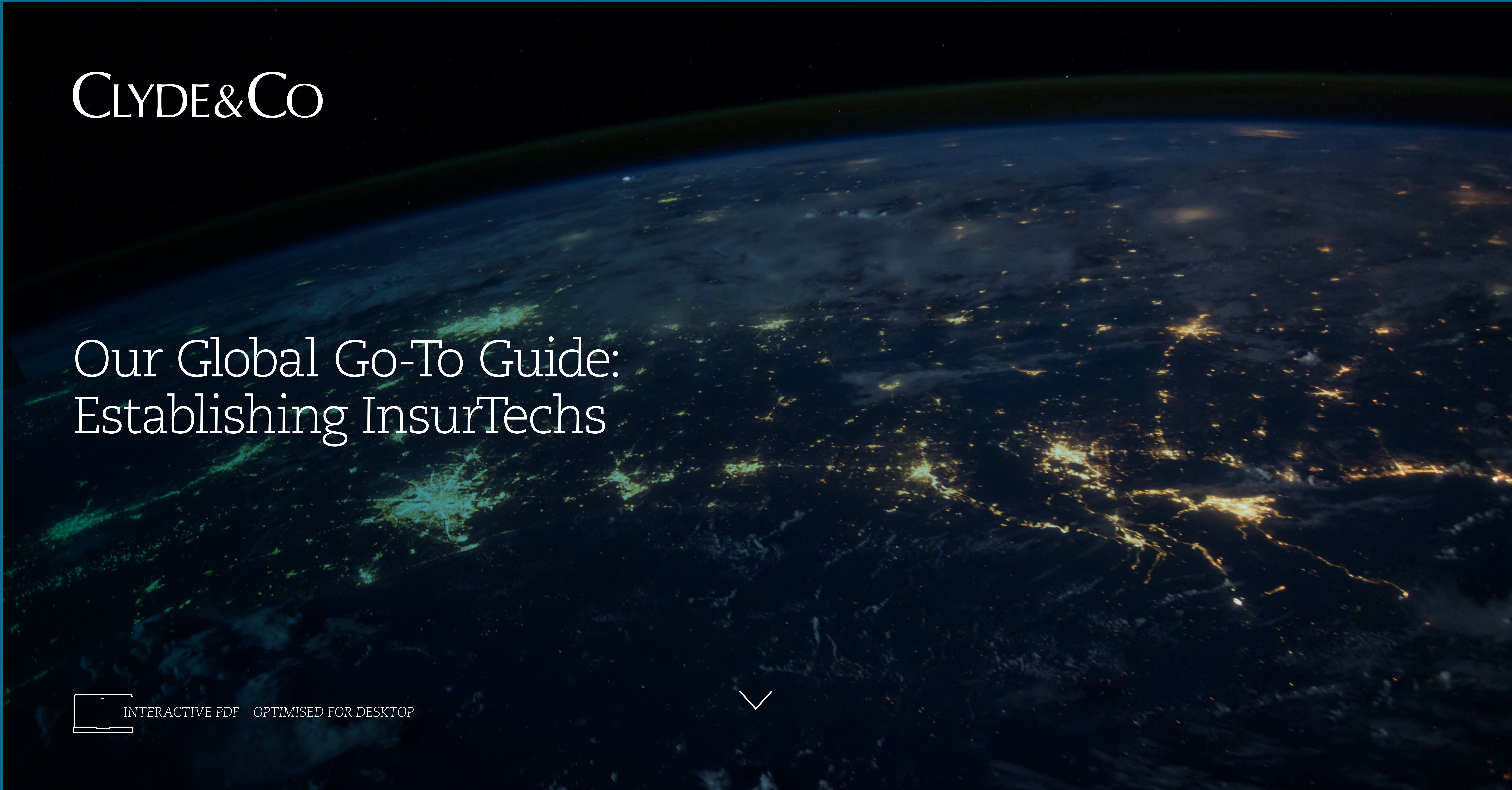

Our Global Go-To Guide: Establishing InsurTechs

INTERACTIVE PDF – OPTIMISED FOR DESKTOP

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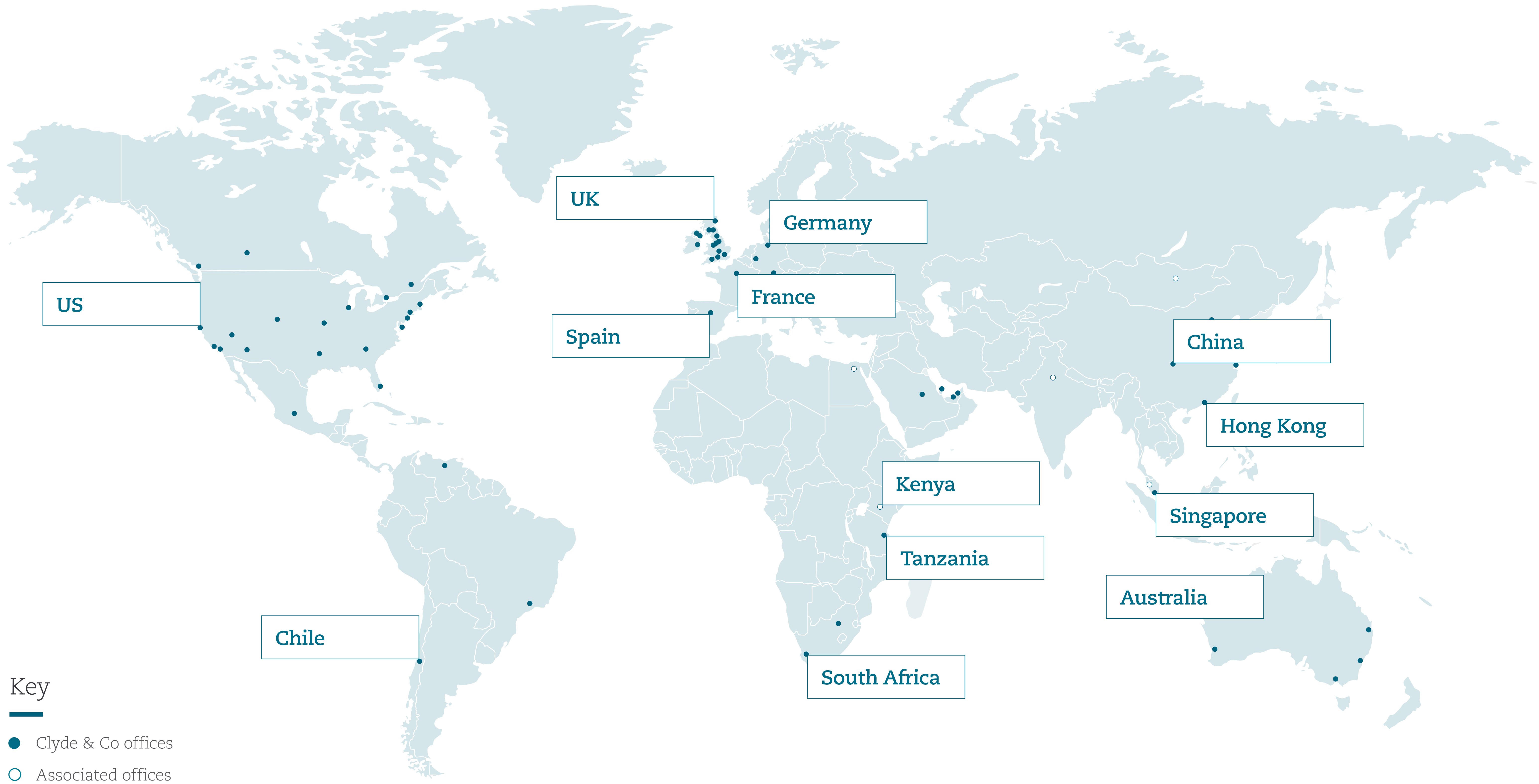
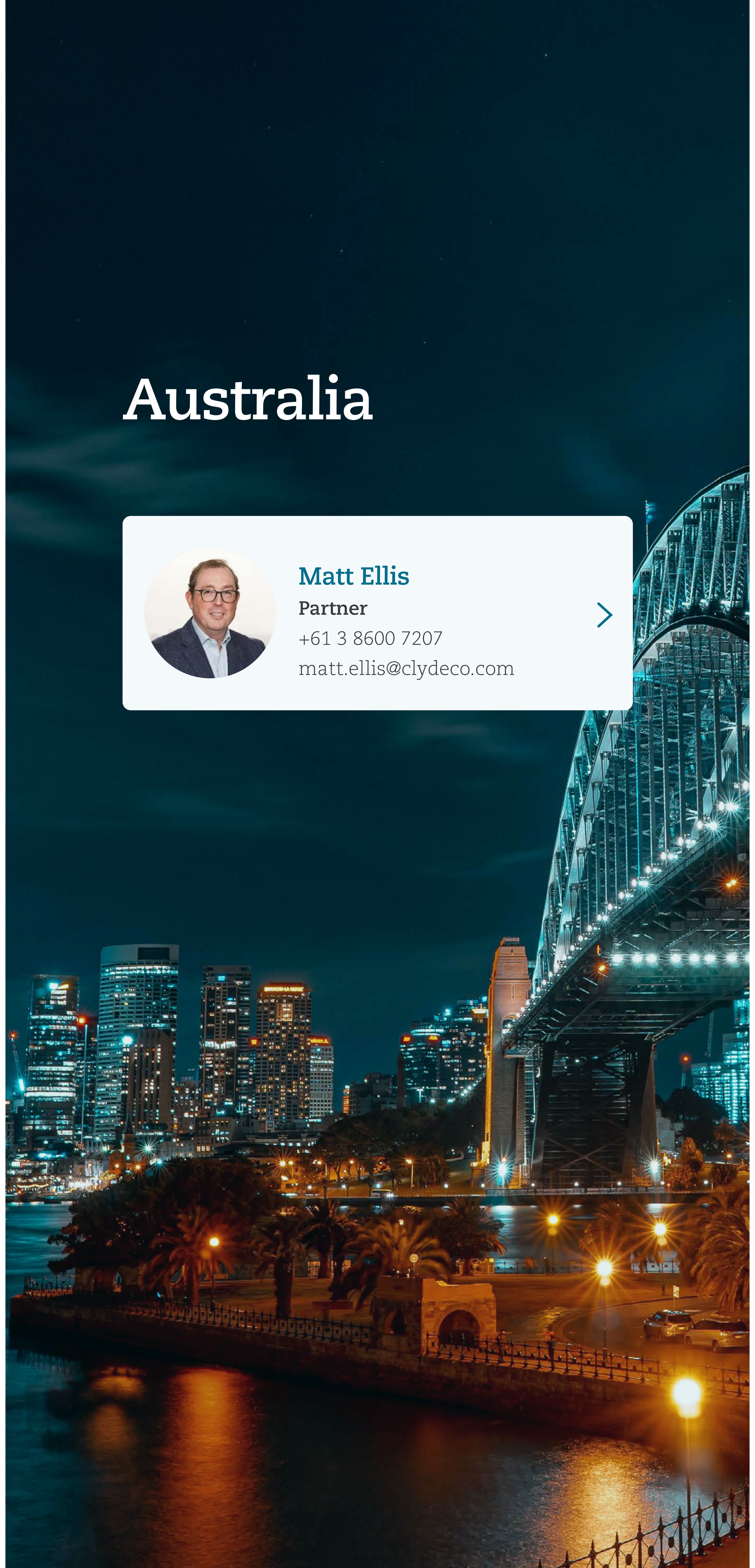
Our global network





Australia

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What are the main challenges that insurtechs face when setting up in Australia?

The Australian insurance industry is highly regulated, and is supervised by two main regulatory bodies:

1. The Australian Securities and Investments Commission **(ASIC)** which is the conduct regulator that regulates financial services, consumer credit and authorised financial markets. ASIC is responsible for licensing and monitoring businesses that engage in financial services or consumer credit activities, under the Australian Financial Services Licence **(AFSL)** and Australian Credit Licence **(ACL)** regimes respectively.

2. The Australian Prudential Regulation Authority **(APRA)** which is responsible for the prudential regulation and supervision of banking, insurance and superannuation institutions with the aim of promoting financial system stability. APRA's role is to oversee the authorisation of banks, insurers and superannuation funds and trustees.

Depending on an insurtech's business model, the insurtech may require licences or authorisations from ASIC and/or APRA to provide the relevant insurance products or services in Australia. Navigating the complex licensing and authorisation regime for the insurance industry in Australia is the main challenge faced by insurtechs when establishing their operations in Australia and requires careful analysis of the insurtech's business model to understand which licences and authorisations may be required, or whether any relevant exemptions may apply.

ASIC

Chapter 7 of the *Corporations Act 2001* (Cth) administered by ASIC requires that a person which is carrying on a financial services business in Australia must hold an AFSL covering the provision of those financial services, unless an exemption applies.

General insurance products and life insurance products are included in the definition of "financial product".

