RPC

Annual Insurance Review

2026

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Introduction

Welcome to RPC's Annual Insurance Review 2026 – a summary of the key events from 2025 that impacted the global insurance market and an assessment of the issues most likely to keep you busy during 2026.

The Review is structured by reference to international regions and to business lines, allowing you to quickly find the topics most relevant to you. However, reading the Review as a whole allows common themes and cross jurisdiction/sector risks to be identified.

In the introduction to last year's Review we identified AI, extreme weather events, global economic challenges and ESG as some of the areas of common focus. This year, common themes include: issues relating to the private credit (or "shadow banking") market and concerns as to whether an economic downturn might have ripple effects across the wider banking sector; continuing growth in PFAS (perfluoroalkyl and polyfluoroalkyl substances) related claims, which are now being compared to asbestosis claims; and, of course, the continued growth in use of AI, being both a claims risk and a considerable underwriting opportunity.

Yet the biggest issue we highlighted in last year's Review was that physical and political conflict arising from state polarisation/isolationism and increasing geopolitical tensions seemed set to continue, if not intensify, in 2025. Sadly, that prediction has very much proved to be true.

The clearest thread running through this year's articles is the underlying impact of increased state self-protectionism and rising geopolitical conflict. The level and duration of armed conflict worldwide remains worryingly high as measured against the previous few decades. Furthermore, assessing whether a given political dispute (whether inter or intra state) will develop into economic or armed conflict has become increasingly unpredictable. Even during the time it has taken to finalise this introduction, whilst the US continues to seek to broker peace in the now nearly four-year-long war resulting from Russia's invasion of Ukraine, it has itself just forcibly deposed and arrested the president of another state; a state which says it now intends to run. The US has also seized a Russian flagged oil tanker in European waters, with UK assistance, and continues to press for the "acquisition of" Greenland – seemingly considering doing so by force.

The wildly unpredictable nature of so many of the world's governments (including, and especially, those of the US, Russia and China), and their apparent willingness to flagrantly disregard rules of international law, means that, more than ever, it's impossible to predict what the next 12 months will bring. Only one thing seems certain – we can no longer sensibly predict how states will manage their relationships with each other. This means there is likely to be yet more conflict and considerable volatility in both a geopolitical and economic sense. As a market we should be ready for the existing "rules" (of international law, of trade, of regulation, of… any kind) to change at the drop of a hat.

Strap in for 2026 – we look forward to joining you on the ride!

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Download this year's Annual insurance review here

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ASIA

RPC

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Key developments in 2025

A challenging macroeconomic environment

From the Trump Administration's protectionist tilt to geopolitical conflicts in major trade corridors such as Europe and the Middle East, Asia has been forced to adjust to a rapidly shifting macroeconomic landscape.

These global pressures translated into a complex storm of softer trade demand, subdued economic growth, persistent inflation and heightened market volatility, all of which created a more difficult operating backdrop for insurers across the region.

Asia's position as a global manufacturing hub meant it felt the effect of supply chain strain more acutely, with disruptions in cross-border production networks feeding directly into corporate balance sheet pressure across key markets. As regional growth softened and financing costs climbed, more Asian businesses struggled with cash flow stress and insolvency risk, a trend that did not go unnoticed by trade credit insurers, many of whom reported rising late payment activity and an uptick in claims across trade exposed sectors.

Taken together, 2025 was a year in which macroeconomic and geopolitical volatility materially shaped insurer behaviour across Asia, influencing pricing, capacity decisions and overall risk appetite.

Increased regulatory enforcement in emerging areas

2025 saw a marked escalation in regulatory enforcement across Asia, with regulators sharpening their focus on key areas such as financial services, cybersecurity, data and privacy, climate and ESG, and general corporate governance. Coverage for regulatory costs and insurable fines continue to feature, particularly across financial lines insurance offerings.

In Hong Kong, the introduction of HKEX's mandatory climate-related disclosures, signalled a decisive shift towards stricter sustainability governance and board-level accountability. Furthermore, the SFC has also ramped up enforcement activity, targeting fund-manager misconduct, instances of the misuse of client assets, and disclosure failures in market communications. The horrific fire on 26 November 2025 at Wang Fuk Court in Tai Po, caused mass casualties and property damage estimated at US$334m. The incident has shone a spotlight on the Hong Kong construction industry, with experts calling for stricter rules around oversight of building material safety, site management and inspections. The ICAC has since launched an investigation into suspected corruption for the renovation project at the premises and a judge-led committee into the cause of the incident has been announced.

Singapore has followed a similar trajectory, with the PDPC, its regulator responsible for enforcing Singapore's data protection and privacy laws, significantly stepping up enforcement in 2025, issuing a financial penalty against a SaaS provider following a major ransomware related breach and maintaining a firm stance generally on organisations that fail to meet required security and accountability standards under the PDPA. Separately, the MAS has continued to mount a strong display against financial services firms, prioritising enforcement action centred on governance failures, weak AML/CFT controls and deficiencies in technology and operational-risk management.

Lastly, amid the rapid rise of AI-generated content and increasingly sophisticated deepfakes, China has expanded its cybersecurity and data-governance framework by introducing a comprehensive regulatory regime for generative AI. The new rules, which came into effect in September, require AI-generated text, images, audio and video to be clearly labelled as such, and sit alongside existing obligations requiring providers of large scale or publicly facing AI models to file underlying algorithms with the CAC prior to deployment.

As the world evolves, bringing with it new frontiers of risk, regulators across Asia remain as determined and vigilante as ever to ensure adequate protections are in place to safeguard markets.

Climate change and catastrophe insurance

Climate change driven weather events continue to place pressure on the industry.

Asia remains the global epicentre of climate-related catastrophe risk, with an estimated 40% of the world's natural disasters striking the region, yet it continues to suffer from one of the widest protection gaps globally, with an estimated 82.8% of losses remaining uninsured.

This year, property damage as a result of the region's natural catastrophe events remained relatively manageable with an outlier being the 7.7 magnitude earthquake that hit Myanmar in March, the effects of which extended into Thailand. Early assessments placed insured losses in Thailand at around US$1.5bn, with around 150,000 claims filed.

What is also becoming clearer is that the role of insurers is no longer confined to absorbing the financial fallout of natural catastrophes; rather, there is now a growing expectation across Asia that insurers will take proactive steps towards bridging the protection gap, both indirectly by integrating ESG frameworks into underwriting to influence real world behaviours (for example, offering more favourable policy terms for buildings with stronger flood defences, renewable-energy infrastructure, or climate resilient construction) and directly, through the development of more accessible catastrophe products such as parametric covers and community-based microinsurance. While microinsurance has historically played a limited role in insurers' portfolios due to low premium volumes and high administrative costs, it is poised for significant growth across Asia as governments and individuals become increasingly cognisant of its role in bridging the protection gap for lower-income demographics, who disproportionately feel the effects of climate related losses.

What to look out for in 2026

Emerging growth in Asia as a whole

Despite facing significant economic headwinds, Asia has emerged as a rare engine of expansion throughout 2025, a trend that is expected to carry into 2026. An indicator of the region's resilience has been the sharp rebound in M&A activity, with deal volume and value rising across key markets despite a challenging macroeconomic backdrop.

Among others, this presents a meaningful opportunity to capitalise on the growing demand for transactional risk solutions. On this, we note that 2025 has already seen a noticeable uptick in W&I placements across Asia, underscoring both the rebound in deal activity across the region but also the growing adoption of W&I insurance as an effective way to transfer risks in transactions.

Insurance for digital asset service providers is also expected to be a growth area, with regulators in the region recognising the significance of its role from a consumer protection standpoint. The Hong Kong SFC, for example, requires licensed virtual asset service platforms to maintain insurance covering client assets held in both hot and cold wallets. This requirement has been subject to industry feedback regarding the difficulties in compliance given, among others, the lack of capacity provided by insurers in the region to cover such risks. The SFC is, therefore, considering modifications to the same – while local capacity for such insurance is gradually increasing.

Rising demand for AI liability insurance

While AI-driven losses may be silently covered under existing policies (for example, professional indemnity and cyber insurance policies), the industry is wising up. We are seeing insurers excluding exposure to such risks under existing policies, with a new focus on developing coverages that respond to the unique risks created by AI adoption such as AI failures/limitations, including hallucinations, biased outputs and autonomous decision-making errors. For example, Munich Re, AXA XL, Armilla AI, Chaucer, and PICC are reportedly developing specialised, standalone AI liability products and/or adding AI-specific endorsements to existing technology, cyber or professional lines policies.

Insurance for AI liability is a promising growth area for insurers and indeed, Deloitte has estimated that by 2032, AI liability premiums globally will be upward of USD$4bn. Underwriting AI liability will no doubt be challenging for insurers given the lack of (if any) tested wordings in the market and the fast pace at which AI (and, therefore, its associated risks and regulations) are evolving.

Going forward, trends in this area are worth monitoring, as regulatory scrutiny intensifies, particularly around responsible AI governance. It is therefore not inconceivable that AI liability insurance could become an expectation, or even a mandated requirement, for businesses operating at scale with AI systems sometime in the future.

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Key developments in 2025

The Australian market faces challenges and emerging risks similar to other jurisdictions. While the overall economy is relatively strong, inflation sensitive sectors such as construction, hospitality, and retail remain vulnerable, as evidenced by record-level insolvencies in the SME space, and the ongoing economic, social and political turbulence on a global scale still casts a shadow on our sunburnt country.

Cyber risk and privacy remain top of mind for companies, their leaders and insurers, with a survey by CrowdStrike showing the Australia/New Zealand region as the third most targeted globally, with 78% of respondents experiencing at least one ransomware attack in the past year.

There have been changes in cyber law include the mandatory reporting of ransomware payments, and minimum-security standards for smart device security. From 10 December 2025 age-restricted social media platforms must take reasonable steps to prevent Australians under 16s from having accounts.

ASIC continues its focus on failures by companies to have adequate cyber security with prosecutions commenced against FIIG Securities and Fortnum Private Wealth.

There have also been significant developments in Australian privacy law this year, with a statutory tort for a serious intrusion into privacy commencing on 10 June 2025. This adds additional risk for companies and opens up the potential for class actions arising from any breach. The first civil penalty for the breach of privacy saw pathology provider Australian Clinical Labs ordered to pay $5.8m.

In the construction space, New South Wales has substantially unwound reforms enacted in 2004 which displaced joint and several liability. The proportionate liability regime is, in practical terms, at an end for construction professionals marking a return to the routine filing of contribution claims. This outcome increases the costs of managing disputes for builders, subcontractors, and professionals lacking delegation protection.

As to Victoria, the Building and Plumbing Commission has been established, combining the functions of various bodies that had regulated domestic building insurance, practitioner registration and dispute settlement divisions. The enabling legislation contemplates that this body will have certain powers to direct rectification works on buildings from 1 July 2026.

For institutional liability risks, the issues of vicarious liability, non-delegable duties of care, permanent stays in claims where the passage of time means witnesses are unavailable and evidence lost, and decisions to set aside prior deeds of settlement, continue to work their way through the courts and bring an element of uncertainty. While the High Court ruled on the issue of vicarious liability in the case of *DP v Bird* in late 2024, finding that there was not an employment relationship between the Diocese and the priest in question, the High Court is now considering a second matter in *Diocese of Maitland-Newcastle v AA*. The outcome is being closely watched, as the change in the interpretation of vicarious liability, together with legislative change foreshadowed in a number of States and Territories in 2026, will have wider implications than just historical abuse claims.

Scrutiny of the accountancy profession continues to increase, with rare regulatory moves now being made against top tier firms, including the notable successful action by the Tax Practitioners Board against PWC's former Australian Managing Partner. ASIC has also stepped up its prosecution of tax promotion scheme advisors.

Australian D&O insurance and class action landscape is in a state of flux, with directors and officers continuing to face increasing levels of risks and regulation.

Corporate regulatory scrutiny and intervention also remains high, with the Australian Securities & Investments Commission and the Australian Competition & Consumer Commission actively pursuing enforcement in the areas of ESG, greenwashing, cyber readiness and in general instances of general wrongdoing across the board.

Shareholder class action filings have slowed substantially due to landmark victories for defendants and ongoing legal uncertainty. However, this current holding pattern may prove to be temporary with appeals in *Zonia Holdings Pty Ltd v Commonwealth Bank of Australia* (CBA) and *Crowley v Worley Ltd* (Worley) on foot in the and plaintiffs are actively planning alternative paths to success. Meanwhile, filings in other class action areas – especially consumer and employment claims – are rising sharply, driven by plaintiff and funders shifting focus.

Private credit exposures continue to increase, highlighted by recent failures, industry warnings and ASIC intervention. These traditional FI and PI risks present real challenges for directors and officers.

What to look out for in 2026

While many of the risks that have been on the agenda in 2025 remain top of mind, risks continuing to emerge further in 2026 including climate reporting, AI and privacy, modern slavery, forever chemicals and workplace matters, to name just a few issues of note.

The second tranche of the changes to Privacy Act is still awaited, which is anticipated to include the removal of small business exemption and employee records exemption. The introduction of requirements for disclosure of automated decision making in privacy policies will become effective on 10 December 2026. The rules for minimum security standards for the "Internet of Things" comes into effect on 4 March 2026.

AI presents both significant opportunities and risks for businesses and insurers. While adoption can drive efficiency, recent incidents highlight the dangers of misaligned AI-generated material, which have resulted in regulatory admonishment and reputational harm. Organisations should ensure that AI outputs meet government, regulatory, and social expectations to avoid professional negligence and potential class actions. Added to these risks is enhanced regulatory scrutiny, particularly where companies overstate their AI preparedness or capability – a practice increasingly referred to as "AI-washing."

Mandatory climate reporting ramps up in 2026, as the second phase of the roll out makes a larger number of companies eligible. With directors being required to sign off on sustainability reports, this opens up another potential avenue of risk for this cohort and for the professional services firms who assist in the data that goes into the reports where misleading or overstated claims are detected. While ASIC are for now taking a pragmatic and proportional approach, this grace period will expire.

Consumer protection will continue to be a focus for the ACCC. The proceedings against Mercer and Vanguard for greenwashing signal a continued focus on consumer protection, including within financial services, retail, aviation and essential services. These sits alongside the ACCC implementing a new mandatory merger regime from 2026. Crypto regulation has advanced, with ASIC issuing detailed guidance on digital assets and custody obligations, supported by a sector-wide transition period to mid-2026.

The construction industry is facing major legislative and regulatory reforms in NSW and Victoria in 2026. *Building Bill 2024*, currently before the NSW State Parliament proposes the largest overhaul of building and construction industry regulation in 40 years, by consolidating nine pieces of legislation into one, and implementing better controls and safeguards across a number of areas from licencing to regulatory powers. The *Bill* is at the final review stage and, to date, has not been introduced to the Parliament of New South Wales.

In Victoria, the Building and Plumbing Commission is consolidating the Victorian Building Authority, Domestic Building Dispute Resolution Victoria and the statutory domestic building insurance scheme, to provide greater a more streamlined service for building practitioners and greater protections for consumers.

Those active in the D&O and class action space is eagerly anticipating appeals and other developments in this space in 2026 which will shape what happens next. In *CBA*, following the Full Federal Court's part overturning of the trial judge's findings, but denying damages due to failure to prove causation and loss, the High Court will hear the applicant's Special Leave application on 12 February 2026. In *Worley*, the appeal focused on causation and quantification of loss following the trial court's dismissal of claims. A decision is expected to clarify whether market-based causation theories will gain traction, which could reshape the viability of future shareholder actions.

With these complex issues on the table, plaintiffs and funders are now considering split trials, separating liability from quantum, to overcome issues associated with establishing loss. This approach has advantages for all parties, including reduction of up-front costs, the ability to test questions of liability and provide a better understanding of exposure once liability has been determined, and has even had support from the bench, with Justice Lee of the Federal Court describing a split trial as maybe "desirable and efficient".

With the stalling of the shareholder class action market, there is the potential for derivative actions to become the new class action. Derivative actions allow shareholders to bring proceedings on behalf of the company for wrongs done to the company itself, rather than seeking compensation for individual shareholder loss, overcoming some of the evidentiary and causation hurdles that are plaguing shareholder class actions. Derivative actions also align with broader governance trends, including heightened regulatory scrutiny of board conduct and ESG compliance. As ASIC and the courts continue to emphasise directors' duties and corporate governance standards, we expect derivative actions to gain traction – particularly in cases involving systemic governance failures, cyber breaches and climate-related disclosure obligations.

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Key developments in 2025

2025 was a dynamic year in the world of insurance in Canada. In this chapter, we explore the economic uncertainty, fears of impending recession, and developments in the legal sector that underscored the year Canada had, as well as what is to come in 2026.

Economic uncertainty and recession

Canada faced significant financial difficulties in 2025, with experts noting that the country is still at risk of a recession within the next six months. The Bank of Canada's Market Participants Survey for Q3 of 2025, released in early November, noted that market participants believed there was about a 35% chance that Canada is in a recession or will enter one in the next half-year. However, later that month, Statistics Canada published its Q3 results, noting that Canada narrowly avoided recession in the third quarter of 2025. It stated that Gross Domestic Product (GDP) climbed 0.6% from July to September, following the concerning second quarter results, which saw Canada's GDP decline by 0.5% between April and June.

Tariffs imposed by foreign governments caused significant strain on Canada's economy in 2025. According to Budget Canada, new tariffs and shifting trade policies strained supply chains and raised costs for Canadian exporters, with high tariffs and significant trade actions now applying to auto, steel, aluminum, copper and wood. Nonetheless, Canada continued to benefit from favourable access to our largest export market, with 85% of Canada-US trade remaining tariff-free and the average US tariff rate on Canadian goods standing at 5.4%.

Appeal rulings appear more favourable on notice issues

The Ontario Court of Appeal (ONCA) recently issued two important insurance-related decisions, both addressing whether the insured had sufficiently complied with notice requirements in claims-made and reported policies such that relief from forfeiture could be granted. In a claims-made and reported policy, coverage is only triggered if the claim was made and reported during the policy period. In both cases, equitable relief was not available to the plaintiffs due to their specific late reporting. This is a break from the typical Canadian trend of flexible findings to excuse policy breaches.

On 27 March 2025, the Supreme Court of Canada dismissed an insured's leave to appeal the decision in *Furtado v Lloyd's Underwriters*, 2024 ONCA 579 (*Furtado*). In *Furtado*, the ONCA held that the insured, was not entitled to relief from forfeiture after failing to disclose to his insurer an Ontario Security Commission (OSC) investigation and a subsequent receivership application and enforcement proceeding against the business.

Furtado built on the earlier decision in *Kestenberg Siegal Lipkus LLP v Royal & Sun Alliance Insurance Company of Canada*, 2024 ONCA 607 (*Kestenberg*), whereby the ONCA held that where a condition precedent to triggering insurance coverage is not met, relief from forfeiture will not be available because this would constitute non-compliance rather than imperfect compliance. In *Kestenberg*, the Court rejected the insured's argument that relief from forfeiture is available in all insurance cases unless the breach of condition is both substantial and prejudices the insurer. It also disagreed that a claims-made and reported requirement must be contained in the insuring agreement clause for it to be a condition precedent to coverage. Rather, courts must interpret a policy as a whole and ordinary principles of contractual interpretation apply.

In *Furtado*, the policy included a suspension clause pausing notice requirements while the insured was legally prohibited by law enforcement or the OSC from making disclosures. When he was informed that new legislation now permitted disclosure to his insurer, the insured waited nearly a year to report a claim to the insurance company, at which time the policy had expired. The delay in giving notice constituted non-compliance with a condition precedent to coverage, for which no relief from forfeiture could be granted.

Backlog in the Canadian Court Systems

As of November 2025, there were 50 judicial vacancies across Canada, in addition to longstanding criticism of whether those openings are even sufficient given recent population growth. This has led to long judicial wait times and concerns with respect to access to justice. Yet, in 2025, the Federal Court of Appeal's ruling in *Canada (Prime Minister) v Hameed*, 2025 FCA 118 overturned a controversial lower court decision requiring judicial vacancies to be filled within a "reasonable time".

The Federal Court (FC) backlog has been exacerbated by a surge in appeals of immigration decisions, resulting in delays of over a year to obtain final rulings. According to the Canadian Bar Association (CBA), immigration-related filings at the FC have quadrupled since 2020. Despite this, operational funding to expand judicial capacity has not been renewed since 2023. Without funding, the FC is projected to hear approximately 400 fewer immigration cases yearly, thus adding to further backlogs.

Lastly, in 2025, the Government of Canada published its estimated budget for expenditures over the next three years, which would cut over $20m from support services for administrative tribunals. In response, the CBA created a submission to Finance Canada in August, which highlighted the persistent underfunding for the Courts Administration Service and called for relief for the structural deficit/ funding gap of approximately $35m. The CBA noted that lack of financial backing for court systems strains core operations and, if left unaddressed, risks undermining the ability of the courts to discharge their mandate to interpret the laws enacted by Parliament effectively and independently.

What to look out for in 2026

Rule Reform in Ontario

The Civil Rules Review Working Group published its Phase 2 Consultation Paper on 1 April 2025, which proposed various changes to the way civil legal proceedings are conducted in Ontario. A revised version has been presented to members of the bar with recommendations that are expected to be imminently published by the Ministry of Attorney General, including:

- new pre-litigation protocols for specific types of cases, which will mandate the early exchange of information and specific documents, and require parties to make a genuine effort to resolve their disputes before starting court proceedings
- changes to examinations for discovery, including limiting the scope and time allowed for oral examinations and eliminating them in some instances
- requiring up-front exchange of all evidence-in-chief once pleadings are completed
- requiring mandatory case conferences after the exchange of evidence to set dates for a trial and mediation within two years
- curbing motions practice by using judicial intervention to ensure that motions are addressed in a manner proportionate to the significance of the issues and the impact they have on the substantive dispute
- streamlining expert evidence by encouraging joint experts and permitting a single expert per issue.

