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bipar press

September 2019

In this issue

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French Data Protection Authority fines car insurance company

CNIL, the French Data Protection Authority, imposed a sanction of €180,000 last July on a French insurance company (Active Assurances) that provides car insurance to individuals which failed to adequately protect the personal data of users of its website.

In June 2019, the CNIL received a complaint from a customer who was able to access personal data of other customers from his account, such as copies of driver's licenses, car documentation and bank identification details. These data were accessible directly by typing the names of customers on a search engine, or by adding numbers in the URL address of the website.

The CNIL ordered the company to remediate the situation, and a few days later, when it carried out an inspection, it noted that the measures taken were insufficient. As a result, the CNIL ordered a fine for non-compliance with the obligation to preserve the security of the personal data of its website users, in breach of Article 32 of the GDPR.

The type of personal data concerned, the number of data subjects affected (accounts of several thousand customers and persons having terminated their contracts with Active Assurance) and the data controller's responsiveness and its cooperation with the CNIL to correct the lack of security, impacted the level of the fine determined by the French supervisory authority.

Source: CNIL website, 25-07-2019

FinTech Hub Project launched by the Romanian Financial Supervisory Authority

In August 2019, the Romanian Financial Supervisory Authority (ASF) launched the FinTech Hub Project, which is an institutional framework for dialogue with companies developing FinTech solutions that can be applied on any of the markets regulated and supervised by the ASF.

This initiative is in line with the FinTech Action Plan adopted by the European Commission in March 2018 and designed to promote competitiveness and innovation in the European financial sector. The FinTech Hub supports the development of modern technologies on the financial market and at the same time seeks to maintain consumer confidence in the use of financial services and to ensure an adequate level of protection for them. It will also help many Romanian companies that operate in the field of technological innovation in the financial sector and that encounter obstacles during their business development process (complicated legal and regulatory requirements, complexity of their application in relation to innovative financial products or services).

More information on the FinTech Hub available here.

Source: Romanian ASF website, 19-08-2019

Crypto-assets: joint EBA-ESMA response to the European Commission

As a follow-up to the European Commission's 2018 FinTech Action Plan in which the ESAs were asked to assess the suitability of the EU regulatory framework with regard to crypto-assets (cryptocurrencies or virtual currencies, such as Bitcoin) and digital tokens issued through Initial Coin Offerings (ICOs), in January 2019, the European Securities and Markets Authority (ESMA) published its "*Advice on initial coin offerings and crypto-assets*" and the European Banking Authority (EBA) published its "*Report with advice for the European Commission on crypto-assets*" (BIPAR sent these reports to its member associations on 11 January). Both authorities called for a level playing field, to ensure adequate investor protection and asked the Commission to assess whether regulatory action was needed to achieve a common EU approach.

On 20 August 2019, ESMA and EBA published a joint response to the letter of 19 July which they received from the European Commission and that concerned the Commission's work in response to the issues identified in the ESMA and EBA reports. In their joint letter, both Authorities announced that they "*will launch shortly a new stocktaking exercise of national regimes applicable to crypto-assets. This stocktaking exercise will include a specific block of questions relating to the regulatory treatment of stablecoins in light of their increasing prominence and is being prepared in coordination with Commission staff*".

EBA, ESMA and the Commission will continue their ongoing dialogue and to work closely on this important topic, in the interest of consumer and investor protection, market integrity and the competitiveness of the EU Single Market.

Source: ESMA/EBA websites, 20-08-2019

EU new rules on digitalisation and transparency of companies' financial reports

The European Commission has put forward new rules to support the digitalisation of corporate reporting and to achieve greater transparency of the yearly information disclosed by companies listed in the EU capital markets. The new European Single Electronic Format (ESEF) proposed by the Commission will make companies' financial records more readable and accessible. Under the new rules, from January 2020 all listed companies will need to finalise their annual financial reports using up-to-date digitalised business reporting systems (XHTML and iXBRL). In support of these new rules, ESMA (European Securities and Markets Authority) has prepared an ESEF Reporting Manual and ESEF taxonomy files to help companies in their preparation.

The new provisions build on financial transparency rules already agreed by the European Parliament and Member States. They will be updated on a yearly basis to reflect possible updates to the International Financial Reporting Standards (IFRS) taxonomy.

Source: European Commission's press release, 31-05-2019

First MBA for insurance agents launched officially in France

agéa, the French national federation of general insurance agents (a member of BIPAR), in partnership with IFPASS (training institute for the insurance profession), officially launched the first diploma for insurance agents on 2 September: the "MBA Insurance Agent - Entrepreneur and Manager of Insurance". The title of this master's degree was chosen to emphasize that insurance agents are real entrepreneurs and managers and not only technicians. The MBA programme has been developed jointly with insurance companies in order to integrate the Master training into the training programmes of companies, which also participate in a jury for the selection of candidates. The people eligible for this MBA are those selected by insurance companies and those interested in the profession, but who do not yet have portfolios.

