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ARTICLE

Reforming the Duty of Disclosure: The Emerging Shift Towards Consumer Protection in Contemporary Insurance Law

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Abstract

This article examines the evolution of insurance contract law reforms, focusing on the shift towards a more policyholder-friendly approach to disclosure duties in some Civil Law and Common Law countries. Traditionally, insurance law favoured insurers, but recent reforms have increasingly prioritised consumer protection by adopting inquiry-based disclosure and restricting insurers' rights to void contracts for non-disclosure. Through a comparative analysis, this article examines the alignment between Germany and the UK in reforming disclosure duties, which has driven a broader movement towards policyholder protection. Influenced by these developments, legal reforms in various jurisdictions have enhanced transparency and fairness by reducing policyholders' disclosure burdens while increasing insurers' responsibilities. As the insurance landscape evolves, ongoing legal reforms must prioritise policyholder protection, addressing emerging challenges from digitalisation and technological innovation, with this shift towards policyholders set to become the leading force in shaping a more equitable, consumer-centric regulatory framework.

Keywords: civil law; common law; consumer protection; duty of disclosure; insurance law; policyholder

1. Introduction

An insurance contract, viewed from its historical origins, is in essence considered to be a commercial transaction in which the law assumes the parties have the broad capacity to advance their own self-interest in negotiating the terms of the contract.[1] In common law jurisdictions, insurance contracts have traditionally been, and largely remain, classified as a distinct subset of contract law. In Australia, for instance, insurance law is fundamentally treated as an extension of contract law, drawing on both general and commercial contract principles.[2] This classification highlights the inherently contractual nature of insurance agreements and their alignment with broader commercial practices. This common law perspective stands in contrast to the more codified and detailed statutory frameworks

[1] Helmut Heiss, "Insurance Contract Law Between Business Law and Consumer Protection" in Karen B Brown and David V Snyder (eds), *General Reports of the XVIIIth Congress of the International Academy of Comparative Law/ Rapports Généraux du XVIIIème Congrès de l'Académie Internationale de Droit Comparé* (Springer 2012) 335.

[2] Zofia Bednarz and Kayleen Manwaring, "Keeping the (Good) Faith: Implications of Emerging Technologies for Consumer Insurance Contracts" (2021) 43(4) Sydney Law Review 455.

found in civil law jurisdictions, even though the underlying principles governing insurance contracts in civil law systems also stem from their commercial nature. In civil law jurisdictions, insurance contracts are generally viewed within the broader framework of private law, with more specific regulations embedded in commercial or civil codes, or insurance contract acts, which set out detailed rules and principles for such agreements.[3]

In contemporary legal systems, the once-dominant laissez-faire approach to contract law has increasingly given way to regulatory measures, notably consumer protection statutes and judicial oversight, designed to shield individuals from exploitative or imbalanced agreements.[4] In the insurance law sector, of particular note are the reforms to the duty of disclosure in the early twentieth century in many countries, including Germany and the United Kingdom (UK),[5] which made significant changes to their insurance laws in favour of the policyholder or the insured.[6]

This shift represents one of the most significant changes in modern insurance law, with a focus on better protecting policyholders from unfair practices.[7] The changes in the legislation recognised a move from volunteered disclosure – in which the prospective policyholder is required to proactively and voluntarily disclose all material or relevant circumstances to the insurer, regardless of whether the insurer has specifically asked about them[8] – to inquiry based disclosure – in which the insurer provides a questionnaire for the prospective policyholder to complete, answering all questions.[9] Thereby, it restricted insurers' ability to void contracts for non-disclosure, thereby restricting the capacity for insurers to void contracts for non-disclosure and aiming to simplify both insurers' questions and the language used in policies. They reflect the evolving legal framework in different legal traditions tailored to enhance consumer protections in general insurance contracts in the duty of disclosure in the pre-contractual period. This shift redirected the focus from protecting insurers, as was traditionally the case, to ensuring policyholders at a disadvantage in negotiations, to receive fairer treatment.

This article begins by examining the historical context in which consumer protection has reshaped the identification of the weaker party in insurance law, shifting the focus from the insurer to the policyholder during the pre-contractual stage. It explores how

[3] Jason Reeves and José Umbert, "Primer on Civil and Common Law for the Int'l Insurer" (JD Supra, 2014) <https://www.jdsupra.com/legalnews/primer-on-civil-and-common-law-for-the-i-09953/> accessed 1 June 2025.

[4] P S Atiyah, *The Rise and Fall of Freedom of Contract* (Oxford University Press, 1979). See further Olha O Cherednychenko, "Fundamental Rights, Contract Law, and the Protection of the Weaker Party" (2007) 15 European Review of Private Law 189.

[5] Piotr Tereszkiewicz, "Digitalisation of Insurance Contract Law: Preliminary Thoughts with Special Regard to Insurer's Duty to Advise" in Pierpaolo Marano and Ioannis Rokas (eds), *InsurTech: A Legal and Regulatory View* (Springer 2019) 127.

[6] The paper will use the term "the insured" when analysing UK insurance law or other common law jurisdictions and will prefer the term "policyholder" when referring to German insurance law. Despite these distinctions, the terms "the policyholder," "the insured" all refer to the contracting party of the insurer once the insurer has agreed to underwrite the risk. To emphasise the nature of the individual consumer who purchases insurance for the individual use not for business, which shall be categorised as business insurance, the study sometimes employs the term "consumer" to refer to the counterpart of the insurer in the consumer insurance.

[7] Qihao He and Chun-Yuan Chen, "Insurance Law between Commercial Law and Consumer Law: Can the United States Inspire China in Insurance Misrepresentation" (2019) 26 Conn. Ins. LJ 145.

[8] *Volunteered disclosure approach* places a significant informational burden on the policyholder, who must anticipate what the insurer considers material to the risk. See further JD Ingram, "The Duty of An Applicant for Insurance to Voluntarily Disclose Facts" (2009) 40 Journal of Maritime Law and Commerce 125.

