MARSH

Client Alert

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Asia Regulatory Update for Clients

Clients with operations in this region, in particular in Malaysia, Indonesia, and India, will be familiar with frequent regulatory changes that directly impact their insurance premiums and scope of cover. Whilst the regulatory environment in Indonesia has stabilized during the last two years, the regulatory environments in Malaysia and India continue to evolve. Historically across the region the focus has been on local tariff and domestic market protection. This continues, but we can now also see more of a focus on environmental issues and cyber risks. China, Korea and, we expect, India are leading the way in regulating these areas of risk.

This paper provides a summary of the regulatory changes by country over the last 12 months that may impact multinational firms with operations in Asia.

Malaysian market changes and de-tariff

The country has experienced extraordinary change this year with the re-election of former Prime Minister Mahathir Mohamed. His opposition party defeated the incumbent Barisian Nasional coalition, which had ruled Malaysia for 60 years since the country's independence, during the May general elections.

Against a general background of falling domestic rates, the de-tariff process continued in 2018 resulting in some significant price reductions, subject to the client's claims record and risk profile. The most significant rate reductions we have seen have been in non-industrial property rates, i.e. for education, hospitality, office, and retail properties. Insurers are also offering wider coverage as the scope of the original fire and motor tariffs are extended through endorsements. Fire / property rates for Industrial risks are more stable, although also subject to reduction. We are seeing significant reductions, in some cases over 20%.

Domestic insurers are launching a wide range of non-tariff insurance policies specific to different classes of businesses and risk categories, but this process is far from complete. To issue the new wordings, insurers require approval from a committee formed by the General Insurance Association of Malaysia.

Domestic insurers will not automatically offer alternative rates or broadform policy wordings at renewal, particularly if they are fronting a global programme with premiums allocated by a global insurer.

Global insurers may resist changes to local policy forms if they perceive that the changes result in local coverage being wider than that provided by the global policy form.

Difficulties can arise when renewal terms proposed by a global insurer do not match a local client's expectation and awareness of the improving local market conditions.

We recommend that the implications of the de-tariff are discussed with your broker well in advance of renewal, to allow them sufficient lead time to work out requirementswith the global insurer and local insurer.

Local insurers may respond more positively to requests for premium reductions if competition is introduced, either from an alternative fronting insurer (global insurers may have more than one local insurer partner in Malaysia), or by obtaining standalone quotes from domestic insurers.

New regulations in China, impacting third party automobile cover arrangements, are likely to directly impact multinational companies.

The Chinese market remains one of the most competitive and fastest-developing in the world. Its insurers are supportive of global policy terms and rating and continue to expand their overseas footprint with relatively few regulatory measures that impact multinational firms. This new regulation is an exception.

Insurance companies in China are required to stop selling insurance products which provide automobile liability extension under liability policies.

Traditionally, clients utilize the statutory local automobile policies ('Public' providing a limit of RMB122,000 for each accident, plus 'Commercial' providing a limit on top of the 'Public' limit) and then purchase an excess layer as may be required as part of their local Comprehensive General Third Party Public and Products Liability (GTPL) policy for owned or non-owned vehicles. The excess auto liability cover is commonly seen as Hired & Non-owned Auto Liability Extension, Motor Contingent Liability Extension, etc. Many clients may also purchase an additional Umbrella policy, sitting above the GTPL coverage. As a result of the new ruling from the Insurance Association of China, insurers must exclude Auto liability cover from GTPL policies.

The new regulations, issued by the Insurance Association of China on April 4, 2018, under the request of the China Insurance Regulatory Commission (the insurance industry is now administered by the China Banking and Insurance Regulatory Commission), reference number is "中保协发[2018]27号", mean that clients must carefully review their Auto liability policy coverage well and also see if their Global CGL program can provide DIL/DIL cover for automobile liability in advance of renewal with your local broker. Note that for existing policies the new regulations will only be applicable at the next renewal.

Regulatory change in Indonesia impacting the purchase of marine cargo cover for coal, crude palm oil, and rice.

