

REGULATION, LITIGATION, AND ENFORCEMENT: ARE YOU INSURED?



Retail and investment banks, life and property and casualty insurers, investment advisors, hedge funds — every segment of the financial services industry faces intense regulatory scrutiny. Whether from the wave of new regulations that followed the global credit crisis or the fine-tuning of longstanding rules, the regulatory demands for financial institutions evolve — as do their risks. Successfully navigating this complex regulatory landscape — in the US and internationally — requires in-depth understanding combined with effective insurance and risk management solutions.

Marsh's Financial Institutions Practice is uniquely qualified to help you manage your regulatory risk based on our deep insurance broking knowledge and broad experience in the industry. Through risk consulting, data and analytics, and a global network that spans more than 100 countries, we can help you assess and manage your risks in a dynamic regulatory environment. Working closely with you, we can help assess the potential impact of regulations on your operations and build effective insurance and risk management programs to mitigate the risks.

MARSH'S FINANCIAL INSTITUTIONS PRACTICE BY THE NUMBERS

- Our FINPRO Financial Institutions Center of Excellence has 25 employees dedicated solely to the assessment and placement of financial and professional insurance policies.
- Our diversified client base includes more than 2,000 financial institutions around the world. We advise:
 - More than half of the top 50 Fortune 500 financial institutions.
 - More than 100 global banks.
 - More than 200 US insurance companies.
 - More than 200 US investment management firms.
 - More than 150 US investment advisors.
- Marsh provides specialized claims advocacy to help optimize clients' cash flow associated with D&O legal liabilities, maximizing recoveries for complex claims. Marsh has:
 - Handled approximately 1,400 D&O claims for more than 1,000 financial institutions over the last five years.
 - Helped financial institution clients recover all of the associated policy limits for more than 90% of the claims we've managed.
 - Helped financial institution clients recover more than \$4 billion in insurance policy proceeds in the last 15 years.

A Wave of Regulatory Scrutiny

Financial institutions are among the most regulated of all industries. The sheer volume of rules they must follow is compounded by their complexity. And those regulations can become even more complex and onerous when operating across multiple sectors.

Among other regulations, US financial institutions must manage the requirements related to:

- **PRIVACY:** As data breaches accumulate across the financial services industry, the Office of the Comptroller of the Currency (OCC), Securities and Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA), and others are closely scrutinizing how financial institutions protect customer information.
- **ETHICS:** In 2016, the Department of Labor introduced a new rule that broadens the definition of “fiduciary” under the Employee Retirement Income Security Act (ERISA) and aims to eliminate conflicts of interest for individuals and organizations providing retirement advice to clients.
- **GOVERNANCE:** In September 2015, the Department of Justice released what is known as the “Yates Memo,” which includes specific guidance around naming and prosecuting individuals in the most egregious cases of corporate wrongdoing. The SEC is similarly focused on individual accountability for public companies’ directors and officers. Meanwhile, in 2014, the OCC finalized “heightened standards” for large banks and federal savings associations, requiring their boards of directors to

establish and oversee written risk governance frameworks. Also in 2014, the Federal Reserve Board introduced rules establishing “enhanced prudential standards” for large banks’ management of liquidity, risk, and capital.

- **CONSUMER PROTECTION:** The Consumer Financial Protection Board (CFPB), established under the Dodd-Frank Wall Street Reform and Consumer Protection Act, aggressively regulates banks’ activities related to credit cards, lending, and other consumer services.

And that’s just in the US.

Globally, financial institutions are subject to regulatory scrutiny across multiple jurisdictions. For example, in March 2016, the UK implemented the Senior Managers and Certification Regime, aimed at identifying and holding accountable senior executives at UK banks and insurers. The mandate is part of the UK government’s banking reform program following the financial crisis of 2008.

Financial institutions must also contend with the potential implications of the UK’s decision to leave the European Union, commonly referred to as “Brexit.” These include potential changes to the “passporting” system for people, goods, and services across the Eurozone, which could be replaced with a customs union or free trade model that would force financial institutions to make hard choices about their UK and European operations.

Proven Insurance and Risk Management Solutions

Marsh can help you stay ahead of evolving regulatory demands and understand how they could affect your business. We can help you build effective insurance and risk management programs to protect your organization and its individual directors and officers from risks related to regulatory requirements.