Whilst the regulatory environment in Australia may seem intense, there are a number of options for insurtechs to consider should they wish to enter the market, such as becoming an Authorised Representative of an existing AFSL holder in Australia, rather than obtaining their own AFSL in the first instance.

APRA

Under the *Insurance Act 1973* (Cth) administered by APRA, any entity which carries on insurance business in Australia must be authorised by APRA to do so, unless the entity is a Lloyd's underwriter.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

The insurance landscape is constantly evolving in Australia and there are a number of regulatory and other mechanisms available which seek to support innovation in the insurtech industry.

For example, the Enhanced Regulatory Sandbox **(ERS)** exemption administered by ASIC allows eligible persons and businesses to test certain innovative financial services or credit activities without having to first obtain an AFSL or ACL, which can often be an onerous and time-consuming process.

One of the tests required for the exemption to apply is whether the services provided are 'innovative'. This requires an explanation as to why the service or underlying product is considered to be either new or a new adaptation or improvement of another service. If granted by ASIC, the exemption lasts for 24 months and there are individual and aggregate limits on the value of services that are allowed to be provided.

Australia

ASIC also has an Innovation Hub which provides practical support to insurtech businesses in navigating the often complex Australian financial regulatory system. The regulator engages with the insurtech community to provide informal guidance on meeting various obligations required under the financial services regulatory framework. It also engages with an external industry guidance group, the Digital Finance Advisory Panel on developments in the insurtech industry, as a sub-set of the fintech industry.

In addition to the above ASIC initiatives, Insurtech Gateway Australia is an accelerator for insurtech start-ups in Australia and it is associated with Insurtech Gateway Europe.

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

Australia has undergone a wave of regulatory reform following a Royal Commission into the Financial Services Industry, which has significantly increased the amount of regulatory compliance obligations on all insurance industry players, including insurtechs.

The development and the distribution of insurance products and services in Australia has become even more highly regulated, particularly in relation to products and services for retail customers/consumers. The Australian Regulators are also unafraid to use their significant powers to ensure that financial services offered in Australia are done so in accordance with the law.

There are a number of regulatory obligations arising from the post-Financial Services Royal Commission reform that insurtechs will need to consider in the development and distribution of insurance products and services:

- Product Design and Distribution Obligations **(DDO)**: The DDO regime imposes various requirements on product issuers of certain financial products to make a "target market determination" **(TMD)** for a product, disclose the TMD to customers, keep such TMDs under review and notify the Australian Securities and Investments Commission of significant dealings inconsistent with the TMD.
- Unfair Contract Terms **(UCT)**: The UCT regime applies to insurance contracts which are standard form contracts, where a party to the contract is either a consumer or small business as defined under the relevant legislation. If a term in such an insurance contract is found by a Court to be unfair, the term will be void.
- Insured's Duty of Disclosure: For consumer insurance contracts (including general and life insurance contracts), there is a duty on the insured to take reasonable care not to make a misrepresentation to the insurer.
- Deferred Sales Model for Add-On Insurance: The deferred sales model prohibits the sale of add-on insurance products for at least four days after a consumer has entered into a commitment to acquire the principal product or service.
- Anti-Hawking: Under the hawking prohibition, a person must not, in the course of, or because of, an unsolicited contact with a retail client:
  - Offer financial products for issue or sale; or
  - Request or invite the client to ask or apply for financial products.

Australia

How do insurtechs best equip themselves to address cyber and data protection risks?

There is heightened scrutiny on cyber security and data protection risks in the Australian insurance industry following a high-profile data breach suffered by one of Australia's largest private health insurers which impacted a number of policyholders.

In this regulatory environment, insurtechs should ensure that their processes for collecting, using and storing data which contains personal information or sensitive information are compliant with the requirements of the Australian privacy laws and follows a "privacy by design" approach where good privacy practices are embedded into the design specifications and architecture of new systems and processes.

In addition to Australian privacy laws, insurtechs should be aware that insurance entities which are regulated by ASIC and APRA are subject to additional obligations relating to cyber security and information security:

- ASIC AFSL Holder Obligations: AFSL holders are required to adequately manage cyber security risks as part of their licence obligations. Adequate technological systems, policies and procedures should be implemented to ensure sensitive consumer information is protected and to minimise the risk of consumer harm.
- APRA Prudential Standard CPS 234 – Information Security: APRA-regulated entities must maintain information security in a manner that is commensurate with the size and extent of the threats to its information assets, including a requirement to have robust mechanisms in place to detect and respond to security incidents in a timely manner and maintenance of proactive plans to respond to information security threats.

What are the growth opportunities and challenges faced by the insurtech market?

Parametric Insurance

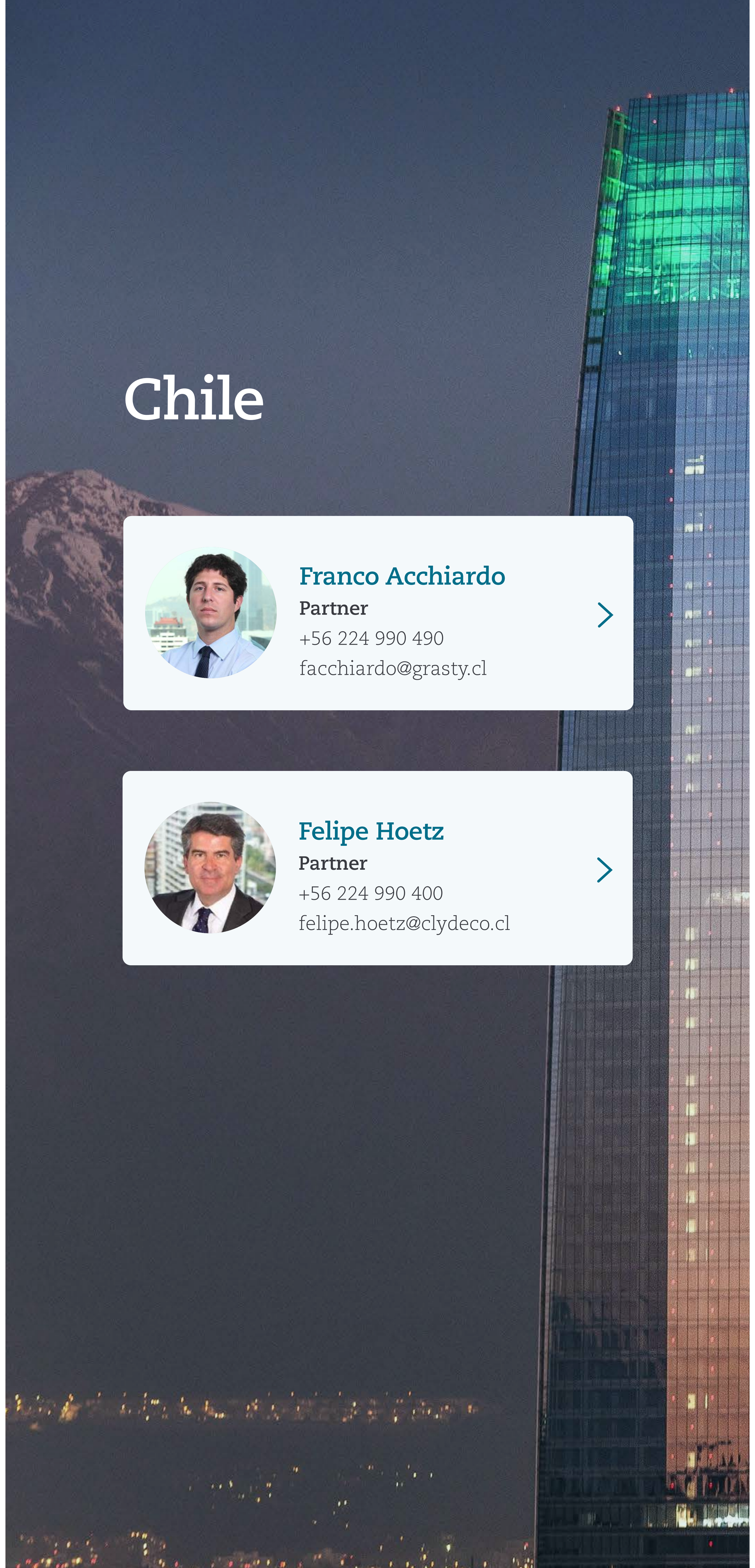
Due to the unique Australian climate with extreme weather ranging from bushfires to floods, there are growth opportunities for insurtechs which seek to integrate parametric insurance into their offerings.

In Australia, we are seeing more parametric insurance products linked to an index such as hail (where detected by electronic sensors installed at a particular location) or a tropical cyclone (as detected by the Bureau of Meteorology), which provide the insured with an automatic payout once the relevant trigger event has occurred.

Data and AI Challenges

Insurtechs which harness data and artificial intelligence **(AI)** in their business models should also be aware of Australia's anti-discrimination legislation which contains a partial exemption that states that discrimination in underwriting is not unlawful if it is based on actuarial or statistical data on which it is reasonable to rely, unless there is no such data available.

Australian Regulators are focusing their attention on insurance industry players using data or AI in their underwriting processes to ensure that adequate safeguards are implemented against algorithmic bias which may cause discrimination due to age, race, disability, gender and other characteristics, in breach of Australia's anti-discrimination laws.



Chile

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What are the main challenges that insurtechs face when setting up in Chile?

Chile follows the insurance regulation trends of other jurisdictions, so insurtech companies are subject to the regulations of this sector, both at the financial level and in terms of conduct and consumer protection. However, there is a lack of clarity and objectivity for some specific obligations, particularly related to the application of technology.

Among the main challenges faced by insurtechs in Chile is the lack of technology providers.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

As public accelerators, a key public entity is the *Corporación de Fomento de la Producción* **(CORFO)**.

As for the regulatory body, the *Comisión para el Mercado Financiero* **(CMF)** oversees financial and conduct duties, and for consumer protection there is the *Servicio Nacional del Consumidor* **(SERNAC).**

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

There are characteristics of the legal framework of Chile that may affect insurtech business and distribution, such as:

- Mandatory intermediation of the reinsurance policy;
- Mandatory adjustment procedure by a local adjuster registered before the CMF;
- Online distribution and proof of delivery of insurance documentation to the client to comply with consumer protection;
- Compliance with the duty of advice and digitalization;
- Fighting money laundering.

How do insurtechs best equip themselves to address cyber and data protection risks?

There is no specific regulation on data protection and cyber.

Although the cyber insurance policy is an element to equip to face these risks, in Chile it has a lack of placement, as a consequence of the lack of technology providers and forensic experts.

What are the growth opportunities and challenges faced by the insurtech market?

Growth opportunities and challenges in Chile include:

- Partnering with insurers or other key players within the industry, eg brokers and adjusters;
- Expansion of foreign entities into the local market (or vice versa);
- Placement and wordings for the latest trends, eg open insurance, parametric insurance, etc;
- Enhancing the presence of forensic and general experts related to insurtech, in particular with cyber risk.

China

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What are the main challenges that insurtechs face when setting up in Mainland China?

The insurance industry in China is highly regulated, and is primarily supervised by the China Banking and Insurance Regulatory Commission (**CBIRC**).

The Measures *for the Regulation of Internet Insurance Business* (互联网保险业务监管办法 - '**Measures**') issued by the CBIRC has marked a new era in China's regulation of insurtech, and in particular, the Internet insurance business.

The Measures define '**Internet Insurance Business**' as insurance business and operations, which includes the execution of an insurance contract (**Internet Policy**) and subsequent provision of insurance services, which are undertaken and provided by insurance institutions via, the Internet. According to the Measures, Internet Insurance Business shall only be carried out by CBIRC-regulated insurance institutions (**CBIRC Insurance Entities**) through their self-owned and self-managed internet insurance platforms (**Regulated Insurer's Self-owned Platforms**), and the consumer shall be able to purchase such Internet Policy online and within the Regulated Insurer's Self-owned Platforms. The CBIRC Insurance Entities would comprise of (i) insurance companies (including mutual insurance organizations and Internet Insurance Companies as defined below), and (ii) the following insurance intermediaries:

- insurance agency companies (namely, specialised insurance agency companies, banks engaging in side-line insurance agency business, and approved internet companies holding an insurance agency licence) (excluding individual insurance agents);
- insurance brokerage companies; and
- insurance loss adjustors.

All other entities and persons (**non-CBIRC Entities**) are strictly prohibited from conducting Internet Insurance Business. This prohibition on non-CBIRC Entities includes, without limitation, the sales and marketing of Internet Policies, such as:

- providing any form of consulting service in respect of an Internet Policy;
- providing Internet Policy comparison data (in particular, pricing and coverage comparison):
- assisting the design or setting up of Internet Policy application plans for prospective insureds;
- completing and lodging Internet Policy applications on behalf of, or as an agent (authorised or otherwise) for prospective insureds; and
- collecting Internet Policy premiums as an agent.

