increasing.
- A recovery of reinsurance premiums is still not taking place.
- In times of low interest rates, income from the management of investments hardly compensates for underwriting results that remain below expectations.
- With regard to certain risks - such as the danger of pandemics - (insurers and) reinsurers even appear to be overstretched.

The provision of European law is found in Art. 18 (1) b of the Solvency II Directive: A reinsurance company is allowed to carry out activities such as statistical or actuarial consulting as well as risk analysis or risk research for its clients.

Which transactions and services are "connected" with the (permitted) reinsurance business?

First: The term "reinsurance business" is used in the law to refer to the core business of the reinsurer. With the term "related transactions and services", the law describes the expansion of this field of business, whereby the attribute "related" marks the content-related limitation of the expanded field of business. Therefore, such other transactions and services can also be provided to clients with whom the reinsurer has not concluded a reinsurance contract.

It could at most be objected that the protective purpose of the norm prohibits the reinsurer from providing other services 'solo':

The starting point is the protective purpose of the - stricter - prohibition of non-insurance business for primary insurers which is intended to ensure the solvency of the insurance company and thus the ability to meet its obligations to policyholders and insureds; no financial risks should be taken that would endanger them.

Several follow-up questions are raised:

- What risks at the expense of the reinsurer are created by other business and services? How can they be limited?
- Can other transactions and services also limit the reinsurer's risks?
- What conclusions can be drawn regarding the conditions for maintaining the (financial) stability of the reinsurer?

The services of reinsurers are mainly advisory services. The risk from advisory services, apart from the fact that the operation required for the provision of these services causes expense, consists in being claimed against by the client for incorrect advice. How can the reinsurer limit its additional risks? It can agree on liability limits, buy insurance cover itself or, alternatively, keep income generated that does not have to be retained for other (company law and/or regulatory) reasons as a potential 'retention'.

Second: The other transactions and services mentioned are capable of limiting the risks of the reinsurer. They are regularly provided on the basis of the comprehensive know-how and the deep market knowledge of the reinsurers. Consequently, they are at the same time suitable to support the risk strategy of the reinsurer with regard to the risks it underwrites.

Third: From the finding that risk-reducing options are available and these transactions per se even have a risk-reducing effect, it can be seen: The general requirements for reinsurers and their business managers also apply to the operation of these transactions.

So: Which transactions fall within the scope of transactions and services connected with the reinsurance business, and where does the limit currently lie?

Reinsurance-related business undoubtedly includes business that deals with the evaluation of risks, their quantification, their observation, and also with the possibilities of avoiding them. In my opinion, this also includes the development of suitable instruments, such as in the field of so-called 'artificial intelligence'. Finally, this 'new normal' may include the mediation and incentivisation of risk reduction and risk-sharing as well as the provision of capital for risk-avoiding processes.

The demands on supervision will inevitably be as fluid as the development and, if necessary, expansion of these businesses. In any case, requirements and framework conditions can be refined with the further development of the business field accessible to reinsurers under supervisory law.

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UK Sanctions: All Change?

Following the end of the Brexit transition period, the UK sanctions regulations transposing EU-derived sanctions made under the Sanctions and Anti-Money Laundering Act 2018 (SAMLA) came into force. The Government stated that these were intended to deliver a similar policy effect as the old EU regimes. But, they contain changes which businesses must adjust to.

One of the key changes has been the introduction of the new concept of "persons connected with" a sanctioned country. EU sanctions regulations typically apply where sanctioned goods or services are to be provided to persons in a sanctioned jurisdiction or for use there. However, the use of the phrase "persons connected with" opens up the scope of relevant restrictions applying to the provision of specified goods/services to persons located outside of the sanctioned country. This has created compliance challenges and a good case in point is the regulations made under SAMLA in relation to Russia. These contain restrictions on the export of certain energy goods and related financial services. The new SAMLA measures opened up the possibility that they would apply to energy projects outside of Russia, but which have Russian interests.

Happily, however, SAMLA also contains broad-ranging powers enabling the UK Government to issue general licenses in a manner that was not previously possible under UK sanctions legislation. Hogan Lovells successfully advised Lloyd's of London on the first such license under UK SAMLA sanctions concerning Russia. This involved liaising with three Government departments under considerable time pressure. The license permits the provision of all types of financial services to persons connected with Russia in connection with activities involving energy projects outside of that country and is potentially worth US$600 million per year to the London insurance market alone.