[9] *Inquiry-based disclosure approach* set out the limit for the policyholder's disclosure duty to answering these questions truthfully and completely. If the insurer fails to ask about a particular circumstance, the policyholder generally has no obligation to volunteer that information, even if it is material. The term inquiry-based disclosure is explicitly used and discussed in the following article Z Jing, "Remedies for breach of the pre-contract duty of disclosure in Chinese insurance law" (2016) 23 Conn Ins LJ 327.

communication and the prevalence of standard form contracts (SFCs) in consumer insurance reinforce the policyholder's unequal bargaining power. The article proceeds to analyse recent legal reforms, highlighting amendments in the United Kingdom and Germany, representing the common law and civil law traditions respectively,[10] that aim to alleviate the disclosure obligations placed on policyholders prior to contract formation. Despite structural differences between the two law systems, ongoing reforms in both jurisdictions reveal a functional convergence aimed at recalibrating the balance of power in insurance contracts to achieve fairer outcomes for consumers.[11] By examining these developments through a functional lens, the article supports the view that similar reforms in other jurisdictions are not only feasible but increasingly likely, driven by shared concerns over information asymmetry, market fairness and contract transparency. These converging trends suggest a move toward greater legal consistency across jurisdictions and hold the potential to foster a more equitable and coherent global insurance market.

2. Rethinking the weaker party in modern insurance law

Under traditional principles of insurance law, the insurer was historically viewed as the party requiring protection. This perception was largely rooted in the assumption that insurers were particularly vulnerable to the risks posed by a policyholder's non-disclosure or misrepresentation.[12] As the party best positioned to provide relevant information during the pre-contractual stage, the policyholder bore the burden of ensuring transparency. This duty was essential for reducing transaction costs and promoting contractual fairness.[13] Consequently, strict obligations were imposed on policyholders to disclose all material facts and to avoid misrepresenting such facts during the formation of the insurance contract, duties that have long been regarded as fundamental tenets of insurance law.[14]

Traditional insurance law was primarily designed to protect insurers, seen as the vulnerable party in need of safeguarding. This framework placed the burden of information disclosure on policyholders, driven by the logic of risk transfer: policyholders, as the ones with knowledge of the risk were obligated to fully disclose relevant details to the insurer, who otherwise lacked knowledge of the true nature and extent of the risk. During the development of insurance law, lawmakers aimed to nurture the fledgling industry, acknowledging its close resemblance to gambling.[15] This association led to a general mistrust of policyholders, who were thought to possess superior knowledge about the insured risk – knowledge that could be used to the insurer's detriment. To mitigate the

[10] The United Kingdom consists of England, Wales and Northern Ireland, which follow the common law system, while Scotland operates under a mixed legal system that blends common law and civil law principles. Legislative reforms in the insurance law were in both jurisdictions, driven by the initiatives and contributions of the English Law Commission and Scottish Law Commission.

[11] Functional convergence refers to the phenomenon whereby different legal systems, despite varying in form, terminology and legal doctrine, develop substantively similar responses to common societal, economic, or regulatory challenges. It is a key concept in comparative law, particularly associated with the functional method, which seeks to compare legal systems by analysing how they solve similar problems rather than focusing on formal differences. See further Ralf Michaels, "The Functional Method of Comparative Law" in Mathias Reimann and Reinhard Zimmermann (eds), *The Oxford Handbook of Comparative Law* (Oxford University Press 2006) 339.

[12] Zofia Bednarz and Kayleen Manwaring (n 2).

[13] Julie-Anne Tarr, "Disclosure in Insurance Law: Contemporary and Historical Economic Considerations" (2001) 6 International Trade and Business Law Annual 209.

[14] Anthony A Tarr and Julie-Anne Tarr, "The Insured's Non-Disclosure in the Formation of Insurance Contracts: A Comparative Perspective" (2001) 50(3) International and Comparative Law Quarterly 577.

[15] R Merkin, "Gambling by Insurance — A Study of the Life Assurance Act 1774" (1980) 9(3) Anglo-American Law Review 331.

potential for fraud and manipulation, legal frameworks were established to impose strict disclosure obligations on policyholders. These measures aimed to protect insurers from unforeseen liabilities and to promote the financial stability of the insurance market, reinforcing the belief that insurers required legal safeguards to operate effectively.

However, the traditional approach often overlooked the disparity in knowledge and bargaining power between insurers and individual policyholders in the contemporary context, leading to calls for reform to better balance the interests of both parties.[16] In the contemporary context of the twenty-first century, unlike the eighteenth century, when the first rule of the duty of disclosure was established in the UK Marine Insurance Act 1906, modern communication channels between the insurers and the insureds have significantly evolved, impacting how these issues are managed today in the global insurance market. The rise of digital communication such as emails, online portals and instant messaging has revolutionised how insurers and policyholders share information.[17] This evolution has not only facilitated quicker exchanges but has also enabled insurers to obtain a more comprehensive understanding of the risks involved.[18] As a result, the shift from face-to-face interactions to digital communication has accelerated information sharing. In addition to improved communication channels, big data allows insurers to collect, store and utilise a wide range of information, including personally identifiable and health data from policyholders, claimants and beneficiaries.[19] These advancements have turned insurers from passive information seekers into active data controllers, no longer relying solely on information provided by policyholders. This transformation enhances their ability to evaluate risk, improve accuracy and speed up decision-making.[20] Consequently, insurers are no longer at an informational disadvantage compared to policyholders regarding the risks to be insured, as was the case of a weaker party in the past.

Furthermore, the widespread use of standard form contracts (SFCs) in consumer insurance significantly limits an individual policyholders' lack of power to negotiate terms, assuming an individual has sufficient expertise to negotiate favourable terms.[21] Even when intermediaries such as agents are involved before entering the policy, consumers typically lack the authority to alter contract terms, reinforcing the "take it or leave it" nature of consumer insurance.[22] As individual consumer participation in health and life insurance has grown, regulatory frameworks need to enhance transparency and ensure that policyholders receive clear and accurate information.[23] Therefore, driven by a widespread perception among governments and commentators that consumers were in a vulnerable position, reforms were initiated to enhance protections for policyholders.

[16] The Law Commission and the Scottish Law Commission, *Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation* (Law Com No 319, Scot Law Comm No 219, December 2009).

[17] Pierpaolo Marano and Marco Siri (eds), *Insurtech: A Legal and Regulatory View* (Springer 2019).

[18] Martin Eling and Michael Lehmann, "The Impact of Digitalization on the Insurance Industry" (2018) 43(3) *Geneva Papers on Risk and Insurance – Issues and Practice* 359. See further Deloitte, *Digital Transformation in Insurance: Unlocking the Power of Data* (Deloitte Insights 2020).

[19] P S Atiyah (n 4).

[20] Zofia Bednarz and Kayleen Manwaring (n 2).