The operation of Internet Insurance Business by CBIRC Insurance Entities should fall strictly within the permitted scope of business as set out in their respective licences. In addition, CBIRC Insurance Entities are required to obtain and maintain the requisite internet service filings with the competent telecommunication authority and must satisfy several other CBIRC qualification requirements for internet operation for themselves and their internet insurance platforms, for example, requirements in relation to onshore-based network access, segregation of the information systems, comprehensive internet safety protection mechanisms, classified internet security mechanisms, legitimate distribution models and sound management systems.

China

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

The CBIRC is responsible for making overall plans on developing regulatory rules for the Internet Insurance Business. The CBIRC and its local branches are responsible for implementing routine monitoring and regulation of the Internet Insurance Business.

The Insurance Association of China (中国保险行业协会) conducts regulatory management of the Internet Insurance Business and carries out the relevant management work of the disclosure of information by insurance institutions.

As the future of insurance is rooted in technology, the CBIRC issued the Guiding Opinions on *the Digital Transformation of the Banking and Insurance Industry* (关于银行业保险业数字化转型的指导意见) *in* 2022, requiring banking and insurance institutions to digitize their business operations and management, to develop digital finance and "vigorously" promote the digital transformation of personal financial services. Many insurance companies have initiated digital transformation developments and are investing in digital technology research and development.

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

Depending on the distribution channels and geographical location of the sales of the Internet Insurance Business, CBIRC Insurance Entities may be subject to different regulatory requirements.

For example, banks engaging in side-line insurance agency business need to sell Internet Policies through its electronic banking business platform. "**Internet Insurance Companies**" is defined under the Measures as companies established upon the CBIRC's approval, they are insurance companies designed for the purpose of promoting the integration and innovation of insurance business with new technologies such as the Internet and big data and are registered to conduct nationwide internet insurance business. These Internet Insurance Companies are not allowed to sell insurance products offline by themselves or through any other insurance institutions.

While agency and bancassurance distribution continues to dominate in China, digital distribution channels are growing as insurers look to maintain a competitive edge. The popularity of smartphones and e-commerce has altered the buying habits of consumers in China, and several internet giants have entered the insurance space by leveraging on their ecosystem. Hence, insurers are expected to remain proactive in building partnerships with various third-party entities, including social media, e-commerce and insurtech platforms, in order to expand their market coverage.

How do insurtechs best equip themselves to address cyber and data protection risks?

The Civil Code of China (民法典) lays the foundation for civil claims for infringements of privacy and personal information. *The Personal Information Protection Law* (个人信息保护法), *the Data Security Law* (数据安全法) *and the Cyber Security Law* (网络安全法) established the regulatory framework of data protection and cyber security in China. Insurtechs are obliged to implement the requirements under these laws, special rules and regulations in their respective industries.

The CBIRC issued the *Administrative Measures for the Protection of Consumer Rights and Interests by Banking and Insurance Institutions* (银行保险机构消费者权益保护管理办法) (the **Administrative Measures for Consumer Protection**), which came into force on 1 March 2023. The Administrative Measures for Consumer Protection provides that banking and insurance institutions must establish, among other things, consumer personal information protection mechanisms and improve internal management systems, hierarchical authorisation approval, and internal controls measures.

China

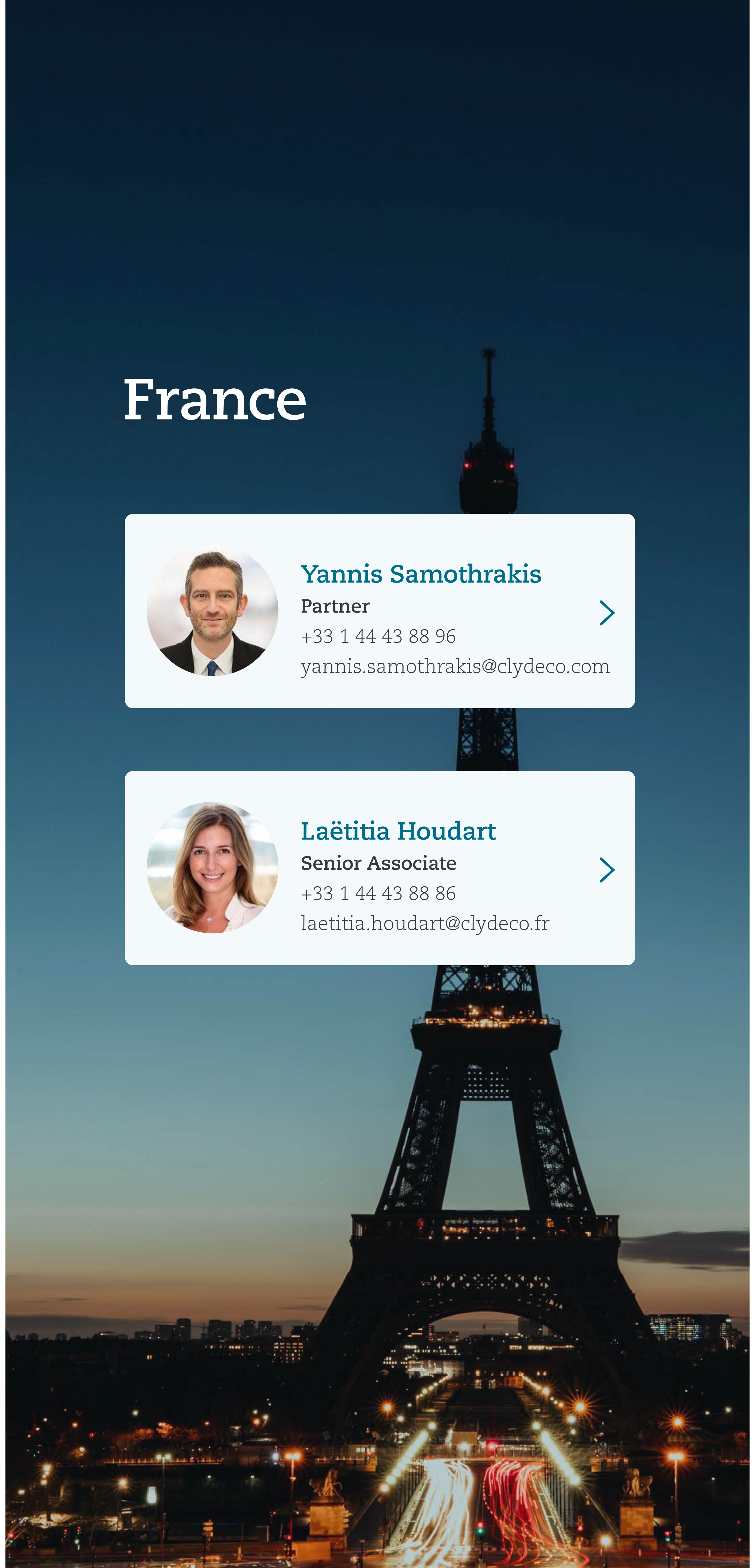
Accordingly, CBIRC Insurance Entities will need to strengthen their data compliance and cyber security through measures such as:

- listing the protective measures implemented for consumers' personal information, insurance transaction information and transaction security on its own Regulated Insurer's Self-owned Platform for Internet insurance business;
- separating the information management system and core business system that supports the operation of the Internet insurance business from other unrelated information systems; and
- implementing protection measures for network security at different levels.

What are the growth opportunities and challenges faced by the insurtech market?

The insurance consumer market is changing dramatically in China in terms of customer expectations and growth in smart device. The industry is entering a new era of insurance consumption. As online insurance is expected to become the main stream of insurance purchasing channel, insurance companies will need to develop personalized products and services and efficient online claims process will be the core of the industry's future competition.

Nonetheless, digital transformation also throws up challenges that need to be confronted, such as data governance, network security, data security, and privacy protection. Many regulatory decrees issued in recent years have encouraged insurance institutions to make good use of data, while at the same time requiring them to fully protect customer privacy and data security in accordance with laws and regulations.



France

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What are the main challenges that insurtechs face when setting up in France?

Insurtechs are subject to the same legal and regulatory framework as any other entity in France.

As such, these are broadly the options available to launch their activities in France (namely, to offer insurance cover for risks located in France):

1. Risk carrier option:

– Obtain an authorisation from the French supervisor, the *Autorité de contrôle prudentiel et de résolution* **(ACPR)** as an insurance or reinsurance undertaking;

– If established in a State which is party to the European Economic Area, use the freedom of establishment or freedom to provide services from the Member State where they are established.

2. Intermediary option

– Register with the *Organisme pour le registre unique des intermédiaires en assurance, banque et finance* **(ORIAS)** as an insurance intermediary unless exempted;

– Benefit from the European passport and act under the freedom to provide services or via the freedom of establishment.

One of the key obstacles for insurtechs in France is the complex and restrictive legal framework. For instance:

– Mandatory provisions which mainly come from the French Insurance Code, European Directives, recommendation of the ACPR;

– Detailed and restrictive mandatory provisions to be included in several documents at pre-contractual and contractual stage;

– Consumer protection rules;

– Data protection;

– Anti-money laundering / financing of terrorism rules which also apply to non-life insurance.

In addition, the handling of complaints is a recurring topic. Not only are insurance market players expected to inform policyholders about the complaints handling procedure, but they are also expected to analyse the quality of the complaints handling system they have put in place.

While requiring a significant initial operational investment, compliance with the restrictive legal framework can thereafter become a source opportunities, allowing insurtechs to establish their legitimacy as credible companies (in turn ensuring quality partners and good reputation).

In our experience, difficulties often arise from the late involvement of the legal function in projects to launch activities in France.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

France does not currently have specific legal or regulatory frameworks for InsurTechs such as regulatory “sandboxes”. However, there is an ACPR-FinTech Innovation Unit which is the ACPR team dedicated to FinTech and financial innovation.

You can find more information about this unit on the website of the ACPR: https://acpr.banque-france.fr/autoriser/fintech-et-innovation/le-pole-fintech-et-innovation

France

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

In France, the conclusion and termination of insurance policies is strictly regulated, which can sometimes conflict with the aim of some insurtechs to offer a very simplified way to conclude or terminate their insurance policies.

Compliance with the pre-contractual obligation to provide information and advice is also a critical issue in the distribution process, especially when it comes to elaborating and formatting the advice as well as proving that this obligation has been fulfilled.

We address these issues by seeking the right balance between the protection of the policyholder and the constraints required by the digitalisation of the online subscription, management and termination of insurance policies.

How do insurtechs best equip themselves to address cyber and data protection risks?

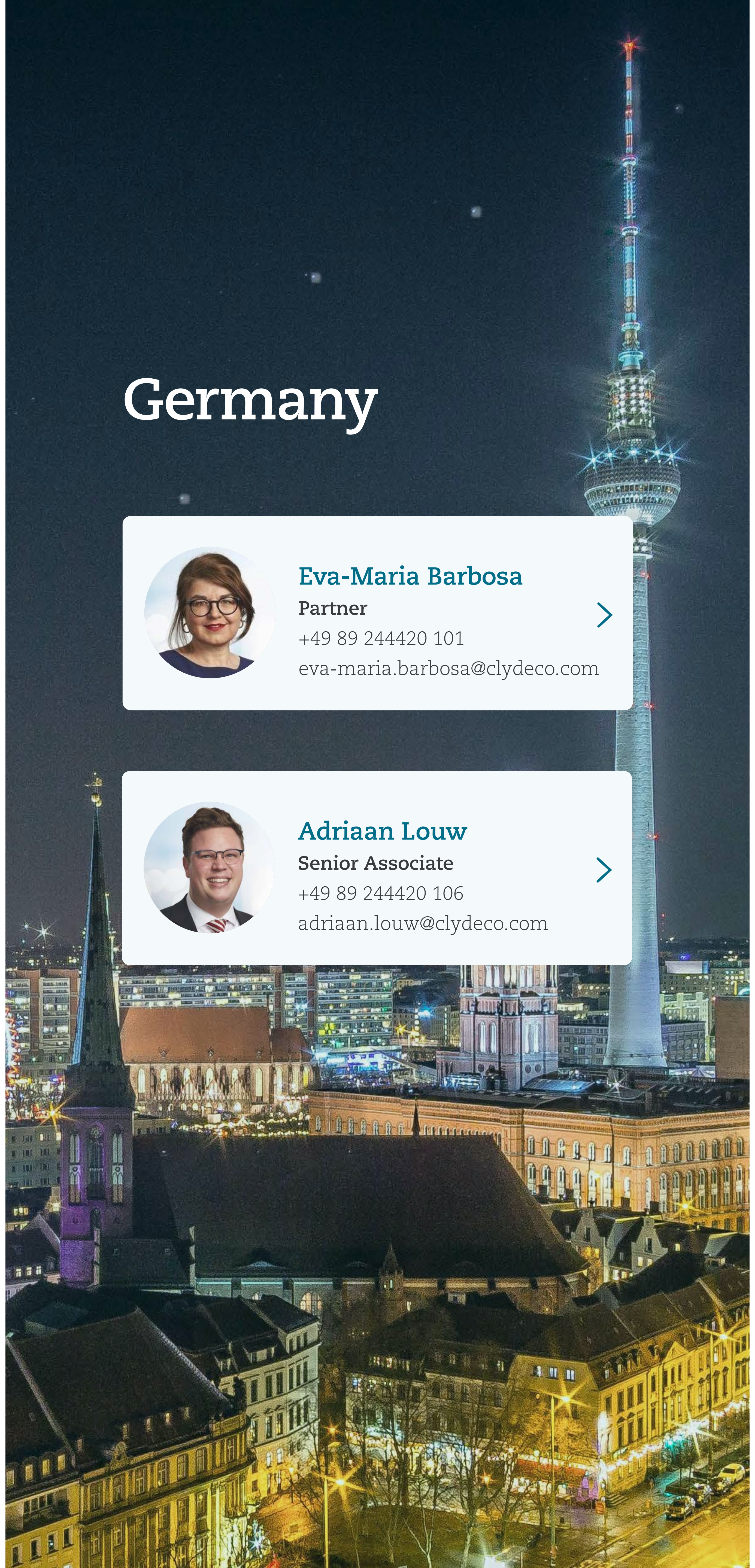
As every company (and perhaps more given the large amount of personal data involved), insurtechs are exposed to cyber incident risks. Thus, they must implement robust security measures and take cyber insurance to cover these risks.