In theory, these changes will reduce backlogs by streamlining litigation. However, the new system has been criticized by the bar for "front loading" litigation costs and prolonging contentious issues. The detailed presentation of a case early in litigation may help early assessments, but also risks the parties missing opportunity to settle given the significant early time investment required.

Given that Ontario is Canada's largest province, these proposed changes and the associated risks set a strong precedent for the rest of the country. Time will tell if other provinces and territories will follow suit, though at the moment, the proposed changes to the rules of civil procedure make Ontario an outlier amongst other Canadian jurisdictions.

Artificial Intelligence

Advancements in artificial intelligence are making their way into the traditionally conservative legal industry. Rule changes have already required lawyers to make attestations about the veracity of case law and evidence given the advent of AI hallucinations.

AI presents a unique opportunity for firms and claims managers to streamline operations and reduce overall workload.

AI is beginning to be considered as part of the standard of care in particular for large document cases, such as construction disputes, which have become increasingly unwieldy given the large e-discovery burden.

Tools that rely on artificial intelligence also present significant challenges to claim assessments. Self-represented plaintiffs can use it as a tool to create a volume of legal submissions that increase costs on meritless claims. Savvy claims handlers should also be aware of the potential of faked or altered evidence given the prevalence of tools that allow for "deep fakes".

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Key developments in 2025

We mentioned in previous reviews the issue of coverage for operating losses when there is no physical damage in the context of the Covid-19 pandemic, and the fact that litigation before various courts of first instance and courts of appeal in France left an impression of chaos.

As in 2024, the *Cour de cassation* (French Supreme Court) continued to render decisions on this matter in 2025. It is no surprise that decisions are still being issued: the litigation concerns various insurance contracts with different wordings and different exclusion clauses. Moreover, the *Cour de cassation* must still impose its views on the lower courts.

In four decisions (two rendered on 28 May 2025 and two on 18 September 2025), the *Cour de cassation* interpreted the condition of coverage requiring that access to the premises be prohibited. Lower courts construed this condition strictly as an absolute and general prohibition, but the Supreme Court decided that it is not necessary to demonstrate a total prohibition of access.

Initially, the litigation concerned mainly restaurants, but there are now decisions regarding hotels. According to a decision rendered on 19 June 2025, hotels cannot benefit from coverage because they were not subject to the national prohibition on receiving the public. However, in a decision rendered on 13 March 2025, a hotel owner obtained coverage. The reason is that the hotel was located in an area of a French *département* in which the *Préfet* (the State's local representative) issued an order extending to hotels the prohibition on receiving the public.

On 18 September 2025, the *Cour de cassation* reminded that the limit of coverage in force at the date of termination of the policy applies to the entire extended reporting period. Consequently, as the extended reporting period is at least five years (and ten years in certain cases), the limit applies once and not five (or ten) times. This is a strict application of the statutory provisions of article L. 124-5 of the French Insurance Code regarding Professional Indemnity Insurance on a claims-made basis, but the reminder was apparently needed.

The *Cour de cassation* also revisited the enforceability of the nullity of motor insurance contracts. Since the decision rendered on 20 July 2017 in the *Fidelidade* case by the Court of Justice of the European Union, the nullity of a motor insurance contract is not enforceable against third parties. The French Cour de cassation adopted this solution on 29 August 2019, but had to revisit two points in 2025.

On 23 January 2025, the French Supreme Court decided that the nullity of the policy is not enforceable against an indirect victim. In this case, the indirect victim was also

the policyholder who committed the intentional misrepresentation justifying the nullity. Nevertheless, the nullity is not enforceable.

On 26 June 2025, the *Cour de cassation* decided that although the nullity is not enforceable against the victim, it is enforceable against the insurer of another vehicle involved. Consequently, the insurer whose policy is null has recourse against the other insurer whose policy is valid and can claim reimbursement of all sums paid to the victims.

In previous reviews, we mentioned the monitoring carried out by the ACPR (*Autorité de Contrôle Prudentiel et de Résolution*, the French insurance supervisory authority) on the remote sale of insurance contracts, particularly by telephone.

An Act of Parliament dated 30 June 2025 amended the French Consumer Code, requiring that the consumer's consent be obtained beforehand. This will take effect on 11 August 2026 and will apply to all consumers, not only in relation to insurance.

However, since 1 April 2022, the specific regulations governing the sale of insurance by telephone apply where the call has not been solicited, granting time to consider the insurance transaction. This will need to be reconciled with the broader consumer regulations.

What to look out for in 2026: risks

Corporate social responsibility is a risk factor, particularly for liability insurance such as PI or D&O. It represents not only a source of risk but also a means of mitigation.

On 13 November 2025, the Directive on Corporate Sustainability Reporting and the Directive on Corporate Sustainability Due Diligence were heavily revised by the European Parliament. The thresholds for application have been increased with respect to both number of employees and turnover, with the consequence that many companies will no longer be subject to the regulation. Several important obligations have been removed. For example, the duty to develop a climate transition plan has been withdrawn. In addition, the mechanism of harmonised civil liability across the European Union has also been removed.

The draft directives must now be discussed among the European Parliament, the European Council and the European Commission, with the aim of adopting a final text by the end of 2025.

Another risk to monitor is PFAS (perfluoroalkyl and polyfluoroalkyl substances), also known as persistent pollutants.

Legal actions against industrial companies are multiplying in France (as well as in other countries, for instance, the decision rendered on 26 June 2025 in Italy by the *Corte di Assise* di Vicenza). In March 2025, the Paris water company filed a criminal complaint against persons unknown for pollution of water and soil. In July 2025, citizens of Saint-Louis, in Alsace, filed a criminal complaint regarding pollution of the city's water supply. PFAS have also been detected in the French *départements* of Ardennes and Meuse at levels never previously recorded (including in the "chemical valley" of the Rhône), leading to another complaint filed in July 2025.

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Key developments in 2025

PFAS

Last year, we already mentioned the PFAS developments in the Netherlands. This year, PFAS litigation has intensified. A collective action brought by eleven interest groups against the State alleges a breach of duty of care for failing to protect the residents from PFAS contamination. The case was heard on 2 December 2025 and a ruling is expected in February 2026.

The court's 2023 ruling of liability in the case brought by municipalities against Chemours remains an important precedent for future claims against industrial polluters. These developments reflect a broader trend in which PFAS is being compared to asbestos regarding its legal consequences, whilst the European Commission continues to work on a potential EU-level ban on PFAS.

AI

Globally, AI is impacting the way we work significantly. This phenomenon will logically also have a significant impact on insurance claims and insurance coverage.

Silent AI has developed into a point of attention within the Dutch insurance market. As companies increasingly rely on AI-driven support tools, debate has intensified over whether errors made by AI tools as quasi-professional agents qualify as professional wrongful acts or not. We see similar discussions under product liability insurance.

The AI Act, which has been in force since 2024, has also begun to influence the assessment of civil duties of care. Failure to comply with its requirements is expected to be treated as strong evidence of unlawful conduct in civil proceedings.

We have also seen insurers adding specialized GenAI coverage under their cyber policies, making an early shift towards explicit AI insurance.

Product liability

Product liability changes in 2025 were dominated by the entry into force of the new EU Product Liability Directive (2024/2853), which significantly expands both the scope of products and the range of potentially liable parties. Software, AI systems and associated digital services now fall within the definition of a product, while importers, authorised representatives and fulfilment service providers may also face liability. The broadened concept of recoverable damage and eased evidentiary rules have raised concerns among insurers, who anticipate increased claims exposure and are revising policy wordings accordingly.

Class Actions

The WODC (a Scientific Research and Data Center of the Ministry of Justice) has evaluated the Dutch Collective Settlement of Mass Claims Act (WAMCA), noting 95 collective actions since 2020 with none fully resolved. The report identified lengthy admissibility phases and funding issues, recommending procedural improvements and a clear funding framework.

Notably, the Vattenfal case was the first WAMCA case to reach substantive assessment, whilst the Mercedes Dieselgate action was declared admissible on appeal. These developments have fueled a growing claim culture in the Netherlands under the WAMCA framework.

Rotterdam Scale, relevant for personal injury claims

2025 saw the official introduction of the 'Rotterdamse Schaal' (Rotterdam Scale), a standardized framework for assessing immaterial damages in personal injury cases in the Netherlands. This scale, developed by a legal research team from the Erasmus University Rotterdam, provides a structured approach to quantifying non-material damages, such as pain and suffering. The aim is to bring greater predictability and transparency to claims handling. As the use of the Rotterdam Schaal leads to higher amounts of compensation, this will have consequences for the amount of damages awarded. Although not legally binding, courts and practitioners increasingly reference the Rotterdam Scale. The Dutch Judiciary is currently discussing the use of the Rotterdam Scale and is expected to publish a guideline soon.

Unregulated advocates

Key issues in 2025 revealed growing concerns about claims by unregulated advocates in personal injury matters. Issues such as double billing, misleading advertising and insufficient expertise were increasingly reported, with up to a quarter of cases handled by unregulated advocates.

Sector organizations urged the introduction of statutory quality standards, including amendments to article 6:96 Dutch Civil Code (this is the article that specifies what types of costs can be claimed as damages), whilst a WODC study concluded that broader regulation is necessary. Parliamentary debates show support for mandatory accreditation and professional protection, although concrete legislative steps remain pending.

Regulatory trends

Regulatory developments were marked by increased supervisory attention from The Dutch Bank (DNB) and the Dutch Authority for the Financial Markets (AFM), including closer scrutiny of governance frameworks, digital resilience under DORA and the use of AI systems. At EU level, the key changes concern the revision of the Solvency II Directive, the central supervisory framework for European insurers, and the introduction of the Insurance Recovery and Resolution Directive setting new recovery and resolution rules. These reforms will shape the EU's oversight of insurers in the coming years.

What to look out for in 2026

PFAS

PFAS is projected to become an even bigger source of liability in 2026, especially as European regulations are expected to broaden PFAS restrictions under the REACH regulation (the Regulation of Registration, Evaluation, Authorisation and Restriction of Chemicals). At national level, a standalone PFAS ban remains under political consideration, but preparations for stricter standards on emissions, soil, and drinking water are being developed.

As lawsuits begin to target not only manufacturers but also distributors and processors, insurers are likely to respond by adding specific PFAS exclusions, sublimits, or significantly raising premiums. Together, these developments suggest that 2026 will be a crucial year when tighter regulations and increased legal claims come together.

(Silent) AI

Looking ahead to 2026, AI-related claims are expected to increase significantly, pressuring insurers to clarify the scope of AI coverage. The revised Product Liability Directive and AI Act will create strict liability for software and AI systems, likely to raise claim volumes. Silent AI exposure continues due to outdated policies, but insurers are expected to introduce explicit AI-clauses in 2026 to prevent unintended coverage.

Heightened exposure is expected in mobility, healthcare and HR, where AI systems and bias may trigger liability or discrimination claims. Litigation funders are also likely to engage more actively, partly due to developments of the WAMCA in the Netherlands.

Product liability

By 9 December 2026, EU countries must implement the new Product Liability Directive. The broadened scope covering software, AI systems and associated digital services is expected to drive an increase in claims, including WAMCA cases in the Netherlands. Insurers are likely to introduce AI- and digital-product clauses to manage silent exposures, while companies face heightened compliance and contract management demands. Litigation funders are also expected to become more active, particularly in the tech and medical sectors.

Unregulated advocates

Ongoing concerns about unregulated advocates are set to drive significant policy attention in 2026. Lawmakers are considering changes to article 6:96 DCC (see above) that would tie remuneration to the expertise of advocates, a change expected to lower insurers' expenses.

Political debate on introducing a licensing system or protected professional title is gaining momentum, with a government response expected soon to help guide future supervision and enforcement. Insurers are expected to tighten cost assessments, refine policy wording and promote the use of accredited representatives.

Regulatory trends

Regulatory priorities in 2026 will center on enhanced supervision by the AFM and DNB, including data-driven and risk-based oversight and further implementation of DORA. At EU level, 2026 will serve as a transition year for the Solvency II revision and the IRRD, requiring updates to governance and recovery planning. Insurers are advised to prepare for upcoming financial-markets legislation and rising expectations on ESG, AI and operational resilience.

Class Actions

Key policy actions are expected in 2026, including the government's response to the WODC evaluation of the WAMCA and potential legislative measures to streamline procedures and improve funding transparency. Collective claims are likely to increase, particularly in the areas of ESG, AI and consumer protection, with litigation funders playing a growing role. Insurers should anticipate higher exposure under directors' liability and professional policies and may need to revise policy terms whilst closely monitoring funding and opt-out risks.

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LATIN AMERICA

RPC

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Key developments in 2025

The Latin American insurance market experienced a challenging and dynamic 2025. This was fuelled by consistent growth, an expansion in digital distribution, and increasing product sophistication, alongside regulatory volatility and a notable rise in the frequency of complex loss events.

The year was further defined by geopolitical shocks, particularly stemming from shifts in US trade policies. Given their heavy reliance on exports, many Latin American nations remained susceptible to supply chain disruptions and inflationary pressures. This translated into higher claims costs due to rising repair and replacement expenses.

Furthermore, we noted a visible influx of new participants in the region. The use of Managing General Agents (MGAs) to provide capacity or facilitate the assumption of risks by foreign regional reinsurers continues to gain traction. This trend is expected to drive demand for Delegated Underwriting Authority Enterprises (DUAEs) with specialised expertise in the Latin American market.

The region was also defined by significant legislative shifts, most notably the entry into force of the new Brazilian Insurance Contract Act (Law No. 15.040/2024) in December 2025. This Act introduces a modern legal framework that replaces the provisions of the Brazilian Civil Code, bringing substantial changes for all market participants, including reinsurers.

The new Brazilian Insurance Act adopts a pro-policyholder approach across all insurance lines, including large commercial risks. Furthermore, it imposes stricter response deadlines and limits insurers' ability to request additional information. The law also restricts the capacity to designate foreign law and jurisdiction for local disputes (see RPC's analysis here[1]).

What to look out for in 2026

As we enter 2026, the Latin American reinsurance market is navigating a strategic "softening" phase within the broader hard market cycle. This shift is characterised by a significant influx of global capacity and a heightened risk appetite from new market entrants. While 2025 was defined by geopolitical trade shocks, 2026 is poised to prioritise underwriting innovation and technological maturity.

Market participants should closely monitor the diverging economic trajectories of the region's leading economies. While Brazil and Argentina show signs of business stabilisation and growth, Mexico faces a more complex outlook driven by ongoing trade tensions and fiscal reforms. Specifically, recent modifications to VAT rules may escalate premiums and claims costs for personal lines; furthermore, commercial lines may be adjusted as insurers seek to offset potential premium losses.

The insurance market should maintain a close watch on the shifting political landscape between the US and Venezuela. A potential regime change could lead to the lifting of sanctions and the reopening of the Venezuelan oil market, home to the world's largest proven reserves.

Key themes for the year will include the rising dominance of Managing General Agents (MGAs), the integration of predictive AI, and the implementation of new regulatory frameworks such as the new Brazilian Insurance Act.

We expect an increase in cyber risks as it is one of the fastest-growing claims areas globally, and Latin America is no exception. The market, while smaller and less mature than in the US and Europe, is experiencing the fastest growth in cyber insurance premiums.

Political Risk and Violence remains a primary concern. Political instability in specific jurisdictions, exacerbated by social inequality, elevates the risk of severe claims arising from civil unrest, strikes, riots, and looting. Underwriters must remain vigilant as these localised events can lead to significant aggregate losses across commercial portfolios.

Finally, in 2026, the Latin American market will also witness a sharp rise in Special Risks, particularly concerning the theft of high-value assets. Driven by a surge in organised crime and the escalating global value of commodities, losses involving gold bars, luxury watches, and fine art have become a primary concern for regional underwriters. As gold prices remain volatile and illicit mining persists in the Andean region, the ability to distinguish between legal and smuggled assets has become as much a matter of compliance as it is of risk management, leading to a higher demand for more "forensic" underwriting and specialised loss adjusters.

1. https://www.rpclegal.com/thinking/insurance-and-reinsurance/brazil-enacts-landmark-insurance-legislation/

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In this chapter of our Annual Insurance Review 2026, we look at the significant developments in 2025 and expected issues in 2026 for the USA.

Key developments 2025

Impact of Trump 2.0

The most impactful development of 2025 relates to the vast departure of the policies under Trump 2.0 from those of the Biden administration. The impact on claim frequency and severity varies by insurance line, but on balance deregulation is expected to result in an overall decrease in enforcement actions by federal agencies. The One, Big, Beautiful Bill – which permanently increases the maximum deduction for certain business property, allows full expensing of domestic research and experimentation expenditures, and makes permanent most of the 2017 tax cuts – generally affords more favourable treatment to insurers and other companies than pre-existing law. Tariffs have injected some uncertainty as well as additional revenues, but many of the concerns expressed by some economists have not materialized to the extent feared so far and economic inflation has declined to under 3%. Credit, trade, and political risks historically have not presented significant losses domestically, but in recent years they are seen as presenting greater risks along with social unrest.

Environmental, Social, and Governmental considerations/sustainability (ESG) is down but not out

There has been a substantial regulatory rollback of ESG from the "all of government" approach of the Biden administration. Trump 2.0 has adopted a responsible "drill baby drill" approach that is more friendly to fossil fuels in an effort to decrease energy costs and increase supplies needed to quench the energy demands of artificial intelligence data centers. Automobile emissions standards are likely to be reduced and the push for electric vehicles will be decelerated under Trump 2.0 and due to practical considerations such as costs and technological limitations. Even before Trump 2.0, the Biden administration failed to push a final, enforceable climate disclosure rule across the finish line. The U.S. Supreme Court limited somewhat the unbridled authority of administrative agencies during the past couple of terms generally and specifically in the areas of ESG and DEI. ESG backlash became a well-developed resistance movement. The Trump administration – through tabling climate disclosure rules, executive orders, regulatory retraction, and budgetary priorities – has taken much of the bite out of ESG at least for now.

Several states led by California have picked up the ESG baton, but in November the U.S. Court of Appeals for the Ninth Circuit granted an injunction staying the enforcement of California law that requires companies to publish climate risk reports in January 2026 identifying their financial risks associated with climate change and their efforts to mitigate these risks. The court did not stay another law, requiring companies to disclose their Scope 1 and Scope 2 greenhouse gas emissions by an unspecified date in 2026. Though California is taking the lead, pro-ESG measures and legislation have been enacted in other states including Colorado, Florida, Illinois, Maine, Maryland, New Hampshire, Oregon, and Utah, demonstrating that Newton's Third Law of Motion is bipartisan. Companies must comply with traditional environmental laws and environmental liabilities remain large.

An end to "illegal" Diversity, Equity, and Inclusion (DEI)

The Biden administration also applied its "all of government" approach to advance its DEI initiatives throughout the U.S. government and sought to impose DEI on private companies and actors. Trump 2.0 has targeted "illegal DEI." On inauguration day, President Trump issued Executive Order 14151 "Ending Radical and Wasteful Government DEI Programs and Preferencing." The next day, Executive Order 14173 was issued "Ending Illegal Discrimination and Restoring Merit-Based Opportunity." The U.S. Department of Justice (DOJ) issued a final rule removing regulations issued under Title VI of the Civil Rights Act of 1964 that precluded recipients of federal funding from engaging in disparate impact discrimination based on race, colour, or national origin.

Social inflation continues to rage

Social inflation continues largely unabated, with nuclear and thermonuclear verdicts raining down. Tort costs have increased in recent years at an annual increase of 7.1%, more than twice the inflation rate with nuclear verdicts rising by 52%, thermonuclear verdicts increasing 81%, and defence firm rates up over 12% in the last two years. A 2025 behavioural social inflation study by Swiss Re confirms that juror sentiment has shifted decisively toward plaintiffs, adversely impacting insurers and companies. Support for punitive damages appears strong and punishment has improperly bled into compensatory damage awards.

Insurers and corporate policyholders are being outspent substantially by the plaintiffs' bar, which has averaged about $1.5bn a year in advertising and has outmessaged the defence side. Better messaging and addressing damages and counter-anchoring by defendants is essential. Tort reform legislation in states such as Florida, Georgia, and Louisiana has shown early signs of effectiveness. Third-party litigation funding continues to be a driver of social inflation.

Artificial Intelligence

Regulators in New York, Colorado, California, and other states have expanded oversight, emphasizing fairness, accountability, and transparency in the use of AI. California's Privacy Protection Agency advanced draft rules requiring cybersecurity audits, risk assessments, and governance standards for automated decision-making systems. At the federal level, a proposed 10-year moratorium on state AI regulation was rejected 99-1 by the U.S. Senate, but President Trump signed an Executive Order directing the Attorney General to establish an AI Litigation Task Force to identify and challenge state AI laws inconsistent with national policy of global dominance over AI and to evaluate existing state AI laws that conflict with national policy.

Although much attention has focused on generative AI, agentic AI (systems capable of operating and developing autonomously and independently with little or no human oversight) presents significant risks when integrated into systems through application programming interfaces. Deepfakes are being adapted to foster identity fraud and to bypass security systems.