At a policy level, the agility with which the UK is now able to implement new sanctions regimes and restrictions is beneficial in advancing its foreign policy goals. The UK's desire to capitalize on this has been evident, for example, in its recent Global Human Rights Sanctions and in relation to recent Burmese and Global Anti-Corruption Sanctions (a novel development which echoes U.S. provisions). But, with such agility comes compliance complexity for business.

Looking back, to look forward

To some degree, to look forward it is necessary to also look backwards. Under the joint Political Declaration, the framework for the future relationship between the EU and the UK is set out. Within this, the parties recognized "sanctions as a multilateral foreign policy tool and the benefits of close consultation and cooperation." It stands to reason that sanctions are more likely to be effective when introduced in a coordinated and multi-lateral fashion. So, the EU and UK will likely cooperate where foreign policy objectives align. But there will be divergences in sanctions measures as a result of timing differences in implementation. There is also scope for substantive divergence in the longer term and we have already seen this through the drafting changes to the SAML sanctions regimes as well as the UK's decision not to bring across every EU asset freeze listing. It is therefore important that businesses treat the two sanctions frameworks as separate and not assume that the position is the same under each going forwards.

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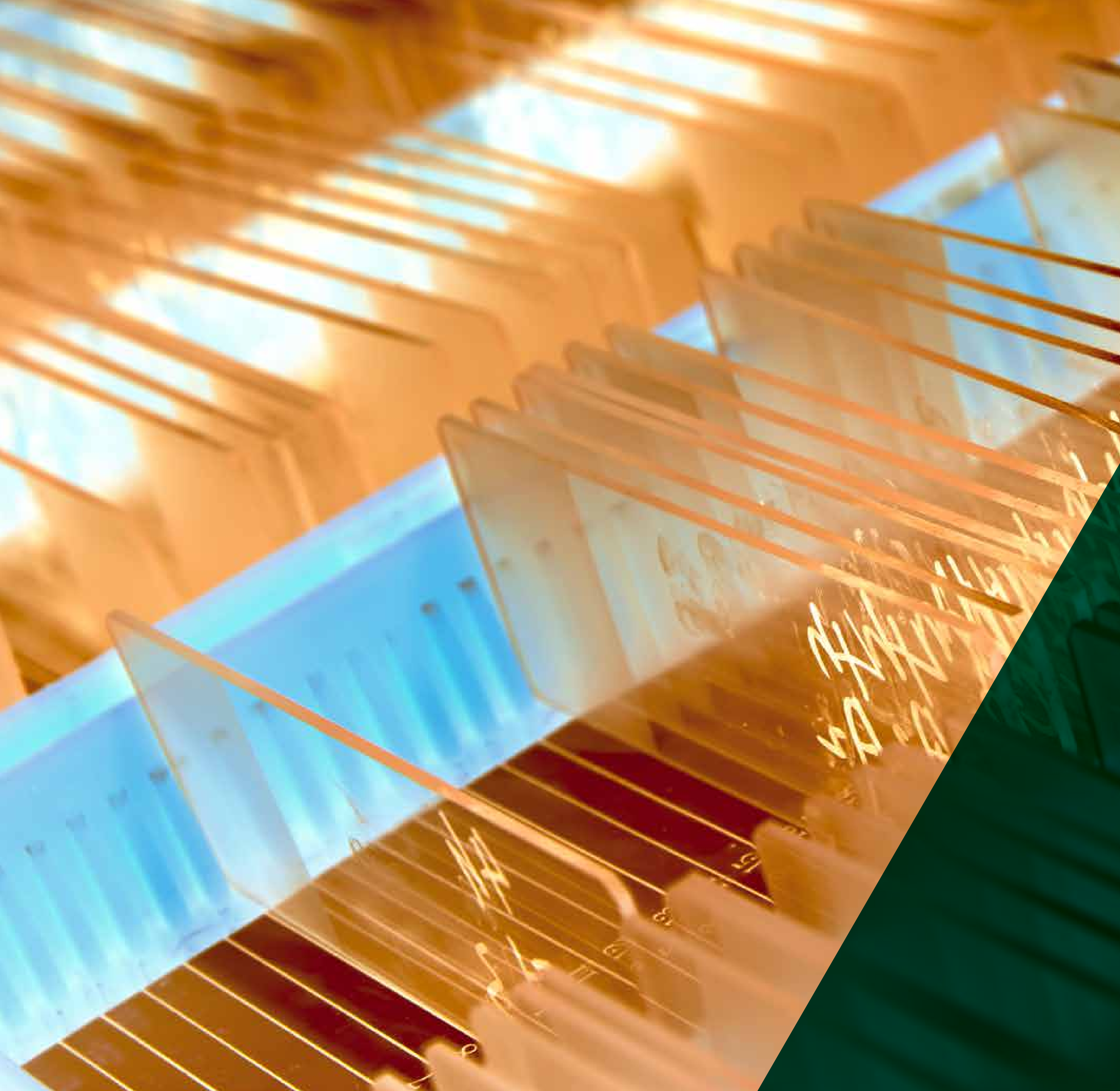