We can provide you with:

- **DEEP FINANCIAL INDUSTRY KNOWLEDGE.** Marsh's 2,000 clients span the financial institutions industry, including banking, insurance, and investment management.
- **EXPERIENCED INSURANCE PLACEMENT.** Regulatory requirements could have significant implications for insurance coverage, including directors and officers liability (D&O), errors and omissions (E&O), and cyber. Drawing on resources from our FINPRO Financial Institutions Center of Excellence and elsewhere, we can help you optimize insurance policies, negotiating broad terms and competitive pricing on your behalf. Our peer review process means multiple sets of experienced eyes will review policy language before it's finalized.
- **INDUSTRY-LEADING ANALYTICS AND BENCHMARKING.** Robust data and analytical tools are critical to understanding your risk and volatility, especially as regulatory requirements evolve. Working with Marsh Global Analytics, we help analyze industry loss trends and other data to enable smarter decisions about how to manage your risk.
- **GLOBAL REACH.** Our network of global specialists in more than 100 countries allows us to help you build cost-effective and compliant programs wherever you operate.

Analytics

Understanding risk and volatility is essential to optimal risk management. Marsh can help you use data and analytics to structure efficient insurance programs that address volatility while also meeting your risk tolerance goals. Our risk financing optimization model, for example, can identify program inefficiencies and cost savings opportunities.

In the context of regulation, we can help you identify opportunities for your insurance programs to account for regulatory requirements. For example:

- Marsh's IDEAL (Identify Damages, Evaluate and Analyze Limits) Model uses advanced frequency and severity analysis to evaluate the structure of your D&O program. Using actuarial and statistical regression techniques, IDEAL provides you with a full distribution of securities settlement amounts derived by using your market capitalization, industry, beta, total assets, litigation history, and other variables. This allows you to quantitatively examine susceptibility to securities litigation events, and to see hypothetical settlement values. The result is more information on which to base decisions about your D&O insurance program structure.
- Similarly, our Cyber IDEAL Model can quantify the likelihood that your company will incur a breach, and its potential severity. Using US historical breach information dating back to 2005, Cyber IDEAL determines the frequency and severity of cyber incidents using a one-year probability of a data-breach event. For many organizations, the model shows that cyber exposure could far eclipse their average insurance coverage. Having objective cyber privacy event data can help you determine the right risk management solutions specific to your company's cyber exposure and size.

Understanding risk and volatility is essential to optimal risk management.



Financial Institutions Center of Excellence

Based in New York, the Financial Institutions Center of Excellence (FI COE) within Marsh's FINPRO Practice provides depth of experience in managing the financial and professional risk needs of banks, insurers, and investment companies. Comprised of 25 professionals and led by a team of senior advisors — each with more than 15 years of industry experience — we understand coverage terms, pricing, and other market trends to help you build effective insurance programs. That includes tailoring insurance policy contracts to address new regulatory requirements.

The FI COE specializes in providing insurance placement, advisory, and claims advocacy services in connection with complex management and professional liability exposures, including:

- Directors and officers liability (D&O).
- Professional liability/errors and omissions liability (E&O).
- Cyber/privacy liability.
- Employment practices liability (EPL).
- Fiduciary liability.
- Fidelity/crime.
- Outside directorship liability.
- Partnership liability.
- Representations and warranty liability.
- Tax liability.



Global Reach

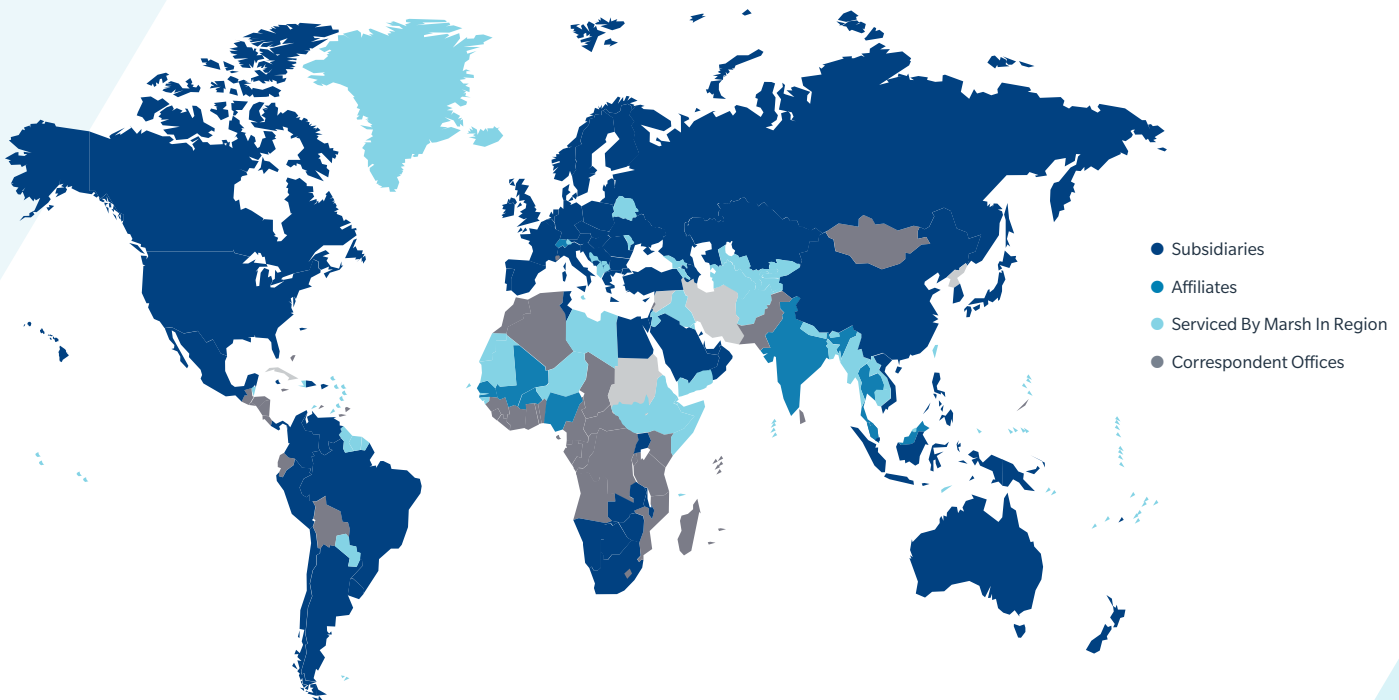
Marsh Multinational Client Service (MCS) can help financial institutions navigate complex and evolving global regulations. We can help you identify and understand local regulations and customs that could affect your insurance and risk management strategy. And we can help you design an efficient, global insurance program that protects your organization in every country in which you operate.