AI-washing claims and AI-related securities class action litigation are on the rise.

Insurers are including AI exclusions, sub-limits, and endorsements to control AI-related risks in a variety of policy types and also are providing affirmative AI coverages.

Cyber & cybersecurity

Underlying cyber claim frequency remained stable while severity dropped by 50% year-over-year, reflecting improved incident response, widespread adoption of multi-factor authentication, and the increased use of real-time monitoring tools. A 2025 Cyber Claims Report highlighted that business email compromise and funds transfer fraud accounted for 60% of cyber claims, with ransomware continuing to represent the most costly and disruptive attack type.

The U.S. Securities and Exchange Commission (SEC) requires registrants to report material cyber incidents within four business days and to disclose governance practices annually. Most states have breach disclosure laws. Enforcement actions expanded, targeting failures in board-level cyber risk oversight. There has also been an increase in shareholder lawsuits over delayed or incomplete disclosures. Congress has temporarily extended the landmark Cybersecurity Information Sharing Act of 2015 through the end of January 2026. The future of the law, which provides a critical underpinning for information sharing and collaboration across government and industry, remains in doubt.

In 2025, the number of coverage disputes under cyber-specific policies has increased as courts continue to grapple with "silent cyber" claims under traditional liability, property, and crime/fraud policies.

Privacy claims

In 2025, state-level activity surged with over 800 consumer privacy bills introduced and new laws enacted in Delaware, Iowa, Nebraska, New Hampshire, New Jersey, Tennessee, Minnesota, and Maryland. At the federal level, the Trump administration has reduced oversight and enforcement by the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau. In Illinois, insurers have prevailed in several appellate rulings holding "violation of law" exclusions bar coverage under cyber and general liability policies for biometric privacy clams. There was a wave of consumer privacy cases filed under various enacted state laws such as the California Invasion of Privacy Act (CIPA) and in New York under the SHIELD Act. These disputes often targeted policyholders for using website tracking tools and collecting personal information.

PFAS or so-called forever chemicals

PFAS cases pending in courts throughout the U.S. have targeted manufacturers, distributors, and even downstream users of PFAS-containing products. As of November 2025, approximately 19,600 cases were pending in a South Carolina federal court, consolidated into a multidistrict litigation (MDL) proceeding regarding exposure to firefighting foams. Beyond the MDL cases, states and municipalities have filed lawsuits against chemical manufacturers, seeking compensation for the costs of water treatment, environmental remediation, and public health monitoring. At the state level, over 350 PFAS-related bills were

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introduced across 39 states, with 17 new regulations adopted in nine states by mid-year and some states banning PFAS in part or in whole.

There have been numerous coverage decisions. Court rulings on pollution exclusions in the context of PFAS claims, like rulings in the context of other environmental claims, have been mixed. More insurers are adding PFAS-specific exclusions to their policies.

COVID-19 business interruption litigation

The COVID-19 business interruption litigation is slowly winding to a close. Approximately 2,400 COVID-19 business interruption coverage cases were filed in the U.S. since the pandemic with no new cases currently being filed. Insurers have achieved overwhelming success in the litigation, prevailing in most motions to dismiss in state and federal trial courts across the country, before every United States Court of Appeal, in most intermediate state appellate court decisions, and before every state supreme court to address the issue, except in Vermont and North Carolina. Insurers prevailed on the grounds that the claims do not involve "direct physical loss or damage" to property as required by the language contained in most U.S. first-party policies and based upon the application of virus and other exclusions.

Drugs, guns, and insurrections

Concerns continue about public nuisance claims becoming a super tort. The trend of coverage decisions favouring insurers in the context of opioids continued with coverage for thousands of claims brought by government subdivisions, hospitals, and benefit plans ruled not covered under general liability policies on the grounds that they seek economic loss, rather than "bodily injury" or "property damage" and as not constituting an "occurrence." The U.S. Court of Appeals for the Second Circuit affirmed a lower court's ruling that insurers had no duty to defend or indemnify a firearms retailer in "ghost gun" cases on the grounds that the claims did arise from an "occurrence." In another case, the Second Circuit determined that a New York federal court did not err in finding that Venezuelan President Nicolás Maduro's actions against the American-recognized government of Juan Guaidó constituted an "insurrection" within the meaning of a marine cargo reinsurance policy as the Maduro regime's actions were violent and constituted an uprising to overthrow the recognized government.

D&O & securities

SEC enforcement actions reached their lowest level in ten years overall, though insider trading and market manipulation enforcement activities increased. The SEC has focused greater scrutiny on foreign companies listed on U.S. stock exchanges. SEC Chair Paul Atkins has indicated that the agency is prepared to move forward with President Trump's proposal for changing the mandatory periodic reporting requirements for public companies from quarterly to bi-annually. Efforts to avoid securities class action litigation by adopting bylaws requiring securities law claims to be submitted to arbitration are gaining traction. DExits, the name coined for the corporate movement away from Delaware, have continued the exodus from the state that has been the leading corporate home for U.S. companies. DExists have resulted from the perception that Delaware courts have been less supportive in limiting corporate liability and more inclined to challenge corporate board decisions coupled with efforts by states such as Texas and Nevada to encourage companies to incorporate in their states. To stem the tide of corporate departures, the Delaware legislature enacted numerous changes to the Delaware General Corporation Law. This legislation is subject to pending constitutional challenges.

Numerous important court decisions impacting D&O have been rendered on a full range of issues in 2025. The U.S. Court of Appeals for the Ninth Circuit recently adopted the "materiality" test for determining when intra-quarter reporting is required in the context of initial public offerings under the Securities Act of 1933, joining the Second Circuit in applying this test. It rejected the "extreme departure" standard applied by the lower court and long followed in the First Circuit.

Like the issue of number of occurrences under occurrence-based policies, the issue of related claims under claims-made D&O insurance policies is subject to varying decisions that sometimes are difficult to reconcile. The different results may be driven by the facts associated with the claims, the language of the policy definitions of "claims" or provisions regarding "related claims," the test applied by the court in determining whether the claims are related, and whether the insured or insurer are benefited by the determination. Earlier this year, the Delaware Supreme Court adopted the "meaningful linkage" standard in finding claims to be related. Other courts, such as a federal court in Virginia, ruled that two claims were not related, applying the more restrictive "common nexus" test. A federal court in Montana found claims were related because they were based on the same general business practice and course of conduct.

New York's high court rejected the application of New York law to disputes between stockholders and companies incorporated in foreign countries. The United States Court of Appeals for the Ninth Circuit held that coverage for settlement amounts and defence costs incurred in an underlying employee and client poaching lawsuit was barred by California Insurance Code Section 533, which precludes coverage for losses caused by the wilful act of the insured. The Delaware Supreme Court ruled that payment of defence costs by a non-insured did not count towards the insured's self-insured retention and that the insured's payment of the self-insured retention was a condition precedent to the insurer's obligation to cover losses under the policy. In another action, the Delaware Supreme Court affirmed the dismissal against some D&O insurers based on the Prior Acts Exclusion, but remanded the case for further proceedings on the "no action" clause, finding there were various policy provisions, particularly with respect to the advancement and allocation of defence expenses, that potentially could be relevant to the determination of the meaning and application of the "no action" clause.

The U.S. Court of Appeals for the Fourth Circuit held that the bump-up exclusion applied to bar coverage for a $90m settlement of litigation relating to Towers Watson's 2016 merger with Willis Group Holdings. Meanwhile, Delaware decisions have refused to apply bump-up exclusions to bar coverage.

The adage that "cash is king," appears to be fading fast in Delaware. The Delaware Supreme Court affirmed a Delaware Superior Court determination that an insured movie theatre's settlement payment made in the form of its stock valued at $99.3m qualified as a covered "Loss" under its D&O policy. The court found that "Loss" was not limited to cash payments. It emphasized that, under Delaware law, stock is a form of currency that can be used for a variety of corporate purposes, including settling debts. Decisions such as this may cause insurers to revise policies to prevent or limit the forms or methods of payments that satisfy "Loss" or "exhaustion" requirements. Insureds, on the other hand, may seek endorsements to accommodate cryptocurrency or other forms of payments.

Health insurance

Health insurance continues to present concerns in terms of scope and costs of coverage, with the Affordable Care Act of 2010 not living up to its name. Premium subsidies were funded during the pandemic but expired at year-end without Congress addressing the issue. 2026 promises to present changes in the health insurance landscape with the political parties sharply divided.

Silica

Silica-related claims and litigation have resurged due to the popularity of engineered stone for kitchen and bath countertops, which contains a higher content of respirable crystalline silica compared to natural stone. Following a $52m verdict awarded to a stone fabricator by a Los Angeles jury, hundreds of cases were filed in California. Lower courts have been divided on whether silica exclusions bar coverage at the pleading stage.

Weather-related claims

Climate change continued to drive insurance instability in 2025, particularly in California, Florida, Texas, and Louisiana, where extreme weather events such as wildfires, hurricanes, and flooding led to rising premiums and large insurer withdrawals and insolvencies. Between 2018 and 2023, insurers cancelled or non-renewed nearly two million policies in these states. In response, California regulators began allowing insurers greater flexibility in setting premiums after multiple insurers announced they would stop or limit writing homeowners policies.

A mild 2025 hurricane season in North America resulted in property insurers processing fewer claims in the third quarter of 2025 compared to the third quarter of 2024. The industry is on track to have the lowest claim volume in five years due to a decline in catastrophe claims. Wind and hail perils dominated and Texas maintained its position as the state with the highest claim volume. Individual claim costs and replacement costs increased potentially making the third quarter of 2025 one of the most expensive quarters on record despite the drop in claims volume.

In January 2025, the Palisades Fire and Eaton Fire in Los Angeles destroyed over 16,000 structures and caused industry-wide insured losses of up to an estimated $45bn. With respect to claims arising out of wildfire losses, a California appellate court decision ruled that minor infiltration of wildfire debris and smoke into a home that does not alter the property in any lasting or persistent manner and that is easily cleaned, is not considered covered property damage within the meaning of the homeowners policy. A federal court decision likened smoke to asbestos while differentiating smoke from viruses for insurance coverage purposes. The U.S. Court of Appeals for the Eighth Circuit

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determined that soot damage – like asbestos damage and unlike a virus – is both "directly material, perceptible, or tangible" and "permanent, absent some intervention."

Tort reform in Florida included steps to address insurer insolvencies and Citizen's Insurance Company, the state's insurer of last resort, has retracted in size and has proposed rate cuts for 2026, which may be attributable to the success of tort reform.

Bad faith and extra-contractual liability

Bad faith claims and extracontractual liability continue to present significant challenges to insurers in the U.S. The use and integration of AI in claims handling presents a burgeoning area for bad faith claims by policyholders. Insurers may also face claims for failing to use AI. Balancing claims handling efficiency and accuracy with the need for individualized claim attention will prove to be important. Accuracy in evaluation and monitoring algorithms will be beneficial to insurers in connection with avoiding bad faith liabilities and with respect to regulatory compliance in the areas of pricing, underwriting, fraud detection, and claims handling.

Tort reform legislation enacted in various states over the past couple of years has provided insurers with opportunities to limit their exposure to bad faith liabilities. In Florida, specious bad faith claims against property insurers have been reduced by requiring an adverse adjudication by a court confirming that the insurer breached the insurance contract followed by a final judgment or decree against the insurer before any extracontractual damages claim may be filed. A bad faith finding is precluded where an insurer tenders the policy limits or the amount demanded within 90 days of receiving notice and supporting evidence. In December 2025, Florida Insurance Commissioner Michael Yaworsky reported that overall litigation is down about 30% since lawmakers approved the property insurance reforms in late 2022 and 2023, though still higher than in other states.

In Louisiana, limits were place on some bad faith claims, a new 60-day "Cure Period Notice" was added for catastrophic loss claims involving immovable property, and "reverse bad faith" provisions impose a requirement on insureds and their representatives to exercise the duty of good faith and fair dealing in submitting coverage claims. Although an independent cause of action is not created, insurers may use this as an affirmative defence that may be considered by a jury when considering whether to impose penalties on the insurer for breaching its duty to the insured.

In 2024, Georgia amended its "Bad Faith Failure-to-Settle" statute, clarifying the structure of time-limited settlement demands: what "material terms" mean, how insurers should respond, and when they can avoid bad faith. Montana now requires that time-limited settlement demand letters reasonably describe the claim, allows 60 days for acceptance by the insurer, and requires claimants to provide reasonable records and information to insurers. California added a statutory framework for time-limited demands.

Numerous decisions have been rendered on bad faith claims in 2025. For example, the Indiana Supreme Court held that an insurer did not breach the duty of good faith and fair dealing when it rejected a time-limited settlement demand by one claimant and filed an interpleader of policy funds naming all claimants. The U.S. Court of Appeals for the Fifth Circuit affirmed the dismissal of a bad faith claim where the complaint contained conclusory allegations that the insurer failed to "thoroughly investigate" the property damage and pay the requested amounts without containing specific factual allegations to support the claim. A Pennsylvania court dismissed an action finding an insurer's litigation conduct can be evidence of bad faith only where "the insurer is intentionally avoiding its obligation under a policy or is undermining the truth-finding process and where the conduct involves the insurer in its capacity as an insurance company, not as a legal adversary." A California court dismissed a bad faith claim alleging the insurer failed to conduct a reasonable investigation by not contacting any of the insured's major customers to discuss projected sales when determining the amount of covered business income loss. The court determined the insurer's reliance on a forensic accounting expert's opinion provided the insurer with a reasonable basis for its determinations of the amount of loss. The U.S. Court of Appeals for the Ninth Circuit affirmed summary judgment awarded to an insurer on a bad faith claim for failure to settle within policy limits due to the claimants' failure to provide medical records in response to 10 requests from the insurer. The U.S. Court of Appeals for the Eleventh Circuit affirmed the district court's order granting summary judgment for an insurer holding the insurer did not act in bad faith in its handling of an auto accident claim with multiple claimants as a matter of Florida law. A two-week delay in reviewing the police report was not bad faith. Further, the insurer was entitled to conduct a reasonable evaluation before making a settlement offer in view of conflicting opinions on liability. By withholding distribution of the policy limits until a global settlement conference, the insurer acted in its policyholder's best interests by minimizing the magnitude of possible excess judgments against the policyholder.

What to look out for in 2026

International and state regulation will continue to impose compliance burdens on insurers and policyholders in ESG, DEI, and other areas. California's climate risk disclosure law, enacted in 2025, will take effect in 2026 absent a further injunction, mandating that large companies report climate-related financial risks. Insurers will continue to track third-party funding bills, including one requiring disclosure of litigation funding in federal court cases and another precluding litigation funding by foreign entities that are currently before the House judiciary committee.

Cybersecurity and AI will continue to provide an overriding backdrop for insurers and policyholders. All the claim types discussed above are expected to be subject to additional rulings in 2026, particularly in areas of cyber-specific policies, AI, and PFAS. Emerging claims areas include IT outages, Glyphosate-related claims (Roundup), formaldehyde (chemical hair straighteners), and processed food claims.

A host of new data privacy laws are scheduled to take effect on 1 January 2026, including the Indiana Consumer Data Protection Act, the Kentucky Consumer Data Protection Act, and the Rhode Island Data Transparency and Privacy Protection Act. The right to cure periods under the existing Delaware and Oregon privacy acts are scheduled to expire on 1 January 2026. The revised California CCPA regulations become effective 1 January 2026, along with the California Delete Act regulations.

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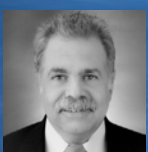

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MIDDLE EAST AND AFRICA

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Key Developments in 2025

Middle East

During 2025, countries across the Middle East have continued to build – and announce further – ambitious infrastructure projects, aimed at diversifying their economies away from fossil fuel production, and to enable sustainable economic growth. Examples include the expansion of existing cities and the construction of new ones, new transport projects, and renewable energy.

The boom in construction has resulted in a continued demand for a broad spectrum of insurance cover – including construction and operational/property all risks cover, as well as liability cover for contractors working on the various projects. This potential for growth has been reflected in several MGAs entering the region in 2025.

At the same time, insurers have shown some caution owing to recent natural catastrophe losses in 2024. In its recent market update, the broker, Aon, described property lines in the region as "challenging", and noted the introduction of new sub-limits for NatCat losses. The complexity and scale of some of the projects being undertaken will also increase the potential for substantial claims.

Africa

2025 saw continued growth in the mining sector in Africa, with continued global demand for commodities including copper, cobalt, lithium, platinum group metals, and gold, driven by their uses in products such as electronics and batteries. That demand, combined with Africa's rich supply of natural minerals, has led to the construction of several new mining facilities beginning in 2025 (for example, the Kuvimba Lithium Project in Zimbabwe) and the expansion of existing mines. Meanwhile, the DRC and Mali governments have made agreements with mining companies for the construction of new refining facilities, to benefit economically from more stages of the supply chain being undertaken domestically.

The ongoing growth of mining in the region presents opportunities for insurers to write new business. WTW reported in late 2025 that competition among insurers for business in the sector was fierce, leading to a softening of the market and more flexibility in the terms offered.

Various countries across Africa have also experienced a volatile political climate and civil unrest, creating risks which are changeable and difficult to price in, potentially increasing demand for political violence cover. Further, as the mining industry in Africa continues to grow, a tendency towards "resource nationalism" has been observed, which – depending on the measures taken – could increase commodity prices and, in turn, the quantum of any business interruption claims.

What to look out for in 2026

Middle East

In recent years, there has been significant growth in the construction of data centres, owing to growing demand for cloud computing services and AI. The Middle East has been identified as an area where data centre capacity is projected to grow considerably, with PwC estimating that capacity in the region will triple over the next five years, owing to factors such as a growing population; lower land costs; tax incentives in certain countries (eg Saudi Arabia); access to capital; and low power costs. Improved cooling technology has improved the viability of situating data centres within the region's hot, dry climate.

The growth in this area will induce greater demand for construction and operational cover for data centres in the region. While this might present an opportunity for carriers to write business in a growth area, there are also certain risks from an underwriting perspective. Data centres are extremely complex projects, often comprising not just large amounts of advanced computing equipment but also their own power supply (eg gas turbines), increasing the potential for costly property damage claims. Furthermore, lead times for replacement components (eg data centre-grade memory, transformers) have increased drastically, prolonging outages/project delays. As data centres use new forms of technology with an uncertain loss record, this will also present challenges regarding pricing.

Africa

In 2026, we anticipate that the risks posed by extreme weather in the region – and the development and take-up of insurance to manage those risks – will remain an important theme. Parametric insurance has been identified by governments and international organisations (eg the UNDP) as a potentially effective tool to build resilience to extreme weather in the region.

We expect that parametric insurance will continue to grow in Africa during 2026. In 2025, the South African government announced its intention to look into using parametric insurance to guard against the risk of extreme weather to municipal property, following heavy (and, in a

number of cases, uninsured) losses during the floods of 2022. Furthermore, the African Risk Capacity – which enables governments in Africa to obtain parametric cover against natural disasters – has set itself the ambition of protecting 700 million people in Africa by 2034, and we expect that it will continue seeking to expand by seeking further investment from overseas and improved risk modelling.

Should the prevalence of parametric cover continue to grow in the region, this may create demand for reinsurance in the London market and elsewhere. Furthermore, in addition to supporting traditional farming activities, parametric insurance may also play a role in supporting the growth of other areas including solar power – which is seen by many to be of increasing importance given increasing electricity demands in the region and the unreliability of existing infrastructure.

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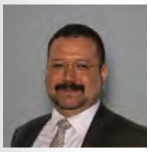

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Business line updates

Art and specie

Karen Barnard-Taylor | Senior Associate

Key developments in 2025

In 2025, art businesses face heightened scrutiny under anti-money laundering (AML) regulations, reflecting global efforts to combat financial crime. Regulatory compliance has continued to evolve since January 2020 when Art Market Participants (AMPs) became subject to obligations under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017 and now demands robust due diligence, transparent provenance documentation, and vigilant monitoring for links to sanctioned individuals or entities. From 14 May 2025[2], high value dealers and AMPs are also legally required to comply with financial sanction reporting obligations in the UK.

In July 2025, HMRC published[3] their latest fines. This shows that the number of fines as well as the scale of penalties is on the rise. Where previously many of the fines resulted out of a failure to register with the HMRC, 2025 has seen fines for wider ranging breaches such as a failure to notify HMRC of a material change, inadequate risk assessments, poor customer due diligence and poor record-keeping.

Provenance and ownership claims are central to both regulatory compliance and insurance underwriting. Insurers increasingly require evidence of clean title and a documented transaction history to assess risk profile. Items with opaque ownership structures, links to high-risk jurisdictions, or histories of illicit transactions may trigger enhanced due diligence requirements or outright refusal of cover. Underwriters will seek assurance that items have not been involved in AML breaches or sanctions violations, as this could compromise insurability and expose insurers to regulatory penalties. Where such issues are identified, insurers may refuse coverage to avoid reputational and legal risk.

The British Art Market Federation has guidance[4] on anti-money laundering for AMPs, which emphasises the importance of and requirements for, policies, controls and procedures, training, CDD, adequate record keeping and risk assessments to mitigate exposure.