What are the growth opportunities and challenges faced by the insurtech market?

Insurtechs are cross-border by design as technology should allow to replicate a business model across jurisdictions with minimal changes to the process – at least in theory. This entails an aggressive strategy shifting from a competition with "incumbents" to a partnership proposition combining innovation and old-fashioned insurance cover.

There are immense opportunities in the French market. Generally, what will differentiate startups from incumbents is the ability to work on much tighter timeframes while targeting segments or populations which are considered as under-targeted by incumbents.

More precisely, affinity and embedded insurance represent a great potential. There is also room for insurtechs having a more mature and specialised business plan, in order to target specific areas such as parametric insurance, cyber, as well as very small risks (while micro-insurance has been around for decades, technology provides great opportunities in terms of mutualisation/mass distribution with minimal acquisition costs).



Germany

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What are the main challenges that insurtechs face when setting up in Germany?

Insurtech start-ups are required to meet the same regulatory requirements as a traditional insurer that has been in business for decades. This naturally only applies to insurtechs that carry out insurance business and consequently require Federal Financial Supervisory Authority (BaFin) authorisation. Germany neither currently has a sandbox, nor does BaFin provide other regulatory relief to insurtechs.

Germany's financial services industry, which includes the insurance industry, still relies heavily on brick-and-mortar operations, more so than what could perhaps be said about other jurisdictions. This means that a new insurtech carrying out insurance business, that aims to provide 100% digital services, may not necessarily have the same broad reach of customers as a traditional insurer. Again, this challenge may be moot to those players who in any event aim to target only a segment of society and not everyone.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

The phrase "insurtech" is used to describe a variety of players within the insurance ecosystem, or entities that provide services to those players. Not all insurtechs require regulatory authorisation, or consequently regulatory supervision.

Insurtechs that carry out insurance business require authorisation from BaFin to do so. In the past five years, BaFin has granted authorisation to only seven insurtechs, which is supervises in accordance with the principle "same business, same risk, same rules". This means that the supervision is carried out in the same was as it would for traditional insurers that have been active in the market for a long time, with no relief for rules for start-ups wanting to carry out insurance business.

In assessing insurtechs that carry out insurance business, BaFin has indicated that two adaptions are particularly important compared to the traditional business model, being the organisation fund and the technical provisions:

– In respect of the organisation fund, BaFin requires that the organisation fund must covers all losses that can be expected, on the basis of realistic projections, from the time the company is established until its first profits are generated. For insurtechs, BaFin requires that the organisation fund must reflect the important role of IT in the distribution of insurance products.

– BaFin further requires that insurtechs (especially start-ups) must allocate most of their expenses to the existing business (and not projected new business) when calculating their technical provisions. In ignoring projected new business, the technical provisions required from a start-up is therefore increased.

Insurtechs acting as insurance intermediaries require authorisation from the local Chamber of Industry and Commerce (of which there are about 80 in Germany) if they meet the requirements set out in section 34d of the Trade Ordinance (*Gewerbeordnung – GewO*). Insurance brokers and agents would generally require authorisation to carry out their activities, while, for example, product-accessory intermediaries are exempt from authorisation when mediating insurance that is being provided as an additional service to the delivery of goods or services, such as providing a customer with a warranty extension when the customer purchases equipment.

Germany

Insurtechs can also provide certain services or technical solutions to authorised insurers which may be deemed outsourcing, triggering a notification requirement.

Germany does not have a sandbox or similar structure, but insurtechs are supported by insurtech hubs, with the Insurtech Hub Munich and InsurLab Germany being two examples that Clyde & Co works with. These hubs often have accelerator cohorts, aimed at driving collaboration and development with the German insurance industry.

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

Despite the prevalence of brick-and-mortar operations, the majority of insurance agreements can easily be entered into or terminated online. A new insurer can also under certain conditions terminate an insurance contract of a previous insurer on behalf of the customer. These characteristics provide potential market entrants with a wide range of possibilities in designing products and services, or setting up distribution channels.

Consumer rights may also influence the insurance offering provided by new entrants. For example, consumer protection rights in Germany, as with other European countries, are broader than in other parts of the world. It is also not uncommon for merchants to provide rights to consumers that exceed what is legally required. For example, various online shops provide warranty and product return rights that go far beyond the legal minimum. This ultimately means that consumer insurance products designed for other markets may not necessarily be a value-adding fit to the German and European market.

Certain types of insurance are particularly regulated and new entrants may struggle to get their foot in the door to gain market share, with health insurance being one example thereof. The strict regulations in place also mean that various business models from other countries are not suitable to be copies in Germany.

How do insurtechs best equip themselves to address cyber and data protection risks?

The risks and requirements that insurtechs face depend on whether they process personal data as a controller, ie for their own purposes, or a processor, ie on behalf of another controller. In both cases, they have to comply with certain data protection requirements as set out in the General Data Protection Regulation (GDPR), the German Data Protection Act (BDSG) and potentially the German Telecommunication Telemedia Data Protection Act (TTDSG).

When acting as a controller, this means in particular providing data protection notices for customers, employees and business partners. As a processor, they are obliged to cooperate with the controller, which should be specified in a data processing agreement. If they employ more than 20 persons, they must designate a data protection officer. In the case of international data transfers, appropriate safeguards must be ensured, eg standard contractual clauses should be concluded and a Transfer Impact Assessment (TIA) has to be carried out.

Germany

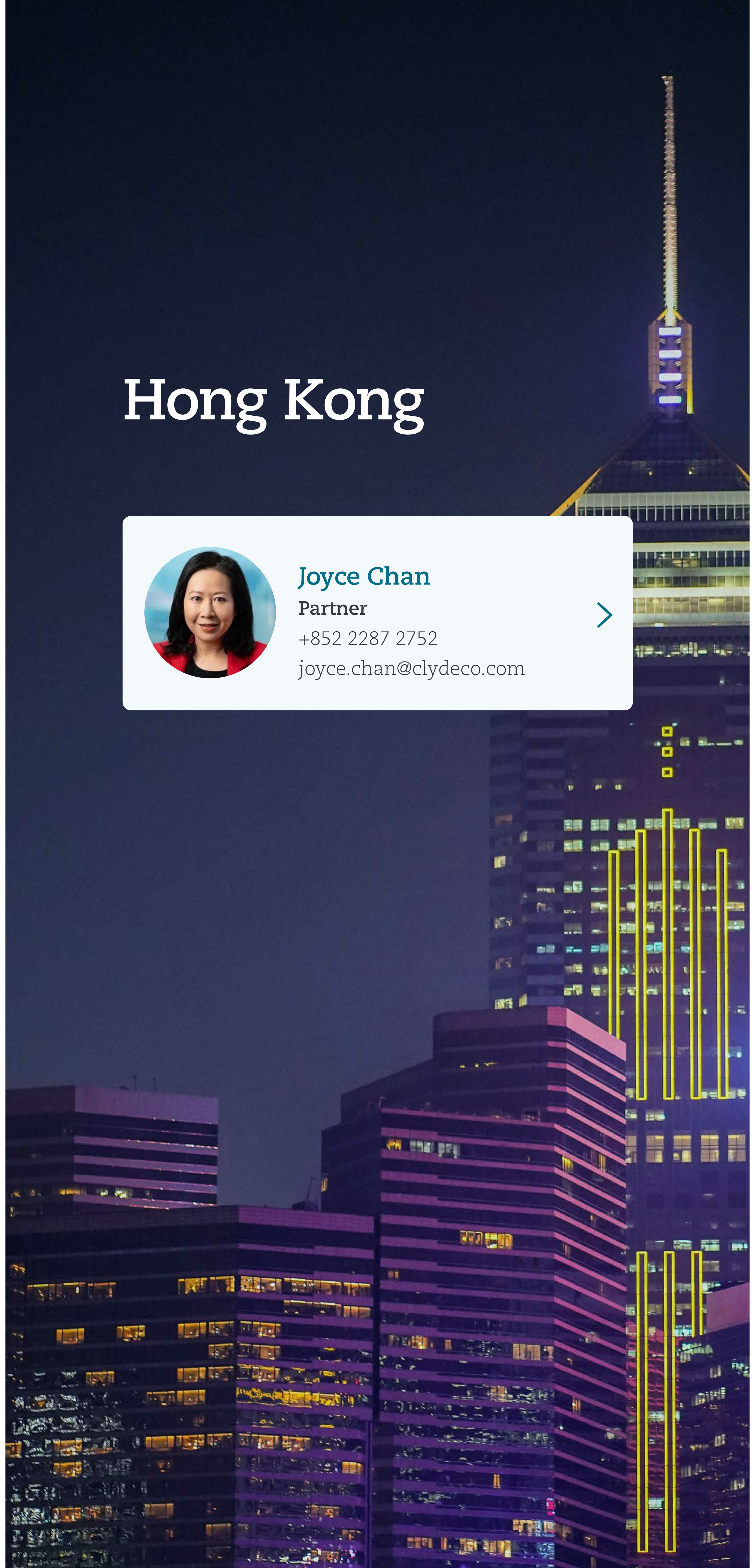
To protect themselves against cyber risks, controllers and processors must implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk imposed by the processing and protect personal data against from accidental or unlawful destruction, loss, alteration and unauthorised disclosure or access. This includes, where appropriate, the deployment of pseudonymisation and encryption technologies, the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services, and the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident.

For Germany, it is important to note that due to its federal structure, a total of 18 supervisory authorities monitor compliance with these requirements.

What are the growth opportunities and challenges faced by the insurtech market?

Brick-and-mortar operations are still prevalent in Germany, and these operations can further be characterised with features that have been long abandoned in other countries, such as the use of fax machines, the reliance on postal services for all important communication, and many businesses accepting cash and the German-specific debit card (girocard) only. This means that digitalisation opportunities, as are often brought about by insurtechs, are plentiful. These opportunities include automation, the use of artificial intelligence, internet of things, and digital assets.

The opportunities around embedded insurance and open insurance have not yet been fully exploited, while the increase in extreme weather conditions mean that the relevance of parametric insurance is ever-increasing.



Hong Kong

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What are the main challenges that insurtechs face when setting up in Hong Kong?

The Hong Kong insurance market is one of most mature markets globally and overall, as a society, insurance penetration is one of the highest in the world. However, the market share of virtual insurers in Hong Kong is still extremely low compared to traditional insurers both in terms of premium and claims. Complex legacy systems, company culture, and various tolerances for risk are impediments to the integration of technology into the Hong Kong insurance industry, which traditionally relies on middlemen (agents and brokers) for the distribution of insurance.

The Hong Kong Insurance Authority **(IA)** supervises authorized insurers as well as insurance intermediaries. Applicants seeking authorization to be insurers in Hong Kong must satisfy all prevailing regulatory requirements, including solvency, capital, local assets requirements and policy protection measures.

Under section 64G of the Insurance Ordinance (Cap. 41) **(IO)**, a person must not carry on a regulated activity, or must not hold out that the person is carrying on a regulated activity, in the course of business or employment, or for reward unless the person holds an appropriate type of insurance intermediary licence or is exempt under the IO. Given the potentially broad scope of a "regulated activity", insurtechs may need to obtain the requisite intermediary licence in order to conduct certain insurtech activities in Hong Kong. To do so, they must satisfy the IA of its fitness and properness to carry on regulated activities, and once licensed, be subject to ongoing compliance requirements.