The COVID-19 Experience: Insurance in a Post-Pandemic World

More than a year on from the emergence of COVID-19, the insurance industry is continuing to feel the effects of the pandemic. The impact on the market has been deep and is likely to be lasting, even once the immediate threat from the pandemic subsides.

The COVID-19 experience has posed difficult questions for the insurance industry, such as: What is the role of (private sector) insurance in the face of a systemic risk event where losses do not respect any geographical boundaries and permeate all aspects of commercial and private life? What does the COVID-19 experience tell us about how the insurance industry might best respond to the climate threat or cyber risks? What changes do we need to see in the market to adapt for the future?

Wordings

Starting with some immediate implications of the COVID-19 pandemic, recent claims experience will be leading many insurers to reconsider their policy terms and exclusions, particularly for event cancellation, trade credit and business interruption insurance.

UK insurers' experience of the recent FCA business interruption test case litigation[1] has pointed up the tension between the need for certainty (and the use of precise terminology) in policy wordings against the need for sufficient flexibility to accommodate unforeseen events and thus offer value to policyholders.

In France, the Autorité de Contrôle Prudentiel et de Résolution (ACPR) performed a survey to analyze the wording of a number of insurance policies including "business interruption" guarantees. This survey revealed that 93% of policies with such cover do not address the consequences of the COVID-19 pandemic and only 3% of policyholders would be entitled to receive compensation. The ACPR identified that for 4% of the policies it was insufficiently certain whether the contractual clauses provided coverage. In these cases, a court ruling would be needed to clarify the uncertainties. As a result, the ACPR urged insurers to review the wording of all unclear contractual clauses and seek the consent of policyholders to make appropriate changes to policies that are still in force and require amendment.

Much legal ink has been spilled determining the meaning and effect of specific non-damage business interruption extensions and whether they should respond to COVID-19 losses. In reality of course no draughtsman could have anticipated the events of the last year, nor the fact that Governments across the world would impose lockdowns and close economies in the battle against the pandemic.

Insurers across the globe will now be reviewing their wordings in light of legal rulings on policy coverage for COVID-19. Whilst exclusions may appear the clearest solution, there are issues to consider. For example, to what extent should new exclusions focus less on 'pandemic' risk and more on 'government actions'? In one sense, commercial sector COVID-19 losses have been caused as much by Government response to the pandemic as by the pandemic itself. Now that 'lockdowns' (previously unthinkable) appear to be an accepted crisis response tool for Governments, what provision should insurers be making for this across different business lines?

Economic recovery and addressing the protection gap

Recent experience has highlighted the central role insurance plays in facilitating commercial activity through effective risk transfer and the insurance sector has a crucial role to play in the post-pandemic economic recovery and beyond.

Lloyd's, the world's leading specialist insurance and reinsurance market, recently published a number of ways the insurance industry could fast-track global economic and societal recovery from the far-reaching impacts of COVID-19.

The proposals include solutions for the reopening of businesses against the threat of further waves of COVID-19, building greater resilience across global supply chains as well as the digital economy, and preparation and protection for the next systemic catastrophic event.

However, to overcome the challenges of offering protection for systemic risks at scale, the insurance sector will need to work with Governments to combine (re)insurance capital with capital markets resource and sovereign funds to provide the necessary security and capacity to pay claims.

In the UK a number of possible solutions are under discussion, including ReStart (pooled insurance capacity to protect customers against a second wave of COVID-19); Recover Re (a Government-backed vehicle offering long term 'after the event' cover that could insure against COVID-19 as well as future pandemic risks); and Black Swan Re (a Government-backed vehicle to insure against future systemic risks).