What to look out for in 2026

Notwithstanding the increasing focus by regulators into this market, 2026 will continue to see an increase in investment in high value art as it is widely regarded as resilient to inflation. Whilst the most recent report by the Art Basel and UBS Survey of Global Collecting[5] showed a decrease in overall sales, this was predominantly due to economic challenges. However, the report also showed that High Net Worth Individuals allocated 20% of their wealth to art in 2025, which is an increase from 15% in 2024. Unlike financial investments, fine art is less correlated with traditional markets and offers diversification and allows the investor to hedge against economic volatility. Its rising popularity is driven by increased global wealth, expanding interest from younger collectors, and the emergence of art as a status symbol and alternative investment resilient to inflation.

New collectors are reported to be more likely to buy online, which offers benefits such as convenience, choice and transparent pricing. New collectors are discovering artists through digital channels and are sourcing art through social platforms. Buying online makes it difficult to assess detail, and it can be difficult to verify authenticity. An increase in counterfeit claims is in part due to the growth in online purchases. Collectors buying online must take care to ensure that they verify the identity of the seller and obtain a detailed provenance for the work. The rise of digital platforms and technologies will continue to assist, and despite the risks, online purchases will remain an increasingly popular choice.

2. https://assets.publishing.service.gov.uk/media/67d1a44ba005e6f9841a1d90/HVD-AMP_Factsheet_2025.pdf
3. https://www.gov.uk/government/publications/businesses-not-complying-with-money-laundering-regulations-in-2018-to-2019/businesses-that-have-not-complied-with-the-money-laundering-regulations-2024-to-2025#full-publication
4. https://tbamf.org.uk/portfolio/anti-money-laundering-guidelines-2023/
5. https://theartmarket.artbasel.com/

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Aviation

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Key developments in 2025

For many aviation insurers, key developments in 2025 centred on the disputes arising from the retention of aircraft in Russia following the invasion of Ukraine. In June 2025 Mr Justice Butcher delivered his ruling following the trial in actions brought by lessors, including AerCap, DAE, Merx and others, holding the insurers on the Contingent War Risks policy liable for the losses. At the time of writing, the decision of the Court of Appeal on War Risk insurers' application for permission to appeal on certain grounds is awaited, but the Judgment has and will continue to have an impact extending further than the case in which it was delivered. Claims by the worldwide leasing community against the reinsurers on the airlines' policies are scheduled for trial before the English court in October 2026, and disputes continue in Ireland, the United States and elsewhere on similar claims.

Moving away from the Russian claims, in the 2025 AIR we noted that 2024 had seen an increased number of reported incidents of "clear air" turbulence. This trend has continued, with a further increase in incidents in 2025; including an increase in passenger injuries as a result of extreme turbulence. Experts predict turbulence to treble over the next couple of decades.

As evidenced by the commentary on the Political Violence section of this Annual Insurance Review, the global political situation continues to be volatile. President Trump's announcement in November 2025 that airspace around Venezuela should be considered closed led to suspension of flights by various airlines, and the retaliatory suspension of take-off and landing rights by Venezuela. The Gaza conflict, and the hostilities between Israel and Iran, have led to increased airspace closures, with the Houthi missile attack of May 2025 targeting Ben Gurion airport with the stated aim of deterring commercial air traffic to Israel.

Any hit to passenger confidence will be unwelcome to an industry facing possible contraction due to increased environmental concerns. The drive to net zero may push costs – and fares – up, with a consequential impact on passenger numbers.

What to look out for in 2026

The aviation industry faces emerging pressures in a rapidly changing world. In a world increasingly focussed on artificial intelligence it seems likely that aircraft manufacturers and airlines will look to maximise their use of the world's latest tool. Increased reliance on automatic systems and software is not without risk, as evidenced by the recall of 6,000 aircraft following an unprompted altitude change in a Jet Blue flight thought to arise from a flight control malfunction following a solar flare. (Somewhat ironically, the inability of Russian airlines to access software updates, as a result of the Western sanctions, meant that the malfunction, which affected the latest version of the software, did not impact the Airbus aircraft retained in Russia). Monitoring vulnerabilities and keeping on top of updates will be key, but extra measures may be needed to stay ahead of malicious actors. In September 2025 suspected Russian attackers disrupted the navigation system of an aircraft carrying the European Commission President. In the same month the crew of a Spanish aircraft carrying the defence minister reported an attempt to disrupt satellite navigation whilst flying over Kalingrad. Against this backdrop, President Putin's increasing diatribes against the European Union are a cause for concern.

In a topic becoming familiar across this Annual Insurance Review, insurers will need to consider carefully the cover they are offering in light of these increased vulnerabilities. At the same time, the increased natural disruption hitting commercial air travel as a result of turbulence will likely make reliance on using new and emerging technologies essential, to deliver sophisticated monitoring tools to enable pilots to predict and avoid a bumpy ride; insurers may need to consider the safeguards put in place by airlines to minimise the impact of turbulence, given the potential for liability claims in the event of passenger injury.

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Brokers

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Key developments in 2025

The issue of underinsurance continued to be a significant one throughout 2025, with property and business interruption policies at particular risk. Statistics show that the majority of properties in the UK were underinsured in 2025. This is reflected in the consistently high number of claims being brought against brokers which include allegations of negligent advice regarding the adequacy of the level of the cover.

Given the strain that businesses continue to be under, underinsurance could be fatal for many customers. Brokers should be alert to underinsurance and making clients are aware of the consequences of inadequate cover. Brokers will need to ensure that their advice on policies properly explains the basis of cover, any calculations to be undertaken, and how average clauses will affect the level of recovery in the event of underinsurance.

Whilst large retailers experiencing cyber incidents made the headlines this year, research showed that SMEs are increasingly being targeted and are underestimating the risk of a cyber-attack. Brokers must continue to be alive to this very significant area of risk for their customers.

The High Court decision in *Watford Community Housing Trust v Arthur J. Gallagher Insurance Brokers Ltd*[6] provided a clear understanding on how 'Other Insurance' clauses should be treated, when multiple policies respond to the same loss. The Court held that each clause cancelled the other out and entitled the policyholder to cover under all available policies, rejecting the submission that the policyholder was only entitled to the maximum indemnity under any one policy. The Court also determined that a customer is entitled to claim from its insurers in any order it chooses. Where a customer has more than one policy for the same risk, brokers will need to ensure they notify all insurers of any potential claim. Brokers should also give careful consideration to, and explanations of, the wording and application of 'Other Insurance' clauses.

What to look out for in 2026

AI and cyber

As with most business areas, AI is now embedded in broking – from risk profiling and pricing, to claims intake. The FCA's Consumer Duty focus on transparency, fair value and avoiding *"ethical harm"* will continue requiring brokers to show how AI-driven processes support informed decisions at inception, renewal and claims. Expect closer attention to how AI enabled processes incorporate individual customer characteristics and whether advice remains tailored and comprehensible.

Brokers should anticipate higher claim frequency and more complex causation and coverage questions, especially where business interruption follows vendor outages rather than a direct breach. Practically, this means tightening advice and documentation, assessing minimum-security conditions and exclusions in cyber policies, stress-testing sub-limits for business interruption, system failure and ransomware, and evidencing vendor risk discussions. A defensible position is likely to depend on contemporaneous records: how the advice was formed, how any AI outputs were validated, what cyber hygiene and supply chain exposures were discussed and how policy terms (including professional services definitions and cyber related exclusions within PI policies) were explained. 2026 will reward firms that document their rationale for recommendations, distinguish tool outputs from professional judgement, and clearly explain residual cyber exposures and the limits of cover. Education remains crucial: translating technical threats into tangible financial impacts with sector specific examples helps clients understand why cyber is a core operational risk, rather than a niche IT issue.

Cyber risks will keep intensifying, particularly for SMEs, with persistent attacks exploiting third-party/vendor vulnerabilities and supply chains. Reports suggest a 10% year-on-year increase in SME cyber claims, with an average claim of £40,000 and a 300 day lifecycle – a reminder that business interruption can be the most damaging aspect of a cyber event. Despite this, only 40% of SMEs are said to hold Cyber cover. The opportunity – and the risk – for brokers in 2026 is therefore twofold: closing the protection gap while ensuring robust advice and documentation that withstands regulatory scrutiny.

Broker commissions

Commission transparency will remain under the microscope. The Supreme Court's decision in *Johnson v FirstRand Bank Ltd*[7] and the Court of Appeal's decision in *Expert Tooling and Automation Ltd v Engie Power Ltd*[8] reinforce that informed consent requires disclosure of all material facts about commissions – not just generic references, that the materiality threshold is *"a low one"*, and the customer's sophistication is not determinative. When this is coupled with the Consumer Duty's fair value requirements, brokers should expect more searching questions from clients and insurers on how commission structures relate to customer benefit, and how conflicts are managed.

The FCA's motor finance commission compensation consultation (with a scheme still targeted for early 2026), signals the regulator's willingness to intervene where disclosure and value are in doubt. For brokers, the watchword is preparedness. Brokers should ensure commission disclosures are clear, complete and consistently evidenced; be ready to supply amounts and structures to commercial customers on request; review fair value assessments and product governance documentation; and update client-facing materials and staff training so informed consent is demonstrable.

6. [2025] EWHC 743 (Comm)
7. [2025] UKSC 33
8. [2025] EWCA Civ 292

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Class actions and collective

COMING SOON

Climate and biodiversity risk

COMING SOON

Construction

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Key developments in 2025

2025 marked a turning point for the property and construction sector, with two major developments reshaping the regulatory and claims landscape. Awaab's Law, effective from October, raises the bar on landlord accountability in social housing, including setting clear timeframes for making safe emergency hazards, investigating reports of damp and mould, and where a significant risk is identified carrying out works within just seven days of the written report. Landlords must also provide a written summary of findings within 48 hours (and no later than 14 days) and offer suitable alternative accommodation if deadlines cannot be met. The only defence available is "all reasonable endeavours" which will likely be tested in the courts over the next few years. The emphasis for landlords is firmly on reliable systems, clear audit trails and prompt decision making. As the regime is gradually rolled out, it is expected to reach private landlords, widening both the compliance burden and claims exposure. Expect closer scrutiny of older stock and heightened focus on timely remedial action, with regulatory penalties now sitting alongside traditional claims risk.

Separately, the Supreme Court's judgment in URS Corp Ltd v BDW Trading Ltd provides clarity to developers who step in to remediate dangerous defects, enabling those costs to be recoverable even where no claim has been brought. It also confirmed that section 135 of the Building Safety Act operates retrospectively, bringing historic Defective Premises Act claims back within scope and avoiding "contradictory parallel universes" in which leaseholders could sue, but developers' onward claims were barred. Finally, developers can both owe and be owed duties under the Defective Premises Act, reflecting how dwellings are typically provided "to the order" of the developer. The upshot is more scope to pursue legacy recovery and contribution actions, and a premium on contemporaneous records, clear rationale for remedial decisions and timely notifications on multi-party projects.

What to look out for in 2026

In 2026, the Building Safety Regulator will transition into an independent executive non departmental public body, with statutory responsibilities moving from the HSE on 27 January. The re-established regulator will operate in its own right, with a board and specialist committees covering building control, industry competence and residents' views, bringing greater accountability and a clearer focus on delivery. This marks the first step towards a single construction regulator as envisaged post Grenfell.

Operational changes aim to unlock stalled progress at Gateway 2 for higher risk residential schemes. We expect earlier technical dialogue, a priority pathway for well-prepared projects and clearer guidance, backed by extra capacity and funding. The regulator is investing in digital processes and more consistent assessments of organisational competence, moving away from a purely project by project view. Leadership has been refreshed and targets have been set to reduce backlogs during the transition, when HSE support will remain in place through 2026. Consultation on a licensing model for principal contractors on higher risk buildings is anticipated in autumn 2026, and momentum on remediation continues with statutory deadlines in train. The practical takeaway is straightforward: submit complete, high quality applications, evidence organisational capability and competence, and maintain strong internal controls to avoid delays, manage costs and reduce regulatory exposure as the regime beds in.

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Contingency

Naomi Vary | Partner

Key developments in 2025

Having appeared to be on the rebound from Covid, the events industry has been beset by cancellations in 2025. By February 2025, 30 UK music festivals of varying sizes had already been cancelled. The core reasons given were financial; a hostile economy has driven up costs and expenses, in circumstances where the squeeze on household finances means that potential attendees cannot afford the resulting increase in ticket price. The need to have contingency plans for bad weather, and to consider security given domestic threats, further put pressure on an already stressed sector. In short, smaller and medium sized events are facing a perfect storm of increased costs and reduced revenue, making it difficult to compete with larger organisations which are better placed to weather both and real and financial storms.

Ongoing debates over freedom of speech and cancel culture are having an inevitable impact on events, ranging from university debates to film shows and art exhibitions. The protests noted in the 2024 Annual Insurance Review have continued; Barclays' sponsorship of the Wimbledon tennis tournament was met with demonstrations by the Palestine Solidarity Campaign, and protests are planned for the Scottish League Cup final after Barclays signed a sponsorship deal with Hampden Park. Although in the 2024 review we noted that the effect of the protests was largely financial, with sponsors stepping down in the face of protests, the increasingly charged atmosphere may lead to more tangible threats to event security.

Keeping with a recurring theme, the impact of cyber attacks on events is under the spotlight. This year has seen a ransomware attack on Yes24, a South Korean online ticketing platform, which led to numerous cancellations and postponements as a result of booking systems being taken offline. Although traditional contingency policies excluded losses arising from cyber attacks, many insurers are now introducing specialist event cancellation cyber coverage, and regrettably we expect that 2026 may see claims activity on these products.

What to look out for in 2026

At the time of writing, the country is said to be in the grip of a superflu outbreak of a scale that has resurrected discussions on compulsory mask wearing. Those event organisers who have managed to emerge from the Covid pandemic relatively unscathed will no doubt be hoping that this is overstated, but the announcements may dent the confidence of a public for which memories of Covid are still fresh.

Public confidence may be dented further by the increasingly hostile global environment. Fear of violence has led to public New Year's Eve celebrations for 2026 to be cancelled or curtailed in a number of cities, including Paris, Tokyo and Belgrade. A firework display scheduled to take place on Bondi Beach has been cancelled after the recent Hannukah attack. Given the complexity now associated with event cancellations – with "no platforming" and political unrest adding to the staple menu of adverse weather, financial woes and audience apathy – it can be difficult for insurers to assess whether a loss falls within the scope of a traditional contingency policy. The Covid cases have shown that the Courts are keen to adjudicate claims in favour of the policyholder, and the current landscape may lead insurers to review wordings to ensure that all involved are on the same page in relation to cover.

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Cyber

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Key developments in 2025

A key trend we have witnessed in 2025 has been the rise in cyber incidents which have a significant supply chain impact. According to Cyble[11], cyber-attacks with supply chain implications have averaged 26 a month since April 2025, twice the rate between early Feb 2024 and March 2025.

Supply chain incidents have been ticking up the agenda for a number of years now but, this year, they have been particularly well-publicised with a number of high-profile incidents including those suffered by M&S, Co-op and Jaguar Land Rover.

Supply chain attacks are highly disruptive, impacting many organisations throughout the supply chain. They can be difficult for organisations to protect against because even if an organisation has adequate security standards and is not subject to a cyber incident directly, they can still be affected by security issues that may exist elsewhere in the supply chain. In this situation, the incident could create potential notification obligations and litigation implications relating to an incident of which the organisation has incomplete knowledge and control.

However, businesses need to rely on outsourced providers for a wide range of company functions, from payroll services housing employees' financial information to CRM systems hosting client data. The key will be balancing the commercial opportunity that comes supply chains against the risks. These risks can to some extent be managed through appropriate due diligence checks, not just on internal security, but also on the security of suppliers. In addition, contractual arrangements should include obligations on the supplier to ensure any sub-suppliers also maintain appropriate technical and organisational security measures. Supply contracts should also contain appropriate obligations to notify and keep updated in the event of breach – good lines of communication from the supplier can be critical in circumstances where an organisation may be required to notify the ICO, their clients and/or affected data subjects.

What to look out for in 2026

In 2026, we expect to see an uptick in data subject litigation claims being brought against organisations following cyber incidents and other data breaches.

Such cases have been recently aided by the Court of Appeal judgment in *Farley*[9].

In this case, the administrator for the Sussex Police pension scheme sent an annual benefit statement to scheme members. This contained personal data including date of birth, national insurance number, police service, salary details and accrued and forecast pension benefits. More than 750 annual benefit statements were posted to out-of-date residential addresses. Each claimant complained of being caused *"anxiety, alarm, distress and embarrassment"*. It was argued that the claimants should receive *"compensation for moral and/or non-material damage"*.

The Court of Appeal concluded that, whilst losses would need to be *"well-founded"* and based on more than a *"purely hypothetical risk"*, there is no requirement for distress – a successful claim can be made in respect of *"annoyance or irritation caused by fear of third party misuse"*. In addition, it concluded that there is no minimum threshold of seriousness for a successful data subject claim under the UK GDPR.

This is potentially significant for the data subject litigation landscape. Since 2021, *Lloyd v Google*[10] had set the bar for data subject litigation claims under the UK GDPR, appearing to establish that compensation is unavailable unless a minimum level of seriousness had been met. *Farley* appears to effectively over-rule this and to put in place a potentially lower the bar for a valid claim, which could encourage data subject claimants (and claimant law firms) to become more active.

9. *Michael Farley v Paymaster (1836) Limited trading as Equiniti* [2025] EWCA Civ 1117
10. *Lloyd v Google LLC* [2021] UKSC 50
11. https://cyble.com/blog/supply-chain-attacks-double-in-2025/

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D&O

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Key developments in 2025

Enhanced Regulatory Scrutiny

As foreshadowed in last year's Annual Insurance Review, during 2025 the FCA has demonstrated its intention to increase its scrutiny of workplace culture and non-financial misconduct (NFM) at regulated firms. In July 2025, the FCA published its final policy statement and consultation paper CP25/18 introducing a new rule, COCON 1.1.7R, extending existing rules on NFM from banks (only) to non-banking firms. The FCA has also made clear that firms will be required to report serious substantiated NFM to the FCA.

The rule change means the regulatory focus on NFM will extend to some 37,000 more firms than previously, including insurers, insurance brokers, wealth managers and IFAs, and consumer credit firms. That means more scrutiny on more businesses and the directors and officers who lead them, which in turn may lead to an increase in the volume of regulatory investigations into firms' and individuals' compliance with the rules/ their implementation, as a well as increased internal and regulatory investigations into individuals accused of NFM behaviour.

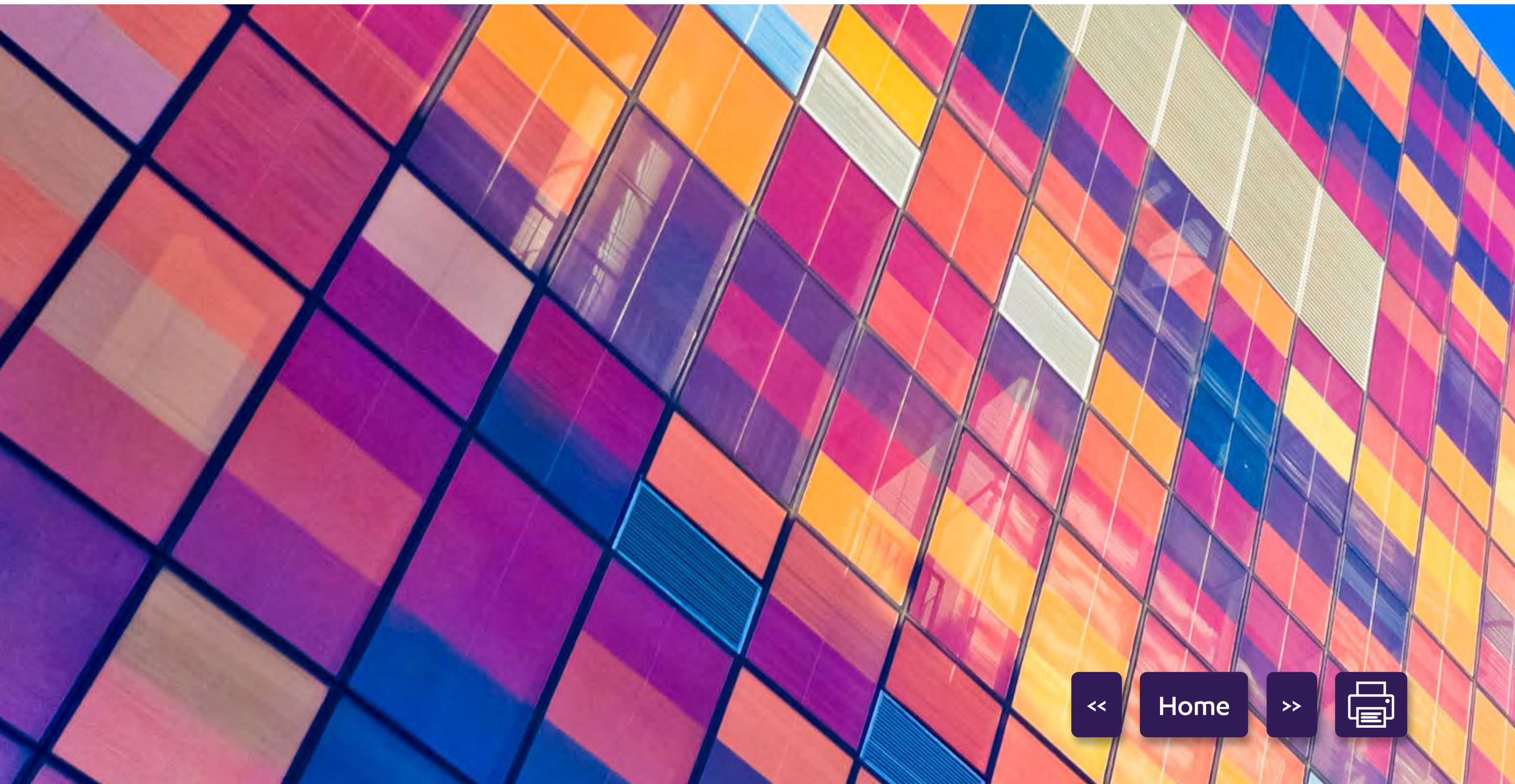
The changes will be in force from 1 September 2026 and will not apply retrospectively. The FCA has chosen this date as it lines up with the conduct rule breach reporting period for most firms.