Students will have to follow a 250-hour training course in both face-to-face and distance learning, which lasts almost two months and consists of two parts, one dedicated to the setup of an insurance agency and the other, dedicated to the agency's managerial and entrepreneurial skills. They will be accompanied by trainers who will answer their questions within 48 hours. Candidates will then have to pass an oral exam, during which they will have to present a business plan to a jury of professionals.

Source: Argus de l'assurance, 02-09-2019

Class action against Jardine Lloyd Thompson in Australia

Seven Councils in the State of Victoria in Australia have signed up to a class action against global insurance broker Jardine Lloyd Thompson (JLT), which has provided insurance services to over 500 of the almost 550 councils across the country over the past 20 years. They allege that they were overcharged by many millions of dollars for their property insurance premiums since JLT prioritised its interests over theirs by recommending an insurance scheme (pooled trust fund) from which it earned fees and commissions, which the broker did not disclose to the councils.

The class action follows a Victorian auditor-general's report from late 2018, which found that JLT's administrative fees were too high and inflexible and that by moving away from JLT insurance schemes and going to tender, four councils had saved between 30 and 69 per cent on their premiums.

Law firm Quinn Emanuel Urquhart & Sullivan, which filed proceedings against JLT in the Supreme Court of Victoria in August of this year, has invited all other Victorian local government councils who received insurance brokerage services from JLT to join the class action.

Jardine Lloyd Thompson was acquired by Marsh & McLennan in April 2019.

Source: www.theage.com.au, 04-09-2019

Geneva Association's report on underinsurance

The leading international think tank of the insurance industry, the Geneva Association, released at the end of June a paper entitled **"Underinsurance in Mature Economies: Reasons and remedies"**. This survey conducted in seven mature economies shows that protection gaps are not limited to developed and emerging countries but are also common in advanced economies. Although people widely understand the fundamental notion of insurance and its vital role in the economy and society, they have deep misperceptions about the insurance industry and its products. Addressing this issue will be vital to encouraging a wider adoption of insurance in mature economies, according to the Geneva Association.

This report is available in English only.

Source: Geneva Association's website, publication of 06-2019

Swiss Re's latest Sigma reports

"Natural catastrophes and man-made disasters in 2018: "secondary" perils on the frontline"

Global insured losses from natural catastrophe events in 2018 were USD 76 billion (€69 billion), the fourth highest on Sigma records. More than 60% resulted from so-called "secondary" perils. These perils are either independent, high-frequency (earthquakes, hurricanes), low-to-medium severity loss events, or events that occur as secondary effects of primary perils (a tsunami after an earthquake). Losses from secondary perils have been rising due to rapid development in areas exposed to severe weather and warmer temperatures, and the Swiss Re Institute expects this trend to continue.

The Sigma report is available in English, French, German and Spanish.

"Advanced analytics: unlocking new frontiers in P&C insurance"

The availability of digital data is growing exponentially as the use of sensor networks and digital platforms becomes increasingly widespread. According to this Sigma report, the ongoing development of advanced analytics capabilities affords P&C insurers the means to unlock untapped potential across the insurance value chain. By processing structured and unstructured data sources, insurers will be able to price new markets and risk classes, and make existing processes more efficient.

The Sigma report is available in English, French, German and Spanish.

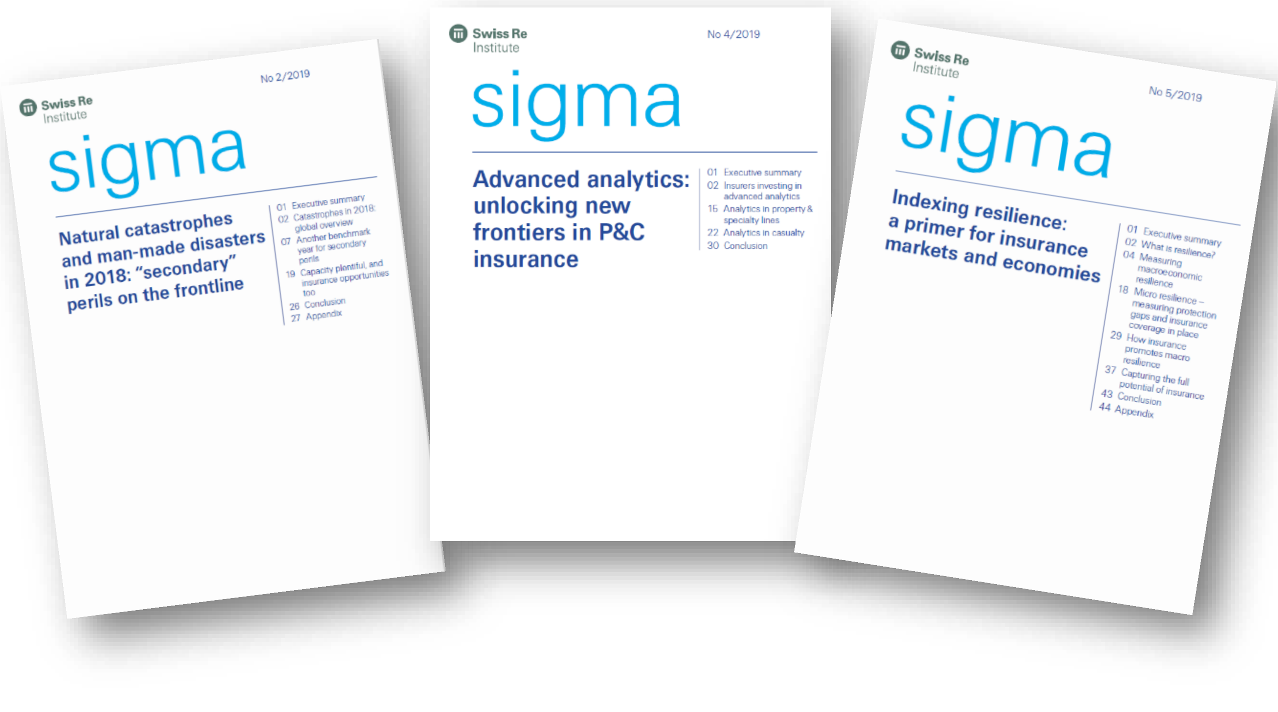
"Indexing resilience: a primer for insurance markets and economies"