[21] Allen Reames, "The Adhesion Contract of Insurance" (1964) 5 Santa Clara Lawyer 60.

[22] See, e.g., *A&M Produce Co v FMC Corp* 186 Cal Rptr 114, 125 (Cal Ct App 1982) (noting that a salesperson stated in response to the question whether there are negotiations over standardised terms other than payment, "I'm not empowered to do that, sir"). But see Jason Scott Johnston, "The Return of Bargain: An Economic Theory of How Standard-Form Contracts Enable Cooperative Negotiation Between Businesses and Consumers" (2005) 104 Michigan Law Review 857 (arguing that salespersons are empowered to alter standard-form contracts because managerial-level employees have a great deal of discretion to satisfy consumers).

[23] Deloitte, *Global Insurance Outlook: Building Resilience in a Post-Pandemic World* (2021) <https://www2.deloitte.com/global/en/industries/financial-services/insurance-outlook.html> accessed 1 June 2025.

M Eling and M Lehmann, "The Impact of Digitalization on the Insurance Industry" (2018) *Geneva Papers on Risk and Insurance – Issues and Practice* <https://www.palgrave.com/gp/journal/11695> accessed 1 June 2025.

The need to further protect the policyholder in consumer insurance has grown more pronounced with the rise of consumerism, a trend closely tied to the development of mass production in advanced market economies, typically traced back to the early twentieth century.[24] The rise of consumerism in the 1950s led to the development of consumer law, sought to address power imbalances between businesses and individual consumers by introducing regulations on product safety, information disclosure and unfair market practices.[25] Consumer law tackles the imbalance in bargaining power by imposing disclosure obligations on businesses, recognising consumers as the weaker party compared to suppliers or sellers. Drawing inspiration from consumer principles, contemporary insurance law reform seeks to strengthen policyholder protection by shifting the burden of disclosure onto insurers. This emphasis on fairness has reshaped the policyholder's duty of disclosure, with stricter enforcement helping to rebalance the insurer-policyholder relationship.

These changes have significantly influenced the insurance market, particularly in pre-contractual disclosure duties, as seen in reforms in the United Kingdom and Germany. This broader trend in the early twenty-first century reflects a commitment to strengthening policyholder-centric approach in contemporary insurance markets.[26] As a result, this shift has become a cornerstone of modern insurance regulations and legal reforms across various legal traditions.[27]

3. Pro-policyholder law reforms in duty of disclosure in Germany and the UK

To gain a clearer understanding of how consumer protection in insurance has evolved, the law reforms in Germany as illustrative of a civil law country approach to disclosure obligations and the UK as illustrative of a common law approach (noting that Scotland is not a strictly common law jurisdiction) shall be examined. Germany's reform of the Insurance Contract Act – *Versicherungsvertragsgesetz* (VVG) in 2008,[28] and the UK's enactment of the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA)[29] alongside the Insurance Act 2015,[30] have each modernised and clarified the obligations of policyholders' duty of disclosure. The reforms to the German Insurance Contract Act (VVG) and the UK's insurance law have significantly enhanced consumer protection by making the disclosure process clearer and fairer while reducing the burden on policyholders. In Germany, changes to the VVG ensure that policyholders are better informed about their rights and obligations, with proportional penalties for non-disclosure, fostering a more balanced relationship between insurers and policyholders. Similarly, in the UK, legislative changes have shifted away from the traditional insurer-favoured approach, mitigating the harsh consequences for insureds who fail to disclose material facts they may not realise are relevant. Collectively, these reforms have made the insurance markets in both

[24] Gordon Borrie, *The Development of Consumer Law and Policy: Bold Spirits and Timorous Souls* (The Hamlyn Lectures, 36th Series, Stevens 1984).

[25] Norbert Reich, "Diverse Approaches to Consumer Protection Philosophy" (1992) 14(3) Journal of Consumer Policy 257.

[26] James Davey, "The Shape of Insurance Contract Law" in Julian Burling and Kevin Lazarus (eds), *Research Handbook on International Insurance Law and Regulation* (Edward Elgar 2023) 2.

[27] Herman Cousy, "About Sanctions and the Hybrid Nature of Modern Insurance Contract Law" (2012) 5 Erasmus Law Review 123.

[28] Versicherungsvertragsgesetz (VVG) (23 November 2007, BGBl I 2631), as amended by Gesetz of 11 April 2024 (BGBl I 119), in force from 17 April 2024.

[29] Consumer Insurance (Disclosure and Representations) Act 2012 (c 6) (UK) received Royal Assent 8 March 2012, in force from 6 April 2013 (UK Public General Acts 2012, c 6).

[30] Insurance Act 2015 (c 4) (UK) received Royal Assent 12 February 2015, in force 12 August 2016 (UK Public General Acts, 2015, c 4).

countries more consumer-friendly while maintaining fairness between insurers and policyholders.

No doubt some of these similarities of approach can be attributed to a time when both countries were members of the European Union. Regardless, the nature and dynamics of the convergence, despite the differing legal traditions, suggests that these kinds of convergences can take place in other jurisdictions despite their differences in common law or civil law legal traditions. What we are in effect witnessing with Germany and the UK is a functional convergence in their approach to insurance disclosure reform. Their convergences reflect a broader trend in consumer protection law, where similar policy concerns, such as information asymmetry, transparency, market fairness, are driving jurisdictions toward comparable legal solutions. Analysing these approaches thus affords valuable comparative perspectives and offers lessons for future reform efforts elsewhere.

3.1. A shift from volunteered disclosure to inquiry-based disclosure

Both reforms in the UK and in the Germany reflect a shift toward the inquiry-based disclosure instead of the volunteered disclosure. This change reflects a consumer-protection approach, shifting the burden away from policyholders, who may lack expertise or understanding of what is relevant, onto insurers, who are the professionals who are best placed to assess risk and determine what information is needed.