What to look out for in 2026

Insolvencies

Monthly company insolvency numbers so far in 2025 have been slightly higher than in 2024, but slightly lower than in 2023, which saw a 30-year high annual number of insolvencies. The insolvency rate remains well above the level seen in 2020 and 2021, although it is lower than the peak of 113.1 per 10,000 seen during the 2008-2009 recession.

In general, sustained high insolvency numbers mean that related or consequent claims against directors and officers can be expected to remain prevalent as liquidators focus on the directors' conduct leading up to (or causing) an insolvency. Wrongful trading cases, which



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have traditionally been difficult to bring successfully, may see renewed interest from insolvency practitioners looking to explore avenues for recovering assets from directors of insolvent companies (and their insurers). Similarly, claims for "trading misfeasance" may become more common where – wrongful trading aside – directors should have entered an insolvency process in order to comply with the requirement that they consider the interests of creditors (as well as shareholders) when exercising their duty to promote the success of the company.

A feature of the potential landscape in respect of such claims against directors and officers is the increasing use of litigation funders and after the event (ATE) insurance. This is allowing liquidators and administrators to bring claims that may otherwise be unaffordable and pursue those claims in a well-resourced and aggressive manner. Insurers may see an increasingly litigious environment emerge following company failures.

Private Credit Risks

A specific element of the potential insolvency "piece" that we anticipate may attract ever more attention is private credit which is an area that has grown substantially in recent times. The collapse during 2025 of First Brands Group and Tricolor Holdings in the USA have highlighted concerns in this regard and given rise (not unexpectedly) to reported civil and criminal investigations in both cases. These failures have firmly placed the spotlight on the potential downsides of private credit (for example, weak lender protections, high leverage and limited transparency), with the concern being that where there is one company with these (private credit related) issues then there may well be others in the globally interconnected financial ecosystem. This is an area that financial and regulatory authorities around the world are looking at presently, including the threat of systemic risk. If there is a deeper problem, or more failures of the types mentioned occur, then one can expect heightened D&O claims as directors and officers are scrutinised and face fall out in the ways we have described above.

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Energy and power

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Key developments in 2025

As reported recently by WTW, last year saw a softening in the renewable energy insurance market, with increased capacity and competition in the insurance of wind, solar and battery energy storage (BESS).

In addition to lower rates and increased product innovation, the last year has also seen changes to key policy terms and coverages. These include lower deductibles and higher sub-limits (eg for hail/wind), wider named peril sets, more generous defects cover (eg LEG3), and shorter DSU waiting periods. A potential consequence of broader covers with lower deductibles is a rise in attritional claims (alongside the pervasive risk of large losses). It remains to be seen whether this trend continues into 2026.

The last year has also seen a further shift towards multi-participant coinsurance arrangements – particularly in the context of projects and assets with novel technologies. The arrangements include the use of the (re)insurance tower structures that have been more traditionally associated with oil and gas assets and projects. These (re)insurance towers will necessitate the adoption, across the market, of effective claims handling protocols.

What to look out for in 2026

We anticipate that 2026 will see a continuation of the claims inflation that we have seen in recent years across all corners of the energy and power market.

In part, the rising cost of claims is a consequence of delays caused by supply chain issues. During 2025 we have seen disruption to supply chains caused by geopolitical factors (such as the Trump administration's adoption of broad tariffs) and product scarcity (for example, the ongoing shortage of turbines in the face data centre demand).

Claims inflation has also been a function of the increased cost of work and materials. The cost of steel, spare parts, yard slots, labour, environmental compliance, salvage rates and geopolitical detours have all seen increases – with corresponding increases to repair costs/claim quantum.

Claims inflation has a number of potential and negative consequences. The inflation can result in under-reserving, particularly in the context of long running disputes where reserves were put in place at an early stage, or under insurance. The increase can also lead to attachment or allocation disputes with excess reinsurers. Relatedly, this can give rise to issues of late notification of losses.

In the context of offshore energy and marine losses, rising repair costs also have the potential to push more incidents towards the threshold of constructive total loss. This gives rise to complications in circumstances where a CTL is declared some time after the date of loss, including around the validity of any NOAs tendered and/or the extent to which the increased cost or repair was the consequence of delay.

Combatting the rising costs of repair requires adjustment teams to remain realistic about the possibility of claims inflation and/or contingency. It also requires insurers to keep policy limits and sub-limits under close review as each claim progresses.

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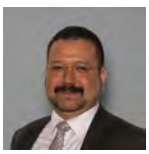

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Financial institutions

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Key developments in 2025

Motor finance claims continue to be a major issue for UK banks. In August, the Supreme Court ruled in *Johnson v FirstRand* that motor dealers do not owe a fiduciary duty to customers, limiting the banks' overall exposure to potential claims. However, the Supreme Court allowed Mr Johnson's claim to proceed on the basis that his relationship with the lender was "unfair" under Section 140A of the Consumer Credit Act 1974 because he was charged an excessive commission relative to the total amount of his loan and not informed of the commercial tie between the motor dealer and the lender. This has left an avenue of redress open to many similarly situated consumers including those to whom inadequate disclosure of discretionary commission arrangements were made. In October, the FCA published its Consultation Paper setting out its proposed industry-wide redress scheme to address liabilities for consumers treated "unfairly" between 2007 and 2024. The redress scheme proposed by the FCA has been met with strong criticism from banks on the basis that the methodology used to calculate redress payments is too generous and will result in redress to consumers who have suffered no real loss.

The collapse of two US companies (First Brands and Tricolor) has raised questions about the volatility and lack of regulation of the private credit market, where companies obtain loans from non-bank financial institutions. Industry leaders, including the governor of the Bank of England and the head of JPMorgan Chase, have expressed concern that those bankruptcies could be a signal of wider problems in the financial system.

What to look out for in 2026

In the motor finance space, the FCA is set to publish its final rules for its proposed redress scheme in early 2026, with banks required to begin making redress payments later in the year. The full exposure to the sector will become clearer once the FCA's final rules are published, but is anticipated by the FCA presently to be in the region of £11bn (including the costs of implementing any redress scheme).

The private credit (or 'shadow banking') sector has grown by 50% in the past four years, and regulated banks have also invested in or lent to private credit firms. There is growing concern that an economic downturn (for example, a sharp correction in the value of AI stocks, as some are predicting) might have ripple effects across the banking sector given traditional banks' exposure to private credit firms and their comparatively weak and less regulated lending standards.

The increased use of AI by financial institutions is another issue to look out for in 2026. According to Lloyds[12], half of financial institutions plan to increase their AI investment in the next 12 months. Whilst the use of AI will no doubt bring benefits, it may also create challenges including the risk of regulatory and oversight failings. AI is also increasingly used by fraudsters to target banks and their customers, and instances of Authorised Push Payment (APP) fraud (where someone is tricked into transferring money to a fraudster) continue to rise.

12. https://www.lloydsbankinggroup.com/media/press-releases/2025/lloyds-bank-2025/uk-financial-institutions-double-down-on-ai.html

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Financial professionals

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Key developments in 2025

Last year, we noted that the Government's intention to modernise and reform the FOS was something to look out for in 2025. The proposed reforms started to gather momentum in July, with the publication of a consultation paper on 'modernising the redress system.' This closed on 8 October 2025, and we should see further developments in the new year.

This comes in the wake of concerns that FOS' remit has expanded beyond its intended scope. A key change has been proposed to the 'fair and reasonable' test. In brief, if a firm has complied with the FCA's Rules, the FOS will be required to decide that the firm acted fairly and reasonably. This will hopefully provide a degree of consistency, and the introduction of a 10 year 'long stop' date in which to bring a complaint will also be welcomed. However, this does not provide for any additional oversight of FOS, or any restrictions on its ability to handle complex cases that raise (for example) difficult questions of law or fact.

Whether or not the proposed changes lead to greater *'predictability, certainty and transparency'* therefore remains to be seen.

Another area of discussion in the paper was the managing of 'mass redress events', which leads us neatly to the FCA's consultation paper on a motor finance consumer redress scheme under s.404 of FSMA, published in October 2025. The scheme follows the Supreme Court decision in *Johnson v First Rand Bank* [2025]. This is exactly the kind of mass redress event that the 'modernising redress' proposals are seeking to manage but (whilst the scheme will affect lenders rather than brokers) difficulties with adopting a 'one size fits all' approach to a large volume of transactions is likely to be an issue. In particular, it seems hard to justify (as the paper does) a blanket application of s.32 of the Limitation Act on deliberate concealment, along with the inclusion of various presumptions of unfairness.

What to look out for in 2026

It looks like 2026 will finally see a conclusion to the FCA's Advice/Guidance Boundary Review. This follows the publication of a consultation paper on the introduction of targeted support in June 2025. In brief, this would allow firms to provide suggestions for groups of consumers with common characteristics. This would not constitute personal advice and would not take account of individuals' circumstances. The consultation closed in August 2025 and a policy statement is expected in December 2025. Additionally, a consultation paper on simplified advice (which would allow for straightforward, limited advice based on a specific need) is expected in January 2026.

The FCA's hope is that this will help close the advice gap in circumstances where only 9% of persons in the UK receive regulated advice on pensions and investments. However, it remains to be seen how motivated the market will be to offer such solutions, especially as the FCA envisages that targeted support would generally be delivered at no cost. Risks include the need to ensure that targeted support achieves better outcomes – this is a difficult thing to measure in circumstances where broad suggestions are given to large groups of customers. The Consumer Duty will also apply, meaning (amongst other things) that target markets will still need to be carefully identified. Similarly, there are risks with simplified advice. A specific recommendation may seem suitable based on key information provided but this assessment may change if a full review of the customer's circumstances is undertaken.

We anticipate some pressure on firms to provide these solutions, and attention from the FCA if there are problems with implementation. Firms will need to be conscious of the risks to ensure they're not left facing complaints.

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General liability

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Key developments in 2025

Animals Act 1971

Few decisions in the past year can be said to have had more of a wide-ranging effect on personal injury litigation than *Boyd v Hughes* [2025] EWHC 435 (KB), the latest in a long line of decisions regarding the interpretation of the Animals Act 1971. Much maligned by commentators for its ambiguous wording, Section 2(2) of the Act imposes strict liability for foreseeable injuries caused by unrestrained animals. Mr Justice Cotter rejected the Claimant's claim, and key to his conclusion was that the actions of the horse in question could not lead to the expectation that a rider would fall off; the fall was a '*mere possibility*', which case law had already established was insufficient to establish liability. Whilst providing useful clarification on the applicability of the Act in certain scenarios, the case has implications on various other substantive and procedural issues relevant to practitioners in the field, as set out in our article[13].

Secondary Victims

With 2024 seeing the Supreme Court's long-awaited decision in *Paul v Royal Wolverhampton NHS Trust*[14] [2024] UKSC 1, it is not surprising we have recently seen a number of decisions on the law surrounding Secondary Victims. Most notably, in *Young v Downey* [2025] EWCA Civ 177 the Claimant brought a secondary victim claim arising from the killing of her father in the 1982 Hyde Park explosion. Her claim was rejected at first instance on the basis that, due to being four years old at the time, she could not have appreciated her father had been, or might have been, involved in the explosion. The Court of Appeal found that Mr Justice Spencer had introduced an additional requirement to the principles established in the landmark case of *Alcock*. The Judge had, in effect, gone too far and the decision was overturned, allowing the Claimant to recover damages for her psychiatric injuries.

What to look out for in 2026

Litigation Funding

The disruption to the third-party litigation funding market, precipitated by the Supreme Court's seminal decision in *PACCAR* [2023] UKSC 28, continues to affect the industry, casting doubt on the enforceability of various Litigation Funding Agreements ('LFAs').

The Civil Justice Council ('CJC') published its final report[15] in June 2025, with the key recommendations including a reversal of *PACCAR*, and the introduction of more appropriate and proportionate regulation, all with the overriding aim of improving access to justice.

In December, the Ministry of Justice confirmed[16] it will be taking legislative action to address PACCAR. LFAs will no longer be classed as Damages Based Agreements, making it much easier for Claimants to secure funding in class-action lawsuits against powerful, well-resourced organisations. All eyes are now on the Government, with 2026 likely to be the year that we see much-needed reform in this area.

Fixed Recoverable Costs and the Intermediate Track

The Civil Procedure Rule Committee has launched an interim stocktake[17] of the extended Fixed Recoverable Costs (FRC) regime and the intermediate track, which continues to bed in following its introduction in 2023. The evidence-gathering exercise closed on 5 January 2026, and is intended to assess how the 2023 reforms are operating in practice and whether any short-term amendments to the Civil Procedure Rules are required.

The stocktake addresses key issues including allocation to the intermediate track and the operation of complexity bands, to settlement under Part 36 and the treatment of costs exceptions. Its findings will inform a full post-implementation review of the FRC regime, due to commence later in 2026. While radical change is unlikely, we can expect continued refinement that may influence allocation decisions, settlement strategy and overall cost certainty.

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Health and safety

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Key developments in 2025

AI and predictive analytics are increasingly being used to shift workplace health and safety from a reactive incident management approach to proactive risk prevention by turning real-time operational data into early warnings.

Applications include predictive maintenance (flagging equipment faults or service intervals), wearables that identify fatigue and unsafe behaviours, and the integration of environmental data (eg weather) to adjust controls. HSE data[18] continues to identify falls from height as a leading cause of fatal injury, and technologies that reduce exposure, through better equipment maintenance and earlier risk detection, may help mitigate this.

However, the benefits must be evidenced, and the risks managed. Consideration should be given to the issues surrounding privacy and proportionality in wearable monitoring, including potential algorithmic bias, reliability issues and false positives, as well as the danger of over-reliance on any automated alerts. Where the risk assessment shows a clear safety benefit, it can be used with appropriate safeguards and clear boundaries to ward against performance micro-management.

Another key development for 2025 is the Sentencing Council's clarification of the guidance for sentencing very large organisations (VLOs). The guidance confirms there is no fixed turnover or profit threshold that makes an organisation "very large", and that for VLOs the appropriate sentence cannot be derived by simply applying the starting points and ranges for large organisations. Whilst Courts have already been increasing starting points for fines where a Defendant is considered to be a VLO, the clarification from the Sentencing Council makes clear the need for fines to be proportionate to the means of the Defendant which is considered to mean that VLO's a likely to be exposed to higher fines.

When setting sentences, the courts should consider: (i) the seriousness of the offence, including culpability and harm; (ii) relevant aggravating and mitigating factors; (iii) the purposes of sentencing, including punishment and deterrence; and (iv) the offending organisation's financial position. Fines must be sufficiently substantial to punish and be effective in impressing the need for regulatory compliance on the management and shareholders.

What to look out for in 2026

As we set out in last year's Annual Insurance Review[19], whilst there has been a reduction in work-related ill health across Great Britain, non-fatal injuries in the workplace have increased. The latest HSE figures show that 1.9 million workers experienced work related stress in 2024/25. Of those reported, 964,000 workers reported that stress, depression or anxiety was worsened by their work environment. The need to improve mental health support in the work place is therefore clear.

Employers are being encouraged to take action to ensure their workforce is adequately supported and using health surveillance to assist in mitigating the risks of workplace ill health, including active health promotion and better workplace practices. The Health and Safety Executive has updated its work related stress resources page[20] and is encouraging businesses to use it to work out the best ways for them to prevent ill health in their workplace.

The HSE's commitment is in line with the Government's 10 Year Health Plan[21], published in July 2025, which includes a number of initiative to improve mental health services including expanding the mental health workforce and a shift in the focus from dealing with sickness to early intervention and prevention.

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Intellectual property

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Joshy Thomas | Senior Knowledge Lawyer

Key developments in 2025

The way generative AI models are trained using data sets comprised of IP works scraped from publicly available websites, and liability for AI generated outputs have continued to receive significant attention this year providing for a degree of uncertainty for both AI developers and IP rights holders.

Content creators such as news providers, musicians, authors and visual content agencies allege that their work is being unlawfully used to train AI models. The High Court judgment in the *Getty Images (US) Inc v Stability AI Ltd* case, the most prominent case making these kinds of allegations in the UK, was handed down in November 2025. The court's findings left many questions unanswered. A primary copyright claim – whether training an AI model on copyright works, without consent, infringes copyright in the UK – was dropped during the trial on territorial grounds. The secondary infringement copyright claim, concerning the importation of the AI model into the UK, failed on the basis that the AI image generator model (as opposed the data it was trained on) did not store copyright works and was therefore not an infringing copy of any of Getty's works. Getty Images has been granted permission to appeal this finding. The trade mark infringement claim was successful, but highly fact based. Some AI model outputs, from earlier models, were found to contain the Getty's watermark, infringing Getty's registered trade mark. Later models largely filtered out these watermarks and so this is a finding less likely to be replicated as filtering technology improves.

A similar case in Germany was decided differently, and as cases in this area are likely to be highly fact and evidence based, it is likely to remain fertile ground for disputes.

What to look out for in 2026

UK policy on copyright and AI, and more generally AI regulation is expected to be a key area of interest and focus. This has been a pressing issue since 2022 when the UK IPO signalled its intention to introduce a new copyright and database exception that would allow text and data mining (TDM) for any purpose including commercial use. The proposal was unpopular with the creative industries and was subsequently withdrawn pending an assessment of the implications for key stakeholders. A working group of key stakeholders tried and failed to agree on an effective voluntary code of conduct to resolve the main issues of labelling and metadata for the outputs of generative AI, transparency of inputs, and licensing and permissions.

In 2025, it was widely anticipated that these issues would involve formal government intervention to move forward. However, despite another year of intense lobbying by the creative industries, it is now thought that an AI Bill may remain elusive, with the government focusing instead on boosting the capabilities of key regulators such as Ofcom, the CMA and the ICO and using existing regulation such as data protection, competition, equality legislation, and online safety.

The Data (Use and Access) Act 2025, which came into force this year, does not set out a copyright and AI regime, however it requires the government, by March 2026, to publish an economic impact assessment considering each of the policy options described in the Copyright and AI consultation and publish a report on the use of copyright works in the development of AI systems.

Uncertainty and fluidity in this area makes it challenging for developers, deployers and users to correctly allocate risk and for insurers to assess liability, worst case damages and claim frequency. Coverage disputes may increase (does AI sit inside existing wording?). In the UK, policy direction is being worked through and is still shifting. In light of this, insurers finding themselves in the role of quasi-enforcers through policy conditions may increasingly look for evidence that policyholders have guardrails such as licensing and provenance checks, human review, logging, external AI supplier controls, and incident playbooks.

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International arbitration

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Key developments in 2025

This year The Arbitration Act 2025 came into force; we have detailed the key changes that have come into force below.

Section 39A which recognises the power of arbitrators to summarily dispose claims. This will be of particular assistance in ad-hoc arbitrations or arbitrations under institutional rules that do not provide for such powers. However, the threshold under 39A is high; a party must be shown to have *"no real prospect of succe[ss]"* in the claim or issue, or in its defence of it.

The scope of jurisdictional challenges under Section 67 have been limited by excluding (i) objections not raised before the tribunal; (ii) evidence not put before the tribunal; and (iii) the rehearing of evidence already heard by the tribunal; curtailing the effect of the Supreme Court's decision in *Dallah v Pakistan* which provided for *de novo* review.

Section 6A states that, in circumstances where parties have not expressly chosen the governing law of their arbitration agreement, the governing law will be the law of the seat of the arbitration. The effect of this is to reverse the Supreme Court's ruling in *Enka v Chubb* [2020] UKSC 38 (covered in our 2021 Annual Insurance Review[22]), which stated that the express choice of the governing law of the contract was presumed to be an implied choice for the governing law of the related arbitration agreement. Given that other jurisdictions may apply different presumptions, where there is a split between the law of the seat and the law governing the agreement, parties ought to expressly stipulate the governing law of the arbitration agreement.

The Act also (i) imposes an on-going duty on arbitrators to disclose any circumstances that may reasonably raise doubts about their impartiality (codifying the decision in *Halliburton v Chubb*); (ii) expressly recognises emergency arbitrators and their ability to issue peremptory orders, which are enforceable by the court, where a party fails to comply with the emergency arbitrator's order or directions; and (iii) confirms that the court may grant relief in aid of arbitration against non-parties including to preserve evidence or property.

There were also a few interesting cases including:

Spain's application to the Supreme Court to appeal the decision in *Spain v London Steam-Ship Owners' Mutual Association Ltd* [2024] EWCA Civ 1536 was refused; ending a dispute over the binding nature of a 2013 arbitral award, and Spain's attempt to enforce a subsequent conflicting judgment issued by the Spanish courts instead upholding the public policy of *"finality to litigation"*. This provides further protection against parties who attempt to re-litigate settled disputes in jurisdictions which are perceived to be 'friendlier' to their case.