In addition to the above, any insurtech activities involving the offer of investments or securities, the dealing of securities, asset management, securities margin financing, leveraged foreign exchange trading, dealing in futures contracts and other similar activities may also be regulated under the Securities and Futures Ordinance (Cap. 571) by the Securities and Futures Commission.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

In 2017, the IA launched an Insurtech Sandbox to encourage pilot runs of innovative insurtech applications by authorized insurers and licensed insurance broker companies. The sandbox provides a place for insurers, insurance brokers, and technology companies cooperating with them to launch insurtech projects without the need for full compliance with the IA's usual regulatory requirements, with the aim to encourage insurtech companies to obtain real market data and user feedback.

The IA has also launched a Fast Track pilot scheme in 2017 to expedite applications for new authorizations to carry on insurance business using solely digital distribution channels. However, these digital insurers will not be allowed to accept business from any channels other than its own proprietary digital distribution system. As of 2022, there are 5 digital insurance players in Hong Kong – 4 were issued licences by the IA and 1, Blue, turned into a digital insurer from a traditional insurance company in 2018.

In addition, the IA has established an Insurtech Facilitation Team to enhance communications with businesses involved in the development and application of insurtech in Hong Kong and to promote Hong Kong as an insurtech hub in Asia. The "Future Task Force" of the Insurance Industry has also been set up by the IA to draw up recommendations to promote the sustainable development of the insurance industry, with one of its three working groups dedicated to promoting the application of Fintech in the insurance industry.

Hong Kong

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

Hong Kong does not currently have specific regulations governing insurtech. However, the following may affect an insurtech's business and distribution:

Under section 64I of the IO and the Insurance (Maximum Number of Authorized Insurers) Rules (Cap. 41K), a person must not, at any time, be appointed as a licensed insurance agency or licensed individual insurance agent in carrying on a regulated activity for more than 4 authorized insurers, of which no more than 2 can be insurers authorized to carry on long term business.

The IA has also issued the *Guideline on the Use of Internet for Insurance Activities* **(GL8)** which may be relevant to insurtech activities. Key regulatory requirements under GL8 include:

- The service provider should provide clear information as to its authorization, registration, or approval status in Hong Kong and elsewhere. If the service provider carries on any class of insurance business in or from Hong Kong, the products must be sold by insurance intermediaries or other groups authorized under the IO.
- The service provider should take steps to ensure that adequate security measures are in place to protect the data of existing and potential policy holders.
- Where insurance products are to be sold over the internet, the service provider should follow the guidelines relating to sales materials or illustrations, comply with the Electronic Transactions Ordinance (Cap. 553) in relation to digital signatures and retention of electronic records, and provide information on the appropriate channels for complaints.

In addition, GL8 requires the service provider to comply with the Personal Data (Privacy) Ordinance (Cap. 486) **(PDPO)** at all times. Broadly speaking, the PDPO contains six Data Protection Principles which outline how data users should collect, handle, and use personal data. The objective of the PDPO is to ensure that personal data is collected on a fully informed basis and in a fair manner, processed in a secure manner, and the use of the data should be limited to or related to the original collection purpose.

How do insurtechs best equip themselves to address cyber and data protection risks?

Insurtech participants should identify where the critical security gaps are, and put in place cybersecurity frameworks and policies commensurate with the size, nature and complexity of their business. For traditional players entering into the insurtech space, their security systems should be modernised accordingly. In these regards, the guidelines issued by the IA in respect of the minimum standard for cybersecurity that authorized insurers are expected to have, may be taken into consideration.

Under the *Guideline on Enterprise Risk Management* **(GL21)**, an insurer should have an enterprise risk management framework that includes a risk management policy on cyber risk that should identify, prevent, detect and mitigate cyber security threats. Insurtech service providers should also pay heed to the cybersecurity requirements as set out under the *Guideline on Cyber Security* **(GL20)** which include establishing a cybersecurity framework benchmarking best available and quality assurance standards, implementing robust risk identification, assessment, control and monitoring programmes and formulating a comprehensive cybersecurity incident response plan and corresponding strategies on response and recovery.

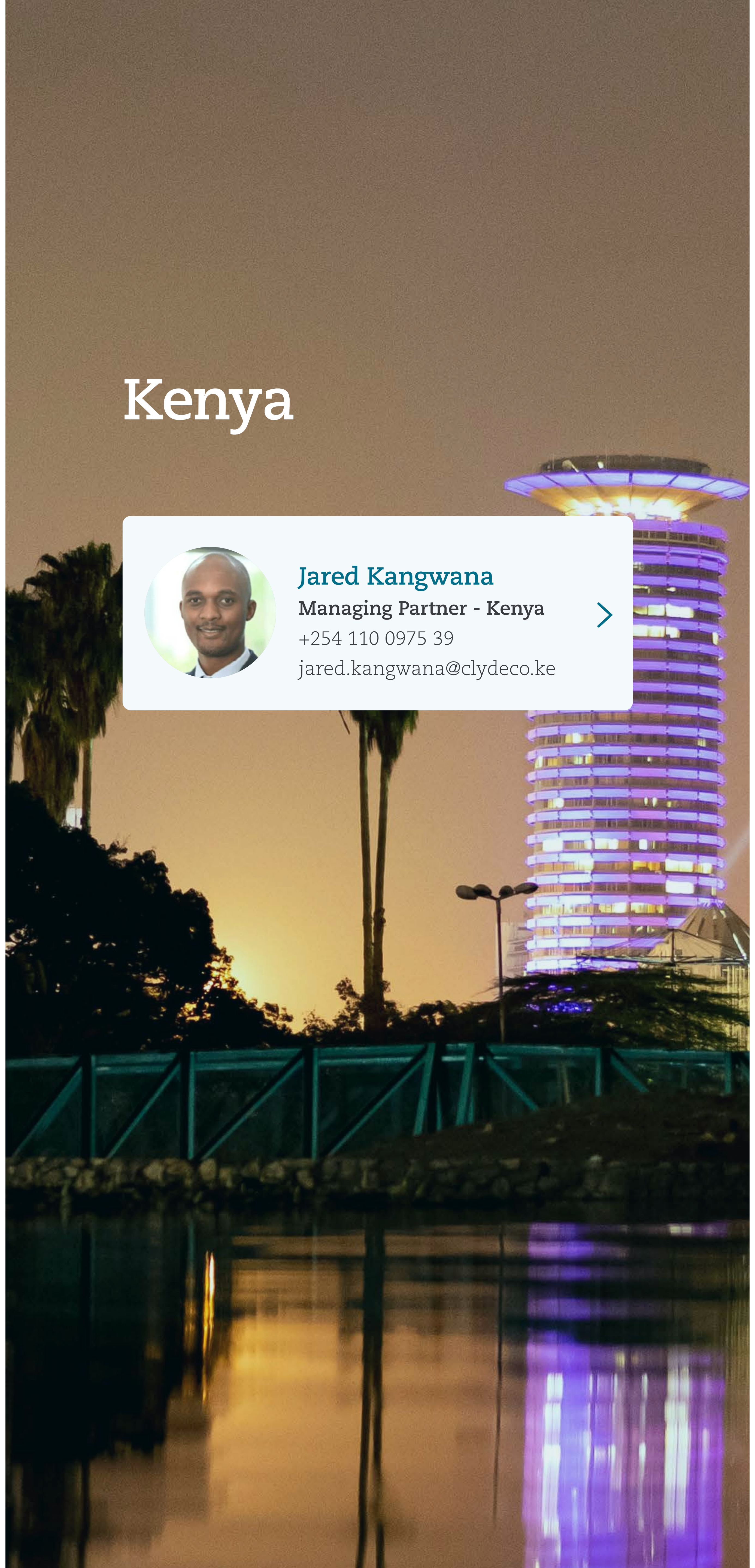
Hong Kong

What are the growth opportunities and challenges faced by the insurtech market?

Automation and artificial intelligence are transforming the way insurance is being offered to customers – from product design to underwriting, pricing, distribution and claims. In this regard, insurers may take a proactive strategy to capture the demands of an increasingly digital world, by creating new personalised offerings that embrace innovations such as telemetics and wearables, digital assets and internet of things (IOT) devices.

Further, opportunities exist for participants to disrupt the traditional models and expand beyond the traditional transactional relationship through cross-industry partnerships, insurtech alliances and affinity channels, through leveraging the power of digital tools and analytics. For example, insurers may leverage the expertise of start-ups by building strategic corporate partnership, which can lower the cost base and improve efficiency and client outreach.

Each aspect of insurtech raises its own legal considerations and regulatory concerns. As participants continue to develop and launch insurtech initiatives, the IA may further issue guidance in relation to insurtech. In the meantime, the extra risks that arise as a result of digitalisation and the greater use of data and artificial intelligence must be embedded in the risk management of insurtech participants. Increasingly, management may need to consider the governing principles surrounding the use of technology particularly in relation to product design, such as the issue of fairness of artificial intelligence in underwriting, and on accountability and transparency to customers.



Kenya

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What are the main challenges that insurtechs face when setting up in Kenya?

In Kenya, the development of new products by insurance stakeholders is heavily regulated and the cost of compliance with the regulations and guidelines poses a challenge to new market entrants. Insurtechs have to rely on the existing insurers to issue newly developed products which poses a market entry challenge for insurtechs. Further, intensive start-up capital and ongoing prudential and supervisory requirements in the insurance industry act as a barrier to entry.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

The Insurance Regulatory Authority **(the Authority)** is the Kenyan regulatory body with the mandate to regulate, supervise and develop the insurance industry in Kenya. The Authority has developed an innovation hub “BimaLab” and has initiated a Regulatory Sandbox “BimaBox” focused on harnessing innovation that will create synergies and efficiencies within the insurance sector. This is part of the Authority’s wider goal to increase financial inclusion and enhanced access to insurance products and services for insurance consumers.

The Authority is also consistently aiming to harness technology as one of the levers in delivering its mandate of promoting the development of insurance industry in Kenya. Eight entities have already signed up for and passed through the insurtech accelerator programme since its commencement.

What are some of the industry characteristics or regulatory requirements that may affect an insurtech’s business and distribution?

The Authority regulates and provides guidelines on the claims management process in Kenya which have to be adhered to by insurance industry players. These guidelines cover, among other, the procedure and information regarding loss notification and acknowledgment, receipt of claim and claims handling.

The Authority has to be given a notification and pre-approve the launch and distribution of newly developed insurance products. Additionally, the Authority maintains oversight over the renewal and marketing of insurance products and services in line with the regulations and guidelines. Therefore, insurtechs collaborating with insurers and insurance intermediaries also have to adhere to the regulations and guidelines.

The insurance industry in Kenya is also characterised by disclosure requirements that insurtechs ought to adhere to. Insurtechs are thus mandated to exercise due diligence and meet regulatory reporting requirements.

Kenya

How do insurtechs best equip themselves to address cyber and data protection risks?

Insurtechs must comply with both data protection and cybersecurity regulations to ensure that they are equipped to address any potential risks in those sectors. There are various regulations governing cyber and data protection risks in which insurtechs are required to be compliant. They include:

a) The Kenyan Data Protection Act (DPA) together with its regulations including the Data Protection (General) Regulations 2021, the Data Protection (Registration of Data Controllers and Data Processors) Regulations 2021 and the Data Protection (Complaints Handling and Enforcement Procedures) Regulations 2021, which makes provision for the regulation of personal data, the rights of data subjects and the obligations of data controllers and processors. The Act and regulations mandate the registration of controllers and processors of personal data for the purpose of insurance administration and undertakings. The transfer of personal data outside Kenya is highly regulated under the DPA. Prior to any transfer, the data controller or data processor must provide proof to the Data Commissioner on the appropriate safeguards with respect to the security and protection of the personal data including jurisdictions with similar data protection laws.

The Data Protection Act gives the Office of the Data Commissioner the power to impose administrative fines for failure to comply with the DPA. The Data Commissioner may also serve a penalty notice to insurtechs who have failed to comply with an enforcement notice requiring them to pay the amount specified in the notice. The maximum amount of the penalty is up to KES. 5 million (approx. USD. 50,000) or in the case of an undertaking, up to 1% of its annual turnover of the preceding financial year, whichever is lower. The Data Protection Commissioner has recently issued its first penalty notice against a mobile telecommunications corporation as a result of neglect/or default to comply with an enforcement issued against them. In the case, the commissioner had issued an enforcement notice against the company after it infringed on the privacy of a complainant by using their photo on the company's Instagram account (stories) without the complainant's consent.

b) The Computer Misuse and Cybercrimes Act, No. 5 of 2018 Laws of Kenya, which provides for cybercrime offences. Under the Act, upon conviction an offender may be liable for a fine ranging between KES. 3 million (approx. USD. 30,000) to KES. 25 million (approx. USD. 250,000) and/or a jail term of between 3 to 25 years. The National Kenya Computer Incident Response Team (National KE-CIRT) was established by the Communications Authority as part of its mandate under Kenya Information and Communications Act to mitigate cyber security threats by detecting, preventing, or responding to them; issuing cyber security advisories, and enhancing cyber hygiene awareness. Some of the practices they encourage users including insurtechs to embrace includes using network firewalls to prevent unauthorized access to their websites and mail servers; employing antivirus software that automatically detects and removes malicious software and using shredders when destroying confidential information; and

c) Kenya Information and Communications Act (KICA), No. 2 of 1998 Laws of Kenya which was enacted to facilitate the development of the information and communications sector and electronic commerce. Under the Kenya Information and Communications (Consumer Protection) Regulations, the Communications Authority may impose fines of up to KES. 300,000 (approx. USD. 3,000) for companies not in complaint with the regulations. Insurtechs ought to ensure that the service providers i.e., Unstructured Supplementary Service Data (USSD) also known as "Quick Codes service providers, ought to be compliant with the regulations".