Prior to the VVG 2008, German law placed a broad duty on policyholders to voluntarily disclose all circumstances material to the risk, even if not specifically asked by the insurer. The 2008 reform reversed this: policyholders are now only required to answer specific written questions posed by the insurer regarding risk factors relevant to the contract. Germany's 2008 insurance law reform preceded the UK's Consumer Insurance Act 2012 (CIDRA), designed to enhance consumer protection and clarity in insurance relationships. Sections 19 to 22 of the VVG 2008 enhance protection for policyholders, marking a significant shift from a duty of volunteered disclosure by the policyholder to a duty on the insurer to ask specific questions relevant to the risk, thereby reducing the disclosure burdens on the policyholder. Pursuant to VVG 2008 section 19(1), the policyholder must disclose, in writing and upon the insurer's request, any known risk factors that are significant to the insurer's decision to conclude the contract upon the agreed terms. The insurer may ask further questions to clarify the information prior to the contract being concluded (Section 19(1), VVG 2008). This approach reduces the risk of inadvertent non-disclosure and ensures that policyholders are not penalised for failing to volunteer information unless explicitly requested.[31]

The German Insurance Law did not distinguish between consumer insurance and business insurance, the German legislature opted to relieve both consumer and business policyholders of the burden of disclosing all the information relevant to the risk assessment of the insurer. According to German legislators, business entities also require as much protection under mandatory law as individual consumers due to the complexity inherent in insurance contracts.[32] This necessity is further emphasised by the fact that insurers often consider the policyholder's pre-contractual duties only after an insured event has occurred.[33] The 2008 German law reform was a significant step toward a more policyholder-friendly insurance regime, shifting the disclosure burden to insurers and

[31] Manfred Wandt and Kevin Bork, "Disclosure Duties in German Insurance Contract Law: German National Report" in *World Congress of the International Insurance Law Association (AIDA) 2018*, vol 109 (AIDA, 2018) 81.

[32] Manfred Wandt and Kevin Bork, "Pre-Contractual Duties under the German Insurance Law" in Yong Qiang Han and Greg Pynt (eds), *Carter v Boehm and Pre-Contractual Duties in Insurance Law: A Global Perspective after 250 Years* (1st edn, Hart Publishing 2018) 261.

[33] Ibid.

ensuring that both consumers and businesses are protected from the pitfalls of voluntary disclosure. This approach has influenced broader European trends in insurance law reform, including in the UK.

Similarly, the UK reforms align closely with the approach of inquiry-based disclosure in German insurance law. A 2009 report by the English and Scottish Law Commissions criticised the long-standing rule of volunteered disclosure requiring consumers to disclose any information that could influence an insurer's judgment in in setting premiums or determining whether to accept a risk, noting it often trapped consumers unaware of its existence or scope.[34] Most individual policyholders have limited understanding of their insurance policies, which are typically presented as non-negotiable standard form contracts. Such implementation of the obligations in practice has often created an unfair burden for insureds. In response, the UK enacted two major pieces of legislation to address these issues and strike a fairer balance between insurers and insureds: the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) and the Insurance Act (IA) 2015.

The CIDRA 2012 under the law reform brought significant changes to the duty of disclosure in consumer insurance. Under Section 2 of CIDRA 2012, the previous requirement for consumers to voluntarily disclose all material facts was abolished. Instead, it introduced a new obligation for consumers to take reasonable care to avoid making misrepresentations. This shift means consumers are now only required to respond to insurers' specific questions honestly and to the best of their knowledge. Additionally, Section 3 outlines the standard of "reasonable care," the consumer must take reasonable care to fully and accurately answer insurers' questions. Factors taken into account to decide the standard of reasonable care are the nature of the insurance contract, the clarity of the insurer's questions and the consumer's individual circumstances, including their knowledge and experience.

Different from the CIDRA 2012, the IA 2015 introduced a new duty of fair presentation in both commercial and non-consumer (business) insurance contracts in its Section 3(1). This duty requires the insureds to disclose every material circumstance they know or ought to know, or to provide sufficient information to put the insurer on notice to make further inquiries. The Insurance Act also requires that insurers provide clear information about what is required of policyholders. This approach combined the inquiry-based disclosure and the traditional voluntary disclosure which ensures that insureds are fully aware of their obligations and reduces the likelihood of disputes arising from misunderstandings.

This change in both jurisdictions involved removing the duty of volunteered disclosure and shifting the focus to inquiry-based disclosure. While maintaining the traditional approach of protecting the insurer's interest by ensuring their ability to assess risk and accept policies, the law reform in Germany and the UK encourage the industry to further promote fair and equitable treatment of policyholders in disclosure duty.[35] As the professional, the insurer has the duty to acquire relevant knowledge and issue warnings, shifting the burden away from policyholders, who no longer need to voluntarily disclose what they know about the risk. Under a consumer law approach, the insurer is responsible for actively collecting the necessary information about the policyholder's insurance needs, such as by asking specific questions related to the risk. This reform places the responsibility on insurers to ask the necessary questions to gather relevant information, insurers are now required to formulate clear and unambiguous questions at both policy inception and renewal.

[34] The Law Commission and the Scottish Law Commission, *Consumer Insurance Law: Pre-Contract Disclosure and Misrepresentation* (Report, 15 December 2009) <https://lawcom.gov.uk/project/consumer-insurance-law-pre-contract-disclosure-and-misrepresentation/> accessed 1 June 2025.

[35] James Davey (n 26).

It can be concluded that legislators in both jurisdictions shared the view that the burden of voluntary disclosure for the policyholder should be removed and that it is necessary to protect the policyholder's interests in risk declaration in the pre-contractual phase. This change has eased the burden on consumers and reduced the risk of claims being denied due to unintentional non-disclosure. By shifting the burden of information gathering from consumers to insurers, these reforms enhance transparency and promote equitable treatment of policyholders, particularly consumers.

3.2. Adoption of the proportionality approach in designing remedies

Under traditional insurance law principles, insurers could reject claims and void contracts even when a consumer's non-disclosure was innocent or non-fraudulent. The penalties for failing to disclose information under the old laws of the UK and Germany, known as the "all or nothing" approach, were excessively harsh to the policyholders.[36] The remedy for the breach of the duty of disclosure was criticised as overly severe, noting that if the consumer made a mistake, the insurer could refuse all claims, even claims which it would have paid had it been given full information or even when the insurer had acted honestly and reasonably.[37] In the report of the English and the Scottish Law Commission published in 2009, it was stated that the remedy should depend on the insured's state of mind and the nature of the misrepresentation.[38]

The law reforms in both jurisdictions have introduced the principle of "proportionality" to replace the "all or nothing" approach. Both reforms further consider the insured's intent behind a non-disclosure or misrepresentation. They differentiate consequences based on whether the breach was intentional, negligent, or an innocent mistake, aligning remedies to the seriousness of the breach. This innovative approach is considered to provide a fairer outcome and greater protection for insurance consumers.