This has been the subject of a great deal of discussion and concern from clients when plans for this change were first announced earlier this year. The previously issued regulation ("Permendag No. 48/2018") has now been superseded by the latest version ("Permendag No. 80/2018") which will be implemented for a trial period, commencing January 1, 2019. The actual official implementation will take effect on February 1, 2019.

This regulation applies to only Coal, CPO, and Rice, and its objective is to require both the exporter and importer to purchase cargo insurance from the domestic Indonesian insurance market, regardless of the terms of sale. Without a Certificate of Insurance issued by an Indonesian insurance company, exporters will not be able to gain the necessary permit from the authorities and as a result the vessel will not be allowed to sail.

Please contact Victor Taihuttu, Cargo Specialties in Marsh Indonesia, for more information.

Third-party Motor Insurance; Natural Catastrophe Risks in India

The Supreme Court in India enforces mandatory long term auto insurance cover In a recent order (ref IRDAI / NL / CIR / MOT/137/08/2018, issued by the Insurance Regulation & Development Authority of India, dated August 28, 2018) the Supreme Court of India has made it compulsory for the general insurance companies to provide multiyear or long term third-party motor insurance policies. As per the order, new cars should have third party cover in place for at least three years and two-wheelers for five years.

After the introduction of the long term motor third party insurance for new cars and new two-wheelers, an insured may be given the following two options:

Long-term Package cover offering both Motor Third Party Insurance and Own Damage insurance for three years or five years as the case may be; or

A bundled cover with a three-year or five-year term (as applicable) for the third-party component and a one-year term for the Own Damage.

Long term motor insurance cover will reduce the policy lapses. This order became effective from September 1, 2018.

The premium rates for NATCAT perils - Storm, Tempest, Flood, Inundation (STFI) & Earthquake (EQ) - for property insurance were last reviewed in March 2016. Since then, there have been many catastrophic events resulting from floods, landslides, cyclones etc., the most prominent being:

- Assam Floods, Vardah Cyclone (in 2016).
- Gujarat Floods (in 2017).
- Kerala Floods , Himachal Floods and Landslides (in 2018).

In response to the significant resultant claims, revisions to the minimum premium rates for STFI for Fire (SFSP / IAR / FLOP) and Engineering (EAR / CAR / CPM / EEI) policies and revision in earthquake rate of Non Industrial risks have been imposed by agreement between domestic insurers. There is no IRDA mandate to endorse these changes but insurers have individually issued formal circulars in November and December (for example, ref HO:FIRE & ENGG:2016:3 dated November 26th, 2018 from New India Assurance Company, which is the largest general insurer in India.)

MINIMUM STFI RATES TO BE CHARGED FOR PROPERTY (FIRE & IAR) POLICIES

Occupancy	Existing rate (per mile)	revised rate (per mile)
Dwelling other than cooperative housing societies	0.075 to 0.12	0.075
Non industrial- Co operative Hsg. So., Hotels, Shops etc as per section III of Ersthwhile Tariff	0.1125 to 0.15	0.15
Industrial Inclusing utilities located outside the manufacturing and tank farms/gas holders section IV, V, VII of Ersthwhile Tariff	0.1875 to 0.22	0.25
Standalone storage (outside manufacturing premises) section VI of Ersthwhile Tariff (in godown)	0.1875 to 0.22	0.35
Standalone storage in open (outside manufacturing premises) section VI of Ersthwhile Tariff (in open)	1.125 to 1.50	1.5

MINIMUM EARTHQUAKE RATES TO BE CHARGED, BY ZONE AND BY CLASSIFICATION, BASED ON THE ERSTWHILE TARIFF

All rates are per mile				
Zone	**IV**	**III**	**II**	**I**
Dwelling other than cooperative housing society	0.05	0.05	0.05	0.05
Non industrial- Co operative Hsg. So., Hotels, Shops etc as per section III of Ersthwhile Tariff	0.05	0.1	0.15	0.25
Industrial- Including standalone storage, outside the manufacturing units, utilities outside manufacturing units	0.05	0.1	0.25	0.5

