

GLOBAL INSURANCE REGULATORY AND PREMIUM TAX UPDATE



CHINA – CHANGES IN ENVIRONMENTAL PROTECTION LAW

The amendment to the Environmental Protection Law (new law) came into effect on 1 January 2015. It has been heralded as the strictest environmental protection law in the history of China.

The new law has introduced the modern concept of environmental protection co-management by all parties, involving the participation by different stakeholders, such as companies, citizens, and social organisations, in addition to the traditional governmental efforts in environment protection. It requires companies to accept responsibilities for damages caused by pollution, citizens to report illegal behaviours, social organisations to participate in claims, and the media to supervise through public opinion.

The new law imposes stricter environmental protection liabilities and obligations on companies.

GHANA – OIL AND GAS INSURANCE

The Ghana Petroleum Commission and National Insurance Commission have issued a protocol for the placement of oil and gas insurance for the upstream sector. The protocol reinforces the provisions within the Insurance Act 2006. Specifically, it points out the restriction on contracts with offshore insurers and reinsurers, and the formal approval required beforehand. It also emphasises the compliance and monitoring process and consequences of non-compliance.

INDIA – NEW REGULATIONS FOR INSURING PROPERTIES IN INDIA

The Insurance Laws (Amendment) Ordinance 2014 issued on 26 December 2014 amends the Insurance Act 1938 to include new provisions stating that properties located in India are not to be insured with foreign insurers, except with the permission of the regulator. The new provision in the Insurance Act is as follows:

Section 2CB (1) states that “No person shall take out or renew any policy of insurance in respect of any property in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority.”

The penalty for breach of the new regulation by “any person” could be as much as five crore rupees (equalling approximately USD800,000).

The new law applies from 26 December 2014.

While the new law refers to specific classes of insurance business such as property, the inference is that other classes such as liability could also be subject to this restriction.

INDIA – STRICT GUIDANCE ON PRICING OF RISK

The Insurance Regulatory and Development Authority (IRDA) of India has issued a bulletin on 12 November 2014, stating that it is concerned that the intense competition among licensed insurers has led to deficient assessment of insurable risks and/or that such insurable risks are not being priced at adequate levels.

The IRDA of India has advised that all licensed insurers shall put in place a mechanism to enable underwriters and actuaries to follow a process, as summarised below, before pricing a risk with regard to policies issued to commercial entities:

1. Consider the industry-wide “burning” cost.
2. The burning cost of a particular risk should be based on past experience.
3. Ensure adequate pricing for property risks, particularly for natural catastrophe perils.
4. Insurer’s own experience on procurement and management cost should be considered.
5. If a lower price is applied then the underwriter must file an exception report with the insurer’s board of directors through its chief risk officer.

The IRDA of India has mandated insurers to implement the above procedures as of 1 January 2015. The IRDA of India will strictly enforce these procedures for all fire, property, and group health risks underwritten by licensed insurers. Other lines of business are likely to be included in future.

MALTA – INCREASE OF STAMP DUTY ON INSURANCE PREMIUMS

As of 1 February 2015, the rate of stamp duty increased to 11% (previously 10%). All business incepting on or after that date will be subject to the new rate. In addition, the minimum rate of duty applicable to insurance policies will increase from EUR11.65 to EUR13.00.

NIGERIA – AVIATION (RE)INSURANCE REQUIREMENTS

The National Insurance Commission (NAICOM) of Nigeria has issued, on 31 December 2014, a circular to all insurance companies stipulating the standards and compliance requirements for aviation insurance and reinsurance business in Nigeria. The circular stipulates that the local licensed insurer is responsible for establishing the terms and conditions for any aviation and its associated risks in Nigeria. The locally licensed insurer’s treaty and/or facultative reinsurance arrangements with a foreign reinsurer must not be placed with a company that has a financial rating lower than “A-” (S&P) or “A” (A.M. Best).

ROMANIA – POLICYHOLDERS’ PROTECTION FUND LEVY

On 24 October 2014, the Financial Supervisory Authority (FSA) issued Order No 20/2014 regarding the rate of contribution payable by non-life insurers to the policyholders’ protection fund. Effective 1 January 2015, a new rate of 1% applies to gross premiums written (an increase from the current 0.8%).

SLOVENIA – INCREASE IN INSURANCE PREMIUM TAX

The insurance premium tax rate on all non-life insurance contracts has increased from 6.5% to 8.5% as of 1 January 2015. In Slovenia, the obligation for charging the tax begins when the person liable for the tax enters into an insurance contract, and concludes when an invoice is issued for the payment of the insurance premium.

TAIWAN – CASH BEFORE COVER FOR AUTO INSURANCE

Cash before cover was applied to auto insurance as of 1 January 2015. However, transitional rules apply as follows:

- Policies renewed in January and February 2015 are subject to the former rules. However, effective 1 March 2015, all new and renewal auto policies will need to follow the cash-before-cover rules.
- If the premium payment is made by cheque, the former rules will apply until 1 July 2015.

UK – INSURANCE PREMIUM TAX EXEMPTION FOR SPACECRAFT

An insurance contract covering the operation of a spacecraft and which applies to one or more specified general insurance classes, that is, accident, goods in transit, fire and natural forces, damage to property and general liability is exempt from UK insurance premium tax. This exemption was introduced on 1 December 2014, and applies to premiums with tax points falling on or after that date. Premiums with earlier tax points are subject to tax in the normal way.

A spacecraft is defined as a man-made object intended to travel into space (manned or otherwise) and includes, for example, satellites, cubesats, rockets, and probes. The exemption applies to both the craft itself and its launch vehicle, including all their component parts.

The exemption applies only to risks relating to the operation of a spacecraft during its launch, flight, orbit, or re-entry, such as loss arising from the malfunction of the spacecraft, or damage caused to or by the spacecraft, or any of its cargo.

UK – GLOBAL REINSURANCE HUB

The UK Government has announced that it wants to ensure the UK's regulatory and tax regime is as competitive as possible in order to attract more reinsurance business to the UK. An interim report is expected in early 2015.

USA – ANTI-INVERSION NOTICE BY US TREASURY

The US Treasury and the Internal Revenue Service have said that "certain inversion transactions are largely motivated by the ability to engage in certain tax avoidance transactions after the inversion that would not be possible in the absence of the inversion". In light of these concerns, on 22 September 2014, the US Treasury issued Notice 2014-52, which announced its intent to issue regulations that would (i) increase the effective tax rate to foreign acquirers of US targets by limiting the opportunities to achieve tax efficiencies in the course of integrating the operations, management, and financing of the businesses, and (ii) tighten the anti-inversion rules of section 7874. This would generally directly increase US targets' tax costs and, thereby, reduce the after-tax returns for their foreign acquirers. The US Treasury indicates the regulations will generally be effective for transactions concluded on or after 22 September 2014.



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