In Germany, under the revised VVG 2008, an insurer's ability to limit liability is now proportionate to the degree of fault attributed to the policyholder in its Section 19(4). This nuanced approach adjusts the insurer's response based on the policyholder's level of fault, ranging from gross negligence and ordinary negligence to intentional or fraudulent behaviour.[39] Instead of voiding the contract outright, the insurer may adjust the claim payment based on the severity of the policyholder's breach, considering factors like gross negligence, ordinary negligence, or intentional and fraudulent behaviour. For example, in cases of gross negligence, the insurer might proportionally reduce the claim payout rather than deny it completely. In instances of ordinary negligence, the reduction could be minimal. Only in cases of intentional or fraudulent behaviour can the insurer still avoid liability entirely. This shift in approach reflects a broader consumer protection movement in German insurance law, as the proportionality rule ensures that penalties are commensurate with the policyholder's actions. By adopting this approach, the VVG 2008 aligns German insurance law with modern consumer protection standards, allowing policyholders a greater chance of coverage and fostering greater fairness in the handling of disclosure breaches.

The UK shared the same adoption of the proportionality rule in its reform. Proportionate remedies range from avoidance and non-return of premium for a deliberate or reckless misrepresentation on one end of the spectrum, to charging of a

[36] Helmut Heiss, "The Principles of European Insurance Contract Law (PEICL) and their Influence on Insurance Contract Law Reform in Germany" (2012) 4 Journal of European Consumer and Market Law 223.

[37] The Law Commission and the Scottish Law Commission, *Consumer Insurance Law: Pre-contract Disclosure and Misrepresentation* (Report, December 2009) 22.

[38] Ibid.

[39] VVG 2008, Section 26(1) 2, Section 28(2) 2, Section 81(2), Section 82(3) 2 and Section 86(2)3.

higher premium or reduction of the amount to be paid for the claim on the other end.[40] Regarding the CIDRA 2012, the Act differentiates between deliberate or reckless misrepresentation and careless misrepresentation. In cases of deliberate or reckless misrepresentation, where a consumer knowingly provides false or misleading information or demonstrates a disregard for its accuracy, the insurer is entitled to void the policy, deny all claims and retain any premiums paid. Conversely, careless misrepresentation, which occurs without intent or recklessness, is addressed based on the insurer's likely course of action had the correct information been disclosed. In such instances, the insurer may revise the policy terms, adjust the premium, or take other appropriate measures to reflect the accurate risk assessment. For life insurance policies, the CIDRA 2012 prohibits an insurer from terminating a policy due to careless misrepresentation, instead, the insurer's remedies are limited to either offering to contract on different terms (excluding premium terms) or to proportionately reducing the claim amount.[41] The consumer would then have the option to terminate the policy by providing reasonable notice to the insurer, who would be required to refund any premiums paid for the remaining term of the policy.

Both Germany and the UK aim to align remedies with the fault or intent behind a breach of disclosure obligations, moving away from strict contractual voiding, and strive to balance insurer interests with consumer protection. Germany's VVG approach provides a more detailed response to different types of negligence, gradually reducing insurer liability based on the breach's severity. In contrast, CIDRA's remedy structure is broader, categorising breaches by intent with fewer gradations in negligence. Both systems strive to balance insurer interests with consumer protection.

In *Zurich Insurance plc v Niramax Group Ltd*,[42] the Court found that Zurich could not avoid a policy for non-disclosure under the CIDRA 2012 because the insurer failed to prove the inducement. The insurer's calculation of the premium only took into account three points: the amount of cover, the nature of the trade and the claims experience and did not take into account the policyholder's attitude to the risk, which was what the undisclosed facts went to, except to the extent that it was reflected in the claims experience. Accordingly, the undisclosed facts were irrelevant to the rating of risk by Zurich. The non-disclosure therefore did not have any "causative efficacy" in the renewal being written on cheaper terms than would have occurred had the disclosure been made. The court concluded that Zurich was therefore not entitled to avoid the policy. It is to confirm that under CIDRA 2012, for an insurer to avoid a policy due to a deliberate or reckless misrepresentation, it must establish that the misrepresentation induced the insurer to enter into the contract on the terms agreed.

The abolition of only avoidance remedy in German and UK insurance law created a policyholder-friendly cancellation and adjustment rules. If an insurer seeks to cancel or adjust a policy due to non-disclosure, they must do so within a pre-defined period after becoming aware of the non-disclosure. Additionally, the policyholder has a right to continue the policy under adjusted terms (such as paying a higher premium) rather than have it nullified outright (VVG 2008, Section 19(3); CIDRA, Section 4(3)). These provisions aim to protect consumers from losing their coverage entirely for mistakes that could otherwise be corrected. By introducing more flexible remedies to protect the policyholder or insured, these reforms achieve a more balanced approach that aligns the interests of insurers and policyholders in modern insurance law after reforms.

[40] CIDRA 2012, schedule 1.
[41] Ibid, schedule 1, para 9(5).
[42] *Zurich Insurance plc v Niramax Group Ltd* [2021] EWCA Civ 590.

4. The emerging trend in reforming disclosure duties: embracing a pro-policyholder approach

Beyond Germany and the UK, a growing number of jurisdictions across both common law and civil law systems are moving towards reforming the duty of disclosure in insurance law. This shift reflects a broader international trend towards a pro-policyholder approach grounded in transparency, fairness and proportionality. This section examines how some jurisdictions have already implemented significant reforms, while in others, similar changes are under active consideration. It highlights how these diverse legal systems are increasingly converging towards a shared objective: enhancing the protection of policyholders. Despite differences in legal structures and traditions, the reforms reflect a common policy direction, shifting the burden of disclosure away from consumers and towards insurers. This growing alignment suggests a broader reforming trend that is likely to influence the development of insurance law in other jurisdictions and emerging markets.

4.1. Common law countries

The UK is not alone in pursuing reforms to the duty of disclosure and other measures aimed at enhancing consumer protection, such as introducing provisions that allow insured parties to claim damages for unreasonable delays in claims payments. Other common law countries, including Australia and New Zealand, have long embraced similar legislative changes. Furthermore, in the Asia-Pacific region, jurisdictions such as Singapore and India may increasingly face pressure to align their insurance laws with the UK's approach. This method promotes greater transparency, reduces disputes and encourages fairer outcomes, reflecting a global trend towards more balanced and equitable insurance law frameworks.