MINIMUM STFI RATES FOR ENGINEERING POLICIES

STFI Rate for EAR / CAR / CPM / EEI : 0.30 per mille per annum or 0.03% (percent)

MINIMUM EARTHQUAKE RATES TO BE CHARGED

All rates are per mile				
Zone	**IV**	**III**	**II**	**I**
EAR/CAR/CPM/EEI (Annual Rates)	0.05	0.1	0.25	0.5

ADDITIONAL NOTES

- The premium rates on engineering policies in respect of Earthquake to be charged on pro-rata basis based on the duration of the policy.
- No discount of any kind including higher excess discounts or in lieu of agency commission/brokerage to be allowed as these are minimum rates.
- No deletion of STFI/EQ to be allowed under project policies.
- No first loss basis cover for EQ allowed under project policies.
- Additional EQ rates to be charged for all zones as per the table irrespective of the occupancy or nature of the project.
- Above rates are the minimum rates and all insurers are free to load the rates based on the individual risk features and claims experience.

Compulsory insurance regulations in Korea are extended to include building owner's liability.

This new regulation, Act No.14829, amended and promulgated on April 18, 2017 and effective from October 19, 2017, requires some building owners to purchase additional coverage for Bodily Injury Liability and Legal Liability for Fire Damage to Property when buying fire and property insurance. Owners of specific types of buildings (i.e prescribed by Presidential Decree, for example more than 11 floors high, public facilities, plants more than 3,000m^2 hospitals, markets, hotels etc.) have to purchase this additional coverage with the following limits:

- Death & Permanent Disablement: up to KRW150 million per victim
- Bodily Injury: up to KRW30 million per victim
- Property Damage (PD): up to KRW 1 billion per case

ADDITIONAL NOTES

- This is not a stand-alone policy. Coverage is normally attached to the PD policy as an extension clause.
- Additional Premium is nominal, around 0.1% of PD premium.
- Local insurers intend to retain 100% of this coverage, so involvement with global carriers may not be needed in terms of fronting, etc.
- This change will not apply to all clients. Discuss with your usual Marsh Korea CE should you have any questions.

New regulations in Korea stipulate that domestic insurers should retain 10% of each policy, including fronted policies, effective from November 8, 2018.

This new regulation is intended for local general non-life insurer to limit reliance on reinsurance. A non-life insurer shall be required to retain at least 10% of each type of general non-life insurance (excluding automobile insurance) except where the risk management committee of the insurer determines that it is difficult to hold 10% or more of such insurance. As a result, excessive reinsurance cessions through fronting arrangements will be restricted.

Compulsory Fire and Explosion Insurance in Vietnam

A new decree related to Compulsory Fire and Explosion Insurance that applies to high risk classes of business and industry was introduced in VIETNAM in 2018.

- Compulsory rates (and deductibles) will vary when compared against the previous Circular 220, sometimes higher, sometimes lower, based on the applicable grades defined within the Construction Law.
- Threshold to apply is VND1,000,000 billion (equivalent to approx. US$44 million, which is higher than US$30 million in the previous Circular 220)
- In respect of sums insured per single location exceeding VND1,000,000 billion: rate and deductibles to be agreed.
- Contribution to Fire Fighting Department: 1% of gross premium written (5% of net written premium in Circular 220).

The new tariff measures (reference decree No. 23/2018/ND-CP, which came into effect on April 15, 2018, with date of issuance February 23, 2018) have directly impacted multinational firms in Vietnam. Marsh must work directly with domestic insurers to establish the local PD/BI renewal terms and ensure that the correct tariff rates are applied. This is invariably a time-consuming process, and we recommend that global insurers engage early with their local network partners and with Marsh Vietnam to ensure that the correct rates are established prior to inception, bearing in mind 30-day payment terms in this country.