The *Commercial Court in A Corporation v Firm B* [2025] EWHC 1092 (Comm) considered the alleged passing on of confidential information obtained in one arbitration for use in another. In its findings, the Court distinguished between categories of information and considered whether arbitral confidentiality would apply, including information deployed and documents produced for use in arbitration, which are confidential, and the underlying circumstances and the existence of the dispute, which are unlikely to be confidential. This is particularly relevant to disputes that give rise to multiple arbitrations involving similar or connected issues, parties or policies.

What to look out for in 2026

As with other walks of life, AI adoption in arbitration has been keenly watched and hotly debated. Key issues include the preservation of confidentiality and disclosure of the use of AI tools by parties and arbitrators. The Chartered Institute[23] has recently issued guidelines on the use of AI in Arbitration, addressing a number of these issues. Tribunals are beginning to incorporate such guidelines into procedural orders.

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Legal practices

Georgia Durham | Associate

Key developments in 2025

In 2025 the rapid adoption of AI by lawyers has led to notable risks particularly in the submission of non-existent legal citations in court documents. Two cases – *Ayinde* and *Al-Haroun* – highlighted the dangers of relying on AI-generated research without proper verification. In each case the court reported the lawyers involved to their regulator. More recently in *Ndaryiyumvire v Birmingham City University* a firm was penalised with a wasted costs order after submitting fictitious authorities resulting in the claim being struck out. These events underline the risk of regulatory action, wasted costs orders, and potential claims against lawyers and their insurers.

Meanwhile, the number of high-volume low-value consumer claims has increased significantly. In *Vanquis Bank v TMS Legal* a lender claimed that TMS caused it loss by unlawful means through breaching its duties to its clients (who had borrowed from the lender) by pursuing thousands of meritless claims which were submitted recklessly and indiscriminately. The lender argued that TMS' aim was to enrich itself through carrying out minimal work and submitting claims without assessing whether they were properly arguable in the hope that some would be successful and it would achieve a fee. The lender's economic loss was a virtually certain consequence of that business model and TMS knew that to be the case even though its aim was not to cause the lender economic loss. The court refused TMS' application to strike the case out. The unusual circumstances highlight the widening risk for insurers as lawyers develop new business models.

High volume consumer claims businesses often rely on unqualified staff to carry out the work at a low cost. This approach has been called into question by the recent *Mazur* decision where the court considered what constitutes the conduct of litigation and whether it was unlawful for unqualified employees to undertake certain activities even under the supervision of a qualified person.

Only those who are authorised (including SRA-regulated solicitors) or exempt (such as litigants in person) are entitled to conduct litigation under the Legal Services Act 2007. The judge concluded that employees can support authorised solicitors conducting litigation but are not entitled to conduct the litigation themselves either under the supervision of an authorised individual or by virtue of the firm's authorisation. The question of whether a person is conducting litigation is one of fact and degree in every case and the substance of what they were doing must prevail over form.

The judgment has prompted concerns about the validity of litigation steps taken by unqualified staff, leading to costs challenges and the risk of professional claims if clients are adversely affected.

What to look out for in 2026

CILEX has been granted permission to appeal the *Mazur* decision any many firms will hope to receive clarity from the Court of Appeal next year.

The SRA is prioritising higher professional standards to restore confidence in legal services. This has been prompted by misconduct cases such as the Post Office Horizon scandal. It plans to strengthen continuing competence requirements between November 2025 and October 2026 with a consultation anticipated soon. It is also aiming to improve the quality and timeliness of its investigations.

Separately, HM Treasury announced that AML supervision for law firms will transfer to the FCA with a consultation in November 2025 and the transition expected after 2026. This shift to a rules-based regime may increase compliance and investigation risks for law firms and may prompt some to seek enhanced investigations cost cover from insurers.

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Life sciences

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Key developments in 2025

This summer the UK Government published its plans for the healthcare sector and the Life Sciences industry in two policy papers: the 10 Year Health Plan for England[24]; and the Life Sciences Sector Plan[25]. The development and early adoption of new treatments and technologies is crucial for the success of both policies.

New technology is already being increasingly deployed in the diagnosis, treatment and prevention of mental health conditions, through the use of digital mental health technologies (DMHTs). DMHTs are *"digital and software products that support mental health and wellbeing"*. Examples include online apps or websites accessed via computers, mobile phones, or virtual reality headsets. Where these technologies qualify as software as a medical device (SaMD) they must comply with the applicable regulatory regime.

Earlier this year, the UK regulator, the Medicines and Healthcare products Regulatory Agency (MHRA), published regulatory guidance specific to DMHTs: *Digital Mental Health Technology – Regulation for Safe and Effective Products*[26]. Aimed at helping developers and manufacturers of DMHTs to comply with UK medical device regulations, it includes important clarifications on:

- when a DMHT qualifies and therefore falls to be regulated as SaMD, along with the relevant device classification rules
- the application of the regulatory regime to more complex DMHT systems which include different components or modules, only some of which qualify as SaMD.

In the UK, failure to comply with the relevant medical device regulations has serious consequences, including investigation and enforcement action by the MHRA as well as financial and/or criminal penalties. No doubt this guidance will be welcomed by manufacturers and developers (and their insurers) attempting to navigate what can be exceptionally complicated regulatory terrain.

What to look out for in 2026

We predict that insurers in the Life Sciences sector will see increasing interest and activity around the opportunities presented by quantum technologies.

Using principles of quantum mechanics, quantum computing has the potential to surpass the capabilities of conventional supercomputers. The transformational possibilities afforded by this technology in the healthcare sector have been, and continue to be, the subject of much scientific research. In 2023, the then UK Government published its National Quantum Strategy which set out a 10-Year vision to develop the quantum industry. Earlier this year, the UK's National Quantum Computing Centre (NQCC) published an insights paper "*The convergence of healthcare and pharmaceuticals with quantum computing: A new frontier in medicine*".[27] The NQCC paper cites the rapid growth of the global market for quantum computing in healthcare and highlights the impact that it could have on the healthcare sector, particularly in driving breakthroughs in key areas such as: drug discovery, genomics and personalised medicine. It may also herald a new era for *"historically under-served"* areas of clinical research, such as rare diseases and women's health, where datasets are more limited.

In its report, the NQCC identifies *"policy and regulatory preparedness"* as one of the key steps to advancing quantum computing in healthcare and pharmaceuticals. It calls for pro innovation: proactive and internationally collaborative regulation combined with the development of ethical guidelines specific to quantum technology, and additional data protections.

If the current UK government adopts the recommendations in the NQCC report, those companies already making moves in the UK quantum healthcare market, and their insurers (without whom such technologies may never reach the market), are likely to have a real opportunity to shape the future of this dynamic industry.

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27. https://www.nqcc.ac.uk/

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Marine

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Key developments in 2025

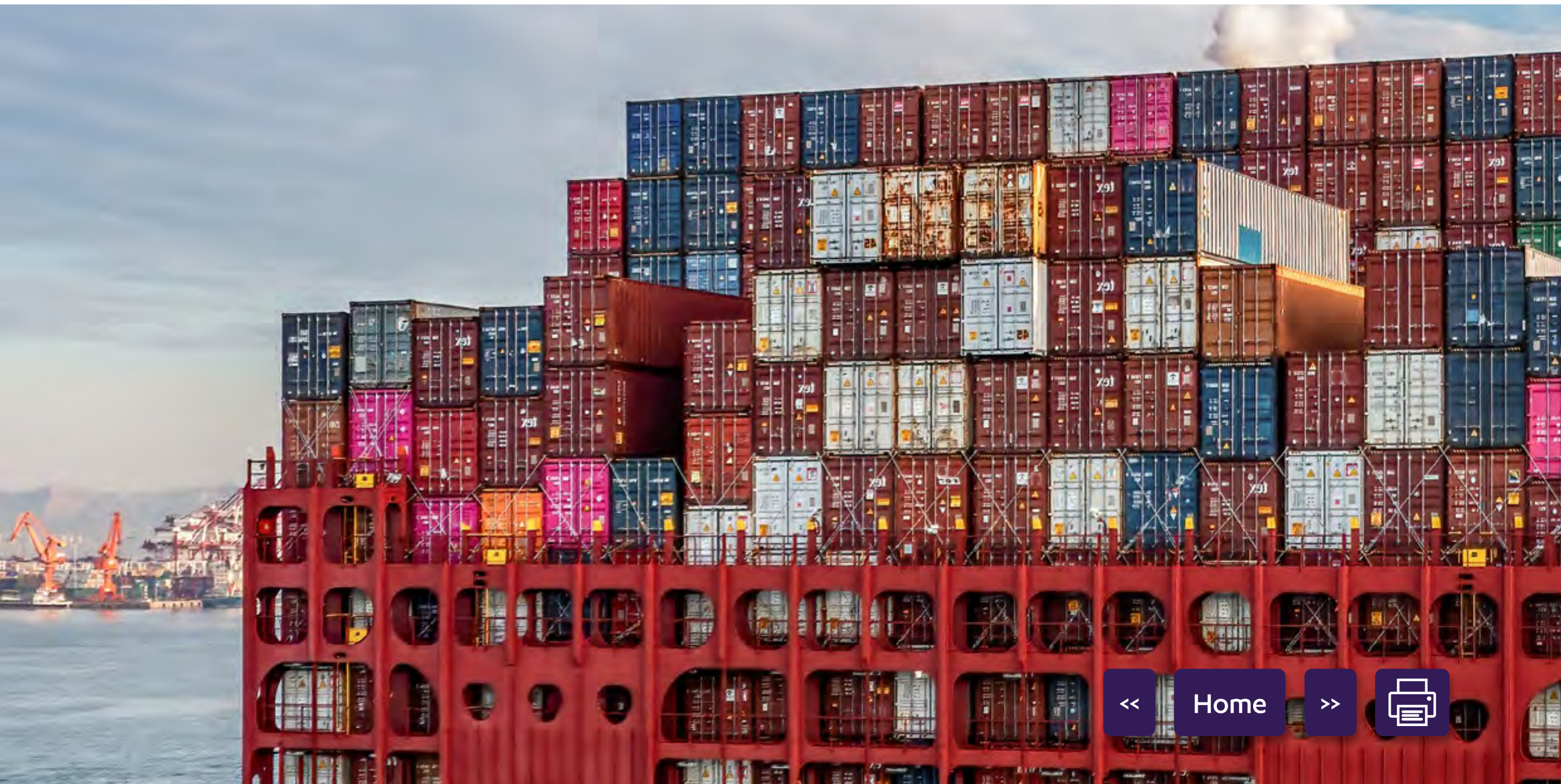
Sanctions (and attempts to evade them) remained a central theme in 2025. There has been a sharp rise in 'flag-hopping' – the repeat re-registering of vessels under different flags. While some flag changes may have legitimate operational drivers, frequent reflagging could be an indication of something more nefarious (eg the concealment of sanctioned cargo) and can raise enforcement risks.

Lloyds List report that of the vessels that were subject to sanction this year, over 70% had been reflagged, more than 20% had reflagged twice, and 7% had reflagged three times or more. The scale of these "shadow fleets" is worth noting, with Al Jazeera estimating that around 20% of global oil tanker capacity is held by shadow vessels.

For marine insurers, the risk environment is increasingly complex, particularly when flag changes or designations occur mid policy. Frequent reflagging without legitimate reason, combined with opaque ownership and control, has the potential to fundamentally alter the risk originally underwritten.

Sanction risk aside, flag hopping raises additional and indirect risks in the context of insurance claims. Certain registries may provide weaker oversight such that minimal crewing or maintenance standards are tolerated, thus increasing the risk of claims. When those claims do arise, the less desirable flags are likely to undertake inadequate investigations and/or prejudice insurers' position by hindering loss mitigation efforts with delays, limited technical expertise, and inadequate documentation.

In these politically turbulent times, it is imperative that insurers take protective steps, at placement, to mitigate the risks associated with flag-hopping. From a due-diligence perspective, these steps might include the vetting of the declared flag (eg its PSC list status/implementation of key IMO instruments etc), the owner/charterer, and the vessel (eg detention history, class recommendations, trading pattern etc). As concerns wording protections, insurers may wish to include – for example – warranties or condition precedents requiring insurer consent for flag-change, a "class maintained" warranty, and a robust sanctions clause.



What to look out for in 2026

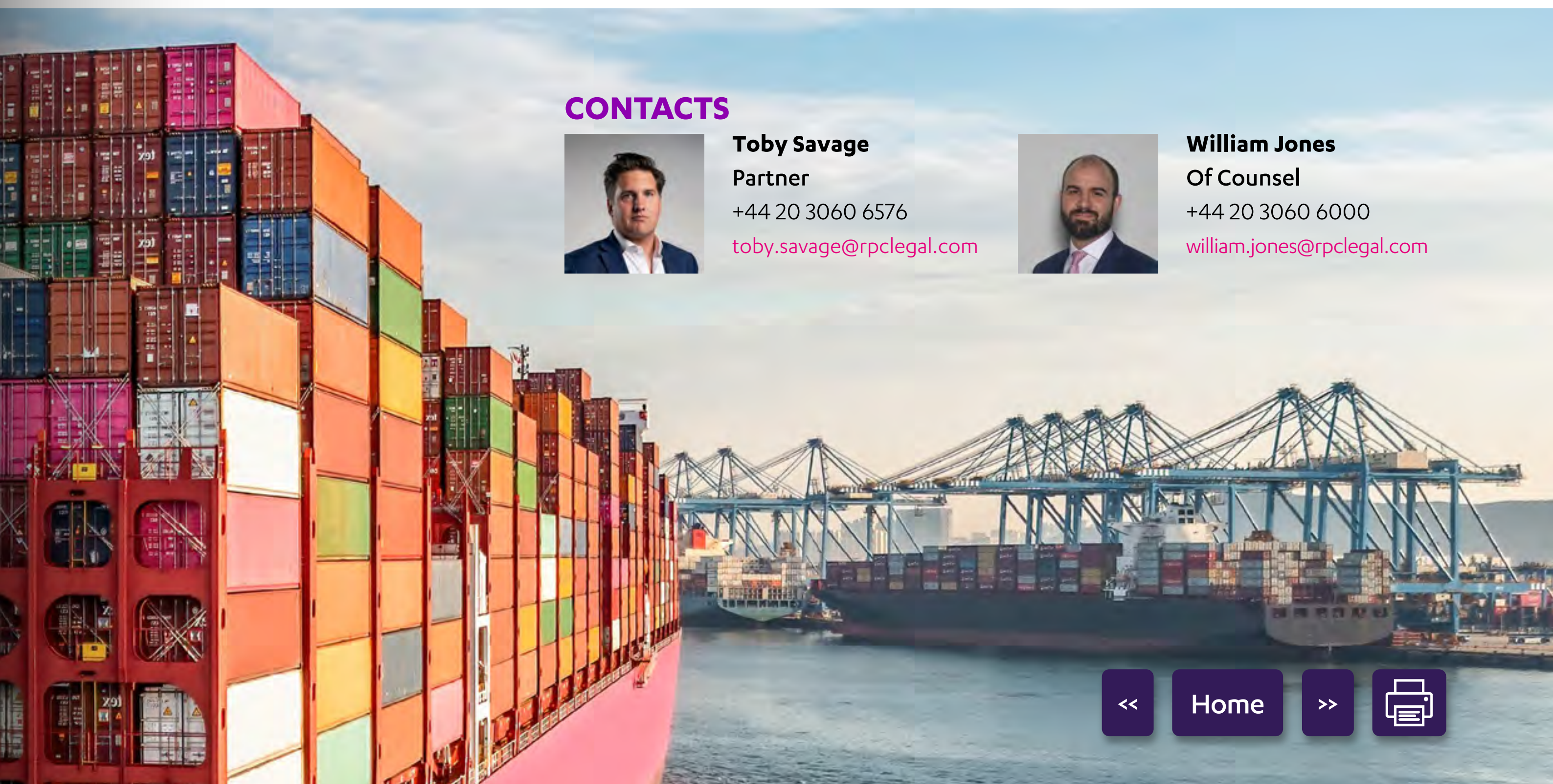
During 2026 we expect to see a continued focus on the risks posed by the maritime transportation of lithium-ion batteries – including those used in Electric Vehicles ("EVs"). In addition to being a potential catalyst for fire/explosion themselves, lithium-ion batteries can also aggravate existing fires, making them harder to manage.

An example of this was the loss of the car-carrier *Morning Midas* – the cargo of which included ~750 EVs. Whilst the cause of the loss has not been definitively identified, it is noteworthy that the fire burned for 21 days before the vessel ultimately sank. The incidence of fires on carriers is, obviously, not a new phenomenon – but the severity of the EV fires (and the challenges of tackling those fires) is significant.

Whilst regulators have sought to tackle the risks posed by EVs through more stringent requirements concerning cargo identification, packaging, and inspection, the marine insurance market will also need to mitigate its own management of and exposure to this peril.

The various tools available to underwriters might include strict exclusions, exclusions referable to compliance with manufacturers' guidelines/warranties, conditions precedent concerning cargo inspection and documentation, broader obligations concerning the carrier's safety measures/fire-detection systems, and higher deductibles for lithium-ion battery cargo.

What is clear, however, is that with an increasing number of EVs subject to maritime transportation, and the severity of the potential losses at sea, we anticipate that lithium-ion batteries will remain front-of-mind for marine/marine cargo underwriters during 2026 (and beyond).



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Media

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Key developments in 2025

In 2025 the practical effect of the Online Safety Act 2023 (OSA) began to bite after two of Ofcom's key Codes of Practice came into force, which sought to clarify the obligations introduced by the OSA two years earlier.

The first of which was Ofcom's Codes of Practice on Illegal Content[28] issued on 24 February 2025. This built on the requirement under Ofcom's 2024 Risk Assessment Guidance[29] for platforms to complete their illegal content risk assessments (ie an assessment of the risk of users encountering illegal content on their platform) by 16 March 2025. Platforms had until 17 March 2025 to take measures to tackle illegal harms as identified in these risk assessments in accordance with Ofcom's recommendations, which represented the first deadlines for platforms to comply with under the OSA.

The second of the key codes was published on 4 July 2025, being the Protection of Children Codes of Practice[30]. Platforms likely to be accessed by children were required to implement effective measures to protect child users from harmful content by 25 July 2025. Of these measures, Ofcom placed particular focus on the requirement for platforms which pose a risk of child users accessing "primary priority content" (ie pornographic content) to implement "highly effective age assurance"[31] (eg facial age estimation and ID matching). Ofcom's focus on this requirement has been evident in its ongoing enforcement programme, including recent fines as large as £1m[32] for failures to comply, which we expect to continue in 2026.

Alongside enforcement priorities, Ofcom's key focuses[33] for 2026 appear to be (a) publishing guidance on the additional safety measures to be introduced which were subject to consultation[34] earlier this year and (b) considering whether the types of content which Ofcom deems harmful to children should be expanded, with updates expected in Autumn 2026.

What to look out for in 2026

After wavering political attention in 2024 to tackling Strategic Litigation against Public Participation (SLAPPs), on 30 June 2025 measures were finally introduced by sections 194[35] – 195[36] of the Economic Crime and Corporate Transparency Act 2023 (ECCTA). The provisions permit a court to strike out claims which are (a) deemed to be a SLAPP (ie abusive actions intended to curtail public interest speech in respect of alleged economic crimes where the claimant's behaviour is intended to cause harassment, alarm, distress or expense "beyond that ordinarily encountered in the course of properly conducted litigation") and (b) where the claimant has failed to show that it is more likely than not that their claim would succeed at trial. We haven't yet seen this provision deployed in court but expect 2026 may be the year we get clarity on how this mechanism is applied in practice.

Given the provisions in the ECCTA are limited to matters concerning alleged economic crime, it remains to be seen whether 2026 is the year the reach of the current legal framework is extended to include matters concerning public interest more generally. This would likely come in the form of the current SLAPPs private members bill[37] (the Bill). The Bill has been subject to slow progress, being introduced to the House of Commons in January 2025 and only reaching the second reading stage in December. This version of the Bill is the second draft to make its way through Parliament after its predecessor failed to make it through the Parliamentary washup in 2024. It is hoped that 2026 brings greater progress in this respect.

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<< Home >>

Medical malpractice

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Key developments in 2025

The Anaesthesia and Physician Associates Order 2024 has now come into force, moving Anaesthesia Associates (AAs) and Physician Associates (PAs) from unregulated practice to full statutory regulation under the GMC. This shift aligns their oversight with that of doctors, introducing nationally defined standards for education, registration and fitness to practise; strengthening both patient safety and professional accountability.

With full GMC regulation, AAs and PAs now carry individual liability for clinical errors rather than liability resting solely with supervising doctors. Medical Malpractice insurers should therefore reassess exposure and pricing, as clearer accountability both expands the market for individual cover and changes how risk will be allocated in claims.

The case of Bartolomucci v Circle Health Group Limited [2025] concerned whether a private hospital could be contractually liable for the medical services of self-employed consultants working under practising privileges in connection with private surgery. The decision confirmed the previously held position that private hospitals offering "all-inclusive" treatment packages do not automatically assume liability for negligence in these circumstances. The court emphasised that liability remains with the consultant unless the hospital's contract expressly extends responsibility to them.

The terms and conditions that a patient signs when undergoing treatment in the private sector therefore remain crucial, as unclear wording could unintentionally shift liability on to healthcare entities and their insurers. Insurers indemnifying both healthcare entities and individual practitioners will therefore wish to be satisfied that appropriate contracts for treatment are in place and ensure adequate limits to allow for the possibility of high-value malpractice claims.