Our team of 1,200 MCS colleagues operating across 130 countries can:

- Work with you to evaluate your global portfolio of insurance coverages and help you select from a variety of potential insurance program structures, including controlled master programs.
- Provide deep insight into local and regional insurance market dynamics, coverage conventions and norms, emerging risk and regulatory issues, and event-related impacts of your business activities and investments.
- Provide consistent, seamless service around the world.

We can also help you manage tax implications of cross-border operations. Our Insurance Regulatory and Tax (IRT) Consulting Practice is the only dedicated specialty practice of its kind in the insurance brokerage industry. Our specialists can help you consider the challenges and opportunities of alternative approaches to insuring risk around the world, along with the unanticipated pitfalls of global insurance programs.

MCS can help financial institutions navigate complex and evolving global regulations.



For more information on how Marsh can help, visit marsh.com, contact your Marsh representative, or contact:

TRIPP SHEEHAN

FINANCIAL INSTITUTIONS PRACTICE LEADER
+1 617 385 0329
eugene.c.sheehan@marsh.com

THOMAS ORRICO

FINPRO FINANCIAL INSTITUTIONS
PRACTICE LEADER
+1 212 345 5404
thomas.f.orrigo@marsh.com

JAMES G. BEATTY

FINPRO PEMA PRACTICE LEADER
+1 212 345 3405
james.beatty@marsh.com

PAUL HUELBIG

FINPRO US BANKING AND CAPITAL MARKETS
PRACTICE LEADER
+1 212 345 6697
paul.s.huelbig@marsh.com

MICHAEL WHITE

FINPRO INVESTMENT MANAGEMENT
INDUSTRY LEADER
+1 212 345 0122
michael.j.white@marsh.com

DONALD ROBERTS

SENIOR VICE PRESIDENT, FINPRO PRACTICE
+1 860 723 5622
donald.m.roberts@marsh.com

CHRISTOPHER CANCRO

SENIOR VICE PRESIDENT, FINPRO PRACTICE
+1 212-345-0126
christopher.cancro@marsh.com

Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

This document and any recommendations, analysis, or advice provided by Marsh (collectively, the "Marsh Analysis") are not intended to be taken as advice regarding any individual situation and should not be relied upon as such. The information contained herein is based on sources we believe reliable, but we make no representation or warranty as to its accuracy. Marsh shall have no obligation to update the Marsh Analysis and shall have no liability to you or any other party arising out of this publication or any matter contained herein. Any statements concerning actuarial, tax, accounting, or legal matters are based solely on our experience as insurance brokers and risk consultants and are not to be relied upon as actuarial, tax, accounting, or legal advice, for which you should consult your own professional advisors. Any modeling, analytics, or projections are subject to inherent uncertainty, and the Marsh Analysis could be materially affected if any underlying assumptions, conditions, information, or factors are inaccurate or incomplete or should change. Marsh makes no representation or warranty concerning the application of policy wording or the financial condition or solvency of insurers or reinsurers. Marsh makes no assurances regarding the availability, cost, or terms of insurance coverage. Although Marsh may provide advice and recommendations, all decisions regarding the amount, type or terms of coverage are the ultimate responsibility of the insurance purchaser, who must decide on the specific coverage that is appropriate to its particular circumstances and financial position.

Copyright © 2016 Marsh LLC. All rights reserved.

MA16-14831 20145