Developments in Hong Kong

Typhoon Mangkhut, known in the Philippines as Typhoon Ompong, was an extremely powerful tropical cyclone that brought widespread damages to Guam, the Philippines, and South China in mid-September 2018. It was the strongest typhoon to strike Luzon since 2010, and the strongest typhoon to affect Hong Kong since 1983. The Insurance Authority in HONG KONG has recently conducted a survey to assess the impact of the recent typhoons Hato (2017, gross reported loss HKD4.6 billion / net HK$1.6 billion) and Mangkhut (2018, gross HK$3.5 billion and net HK$1.2 billion, with total estimated loss to the region between HK$7.8 billion and 15.6 billion) on insurers. Key findings, published in a letter sent to all general insurers dated November 15, are:

- Current regulatory framework requires insurers to target a 1-in-200-year return period to set their solvency ratio in HK.
- It should be anticipated that the original estimates for Mangkhut will deteriorate further based on the Typhoon Hato experience (gross and net increased by 22% and 38% respectively).
- Based on the initial estimate of HK$3.5 billion primary (direct) insurers will pick up HK$1.24 billion net and the balance of HK$2.26 billion will be borne by reinsurers through treaty and facultative reinsurance.
- Most insurers are suggesting that any treaty reinsurance increases will need to be passed onto original clients as they are not in a position to absorb them.

With the objective of funding the operation of the Hong Kong Insurance Authority ("IA") which started regulating insurance companies from June 2017, IA started the collection of levy ("IA Levy") from policyholders through insurers for policies with policy inception date or inception anniversary date on or after January 1, 2018. The IA Levy will be increased on a gradual basis - on April 1 2019, the IA levy will increase to 0.06%. The prescribed table is below for reference.

Period	Levy rate	Maximum levy for specified general insurance policies*
From January 1, 2018 to March 31, 2019 (both dates inclusive)	0.04%	HKD2,000
From April 1, 2019 to March 31, 2020 (both dates inclusive	0.06%	HKD3,000
From April 1, 2020 to March 31, 2021 (both dates inclusive	0.085%	HKD4,250
From April 1, 2021 onwards	0.1%	HKD5,000

* Remarks :

- A cap would be imposed on the levy of general insurance policies with annual premiums at or above HKD 5 million.
- If the amount of levy for each policy includes a fraction of a cent, the amount is to be rounded to the nearest cent.

The Insurance Authority ("IA") and the Hong Kong Federation of Insurers ("HKFI") has jointly issued a circular to explore ways to improve underwriting performance for Employee Compensation business and one of the agreed measures was to reinforce accurate declaration of wage roll. In addition, Insureds are requesting for copies of consolidated payroll statement and/or consolidated MPF contributions, financial statements as proof of the payroll contribution. The changes are scheduled to take place on January 1, 2019.

At renewal, insureds with local EC are expected to declare the changes in wage roll according to Insurers declaration forms and some insurers are insisting Insureds use their prescribed forms.

For Hong Kong Employees Compensation policies which are underwritten under (overseas) Master Liability Programmes, please check with programme underwriters to ensure adherence to this new procedure. Please contact Marsh Hong Kong MCS team if you need further assistance.

Business Interruptions in Thailand

The regulator of Thailand's insurance industry, the OIC, has announced that effective January 1, 2019, all Business Interruption insurance policies (for the risk covered under the Industrial All Risks Insurance) will need to be issued, in accordance with the template, wordings, and premium rate as specified by the OIC, as standalone policies, and can no longer be combined with IAR / property policies. Reference regulation number 38/2561, re: template, wordings and premium rate of Business Interruption Insurance Policy (for the risk covered under the Industrial All Risks Insurance) and Endorsement. Separate policy limits will also have to be defined. This regulation applies to local policies issued by domestic insurers, but we are carefully tracking the reaction of local insurers to determine how it might impact locally fronted policies for global programmes.

Generally in Thailand we believe that we can obtain local insurers' agreements on fronted policies to match global terms and conditions, notwithstanding the fact that regulations require policies to be issued in Thai language. Local insurers respond in different ways, but our aim is to work with those that are most flexible. Please address any questions directly to Paijit Dhanmanudham, who leads our MCS team in Bangkok.

MATTHEW SIMMONDS
Multinational Client Services Leader, Asia
Matthew.Simmonds@marsh.com