What to look out for in 2026

Political and financial scrutiny of **clinical negligence costs** is expected to intensify in 2026, and despite missed deadlines, fixed recoverable costs (FRCs) remain the most likely direction of reform for low-value claims.

The government had aimed to introduce FRCs for cases up to £25,000 in April 2024, arguing that claimant legal costs are disproportionately high and often more than twice the damages awarded. In 2023-2024 alone, claimant firms received approximately £536m in costs; nearly a fifth of all damages paid. Such figures continue to fuel public concern about how much money is ending up in the pockets of patient lawyers rather than reaching injured patients.

The delay in implementation of FRCs is most likely due to the significant stakeholder opposition that has been voiced to date. The claimant sector argues that a fixed-costs system could undermine access to justice, particularly where low-value claims involve complex medical evidence or affect vulnerable patients.

If implemented, FRCs will cap the legal fees that can be claimed in lower-value medical malpractice cases, so costs should become more predictable. However, behavioural changes in claimant solicitors should be anticipated. If profitability on these cases reduces, some are likely to respond by suggesting that claims are worth more than they first appear. Insurers should therefore be alert to attempts to inflate claims to move them outside fixed bands.

There is also growing debate about how future care is valued, including whether injured patients should recover the costs of funding future private treatment and care while still being able to choose to rely on publicly funded support having received their damages. While any change to care/treatment-cost rules is likely to move more slowly than the FRC reforms, it signals that scrutiny of overall clinical negligence spending continues to expand, and public interest in the cost of medical malpractice is likely to continue.

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Pensions

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Key developments in 2025

As predicted in last year's review, the Pensions Scheme Bill (the Bill) signalled some major changes coming for the sector. The Bill had its first reading in Parliament in June 2025 and a list of over 200 government amendments was published on 1 September 2025. Among the amendments was a framework for a legislative override for the ruling in *Virgin Media v NTL Pensions Trustees II Ltd* [2024] EWCA Civ 843 (Virgin Media) which sent shockwaves through the industry in 2024.

Impacted schemes will need to meet certain criteria set out in the draft legislation to take advantage of the remedy provided in it (essentially, retroactive actuarial approval). While most of the criteria are likely to be relatively easy to meet, particular attention should be paid to carve-outs for schemes where trustees have already taken 'positive action' whereby they have treated the amendment as void or where the validity of any amendment has already been adjudicated or remains at issue in legal proceedings begun prior to 5 June 2025. There are still lingering questions about how these carve-outs are to be implemented in practice (such as the scope of the term 'legal proceedings'), and so we will have to wait and see if any further guidance is issued to assist insurance and pension professionals in assessing their risks relating s37 issues going forward. The *Virgin Media* remedies are set to come into force two months after the Bill receives royal assent.

What to look out for in 2026

Looking ahead, the Bill is set to bring more changes in 2026 and beyond. The Bill sets out new frameworks for guided retirement, consolidation of small inactive pension pots, transferring DB surpluses back to employers, Value for Money (VFM) assessments, and expansion of the Pension Ombudsman's (TPO) powers. Of particular interest to trustees, administrators, and insurers alike will be the amendment making TPO a 'competent court' for the purposes of enforcing equitable recoupment decisions from TPO. This will allow trustees to directly enforce TPO decisions to recoup overpayments, when previously, trustees would have to incur the time and costs of obtaining a county court order in. The TPO power expansion is set to come into force two months after the Bill receives royal assent, while other changes are set to come into force gradually through 2030.

Cybersecurity is sure to be a hot topic for pensions next year, particularly with the final pensions dashboards integration deadlines looming. Earlier this year, the ICO levied a £14m fine against Capita (a frequent third-party contractor for pension schemes) for data breaches which included breaches concerning pensions data. This makes it clear that pension professionals must take data security seriously and ensure the proper controls are in place. The pensions dashboard implementation is sure to magnify any pre-existing problems in schemes' data security processes and present fresh risks, as schemes must ensure their member data is accurate, accessible and yet secure to comply with the Pensions Dashboard Regulations. Deadlines for integration already passed for the biggest schemes and master trusts earlier this year, and the timetable for integration continues into June 2026.

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Political risk and trade credit

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Key developments in 2025

Following a record election year in 2024 there has been a focus on the consequent geopolitical impact moving through 2025, and there has certainly been enough to keep risk analysts interested.

At the forefront of the European mind is the continued fallout from the Russo-Ukrainian war. Any unresolved sanctions positions will continue to cause insurers problems, but it has also developed the potential to change the landscape of asset seizure. EU leaders continue to debate whether to use €210bn to provide Ukraine with a loan to fund its defence. This has, consequently, resulted in Russia's central bank filing a lawsuit in Moscow to seek damages from Euroclear. The outcome of this dispute and the decisions taken may set a precedent (legal or otherwise) for asset seizure as a weapon in geopolitics moving forward. It is also worth noting that the EU's decision will be influenced by, but does not require, US involvement.

On the topic of US foreign policy (and although only just slipping into 2026), following a steady increase of presence in the Caribbean, Operation Absolute Resolve surprised the world on 3 January. US forces conducted strikes on Venezuela with around 150 aircraft and captured the President Nicolás Maduro in under four hours. President Trump has been clear in his intentions to *"run"* the country until a *"safe, proper and judicious transition"*. Insurers will be keeping a keen eye on the nature of this arrangement. If the intention is for US business to move in and utilise Venezuela's rich set of resources, then underwriters familiar with the historic Chávez rule confiscation issues will be cautious.

The impact of the US operation will also be felt more widely. It is possible the US will be emboldened by its successful operation – tempting further action. Notably, dialogue with Columbia and Greenland became even more tense in the immediate aftermath of the operation. There is also a possibility that this behaviour will provide justification for other states considering foreign action and we discuss this further in the next section.

Outside of US military action, there has been a continued increase in US tariffs which have, consequently, forced trading blocs to adapt so as not to invoke the ire of the United States. The European Union, for example, is implementing steel trade rules to target supply from China. This remains a difficulty for traders and their respective insurers alike as they try to predict reliable and insurable trade flows.

If we look outside the typically Western sphere of influence, then this year has seen continued instability in several regions (and we refer to our Political Violence section for more details on armed conflicts). The West Africa, Central Africa, and Sahel regions have been termed a 'Coup Belt' and, whilst insurers have been prudent to avoid the area, losses have arisen. Looking further south, Tanzania's political situation has become openly fractious with a crackdown on protests and an internet blackout. This increased authoritarianism demonstrates a potential risk for foreign investors who will be cautious about vulnerability of any assets under such a government.

What to look out for in 2026

The global instabilities already mentioned above will not, unfortunately, disappear and we expect developments to be of continued interest to underwriters. We had purposefully not mentioned the China-Taiwan dimension because its ultimate relevance is in looking forward. There will likely be heightened tensions, activity in the South China sea (exercises and blockades), and all the consequent political wrangling as a result. This is primarily because 2026 sits as the year before the centenary of the People's Liberation Army in 2027, and sits alongside former US Admiral Philip Davidson's prediction of 2027 as a window in which China may develop sufficient capabilities to invade Taiwan.

It could be said that the US action in Venezuela will have provided a precedent for an invasion or, at the very least, increased grey zone activity. On the alternative, a display of US military power could act as a deterrent particularly where US national security policy has softened as regards Russia but hardened as regards China. In any event, whilst an invasion of Taiwan is of a different nature to the US operation in Venezuela – the resulting dynamic between the two nations will be a topic of interest for insurers into 2026.

As regards credit insurance, the First Brands collapse is being said to have exposed hidden risks and lack of transparency in the burgeoning private credit market. For insurers the fraud allegations in the collapse would likely impact coverage but the more pertinent issue is whether this signals underlying risks on any insured private credit books. In particular, to what extent have due diligence practices been followed in accordance with policy requirements? For more details from a less insurer and more industry perspective – please see RPC's article on the collapse[38].

In addition to private credit, we expect two hot topics will be at the forefront of the minds of insurers with vested interests. Primarily, there is a significant amount of credit which has been injected into AI companies, and this has raised sentiments that a market "bubble" exists. Given the volume of investment to date then, if this is true, the potential downturn would be significant for insurers to the extent any values have reached their books. In addition, commodity markets (and particularly in respect of gold) have been volatile this year and the ramifications of this will seep into next year. Insurers will be keen to obtain some clarity on the value of any assets which are the subject of an insured trade, or otherwise.

Finally, insurers will be keeping a keen eye on public finances. OECD countries persist in exhibiting high debt levels – and bond yields are creeping ever higher. Countries such as France already have very little fiscal headroom and pushing taxes any higher may run the risk of preventing growth. All of this will likely force risk premiums on sovereign debt ever higher across the world because, as the risk of a fiscal accident increases, the overall cost of borrowing increases.

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Political violence and terrorism

Naomi Vary | Partner
Gabriel Boutier-Downey | Senior Associate

Key developments in 2025

The climate of war, civil or otherwise, across the globe has continued with the International Institute for Strategic Studies (IISS) calculating active armed conflicts worldwide, and their average duration, to remain amongst the highest in decades. Insurers continued to address notifications from the Russo-Ukrainian War, Sudan, the Israel-Palestine conflict, and Myanmar. The situation between the Democratic Republic of Congo and Rwanda has continued to inflame, and Ugandan troops are also increasing involvement for their vested interest against the M23 rebels. In more recent news Thailand and Cambodia have re-engaged in border clashes at the end of this year in breach of a US brokered truce between the two nations.

The impact of US involvement has remained important for insurers in these conflicts as its geopolitical stance could not only dictate the length of a conflict, but also any consequent sanctions. This is made difficult by the fact that, at times, any attempt to predict the US stance has been difficult and this has made risk analysis problematic for insurers.

To this point, just before going to print on this publication, the US were involved in a military operation of their own. Operation Absolute Resolve was undertaken in Venezuela with numerous locations (reportedly including military bases, La Guaira Port and Higuerote Airport) hit by airstrikes. The full nature of the damage caused by these strikes is yet to be seen but, given this development, insurers will be concerned about any further activity emboldened by this operation. President Trump has already made suggestive comments as regards Columbia and Greenland – who will be concerned about protection of their assets from an emboldened US.

We also predicted in last year's annual review that domestic political violence, terrorism, and wider active assailant incidents could be of increasing concern. This may not have resulted in any publicly reported insurance losses but there have, unfortunately, been examples of this trend continuing to increase pressure on PV and active assailant books. On 10 September, the American political activist Charlie Kirk was assassinated. In the United Kingdom, there was an attack on a synagogue during Yom Kippur as well as multiple arrests at Palestine Action protests (now designated a terror group following the vandalization at RAF Brize Norton). Even in the process of writing this review, a shooting at Bondi Beach in Australia was reported.

Finally, and starting on 28 December, riots in Iran have escalated from electronics vendors going on strike to school and office closures, deaths, and over 100 arrested for protests. The situation is made ever more tense by the emboldened President Trump's comments that, if the regime oversteps, the US is *"ready to go"*.

What to look out for in 2026

Given the developments of this year, we unfortunately do not anticipate an improvement in global conflicts for the following. The focus on the US position will also remain, but with growing unpredictability comes an increased lack of reliance. There is a growing sentiment that US political impact may diminish (alongside its 'soft power') as nations looks elsewhere for support to prevent conflicts. The US itself may even be a source of further conflict moving into 2026. We have mentioned Greenland but the Americas in general will be live to the US sphere of influence following Operation Absolute Resolve.

Looking forward also to technological advances, there are a couple of developments which will give insurers cause for concern – even if not yet straying into traditional PV coverage. We start with drone technology which has been greatly accelerated by the Russo-Ukrainian war and may be the source of losses outside Ukraine moving forward. There have been several reported incidents where drones are being used outside of active conflict and causing disruption to key infrastructure. Brussels airport was forced to close in November and, most recently, Lithuania declared a state of emergency following a series of incursions from neighbouring Belarus.

Separately, as the demand and reliance on AI technologies grow then the need for data centres, with physical vulnerabilities, will also grow. These assets are likely to be considered high value and critical infrastructure worth protecting. In a similar manner to undersea cables, these centres could become a target for malign state actors. Accordingly, PV coverage may be required, and we anticipate difficulties may arise as the lines between PV, cyber, and typical property insurance will need to be drawn.

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Procedure, damages and costs

Aimee Talbot | Knowledge Lawyer

Key developments in 2025

The drive to control the costs of litigation continued in 2025 with the introduction of three new costs budgeting light pilot schemes, catchily titled PD51ZG1, PD51ZG2 and PD51ZG3, which capture certain Part 7 multi-track claims issued on or after 6 April 2025. Each scheme has detailed criteria, but they mainly target sub-£10m claims in the Business & Property Courts; claims worth less than £1m in Leeds, Bristol or the Central London County Court; and Manchester and Birmingham QOCS claims.

As the pilot schemes are in their infancy, there is not yet any reported case law, so it is too early to tell whether the pilot schemes achieve the right balance between judicial scrutiny of the costs of litigation and minimising the costs of the budgeting process itself. We may see some judgments in 2026 under the pilot schemes but it may take longer for issues to surface as we still await the expected satellite litigation arising from the extension of fixed recoverable costs in 2023.

On the topic of reducing the costs of litigation, artificial intelligence is lauded as capable of doing just that, although it of course comes with well publicised risks, including the risk of hallucinating case citations. The first judgment dealing substantially with this issue was handed down in April this year, when Mr Justice Johnson in *R (on the application of Frederick Ayinde) v The London Borough of Haringey* [2025] EWHC 1040 (Admin) gave judgment in two referrals that had been made under the court's inherent jurisdiction to regulate its own procedures and enforce the duties owed to it by lawyers.

In both cases, fictional citations had been put before the court – one by a pupil barrister and one by a solicitor. In the latter case, the court commented: "*Putting before the court supposed "authorities" which do not in fact exist, or which are not authority for the propositions relied upon is prima facie only explicable as either a conscious attempt to mislead or an unacceptable failure to exercise reasonable diligence to verify the material relied upon.*" Read our detailed analysis of the decision here[39]. The use, or misuse, of AI continues to feature in litigation, especially by litigants in person, and we expect this trend to continue into 2026 and beyond.

What to look out for in 2026

From 1 January 2026, a new two-year pilot scheme improving access to court documents by non-parties comes into force in the Commercial Court, London Circuit Commercial Court and Financial List. Under the scheme, various categories of documents referred to at public hearings must be uploaded to the Court's electronic file, which will make them available to download by non-parties. This is in line with the common law rule that documents read out in open court lose confidentiality; however, it will make access to such documents easier, and this easy access is likely to encourage non-parties to seek such documents more frequently than under the current regime. As such, Insurers may want to consider whether to include arbitration clauses in policy wordings, and whether to propose arbitration, or another confidential form of ADR in sensitive disputes, particularly those relating to policy coverage.

In addition to specified documents, such as witness statements and experts' reports, judges can designate any document deemed "critical to the understanding of the hearing" as a public domain document. The parties can also agree that a document become a public domain document. The scheme is likely to bring with it increased costs incurred in dispute "Filing Modification Orders" as well as increased media scrutiny on positions taken, or statements made, by parties, witnesses and experts. However, concern over confidentiality may drive earlier settlements. Read our detailed analysis of the pilot scheme here[40].

We may also see adjustments to the fixed recoverable costs regime in 2026, as the Ministry of Justice published a consultation on 31 October 2025 seeking input to enable them to carry out their planned "stocktake" exercise. The consultation closes on 5 January 2026 and is likely to spark interest across sectors as parties continue to grapple with the ambiguous complexity band criteria in the intermediate track, amongst other issues.

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Product liability

Andrew Martin | Senior Associate

Key developments in 2025

As we predicted, 2025 has been the year of development for product regulation in the UK. This is a welcome advancement, particularly after the years of seemingly stagnant progress following the Office for Product Safety & Standards (OPSS) call for evidence published in 2021, and the ensuing Product Safety Review that took place in 2023.

The major development was the passing of the Product Regulation and Metrology Act 2025 (the Act), in July of this year. Whilst we predicted secondary legislation coming out in Autumn, we have not yet seen any new regulations under the Act. As we explained in our review last year, this Act allows the UK to adopt EU standards on product safety, whilst maintaining flexibility to deviate from EU regulations when it is in the interests of UK businesses and/or consumers.

The act has a number of aims, all of which culminate in reducing and/or mitigating the risks presented by products to health, safety, domestic animals, property, and the environment. Certain products are excluded from regulation under this act, including food fertilisers, plants and animal-by-products, miliary equipment and most medicines and medical devices. The act also contains provisions in respect of data sharing and cost recovery as well as making provision for emergency situations.

Shortly following the enactment of the Act and in support of it, the OPSS published updated guidance on Product Safety. This guidance sets out the current product safety landscape, how the government intends to use its powers under the Act, as well as signposting key documents for policy makers.

Whilst no new regulations have emerged, what has occurred, is that on 30 July 2025, the Law Commission announced its review of the UK's product liability regime, as set out in the Consumer Protection Act 1987. The Law Commission confirmed that it has been nearly 40 years since the UK's product liability[41] regime was introduced and, given the significant developments that have taken place in respect of digital products and emerging technology, this regime is now outdated.

What to look out for in 2026

The Law Commission has confirmed that whilst substantive work on its review commenced in September 2025, it will have a formal public consultation of its proposals, which is due to take place in the second half of 2026. An initial scoping questionnaire has been published on their website to gather the information needed to inform their proposals, inviting stakeholders to provide their initial views. The questionnaire identifies potential reforms and what works well under the current regime and asks stakeholders to identify any concerns regarding the suggested reforms.

As well as the consultation, we are still expecting secondary legislation following on from the Act, with a specific focus on lithium-ion batteries and online marketplaces. As we indicated last year, lithium-ion batteries are a concern given the rise in injuries caused by defective products. In 2024 the British Safety Council[42] confirmed that lithium-ion batteries are responsible for an estimated, 201 fires a year, with Aviva stating[43] at the start of 2025, that 54% of businesses have experienced an incident linked to lithium-ion batteries. The Department for Business and Trade produced guidance on producing safe lithium-ion batteries in December 2024, citing at least 10 fatalities caused by fires started in e-bikes or scooters powered by them.

We await to see whether the outcome of this is that the UK will seek to follow in the footsteps of the EU's Product Liability Directive (the PLD), as well as how the insurance market will respond, given the potential for increased exposure under the PLD and the Act.

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42. https://www.britsafe.org/safety-management/2024/lithium-ion-batteries-a-growing-fire-risk
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Key developments in 2025

Sky UK Ltd and Another v Riverstone Managing Agency Ltd & Others [2024] EWCA Civ 1567

The case concerned claims by Sky UK Limited and Mace Limited under a Contractors All Risk Policy for water damage to the flat timber roof of Sky's global headquarters, caused by rain ingress during the policy period.

The Court of Appeal upheld the first instance Judge's interpretation of "damage" as any physical change impairing value or usefulness, to its owner or operator, rejecting insurers' argument that only damage requiring immediate repair counted.

The Court of Appeal ruled that insurers were liable not only for damage occurring within the policy period, but also for the cost of remedying subsequent foreseeable deterioration and development damage resulting from insured events, subject to principles of mitigation and remoteness, overturning the Commercial Court's decision on this issue.

Investigation costs were also recoverable if reasonably incurred to determine remediation needs, regardless of whether damage was actually found.

On aggregation and the meaning of "any one event", only a single deductible applied, as the failure to install a temporary roof was a single event causing the damage.

The claimants were entitled to a monetary judgment, not just a declaration, even if their respective claims overlapped. The Supreme Court refused permission for further appeal.

The judgment clarifies the scope of policy coverage for construction projects and provides guidance on key property insurance principles, particularly regarding consequential damage and investigation costs. It confirms that insurers may be liable for post-policy deterioration if it is a foreseeable consequence of insured damage.

The decision acts as a reminder that where insurers wish to depart from normal property insurance principles, exclusions, policy limits and deductibles need to be clearly worded.

Covid-19 BI insurance claims: key UK judgments and insurer considerations

Recent UK court decisions have provided important guidance for insurers on the scope of cover, application of limits and aggregation in Covid-19-related BI claims.

The Court of Appeal in *Liberty Mutual Insurance Europe SE & Ors* v *Bath Racecourse Company Ltd & Ors*[44] [2025] EWCA Civ 153 clarified that, under composite policies, the "any one loss" limit applies to each insured separately, unless the policy expressly provides for aggregation.

On the treatment of furlough payments, the Court of Appeal endorsed the approach in *Stonegate*, holding that payments received under the Coronavirus Job Retention Scheme may be deducted from BI claims as a saving under the policy's Savings Clause. This issue is subject to further appeal before the Supreme Court.

The subsequent decision of the Commercial Court in *Bath Racecourse Company Ltd & Ors v Liberty Mutual Insurance Europe SE & Others* [2025] EWHC 1870 (Comm) considered the issue of how the "any one loss" limit of indemnity operated at a more practical level, having regard to the way in which the respective Government, BHA and GBGB measures affected the multiple facilities/premises (racecourses/hotels/golf courses) owned or operated by each claimant/insured entity in the group.

The judgment clarified that separate loss calculations – and thus separate policy limits – should be applied for each relevant measure or action, and for each facility (racecourse, golf course, hotel) affected. The Commercial Court rejected the insurers' argument for aggregation across all facilities, instead favouring a "per premises" approach. The Court also found that a new loss is triggered only by a material increase in restrictions, not by mere renewal or reduction.