Among common law countries, Australia was the first country to conduct the insurance law reform specifically addressing the duty of disclosure with its Insurance Contracts Act 1984 (ICA) and has undergone significant evolution after the UK's major legislative changes in 2012–2015. Prior to the UK reforms, Australia was already recognised as an early innovator in this field, incorporating most recommendations from the Australian Law Reform Commission (ALRC).[43] Notably, the ICA was designed to address the shortcomings of the traditional duty of disclosure, replacing the common law "prudent insurer" test with a "reasonable insured" standard (Section 21, ICA). This reform limited the disclosure obligation to facts actually known, or reasonably expected to be known, by the insured, and curtailed the insurer's right to avoid policies for non-disclosure except in cases of fraud or where insurance would not have been provided at any price, subject to court discretion. The ICA also established an implied statutory duty of utmost good faith, requiring insurers to act fairly and transparently in their dealings, particularly in claims handling and the exercise of policy discretions (Section 13, ICA). These measures collectively shifted some responsibility onto insurers to ask relevant questions (Section 22, ICA) and reduced the harsh consequences for innocent non-disclosure, reflecting a marked focus on consumer protection.

In the wake of the UK reforms, Australia drawing on similar principles in its ongoing updates, it further reduced the disclosure burden on policyholders, especially for

[43] Alan Cameron and Nancy Milne, *Review of the Insurance Contracts Act 1984 (Cth): Final Report on Second Stage – Provisions Other Than Section 54* (Australian Government, Department of the Treasury 2004) ISBN 0 642 74254 5 <https://treasury.gov.au/sites/default/files/2022-08/p2004-review-insurance-contracts-act-1984-final-report_1.pdf> accessed 1 June 2025.

consumer contracts, and placed more responsibility on insurers to ask clear questions, adopted the extension of unfair contract terms protections and regulation of claims handling. In particular, akin to the UK's CIDRA 2012, The Hayne Royal Commission replaced the duty of disclosure in consumer insurance contracts with a duty for consumers to take reasonable care not to make misrepresentations (Section 20B ICA), effective from 5 October 2021. A consumer will not be considered to have made a misrepresentation solely for failing to answer a question or providing an incomplete or irrelevant answer. Insurers will now face more difficulty in denying or limiting cover based on pre-policy information. The consumer's actions will be assessed against what a reasonable person would have done in the same situation. For misrepresentation to occur, the consumer must provide false or misleading information. However, providing incorrect information based on a belief that is reasonable in the circumstances is not considered a misrepresentation (Section 26(1) ICA). Additionally, a statement will not be treated as a misrepresentation unless the consumer knew, or should have known, it was relevant to the insurer's decision to accept the risk (Section 26(2) ICA). In addition, like the UK, Australia similarly sought to limit insurers' ability to avoid policies for non-disclosure except in cases of fraud or where insurance would not have been provided at any price.

After the law reform of the UK in the duty of disclosure in 2012 and 2015, New Zealand discussed reforms relating to the duty of disclosure of the policyholder aiming to lessen onerous burden on the policyholder to disclose all material information and adopt a more consumer-friendly orientation.[44] In November 2024, the New Zealand Parliament enacted the Contracts of Insurance Act 2024, introducing significant reforms to the country's insurance contract law.[45] These reforms align New Zealand's insurance practices with those of Australia and the UK, aiming to make insurance contracts fairer and more comprehensible for consumers. A key change is the replacement of the traditional duty of disclosure with a duty for policyholders to take reasonable care not to make a misrepresentation when entering into an insurance contract. This adjustment simplifies the process for consumers, who are now required to answer insurers' questions truthfully and accurately, thereby reducing the burden of disclosing all material information. The Contracts of Insurance Act 2024 of New Zealand also introduces proportionate remedies for misrepresentations and breaches. The Act modifies the duty of utmost good faith, specifying that a consumer is only under a duty to take reasonable care not to make a misrepresentation. Additionally, instead of allowing insurers to void a contract entirely due to non-disclosure, they must respond proportionately, taking into account how they would have acted if the information had been known at the time of contract formation. Factors such as whether the policyholder's misrepresentation or breach was deliberate or reckless are also taken into account. These reforms in New Zealand aimed at enhancing consumer protection and promote a more transparent and equitable insurance market in New Zealand.[46]

In Asia, Singapore undertook significant reforms to its insurance law, building upon the recommendations from the Singapore Academy of Law's Law Reform Committee's 2020

[44] KC Rob Merkin, "Insurance Law Reform in New Zealand: The Impact of the UK Insurance Act 2015" (2024) 40(2) New Zealand Law Review 145. See further Ministry of Business, Innovation and Employment, *An Introduction to the Insurance Contracts Bill* (MBIE 2023) <https://www.mbie.govt.nz/assets/insurance-contracts-bill-introductory-paper.pdf > accessed 1 June 2025.

[45] Insurance and Financial Services Ombudsman Scheme, "Changes to insurance law welcomed by IFSO scheme" <https://www.ah.co.nz/news-and-insights/long-awaited-insurance-contract-law-reform-returns > accessed 1 June 2025.

[46] Insurance and Financial Services Ombudsman Scheme, "Long-awaited insurance contract law reform returns" (13 May 2024) <https://www.ah.co.nz/news-and-insights/long-awaited-insurance-contract-law-reform-returns> accessed 1 June 2025.

report published on 28 February 2020.[47] The report calls codifying Singapore's insurance laws into a single piece of legislation and modelled on the UK Law Reforms to enhance consumer protection and ensure fairer treatment of policyholders.[48] The Singapore Insurance Law Subcommittee studied the deficiencies of the current state of insurance law in Singapore and proposed a bifurcated approach with different obligations for business and consumer insureds. For consumer insurance, Singapore similarly adopted the model in which it requires the insured individuals honestly and reasonably answer the insurer's questions.[49] For business insurance, the existing duty would be replaced with a duty of fair presentation. The report also suggested reforms imposing new disclosure obligations on insurers. Insurers would be required to disclose "unusual terms" in business insurance policies or, in the case of consumer insurance, any deviations from standard coverage. The proposed reforms are generally focused on rebalancing the rights between insureds and insurers to ensure that insured's rights are appropriately protected whilst ensuring that insurers can continue to appropriately consider, manage and price risk.[50]

In addition, India's Insurance Laws (Amendment) Act 2015, through its revision of Section 45 of the Insurance Act 1938, enhanced consumer protection by limiting the period within which an insurer can repudiate a life insurance policy for non-disclosure or misrepresentation to three years from the date of issuance or revival. While the Act does not abolish the duty of disclosure, it significantly restricts the insurer's right to avoid the policy after this three-year period, even in cases of fraud. Within the initial three years, insurers retain the ability to repudiate policies on grounds of fraud or material misrepresentation, but the burden of proof lies with the insurer. Unlike the UK CIDRA 2012, India's approach maintains the traditional duty of disclosure but balances this with a definitive limitation period, reflecting a more gradual shift towards consumer protection while preserving insurer safeguards.