In France, the Government had, at one time, considered implementing a compulsory insurance scheme (based on a public-private partnership covering the administrative closure of companies). This was inspired by existing schemes for the coverage of natural disasters or terrorist risk and the Government went so far as to prepare a draft bill. However, the project was shelved in December 2020. The French Government is now considering a scheme to encourage small and medium-sized companies whereby companies holding greater cash reserves would benefit from an advantageous tax regime. For large companies, the Government is considering encouraging the creation of captive insurance companies.

Accelerated change

Arguably, the last year has demonstrated the need for better understanding – both within business and in Government – of the nature of insurance, how it operates, what it covers and its limitations. Equally, there are lessons for insurers to learn about what customers expect of their insurance cover. Amongst small business policyholders there is, in the UK in particular, some reputational damage for insurers to repair.

At the same time the pandemic has been an accelerator of change both within the insurance sector and beyond. Increased digitalization, changing working patterns and supply-chain and cyber risk challenges, all prompted by COVID-19, are leading to changing demands amongst purchasers of insurance. This presents opportunities for the insurance sector. Parametric insurance, smart contracts and pay-to-play insurance are all likely to be growth areas.

COVID-19 has been an inflection point for the industry; yet despite the challenges of the last year, fresh opportunities abound.

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1 The Financial Conduct Authority (Appellant) v Arch Insurance (UK) Ltd and others [2021] UKSC 1 on appeal from [2020] EWHC 2448 (Comm)

Cyberattacks and Regulatory Change Proliferate: Are You Prepared?

With the media regularly reporting on cyberattacks such as ransomware and data breaches, and calls for increased regulation growing louder, the existence of cyber threats to insurers cannot be ignored.

A threat to the insurance industry

Legislators and regulators around the world are enacting data breach notification laws and the trend toward imposing industry-specific cybersecurity standards is expected to continue. The EU General Data Protection Regulation (GDPR) and California Consumer Privacy Act (CCPA), as well as various state insurance data security laws, include key provisions requiring data breach reporting and cybersecurity obligations.

It has been reported that 2020 witnessed a 358% increase in malware and a 435% increase in ransomware attacks, as compared to 2019, with phishing holding steadfast as the "go to" infiltration point by many hackers. The need for better cyber hygiene, including stronger passwords, patching software, and multifactor authentication, has been a lesson learned slowly, and often only after having suffered a cyber incident.

Countering cyberattacks

As the threat of cyberattacks continues, nearly every insurer will be faced with a serious cybersecurity incident. Organizations that have plans in place to mitigate the risks will be better positioned to survive and thrive. Insurers are well advised to have an Incident Response Plan (IRP) ready and rehearsed.

It may be advisable to maintain playbooks for various stakeholders that address particular threat scenarios (such as ransomware). Effective preparation for managing a data breach helps ensure a swift and coordinated response that can minimize harm to victim organizations and reduce reputational impact and potential legal liability.

Awareness of courts' diverging views on Article III standing requirements under the surge of cyberattacks

As more companies are attacked, more individuals are being notified under U.S. data breach notification laws that their personally identifiable information may have been accessed or exfiltrated. In the United States, the position taken by the courts is complicated. The plaintiffs' bar has been active nationwide in suing companies for alleged violations of their clients' rights. But there is a significant circuit split regarding the level of harm that must be shown to establish in the U.S. Article III injury for standing purposes in data breach class cases, namely, whether alleged injuries relating to an increased risk of future identity theft are sufficient to satisfy the "injury-in-fact" prong of the standing test.

To date, the Third, Fourth, Eighth, and Eleventh Circuits have held that plaintiffs may not establish Article III injury-in-fact based solely on an increased risk of future harm. On the other hand, the Second, Sixth, Seventh, Ninth, and DC Circuits have all found that an increased risk of future identity theft may be sufficient to establish Article III standing in data breach litigation, with the Second Circuit only wading into the debate this past May.

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We know that diversity makes us a better law firm and helps us to attract the best talent, drive innovation, and deliver the best experience for our clients. We are committed to nurturing an inclusive working environment where all of our people can be themselves and feel empowered to succeed.

Promote responsibility

Ensure that we have governance structures in place to deploy our strategy with effective monitoring on progress, and clear accountability across our regions, practice groups, and Business Services.