Kenya

What are the growth opportunities and challenges faced by the insurtech market?

Challenges

The local insurance sector is served by quite a large number of insurance companies offering the same products, despite the low insurance penetration in the country which has brought on a tough battle for market share. Insurance companies still have an upper hand as they have the financial muscle to access the same technologies and have vast data which insurtechs will take some time to generate.

Further, heavy regulation of insurance means that insurtech companies have to also consider partnering with incumbent insurance companies for newly developed products or relying on existing insurance companies for key functions such as underwriting and pricing. Additionally, low insurance penetration is characterized by a distrust of the insurance sector by a vastly un-served lower income and informal sector market.

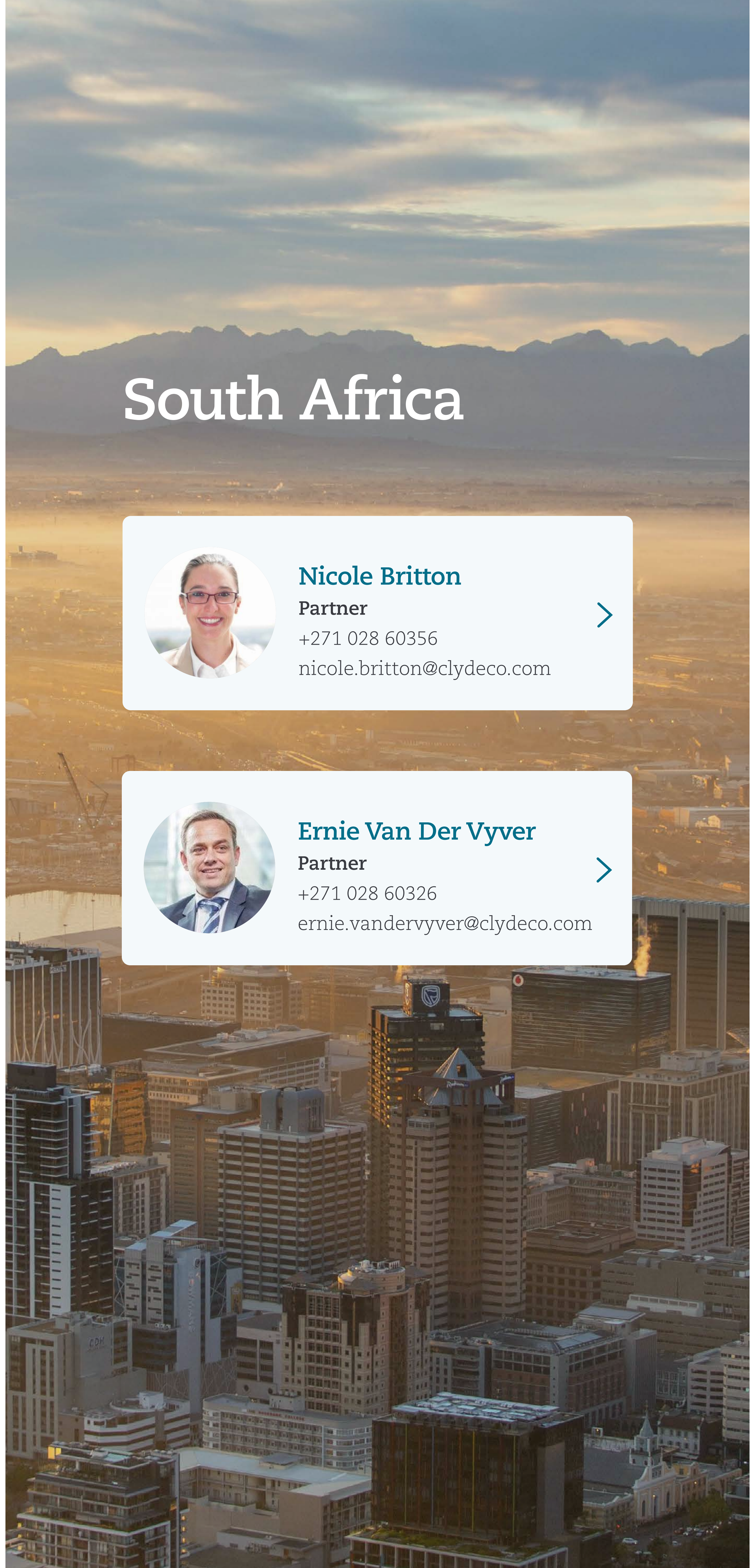
Opportunities

Kenya's vibrant and quickly growing start-up ecosystem poses a great opportunity for innovation and investment in forward-thinking technology. This coupled with Kenya's unique mobile penetration at approximately 61%, being the highest in the region, is advantageous for insurance distribution.

According to the Central Bank of Kenya's July 2022 Kenya Financial Sector Stability Report, penetration of insurance services in the economy as measured by the ratio of insurance premium to GDP was at 2.2% which is way below the global average of 7.2%. This poses a huge, yet untapped, opportunity for insurance consumption wherein insurtechs can bridge the gap and is also a market opportunity for them.

Regulation on capital requirements by the Authority and global regulatory requirements such as implementation of IFRS 17 has made it difficult for smaller insurance companies to continue operating without increasing their capital or merging in order to raise their capital base. Thus, insurance companies are on the lookout for insurance technology that will optimize operating models and leverage on digitalization to fast-track operation and minimize overhead costs.

The Authority has a positive outlook on adoption of insurtech in product development, distribution and claims settlement as evidenced by the Authority's Sandbox Regulation. This is part of the Authority's focus on its mission to promote development of and innovation in the insurance industry.



South Africa

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What are the main challenges that insurtechs face when setting up in South Africa?

In South Africa, obstacles to market entry continue to exist notwithstanding changes in the regulatory landscape and the regulatory approach. Existing insurers still have a significant share of the financial services sector and tend to develop tech solutions internally, which restricts the use of insurtechs. New entrants to the insurtech industry often find the regulation to be complex and onerous, as it overlaps in functionality requiring multiple licences for the same entity and the process of licensing is costly and timeous. The lack of suitable support structures (such as HR and legal) accessible to them in the early stages of operations presents a barrier for insurtech companies as they also need to ensure scalability and profitability.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

There are currently no specific insurtechs regulators in South Africa. However, depending on (amongst others) the sort of activities carried out and the consumer to whom the services are being offered, an insurtech provider may fall within the scope of existing financial services laws or regulations.

In South Africa, the Financial Sector Conduct Authority ("FSCA"), which supervises how financial institutions conduct their business and treat customers through supervising market conduct, and the Prudential Authority (which was established within the South African Reserve Bank ("SARB")), is responsible for regulating (amongst others) insurers and currently supervises the safety and soundness of insurer, may have oversight in respect of different aspects of the insurtech offering.

In 2016, several South African regulators including the Financial Intelligence Centre (FIC), the FSCA, and the SARB collaborated to form the Intergovernmental Fintech Working Group ("IFWG"). The IFWG seeks to explore how regulators can more proactively assess emerging risks and opportunities in the market, whilst understanding enabling fintech and innovation in the South African financial sector.

The IFWG established the Innovation Hub in 2020, which consists of three primary offerings: (i) a regulatory guidance unit which aims to assist innovators resolve specific questions regarding the policy landscape and regulatory requirements by providing a central point of entry for market innovators to submit enquiries related to fintech and innovation-oriented policies and regulations; (ii) a regulatory sandbox which provides participants an opportunity to test the ideas of new products and services; and (iii) the innovation accelerator which provides a collaborative, investigative environment for financial sector regulators to learn from and work with each other, on emerging innovations in the industry.

South Africa

In the regulatory sandbox, one initiative that is underway relates to the treatment and appropriate regulatory framework for index insurance as an insurance product. Testing is currently being carries out in respect to a Soil Moisture Index product offering. A report on the test case, which will be submitted to the Prudential Authority, is currently being prepared. This will allow the Prudential Authority to consider the potential effects of index insurance products, among other things, on the framework for regulating the insurance industry. This test case and any recommendations that might result from it could be transformative for the South African insurance industry.

In addition, following various consultations papers issued by the crypto assets regulatory working group formed under the auspices of the IFWG, the FSCA has now declared that a crypto asset is a financial product for purposes of the Financial Advisory and Intermediary Service Act, 2002 ("FAIS Act"). The FAIS Act regulates the furnishing of advice and the rendering of intermediary services in respect of financial products (such as insurance policies) as contemplated in the said Act by requiring persons rendering such services to either be licensed as a financial services provider or to be appointed as a representative of a financial services provider, and by regulating the way these services are rendered. This is a significant development as any person who, as a regular feature of their business, renders financial services (as defined in the FAIS Act) in relation to crypto assets, must (unless an exemption applies) either be authorised as a financial services provider or be appointed as a representative of an authorised financial services provider, and comply with the requirements of the FAIS Act.

How do insurtechs best equip themselves to address cyber and data protection risks?

In South Africa, data protection is regulated by the Protection of Personal Information Act, 2013 ("POPIA"). The "processing" of personal data pertaining to natural persons and legal entities (data subjects) is governed under POPIA. POPIA is comparable the provisions of the General Data Protection Regulation 2016/679 (GDPR), including requiring a basis for processing personal information, and stringent oversight of cross-border transfers of personal information. Notably, POPIA does not have extraterritorial effect and will only find application in the event the processing activity takes place in South Africa. POPIA will only find application in the event that (i) the data controller is domiciled in South Africa; or (ii) if the data controller is not domiciled in South Africa, but it makes use of automated or non-automated means for the processing of personal information in South Africa, unless those means are used only to forward personal information through South Africa.

South Africa

The Cybercrimes Act, 2020 imposes various obligations on organisation and specifically financial institutions. Amongst others, the said Act imposes reporting obligations (although yet to commence) on financial institutions to report cybercrimes as defined in the said Act within 72 hours to the South African Police Services (SAPS) after having become aware of the offence and to preserve any information that may assist the SAPS in their investigation of the alleged offence. Failure to do so constitutes an offence and if found guilty, may result in a fine.

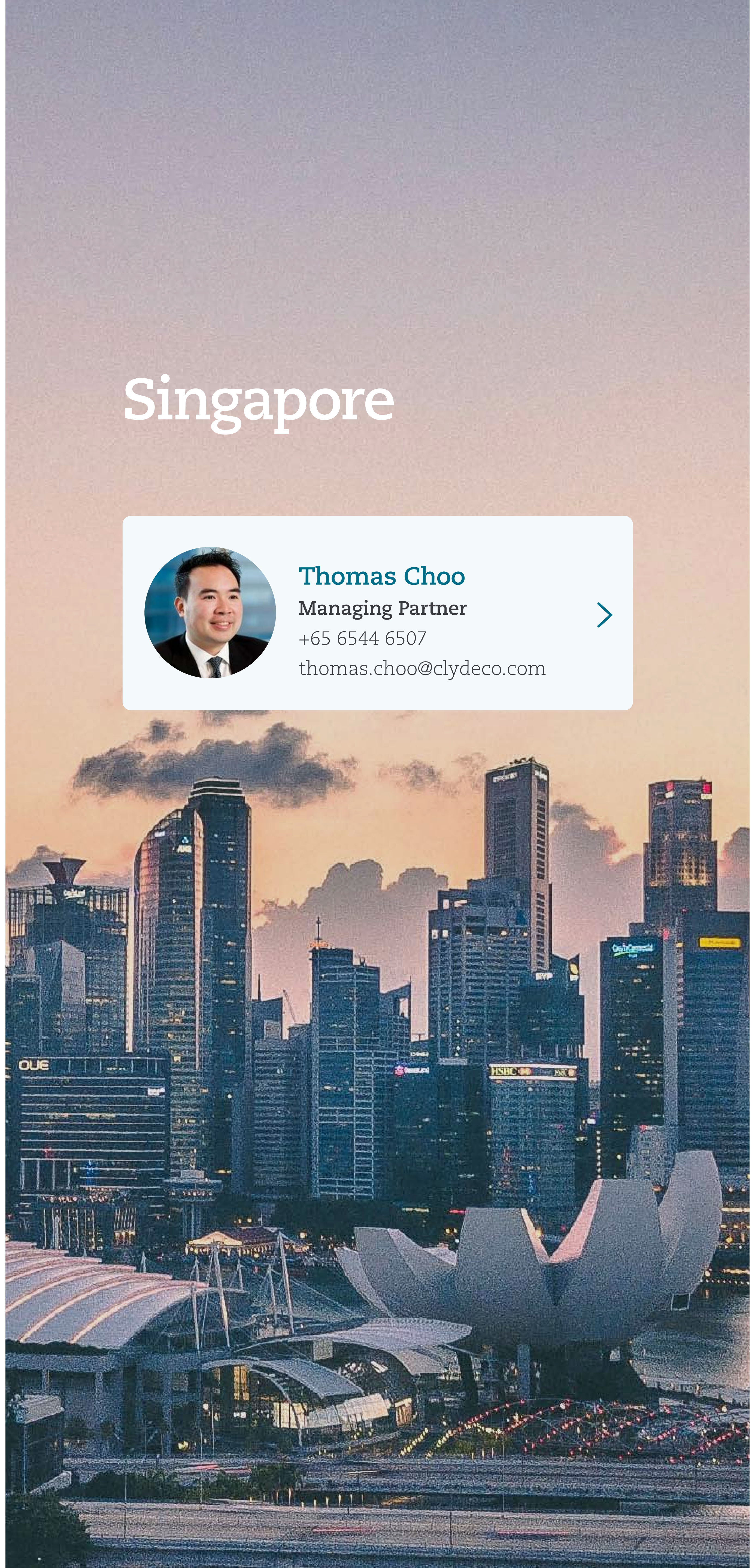
Cybersecurity obligations and the regulatory focus on this aspect of a business is a relatively new and emerging area of law in South Africa. In this regard, we expect to see additional regulation targeting the managing cyber risks in the near future. At this stage, the risk is largely placed on businesses themselves to identify and mitigate their own cyber risks and data breaches to avoid cyber or reputational losses.