4.2. *Civil law countries*

Among civil law countries, reforms also all aimed to provide stronger protection for policyholders,[51] especially regarding their policyholder's pre-contractual duties of disclosure, the insurers' obligation to provide information about policy, and consequences of policyholders' duty breach.

The reform in Germany conducted under the inspiration of the whole Europe's efforts to harmonise between the common law and the civil law tradition for comparative law purpose in the insurance law reform, the project group on a "Restatement of European Insurance Contract Law" was founded in September 1999 to draft the "Principles of European Insurance Contract Law" (PEICL).[52] A revised and re-edited text of the PEICL published in October 2009[53] promoted the single European insurance market, offered a

[47] Singapore Academy of Law, Law Reform Committee, *Report on Reforming Insurance Law in Singapore* (February 2020) <https://sal.org.sg/wp-content/uploads/2025/02/2020-Report-on-Reforming-Insurance-Law-in-Singapore_0.pdf> accessed 1 June 2025.

[48] Woo Pei Yee, "The Duty of Disclosure-Proposals for Reform" (2000) 21 J Sing L Rev 100.

[49] Singapore Academy of Law (n 47).

[50] Nicholas Sykes, Ian Roberts and Joel Harris, "Shaking up the Insurance Industry: Proposal to Reform Insurance Law in Singapore" (March 25, 2020) <https://www.mondaq.com/insurance-laws-and-products/907262/shaking-up-the-insurance-industry-proposal-to-reform-insurance-law-in-singapore> accessed 1 June 2025.

[51] Jürgen Basedow, "The Common Frame of Reference and Insurance Contract Law," in Katharina Boele-Woelki and FW Grosheide (eds), *The Future of European Contract Law* (Kluwer Law International 2007)149.

[52] John Birds, Jürgen Basedow, Malcolm A Clarke, Herman Cousy and Helmut Heiss (eds), *Principles of European Insurance Contract Law* (Sellier 2009).

[53] Ibid.

model for an optional instrument in the EU.[54] Relating to the policyholders' pre-contractual duty of disclosure and representation, the popular trend in the PEICL also confirm the consistency of the EU in protecting the policyholders that it limited the duty of the prospective policyholder to inform the insurer of relevant facts which "are the subject of clear and precise questions put to him by the insurer"[55] under the questionnaire model.

Building on these foundational efforts at the European level, subsequent reforms have increasingly focused on aligning national laws with EU directives and regulations to strengthen consumer protections and foster a harmonised insurance market across member states. Reforms followed the EU's 2002 Insurance Mediation Directive, the Insurance Distribution Directive, and consumer protection measures like the Unfair Commercial Practices Directive (UPCD) and Packaged retail and Insurance-based investment Products Regulation (PRIIPs) Regulation.[56] Efforts to harmonise insurance regulation across member states set high standards for pre-contractual disclosures, requiring insurers to clearly explain products and risks. Member states adopted consumer-centric policies to minimise harsh penalties for minor non-disclosures.[57] Over recent decades, the EU has developed a centralised body of insurance law, transitioning from fragmented national regulations to a unified system that offers protection to European citizens by creating the developing, centralised body of insurance law that correlates with the EU's objective of achieving a single, harmonised European insurance market.[58]

Amidst the wave of legal reforms, several EU countries have adopted approach similar to Germany's, with equivalent rules reflected in the PEICL.[59] Countries such as France,[60] Spain,[61] Italy[62] and Sweden[63] have undertaken significant reforms to the duty of disclosure into inquiry-based model, which is more consumer-friendly in terms of obligations.[64] In terms of the consequences for breaching disclosure obligations, the all or nothing approach was abolished, and replaced by the principle of proportionality in the postmodern insurance law. Accordingly, the insurer cannot refuse all claims under an insurance policy if the consumer does not share a material fact, even if the undisclosed fact is unrelated to the claims made, if the non-disclosure did not cause any loss to the insurer, and the non-disclosure was innocent.

[54] Helmut Heiss, "Introduction" in Jürgen Basedow, John Birds, Malcolm A Clarke, Herman Cousy and Helmut Heiss (eds), *Principles of European Insurance Contract Law* (Sellier European Law Publishers 2009) 134.

[55] PEICL, Art 2:101 para 1.

[56] Herman Cousy, "The Principles of European Insurance Contract Law: The Duty of Disclosure and the Aggravation of Risk" (2009) 10(4) *ERA Forum* 585. See further Yvonne Delfos-Roy, "The PEICL and the Duty of Disclosure" (2011) 19(1) European Review of Private Law 71.

[57] Olavi-Jüri Luik, *The Application of Principles of European Insurance Contract Law to Policyholders of the Baltic States: A Measure for the Protection of Policyholders* (PhD thesis, University of Tartu 2016).

[58] Raymond Cox, Louise Merrett and Marcus Smith, *Private International Law of Reinsurance and Insurance* (Informa Law 2006) 25.

[59] Harald Benestad Anderssen, "The Duty of Disclosure in the PEICL: A Scandinavian Perspective" (2017) European Review of Private Law 967.

[60] In France, the French Insurance Code (Code des Assurances) was amended in 2005 to introduce more lenient remedies for breaches of this duty, with further reforms in 2018 focusing on proportionality and fairness, especially within consumer insurance contracts.

[61] In Spain, the 2015 amendment to the Insurance Contract Law (Ley de Contrato de Seguro 1980) reinforced the principle of good faith by imposing stricter obligations on insurers to provide clear and comprehensible policy terms, thereby reducing the burden on policyholders in fulfilling their disclosure duties.

[62] In Italy, the 2012 reform of the Insurance Code (Codice delle Assicurazioni 2005) strengthened consumer protection by requiring insurers to provide clearer pre-contractual information and limiting the circumstances in which policies can be voided for non-disclosure.