Embed our culture

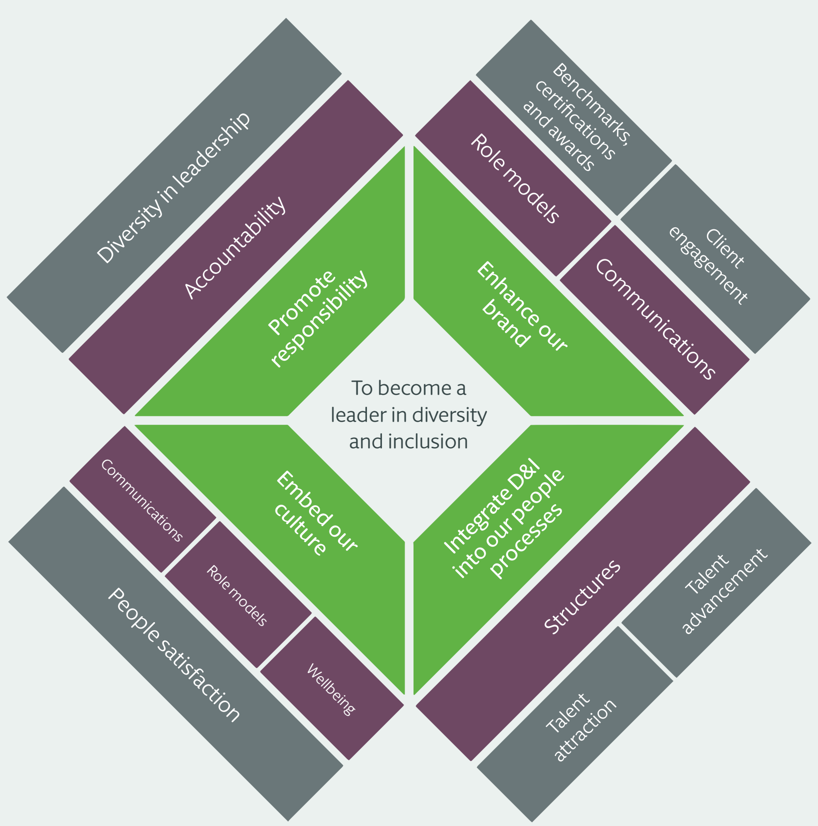
Provide all of our people with the training, tools, and environment needed to empower them to be their authentic selves in the firm and with clients.

Integrate D&I into our people processes

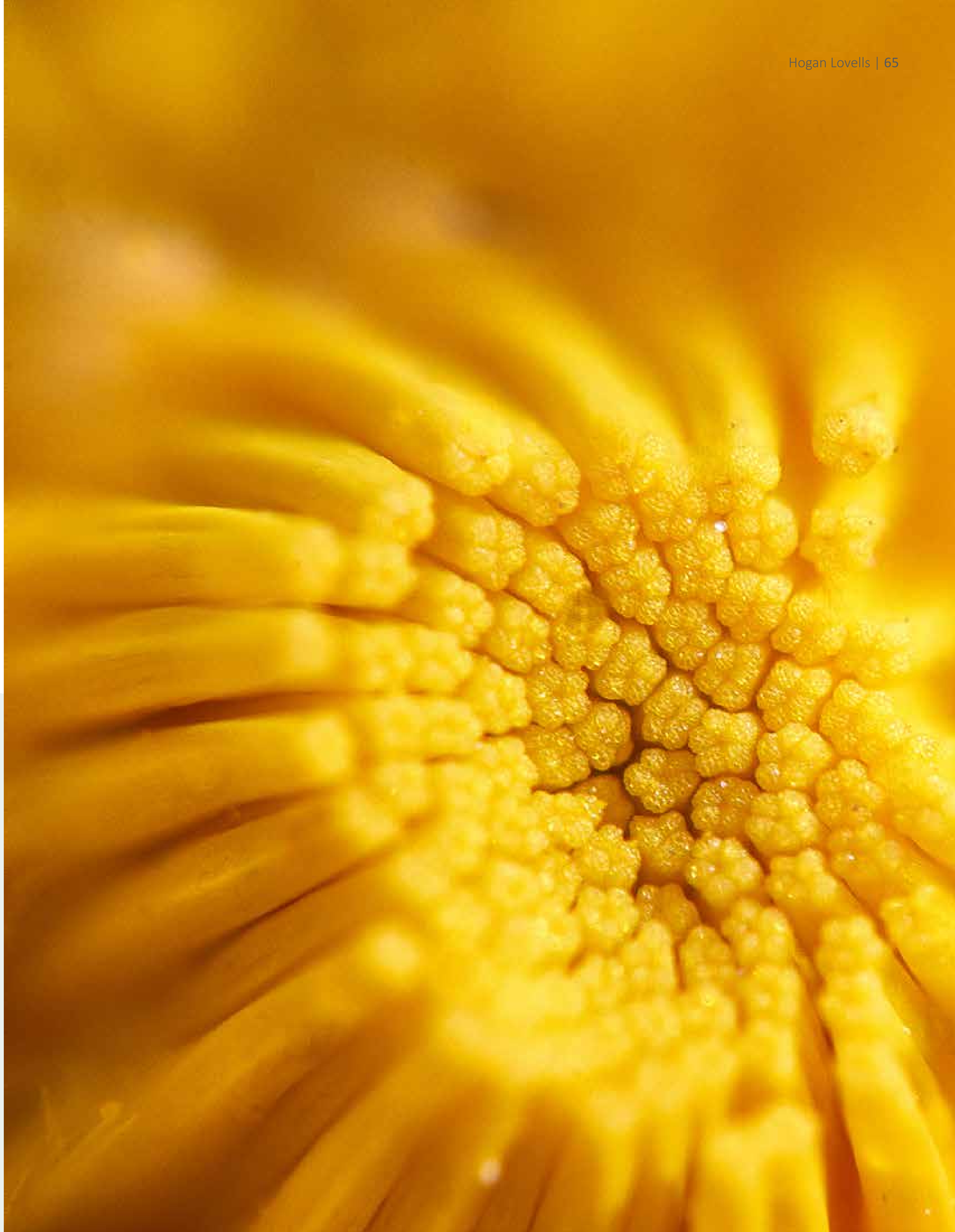
Ensure that our entire infrastructure supports our diversity and inclusion aims to attract, recruit, retain, and advance our people.