What are the growth opportunities and challenges faced by the insurtech market?

The second draft of the Conduct of Financial Institutions Bill ("COFI Bill") was released for public comment on 29 September 2020. The COFI Bill seeks to establish a consolidated, comprehensive and constituent regulatory framework for the conduct of financial institutions by, inter alia, improving market conduct and consumer protections. The Bill intends to replace the conduct requirements in existing financial sector laws. The primary objectives of the COFI Bill include encouraging financial inclusion in the financial services industry as well as the creation of and investment in new technology, procedures, and practices. By their very nature, these objects are enablers for innovative technologies and will undoubtedly address legal impediments to entrance into the financial services sector, together with the appropriate approach to regulation and supervision that is envisioned by the COFI Bill.

There are several provisions in the COFI Bill that specifically contemplate and support technological innovation. For example, there are provisions which enable the FSCA to consider exempting certain financial sector participants in the financial sector from the application of the Act in order to provide scope for innovation and the development and investment in innovative technologies, processes and practices.

In addition, according to a statement published by the IFWG in 2022 the regulatory sandbox will continue to accept applications for the foreseeable future. The IFWG first chose a cohort-based strategy, in which it received applications over a predetermined length of time. The regulatory sandbox will, however, continue to be open for applications in the near future due to the modified rolling-based approach, which will help to enable and promote technology improvements in the South African financial services industry.



Singapore

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What are the main challenges that insurtechs face when setting up in Singapore?

Insurtech companies would need to ensure that there is compliance with the relevant regulatory regimes. Given the nature of insurtech, it may be that certain insurtech companies would straddle multiple regulatory regimes which may be laborious and costly to navigate.

Aside from the costs and challenges in determining and obtaining the appropriate licence(s) for the activities of the insurtech companies (which may not be a straightforward process particularly if the proposed activities include more novel or innovative business models), insurtech companies would need to ensure ongoing compliance with the ever-evolving regulatory regimes.

The capital potentially involved may also be a barrier to entry. Apart from the ongoing compliance costs involved, depending on the licence to be held by the relevant insurtech company, there may be capital requirements which would need to be met as part of the licensing obligations. For example, in the case of a direct insurer carrying on life business, a minimum paid-up share capital of S$10,000,000, and in the case of a direct insurer carrying on non-life business, a minimum paid-up share capital of S$5,000,000.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

The Monetary Authority of Singapore **(MAS)** is the main regulator of insurtech. Although this would ultimately depend on the licensing / regulatory regime they fall under, the MAS would largely be relevant given the MAS would have oversight of, amongst others, insurers, insurance brokers and financial advisors.

The MAS has launched a fintech regulatory sandbox which allows companies (including insurtech companies) to experiment with innovative financial / insurance products and services in a live environment within a controlled time period and environment. In connection with this, certain regulatory requirements which the companies may otherwise be subject to are relaxed for a defined period.

With effect from 1 January 2022, the sandbox has been further enhanced to provide more effective assistance.

Interested firms may reach out to the MAS at FinTech_Sandbox@mas.gov.sg. Applications should be submitted to the MAS review office in the template provided in the MAS Fintech Regulatory Sandbox Guidelines.

A portion of the 'big data' being gathered by insurtech companies may constitute personal data under Singapore's Personal Data Protection Act **(PDPA)**. The Personal Data Protection Commission (**PDPC**) serves as the main authority in matters relating to personal data protection in Singapore.

The PDPC and the Infocomm Media Development Authority **(IMDA)** (the statutory board in Singapore which the PDPC is part of) recently launched Singapore's first Privacy Enhancing Technologies **(PET)** Sandbox on 20 July 2022 for companies (including insurtech companies) who wish to experiment with PETs, to work with trusted PET solution providers to develop use cases and pilot PETs. The PET sandbox will: (i) match-make use case owners to a panel of PET solution providers; (ii) provide grant support to user companies to scope and implement the pilot projects; and (iii) provide regulatory support to give assurance and minimise concerns that they can deploy PETs while complying with regulations.

Singapore

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

Digital channels are increasingly popular amongst consumers in Singapore which has encouraged insurers to develop and digitise their distribution channels. For example, there has been an observable rise in the digitising of bancassurance.

Despite the adoption of new technologies, insurtechs companies and other financial institutions should keep in mind their obligations to mitigate money laundering, terrorism financing and proliferation financing risks. The MAS has recently released a circular setting out good industry practices and additional supervisory guidance to mitigate impersonation and fraud risks which all financial institutions should keep in mind.

How do Insurtechs best equip themselves to address cyber and data protection risks?

Insurtech companies should have in place technology risk management principles and practices that are commensurate with the MAS Technology Risk Management Guidelines and the MAS Notices on Technology Risk Management. This is to ensure that they have a minimum standard of readiness to combat cyber threats and attacks.

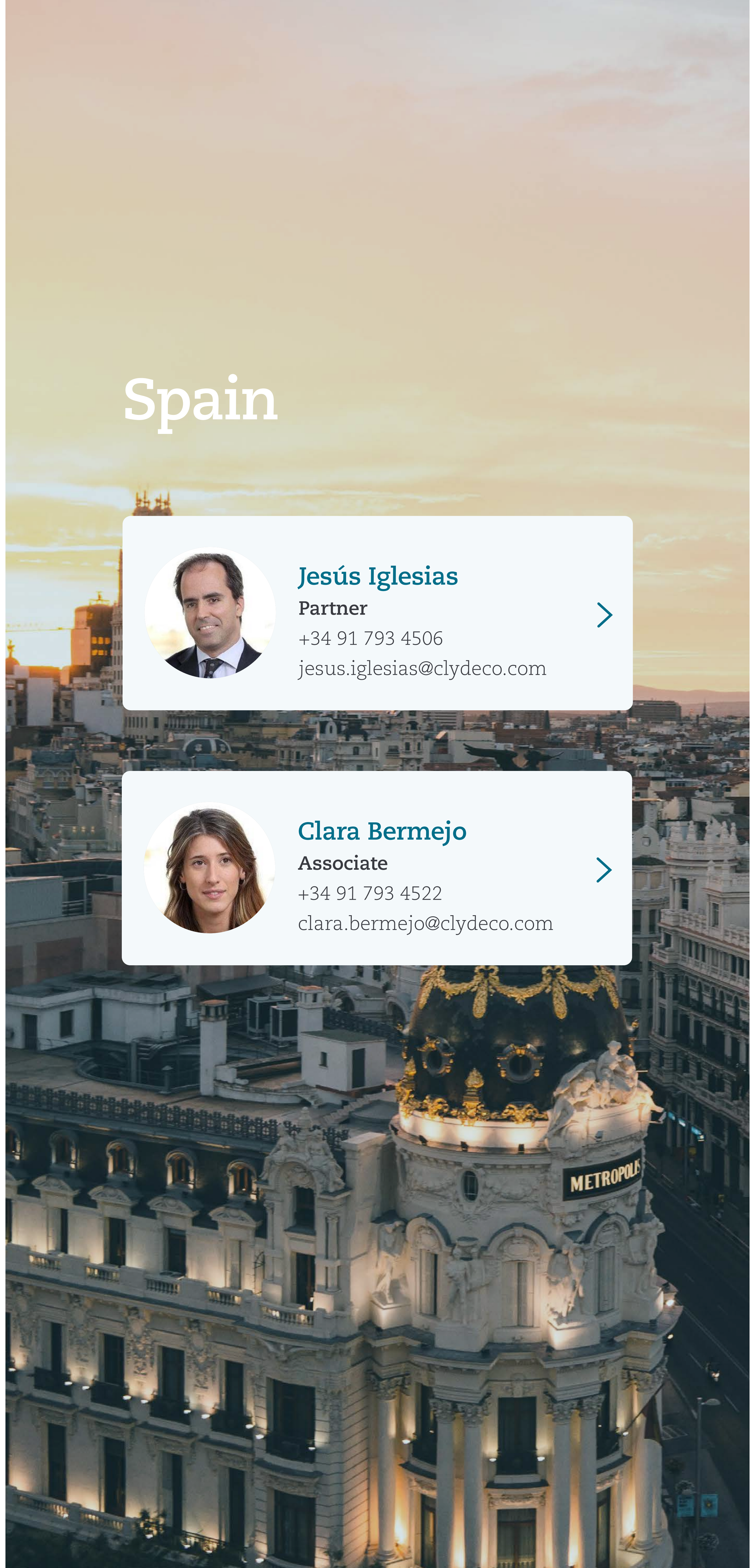
From a personal data protection standpoint, insurtech companies will have to ensure that they comply with the relevant data protection obligations under the PDPA when collecting, use and disclosing personal data. This includes scenarios such as when obtaining consent of the individual (Consent Obligation) and ensuring prompt notification and remediation of breaches (Data Breach Notification Obligation).

What are the growth opportunities and challenges faced by the insurtech market?

Given the high saturation rate of the Singapore insurance market and the number of existing insurance incumbents, insurtech companies may face challenges in reaching consumers. Having said that, there would therefore be opportunities for insurtech to leverage on the existing reach of insurance incumbents through collaboration between the two.

Given the unique nature of the insurtech business, insurtech companies often face challenges in securing appropriately skilled talents to meet their business needs. This, coupled with Singapore's limited workforce and increasingly challenging immigration policies further limit the available talent pool which may hinder the growth and development of insurtech in Singapore. It may be worth pivoting the focus to developing and nurturing existing talents.

In recent times, there has been an exponential rise in the number of cyber incidents hitting organisations in Singapore, with insurance companies (including insurtech companies) being the subjects of such criminal activities. Hence, whatever the specific details of the business models, insurtech companies will have to emphasise compliance with robust security standards and cyber incident response notification requirements, to ensure that they meet not only the regulatory requirements but industry 'best-practices' as well.



Spain

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What are the main challenges that insurtechs face when setting up in Spain?

In general terms, there are no significant challenges to insurtechs entering the Spanish market (be it either insurers or intermediaries). In our view, the main issue to have in mind is that Spanish insurance regulations (in particular the insurance contract law) is very protective to the insured´s rights.

In practice, the above means that insurtechs, like other insurers and intermediaries, do have to comply with all relevant requirements and formalities set out by such law when distributing their products in Spain.

Another issue which is peculiar to Spain is that, unlike other jurisdictions, MGA/coverholders do not have the status of insurance intermediaries.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

The regulator for insurtechs in Spain is the *Dirección General de Seguros y Fondos de Pensiones* (http://www.dgsfp.mineco.es/en/Paginas/Iniciocarrousel.aspx).

It is worth noting that in Spain there is a regulated financial "sandbox" where companies can submit their technology based financial projects, so that the new products or business models are tested and approved by regulators, after which companies can launch them to the market. For projects to be approved they must demonstrate an added value in the financial market, by improving regulatory compliance and customer protection, increasing efficiency, or improving quality. Those approved to date incorporate technologies such as cloud computing, artificial intelligence and blockchain technology.

The sandbox allows testing innovative ideas in a secure environment and under the supervision of the regulators, facilitates market testing with real clients and places the entity concerned in a better position to develop its plan. It also generates greater publicity and provides greater visibility in the market, helping to obtain funding.