[63] The Swedish Insurance Contracts Act 2005 entered into force on 1 January 2006, for a detailed review see Hjalmarsson, "The Swedish Insurance Contracts Act 2005: An Overview," NFT (2008), 85–92.

[64] Olavi-Jüri Luik (n 57).

Outside the EU, countries in Asia such as Japan, South Korea or China have also moved towards a model where the insurer bears greater responsibility for asking relevant questions, and policyholders are not penalised for failing to disclose information they were not expressly asked about. These reforms reflect the German model's emphasis on fairness and transparency. Japan's 2010 amendments to the Insurance Act enhanced consumer protection by adopting a similar protective stance, and requiring insurers to ensure policy clarity,[65] while South Korea's reforms to the Commercial Act imposed stricter transparency obligations on insurers at the underwriting stage.[66] In China in 2015, it reformed its duty of disclosure framework by adopting a uniform inquiry-based disclosure model for all insurance types under the Insurance Law of the People's Republic of China (2015 revisions) followed by the Chinese Supreme People's Court (SPC)'s Interpretation II (2013). Insureds are only required to truthfully answer questions posed by the insurer in the proposal form, with no duty to volunteer undisclosed material facts beyond the scope of the inquiry.[67] Crucially, the SPC Interpretation II (Article 6) limits the insured's duty to the insurer's specific questions and places the burden of proof on the insurer if disputes arise over the inquiry's scope.[68] Revisions to Article 16 of the Insurance Law further restrict insurers' rescission rights: policies can only be terminated for non-disclosure if the breach resulted from the insured's intentional concealment or gross negligence.[69] In summary, the insured's duty of disclosure in China is not a broad obligation, but rather one that is activated only in response to the insurer's explicit questions. This approach is designed to protect policyholders from the risk of innocent non-disclosure and to require insurers to clearly identify what information is material to their underwriting decisions.[70]

5. Conclusion

Recent legal reforms in both common law and civil law jurisdictions reveal a clear and accelerating trend toward the modernisation of insurance law, with consumer protection at its core. While approaches vary according to legal tradition and local context, these reforms share a unifying objective: recalibrating the relationship between insurer and policyholder by fostering greater transparency, fairness and accountability. A central feature of these reforms is the transition from a volunteered disclosure model – where policyholders were required to proactively disclose all material facts – to an inquiry-based approach, which places the burden on insurers to ask clear and specific questions during the pre-contractual phase. Additionally, many jurisdictions are moving away from rigid, all-or-nothing remedies for breaches of disclosure, instead favouring more proportionate responses that better reflect the nature and impact of any non-disclosure.

The reforms in the UK, Germany and other jurisdictions exemplify a functional convergence around consumer law principles, marking the rise of a distinctly pro-policyholder ethos in modern insurance regulation. This shift not only enhances legal

[65] T Maruyama, "The 2010 Amendments to the Japanese Insurance Act: A New Era for Policyholder Protection" (2011) Journal of Japanese Law 61.

[66] J Kim, "Reforms in South Korea's Insurance Law: Enhancing Consumer Protection and Transparency" (2012) 7(1) Asian Journal of Comparative Law 123.

[67] Yong Qiang Han and Feng Wang, "Pre-Contractual Duties under the Chinese Insurance Law" in Yong Qiang Han and Greg Pynt (eds), *Carter v Boehm and Pre-Contractual Duties in Insurance Law: A Global Perspective after 250 Years* (1st edn, Hart Publishing 2018) 203.

[68] China Law Vision, "Summary: To Avoid Rescission, Insurance Applicant Must Disclose Facts When Prompted by Insurer" (25 March 2021) <https://www.chinalawvision.com/2021/03/insurance-law/summary-to-avoid-rescission-insurance-applicant-must-disclose-facts-when-prompted-by-insurer/> accessed 1 June 2025.

[69] Z Jing, "Remedies for Breach of the Pre-Contract Duty of Disclosure in Chinese Insurance Law" (2016) 23 Connecticut Insurance Law Journal 327.

[70] Zhen Jing, *Chinese Insurance Contracts Law and Practice*, (Informa Law from Routledge 2020).

certainty and fairness but also aligns domestic laws with evolving international standards, ensuring that policyholders are better protected in an increasingly complex and competitive insurance market. Similar developments in other common law and civil law jurisdictions, including those outside the EU, highlight a global move toward harmonising insurance regulation. This harmonisation is driven by the need to enhance fairness, transparency and accessibility for policyholders, balancing robust consumer protection with commercial realities.[71]

Despite recent legislative support for pro-policyholder measures through law reforms across jurisdictions, their effective implementation continues to face challenges in the evolving insurance landscape of technological advancements. The rise of Insurtech innovations and digital insurance platforms has improved accessibility and efficiency but also introduced complexities in policy terms, data privacy concerns and algorithmic decision-making that may disadvantage consumers.[72] Digitalisation and cyber risks also pose new challenges, particularly as insurance shifts toward online platforms and data-driven underwriting.[73] One of the key challenges is mis-selling and misrepresentation, where complex insurance products, automated underwriting and digital sales channels increase the risk of misleading consumers. Legal frameworks may need to further provide measures to mitigate these risks by enforcing policyholder-friendly requirements and financial penalties for unfair sales practices of the insurer. As innovative products, such as parametric insurance and decentralised finance-based (DeFi) insurance, consumers may struggle to understand policy terms and exclusions.[74] The complexity of insurance products remains significant barrier to consumer protection, especially those with limited digital literacy. To effectively address emerging challenges arising from insurance digitalisation and innovation, ongoing legal reforms must prioritise a policyholder-centric approach. Embedding consumer interests at the core of regulatory frameworks is essential to ensuring fairness, accessibility and trust in the evolving insurance landscape.

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[71] James Davey (n 26).

[72] P Marano and M Siri, "Insurtech: A Legal and Regulatory View" (2019) 27(2) Journal of Financial Regulation and Compliance 216.

[73] M Eling and M Lehmann, "The Impact of Digitalization on the Insurance Industry" (2018) 43(3) Geneva Papers on Risk and Insurance – Issues and Practice 359.

[74] DA Zetzsche, DW Arner and RP Buckley, "Decentralized Finance (DeFi)" (2020) 6(2) Journal of Financial Regulation 172.

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