Enhance our brand

Position ourselves as an employer of choice for top talent in diverse communities and leverage that diversity to strengthen our client relationships and deliver excellence.



We evaluate all of our initiatives and programmes through our global D&I framework



Citizenship

Good citizenship means boldly striving to exceed the social and environmental responsibilities we have to our people, our clients, and our local and global communities.

As a truly global law firm, we recognise that our continued success owes much to the diversity of our people. Embracing our cultural differences and recognising our strong local knowledge means we can deliver for our clients all over the world.

This recognition of strength in diversity and a sense of togetherness permeates throughout the firm into all our practice areas; and so it is with our commitment to corporate responsibility (CR).

We support the United Nations Sustainable Development Goals.

SUSTAINABLE DEVELOPMENT GOALS

Our global CR strategy is aligned with the United Nation's Sustainable Development Goals (SDGs): 17 goals designed to end poverty, fight inequality, and tackle climate change. This is the ultimate example of what can be achieved if we are willing to work together across sectors and continents on all levels.

Our lawyers and business services professionals are each asked to dedicate 25 hours per year to pro bono legal and skilled non-legal volunteering activities benefiting the world around them. This is delivered through a combination of our five CR strands of Pro Bono, Diversity and Inclusion, Community Investment, Charitable Matched Giving, and Sustainability.

Pro bono

We challenged ourselves to focus our time, skills, and resources over the past three years on empowering, advancing, and protecting the rights of girls and women.

Through the firm's Empowering Girls and Women Initiative and our Commitment to Action under the Clinton Global Initiative, we pledged to devote at least 56,000 hours of volunteer time and US$1 million in philanthropic contributions to support equality worldwide.

As the year came to a close, we went well beyond achieving the original three-year goals we'd set. But our commitment was never just about the numbers. Our people continue to be active and engaged in advocating for women and girls round the world.

We've delivered week long, comprehensive trainings to lawyers in the Balkans to equip them to tackle gender-based violence. We've worked with RAINN every year to review, research, and update six different databases covering all U.S. state laws that impact sexual assault victims and counsellors. We were the first private-sector sponsor for SPRING, a change accelerator for girls in East Africa and South Asia.