For insurers, these rulings highlight the need for precise policy drafting, particularly regarding aggregation, limits, and the handling of government support payments. Insurers should review and update policy wordings to ensure intended outcomes and mitigate exposure in future pandemic or interruption scenarios.

What to look out for in 2026

Tariffs

The impact of tariffs is set to exacerbate the ongoing issue of claims inflation, further increasing overall claim spend for insurers and causing disruption to policyholders.

Inflation in replacement costs

Tariffs are expected to increase the costs on imports including machinery and construction materials whilst import controls are likely to cause additional delays to supply chains. As a result, Insurers can expect to see higher rebuild costs and longer repair times for claims arising from events such as fires, storms or floods. Ongoing claims inflation adds to the problematic issue of underinsurance for policyholders whilst Insurers will need to consider the impact on existing and future claims reserves.

BI loss amplification

Any delays in the supply chain result in delays to a business's ability to trade after an insured event. Longer lead in times for imported components/machinery and materials result in extended timelines for repairs and increased interruption to business. Tariff related delays are likely to increase the financial losses suffered by policyholders whilst Insurers can expect to see higher claims.

Deductibles and policy retentions

The increasing costs of claims will add pressure on Insurers to pass the costs on to businesses and/consumers both by way of higher premiums and deductibles to maintain profitability.

Fraud

According to the ABI, fraudulent insurance claims continue to exceed £1.1bn in 2024, an increase of 2% from the previous year.

Although motor claims remains a key exposure area for insurers, there has also been a marked increase in fraudulent commercial property insurance claims. Exaggerated losses remain the most common, accounting for £466m worth of claims fraud, an increase of 10% on 2023.

The insurance industry invests at least £200m per year to identify fraud investing in advanced technology and data analytics to identify suspicious patterns and behaviour. Collaboration between various stakeholders (brokers, underwriters, claims) and data sharing across the industry are all important for effective fraud prevention. Combatting insurance fraud will remain an important strategic focus for the industry.

44. https://www.bailii.org/ew/cases/EWCA/Civ/2025/153.html

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Surveyors

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Key developments in 2025

The RICS Home Survey Standard which was published in 2019 and came into effect in 2021, sets the benchmark for residential property surveys in the UK. As the housing market and housing-stock evolves, RICS sought to update the Home Survey Standard to meet the modern demands of consumers. On 19 August 2025 a public consultation was launched on the draft 2nd edition of the Home Survey Standard, together with a separate consultation on a potential Home-Surveys Regulatory Scheme.

RICS has undertaken a wide-ranging survey of more than 325 RICS professionals and a consumer survey consisting of over 1,400 homeowners. This extensive feedback has helped inform draft revisions, which are now open for public comment.

Key changes in the 2nd edition include:

- updated guidance on legal and regulatory requirements relevant to home surveys
- clarification on the home-buyer survey levels to improve transparency
- the option for valuation to be included at any survey level, which extends the scope of surveys beyond condition-based reporting
- new guidance on additional risk dwellings, such as historic buildings, new builds and retrofit homes to address the diverse range of modern housing stock and specific instructions from consumers
- recognition of technological developments including the use of drone inspections.

RICS are aiming to publish the 2nd edition, following approval, in Q1 of 2026. The Home-Survey Regulatory Scheme is estimated to come into force, if approved, by the end of 2027.

What to look out for in 2026

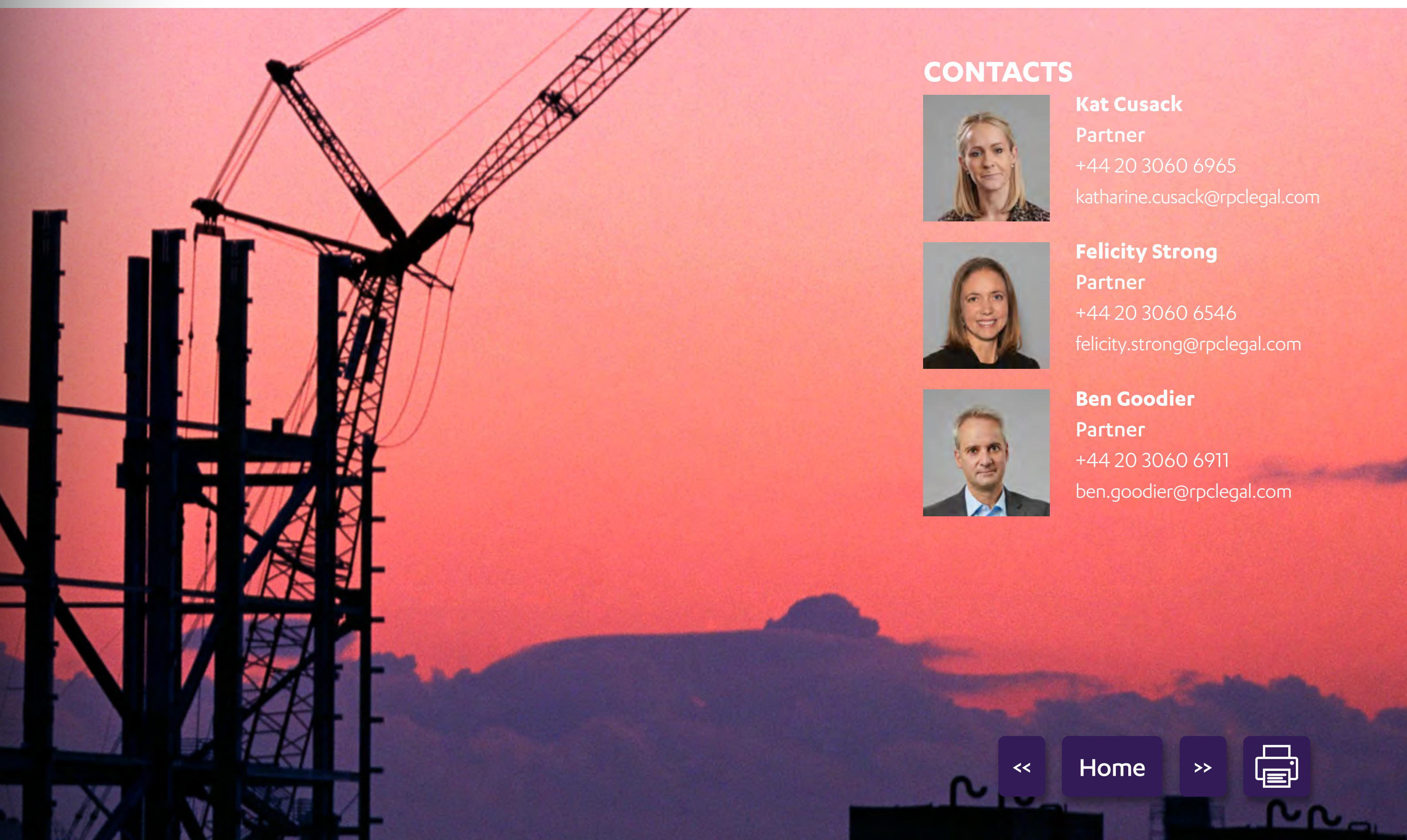
Pursuant to Awaab's Law, which came into force for social housing from 27 October 2025, landlords have an obligation to investigate and fix serious hazards within strict statutory timeframes.

The First Phase of Awaab's law looks to address mould, damp and "Emergency Hazards" which are defined as "an imminent and significant risk of harm" to the health or safety of the tenant. An 'imminent and significant risk of harm' is defined as "a risk of harm to the occupier's health or safety that a reasonable social landlord with the relevant knowledge would take steps to make safe within 24 hours". Significant damp or mould must be investigated within 14 days and remedied promptly under the regulations.

The scope of hazards will expand with the Second Phase expected in 2026 to address additional hazards such as fire, electrical, hygiene and excess cold. By 2027, most hazards under Housing Health & Safety Rating System will be covered.

It is expected that the Renters Right Act 2025 will serve to extend Awaab's Law protections through the application of the Decent Homes Standard for privately rented housing. This means that in time private landlords may also be subject to the same hazard-repair obligations as social landlords.

Combined, these reforms aim to transform rental housing in England ensuring that homes are safe, secure and that tenants have enforceable rights to decent conditions. This will place greater obligations on Surveyors and Property Managers to identify these issues and report on them promptly so as to ensure compliance with the strict statutory time limits.



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Technology

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Key developments in 2025

The Data (Use and Access) Act 2025 ("DUAA") received Royal Assent on 19 June 2025. It marks the most significant overhaul of the UK's data protection landscape since Brexit. The DUAA introduces targeted amendments to the Data Protection Act 2018, the UK General Data Protection Regulation and the Privacy and Electronic Communications Regulations 2003. The focus is to streamline compliance and enable more agile data use for businesses.

A key change is the creation of "recognised legitimate interests". This is an expanded lawful basis for processing personal data that removes the need to balance individuals' interests against the legitimate interests of the processor for specified activities such as direct marketing and intragroup administration. For insurers, this is expected to simplify routine data flows and reduce friction in claims handling and underwriting operations.

The DUAA also tightens controls around automated decision-making and requires organisations to demonstrate meaningful involvement in decisions where individuals' rights are affected. This is particularly important for claims teams deploying AI or automated triage tools, as it clarifies when and how those technologies can be used.

For international data transfers, the DUAA introduces a new "data protection test" to replace the previous adequacy assessment. Firms must now ensure that data protection standards in third countries are "not materially lower" than those in the UK. This will likely require a review of cross-border claims and data-sharing arrangements.

Other notable updates include:

- enhanced complaint-handling procedures
- stricter requirements for responding to data subject access requests
- new powers for the Secretary of State to expand or clarify what counts as special category data.

The DUAA will be introduced in phases starting August 2025, with full implementation expected by mid-2026.

What to look out for in 2026

EU's approach to AI regulation

The European Union Artificial Intelligence Act ("EU AI Act") represents the world's first comprehensive legal framework governing the development and use of AI across sectors.

General-purpose AI ("GPAI") models with systemic risk have been subject to initial requirements since August 2025. From August 2026, The EU AI Act's full suite of obligations for high-risk AI systems ("HRAI") will come into force. The legislation establishes a structured approach for identifying, managing and reporting "serious incidents" involving AI.

Any use of AI, whether for claims triage, fraud detection or underwriting automation, must be carefully assessed to determine whether it qualifies as high-risk. Providers of HRAI systems will be subject to strict incident notification requirements: serious incidents must be reported to national authorities within defined timeframes. For example, for the most severe of cases, a notification must be made within two days.

Meanwhile, developers of GPAI models that present systemic risk will be required to monitor and report incidents "without undue delay." This must be made to both the EU AI Office and the relevant national regulators. These obligations will operate under a forthcoming Code of Practice, which has yet to be finalised.

However, The EU Digital Simplification Package ("Omnibus"), published on 19 November 2025 is likely to result in a relaxing of certain requirements originally set out in the EU AI Act in the longer term. Its aim is to reduce the cost and complexity of regulatory compliance for digital service providers, offering a competitive advantage to businesses. For instance, the definition of "personal data" under GDPR would be amended. Full adoption of the **Omnibus** is currently expected by mid-2027.

UK's approach to AI regulation

In contrast, the UK Government's approach remains pro-innovation. Following its 2024 consultation, it confirmed that it would not rush into legislation, opting instead to shape future policy through continued industry engagement and alignment with international developments, such as the EU AI Act.

While this means the UK currently faces fewer prescriptive rules, organisations must still keep pace with emerging best practices, regulatory expectations and potential future reforms. The UK's flexible stance offers operational agility, but firms should avoid complacency. Cross-border operations and client expectations will increasingly be influenced by the stricter EU framework.

Staying ahead will require proactive risk management, regular policy reviews, and close collaboration between legal, compliance, and operational teams.

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Toxic tort and legacy exposure

COMING SOON

Warranty and indemnity (W&I)

Matthew wood | Of Counsel

Key developments in 2025

We predicted last year that W&I insurers would continue to see an uptick in claims activity in 2025, driven by the dealmaking boom in the latter stages of the Covid-19 pandemic and by growing sophistication in the use of the product. That prediction has been borne out, with many carriers seeing a significant increase in notifications. Most frequently implicated have been financial statements and tax warranties, with the former in particular driving claim severity, due in part to the potential for multiplied losses.

Our prediction of increased deal volumes in 2025 was rather less "on the money", with continuing geopolitical and economic headwinds causing many purchasers to keep their powder dry. Tariffs, stubbornly high interest rates, and capital allocation challenges (in the age of AI) have all played a part.

In the short term, the downward pressure on transaction volumes has driven a highly competitive market and increasingly flexible coverage (eg enhancements such as non-disclosure of due diligence reports and data rooms, always most prevalent in the US, becoming increasingly common globally). But when viewed through a wider lens, the W&I market is mature, well-capitalised, and in a prime position to benefit as the transaction cycle turns (see below).

As far as legal developments are concerned, following the *Finsbury Food* and *Project Angel Bidco* judgments in favour of W&I insurers in 2023 (the latter upheld on appeal in 2024, as covered in last year's update), we are not aware that any W&I insurance claims went to trial in the English courts in 2025. The overwhelming majority of valid claims have continued to be resolved commercially, with litigation rare. This is a clear sign that W&I insurance works and is increasingly well embedded in deal flows, for corporate as well as financial buyers.

What to look out for in 2026

Whilst geopolitical uncertainty makes predictions challenging, it would not be surprising if the market trends described above (ie muted transaction volume, coupled with high notification volume) were to flatten out in 2026.

In key jurisdictions, inflation has continued to fall and interest rates are on a downward path, which could provide fresh impetus for M&A markets. Meanwhile, policies issued during the pandemic "M&A rush" in 2021 and early 2022 will largely have expired, insofar as general warranties are concerned. With 2023 and 2024 having been quieter years for dealmaking (and where the lion's share of notifications are made within two years of completion), a stabilisation of notification volume is possible, although we would not bet against W&I claims teams remaining busy.

Our analysis last year highlighted the rapid adoption of generative AI tools and their likely impact on the M&A market and the W&I insurance market. We expect those trends to continue to develop. Many companies acquired in 2026 will have implemented AI tools formally (and some will be AI-centric and valued as such), but the possibility of unauthorised use of public AI tools (and associated risks, including data protection and "hallucination" risks) must also be reckoned with. Those areas will require careful diligence. On the other hand, guided deployment of large language models may streamline the underwriting process itself.

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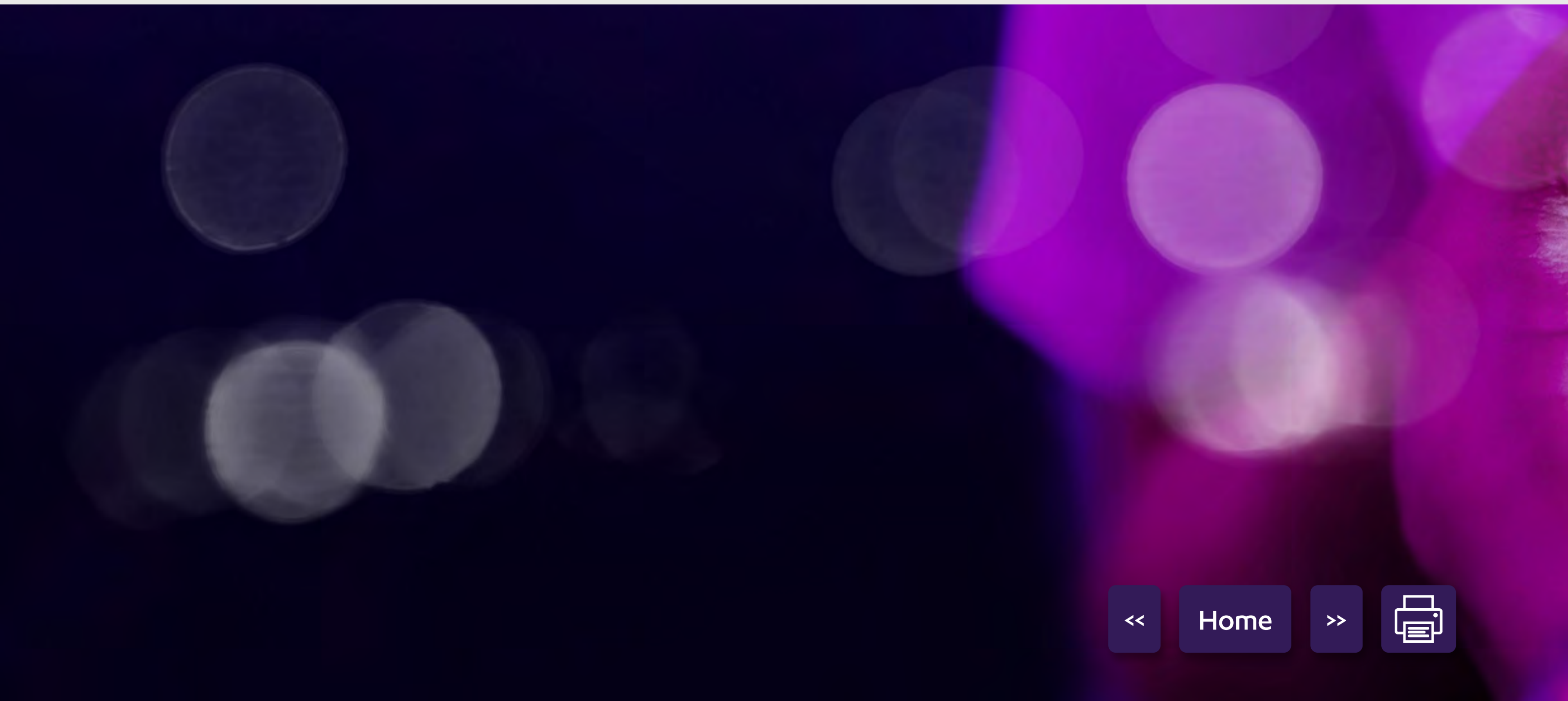

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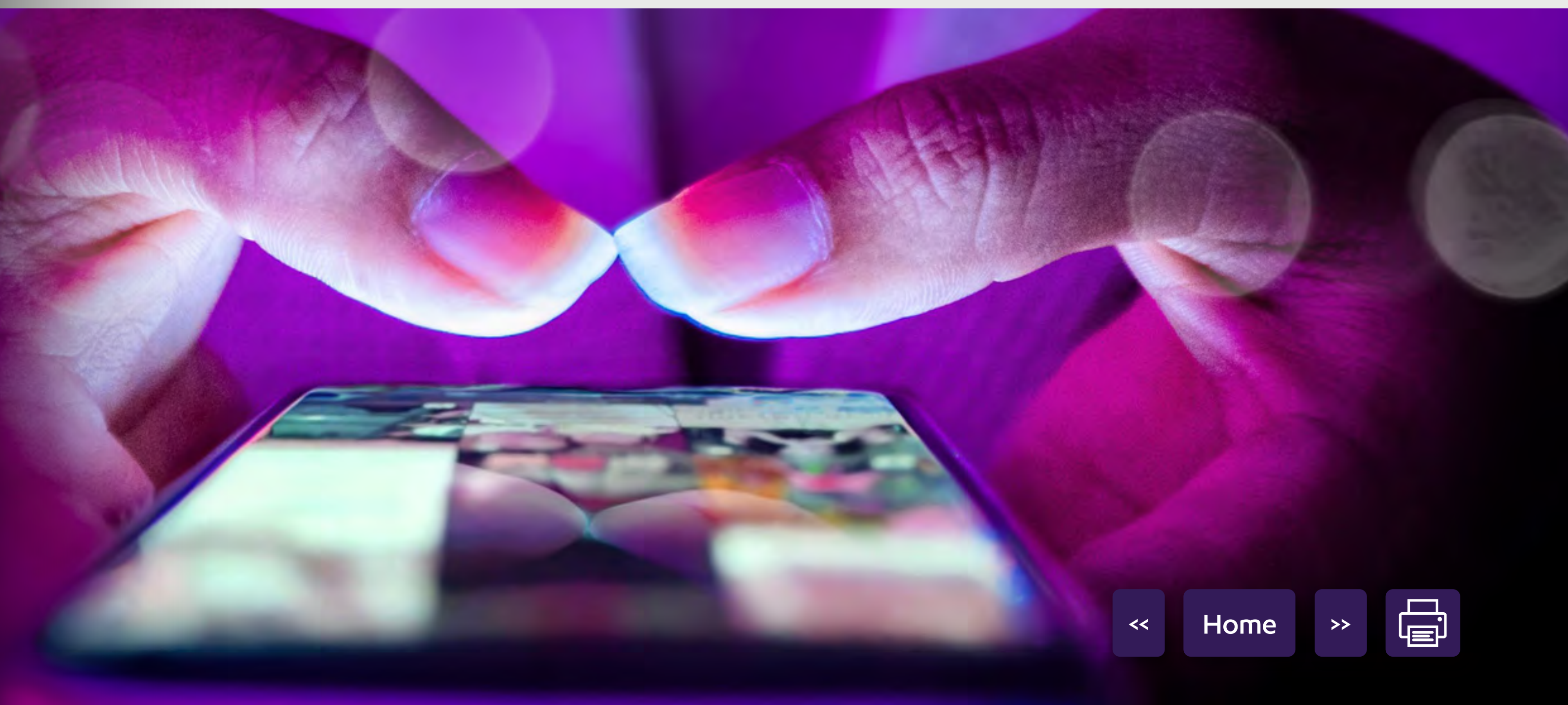

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