According to the new Macroeconomic Resilience Indices jointly developed by Swiss Re Institute (SRI) and the London School of Economics (LSE), the world economy is less resilient now than in 2007 at the onset of the global financial crisis. This report shows that insurers could boost global financial resilience by closing existing protection gaps by more than USD 1 trillion annually.

Group Chief Economist at Swiss Re stated that *"It is a trillion-dollar opportunity for the insurance industry. The insurance industry has largely kept pace with growing loss potentials and can do more to improve resilience. Emerging markets, in particular, benefit more strongly from insurance protection than mature economies, which often have greater access to alternative sources of funding."*

The Sigma report is available in English. The French, German and Spanish versions will be available shortly.

Source: Swiss Re's website



The European Commission's infringement decisions taken in July 2019 against Member States

INFRINGEMENT PROCEDURES

As the Guardian of the Treaties, the **European Commission is responsible for ensuring that Community law is correctly applied** and may initiate **infringement proceedings** under Article 258 of the Treaty on the Functioning of the European Union (TFEU) whenever it considers that a Member State has breached Community law.

1st stage

- The Commission sends the Member State a **letter of formal notice** inviting it to submit its observations within 2 months. This exchange of views is not normally publicised.

2nd stage

- If no reply to the letter of formal notice is received, or if the observations presented by the Member State are not considered satisfactory, the Commission sends a **reasoned opinion**. The Member State is allowed an additional 2-month period within which to comply. At this stage the Commission issues a press release informing the EU's citizens of the purpose of the procedure.

3d stage

- If the Member State still fails to comply with Community law, the Commission may decide to refer the matter to the **European Court of Justice**, whose judgment is binding.

4th stage

- If the Member State fails to comply with the Court's judgment, the Commission may seek the imposition of a **penalty payment under Article 260 of the TFEU**.

FINANCIAL SERVICES - Motor insurance law / IORPs / Mortgage Credit Directive

Reasoned opinion to Romania

The Commission issued a reasoned opinion to Romania for not aligning its legislation on **motor third party liability insurance** with EU rules (Solvency II Directive and Motor Insurance Directive). Romania's current national rules require a prior notification obligation of any intended modification of premiums and impose several limitations on the modalities of calculation by insurers of their premiums. According to the Commission, these obligations are contrary to the Solvency II Directive, as interpreted by the Court's case-law regarding the principle of the freedom of tariffs. The Romanian legislation also obliges insurers to issue, for certain categories of vehicles, a policy valid only on Romanian territory, which is contrary to the Motor Insurance Directive that requires that third-party motor liability insurance policies cover the whole territory of the EU on the basis of a single insurance premium.

Reasoned opinion to Ireland

Ireland was sent a reasoned opinion for not complying with its obligation to implement EU **rules on institutions for occupational retirement provision (IORPs II).** The Directive provides for a comprehensive regulatory framework regarding the activities and supervision of institutions for occupational retirement provision. In December 2016, Member States committed to transpose EU rules into national legislation by 13 January 2019. However, Ireland has not communicated the required national measures to the Commission.

Letter of formal notice to Hungary

Hungary received a letter of formal notice for not applying all the provisions of the **Mortgage Credit Directive**, which aims to increase consumer protection in mortgage lending and to foster competition by harmonising and raising the standard of pre-contractual information and by opening national markets to credit intermediaries. Lack of cooperation on the supervision of credit intermediaries from other Member States operating in Hungary may create obstacles to their activity and limit the choice for consumers. The Commission therefore requested Hungary to open its market fully to credit intermediaries from other Member States.

SOLVENCY II

Letter of formal notice to Belgium, Croatia, Estonia, Poland and Sweden

The Commission sent letters of formal notice to these five countries for not transposing correctly certain provisions of the **Solvency II Directive**. The Directive provides for a comprehensive regulatory framework regarding the taking up and the pursuit of insurance and reinsurance business. The EU rules introduce prudential requirements tailored to the specific risks of each insurer. This also enhances transparency, comparability and competitiveness in the insurance sector.

Source: European Commission's fact sheet, 30-07-2019