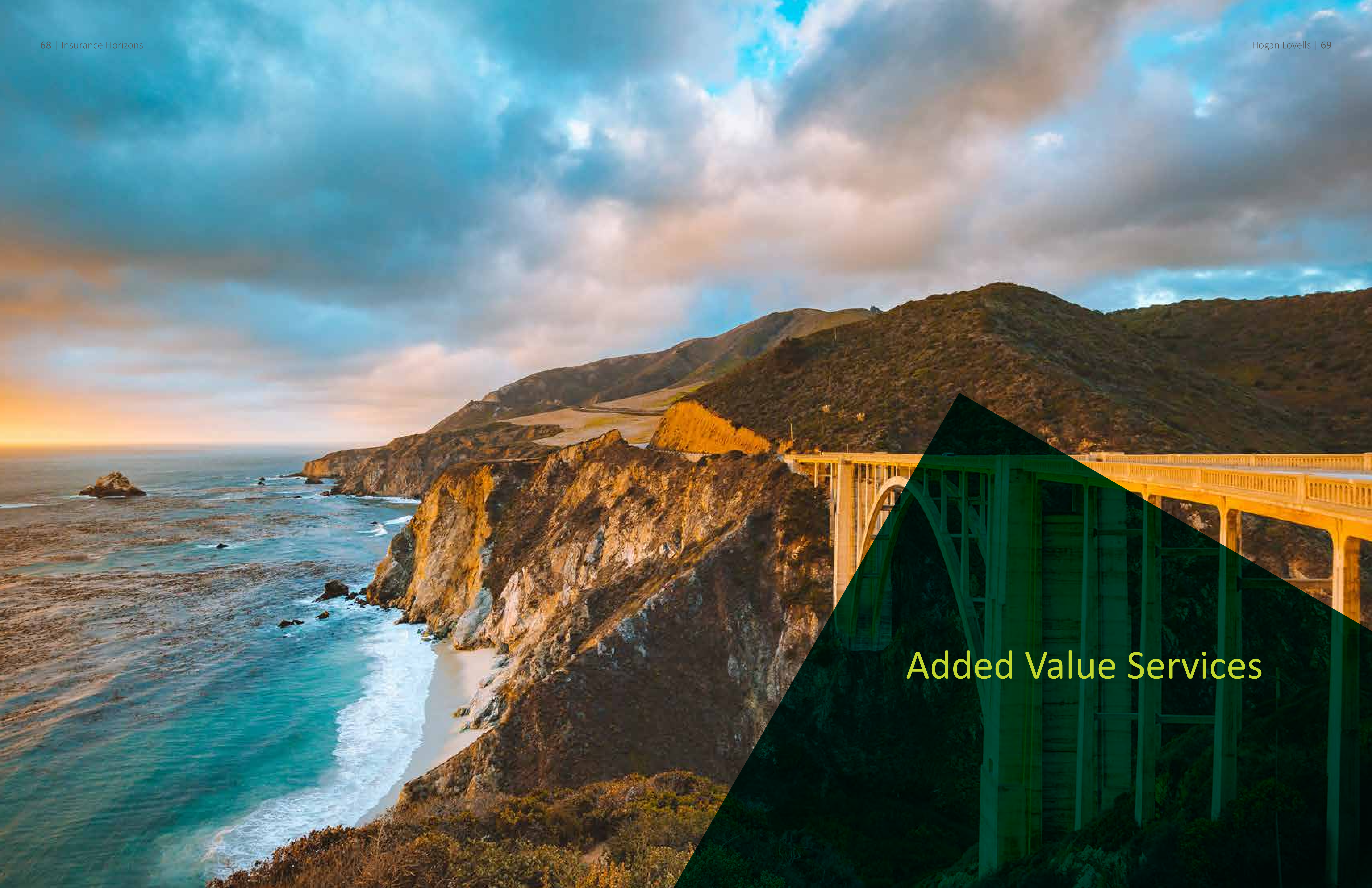
These are just a few examples of the many ways our lawyers mobilized to bring about change and confront some of society's biggest problems.

US$35+ million
The value of pro bono legal services devoted through the Empowering Girls and Women initiative

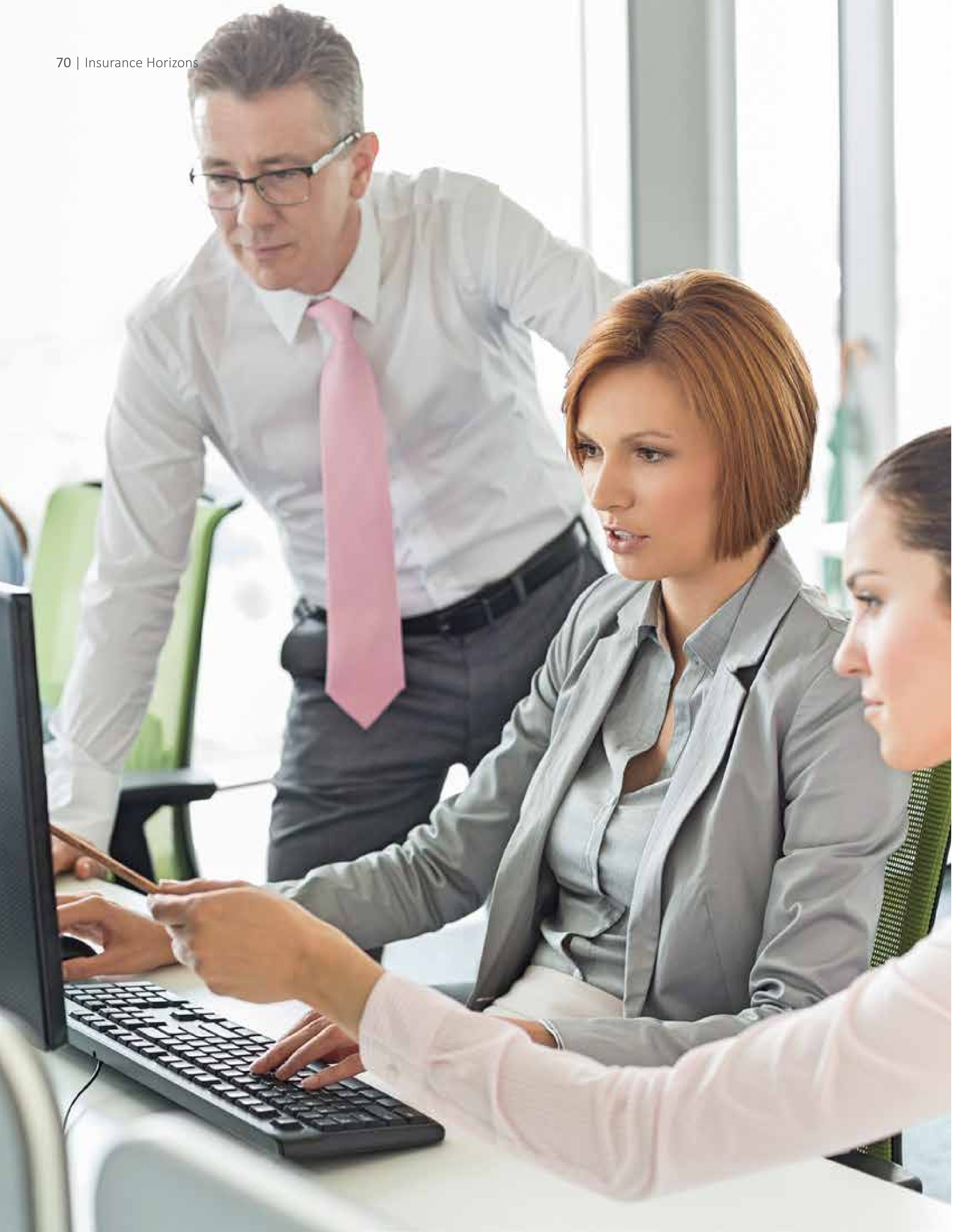
50+
Formal partnerships with nonprofits and other legal services

75,000+
Compensation secured in the UK for victims of gender-based violence and human trafficking

£733,370
Compensation secured in the UK for victims of gender-based human trafficking



Added Value Services



Added Value Services

Client seminars and webinars

We offer regular seminars and webinars on a range of topics to which our clients are invited.

Bespoke client training

We regularly visit the offices of our clients to provide bespoke training on topics relevant to their particular needs and requirements.

Tailored digital training

We have built a comprehensive digital training offer for insurers and asset managers.

Legal project management

Our extensive experience of working with our clients and executing projects gives us considerable expertise in legal project management (LPM), which we use to improve efficiency and assist our clients with the management of their projects. We have also developed a dedicated internal LPM team in order to identify and share best practice across our different client teams and to provide practical support to fee-earners. This helps ensure even the most complex projects can be delivered efficiently and to plan.

Project resourcing

We can deliver the services we offer to you in a number of different ways, to achieve the right balance of expertise and cost effectiveness. These resources include lawyers and paralegals from:

- Our Legal Delivery Center (LDC) in Birmingham.
- Our partner flexible resource providers, such as Elevate and Cognia.
- Our alumni network.

These different resources allow us to provide appropriate and cost-effective support across a range of different types of matter, including detailed document reviews for business reorganisations, product reviews and litigation.

Our LDC has both lawyers and paralegals and can scale up to a team of just under 120.

Leveraging new technology

In order to deliver our services as efficiently as possible, we are always looking to identify new technology that can help us work and collaborate with our clients more effectively.

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