Link to useful information: http://www.dgsfp.mineco.es/es/Sandbox/Paginas/default.aspx

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

In line with EU Directives, Spanish laws allow insurance contracts being concluded through distance selling techniques which is broadly used for distribution in Spain.

Insurers must be able to prove the acceptance of the customer to the conclusion of the contract. In practice, consent by the insured to the policy can be proved by different means (payment of the premium, correspondence, acceptance/click through the sales process, etc.). Although the Spanish Insurance Contract Act requires the obligation to obtain the policyholder signature of the policy in order to duly acknowledge the acceptance of the limitative clauses (the equivalence of the wet signature is established only with respect to the "certified/recognised electronic signature"), there would be always a risk of not getting policy signed as, if challenged before the Spanish courts, they would most likely consider that such exclusions are not enforceable before the client. This said, the most common practice in online sales is to include an acceptance/Click through the sales process.

Spain

In general terms, these are the main obligations/ regulatory requirements for distribution in Spain:

- AML officer: only applicable to insurers operating in the life insurance business.
- Complaints manager: there is the need to have a specialized Customer Service; although, in entities that are part of the same business group, a centralized SAC may be available for the whole group (with similar requirements as the DPO, i.e., a knowledge of the Spanish language for the effective processing of complaints and claims). A new law is currently being discussed to regulate Customer Services in Spain and therefore this regulation may change applicable requirements to insurers operating on a FoS basis.
- Compliance with all general good provisions: http://www.dgsfp.mineco.es/es/Regulacion/DocumentosRegulacion/GENERAL%20GOOD%20PROVISIONS%20ingl%C3%A9s%20v2.pdf

As for the obligations arising from the new sustainability/ESG regulations, and despite the recent guidance issued by EIOPA, uptake and implementation will take some time as they need to be fully understood and assimilated by industry (not just the insurance industry but also in other sectors, where following the energy crisis resulting from the war in Ukraine the debate on traditional vs. renewable/non-polluting energy sources has been opened).

New obligations coming from insurance supervisors in terms of consumer protection are also expected on two main fronts: further harmonisation of information requirements to simplify and make insurance products clearer and improved communication and coordination between European regulators.

How do insurtechs best equip themselves to address cyber and data protection risks?

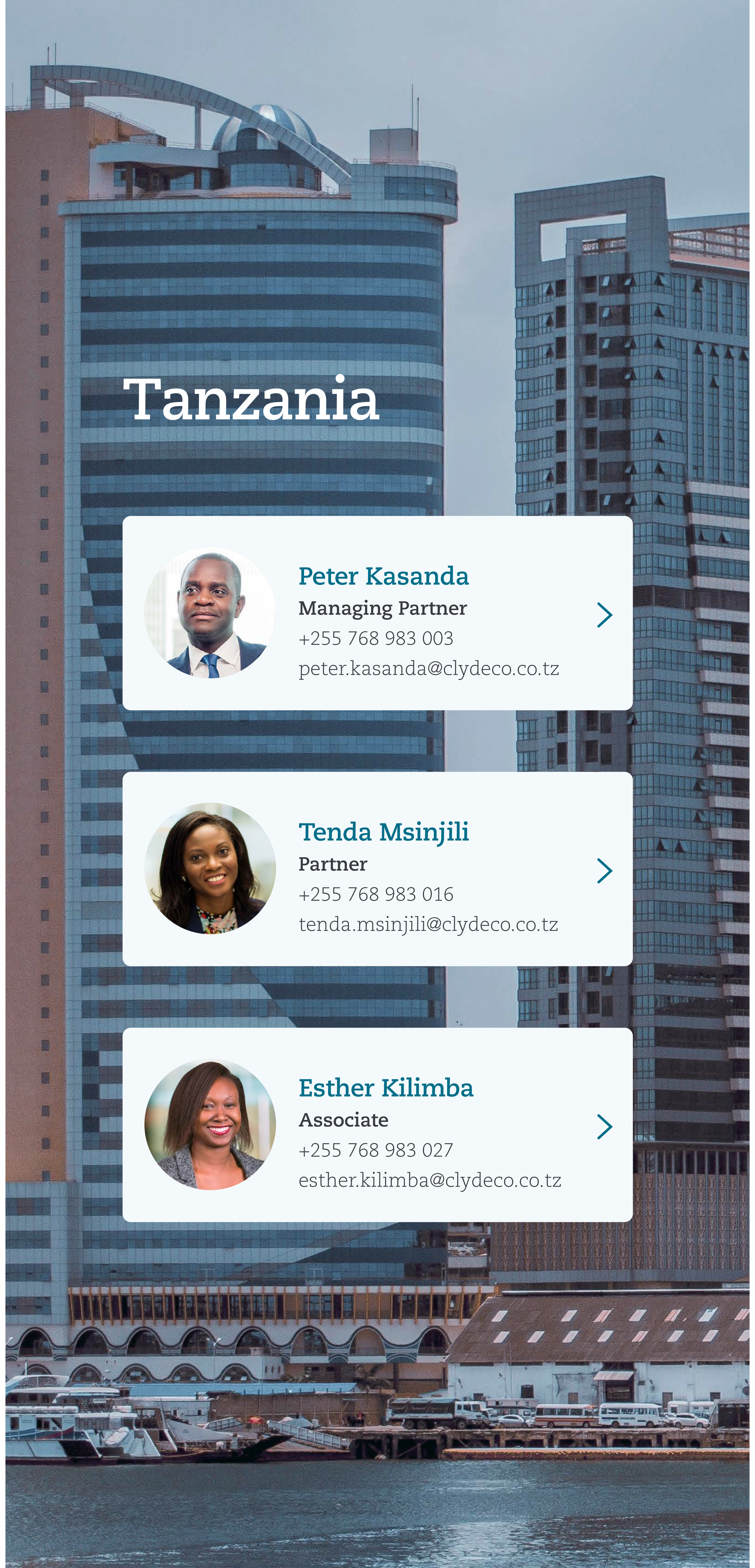
Both the Spanish Data Protection Law and the General Data Protection Regulation **(GDPR)** establish the need to appoint a Data Protection Officer **(DPO)**. Entities can appoint a single DPO for the whole group of companies. The only requirement is that the DPO is easily accessible by the supervisory authorities and by the interested parties in the processing of their data which, in practice, means that it is expected for him/her to fluent in Spanish but, from a legal view, there is no need to be appointed locally in Spain.

About innovation, data protection is at the heart of it, so compliance with personal data protection regulations is of particular importance in Spain, and Spanish Data Protection Agency is quite active. For example, this Agency has recently ruled on the risks of the metaverse, indicating that its use can be very intrusive, given the high amount of data processed.

What are the growth opportunities and challenges faced by the insurtech market?

In line with other EU countries, we are seeing more and more insurtechs entering the Spanish market, particularly MGA´s and insurance intermediaries. Whilst in the case of such insurers their business would consist of traditional products distributed through traditional channels, this was not the case of the new intermediaries or MGA´s, as most of them were insurtechs distributing more innovative products online (by way of example: embedded insurance solutions, on-demand insurance, parametric insurance, etc.).

The above products aimed to be configured tailor-made for customers, based on their specific needs and implementing automated processes for interacting with these customers at all stages (underwriting, renewals, claims management, etc.).



Tanzania

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What are the main challenges that insurtechs face when setting up in Tanzania?

According to the Tanzania Insurance Regulatory Authority (TIRA) there are no insurtechs in Tanzania. TIRA does, however, have an Insurance Digital Platform (IDP) which accommodates insurance technology and is recognised and licensed by TIRA. An entity using insurance technology can only be licensed by TIRA through the IDP (if meetings its criteria).

IDP enables an entity desiring to engage in insurance technology to do so by formulating a certain online system to obtain a licence and enter into a partnership with an insurance company or companies for the provision of insurance services through the online system.

In order for an entity to be issued with IDP licence it has to make an application through TIRA Online Registration System (ORS).

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

Insurtechs are not particularly regulated in Tanzania except for the fact that TIRA has an Insurance Digital Platform (IDP) which accommodates insurance technology. The platform is recognised and licensed by TIRA.

Banks and financial institutions often offer insurance products. The inclusion of banks and financial institutions in the Bancassurance business provides significant opportunities for both the banking and insurance sectors in Tanzania. In order to engage in Bancassurance business, a bank or financial institution must obtain approval from the Bank of Tanzania and a licence from the Tanzania Insurance Regulatory Authority.

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

The offering of insurance through technology is affected by the existing market which has not yet fully embraced the setting up of insurtechs. Instead, products and services are being offered by banks, financial institutions and mobile service providers e.g. Vodacom Tanzania which allows you to purchase an insurance cover through MPesa.

There is also the use of different portals such as Smart Policy Broker Portal which allows insurance companies to connect with their brokers, agents and bancassurance (intermediaries). The portal supports the selling of general, life & medical products.

How do insurtechs best equip themselves to address cyber and data protection risks?

All service providers providing insurance products and services through technology have to abide by data protection laws in Tanzania including:

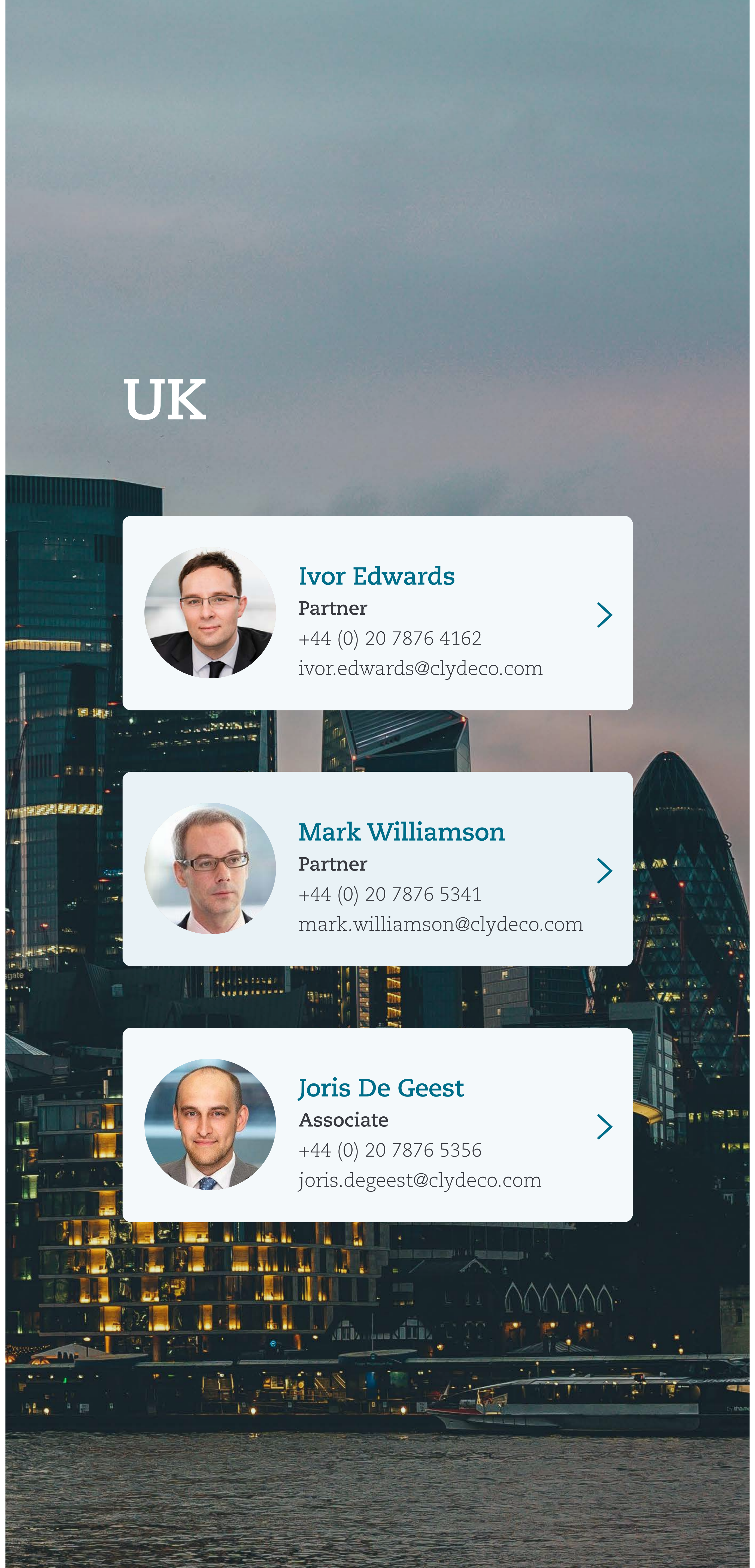
- The Constitution of the United Republic of Tanzania
- The Electronic and Postal Communications Act
- The Electronic and Postal Communication (Consumer Protection) Regulations
- The Cybercrimes Act
- The Records and Archives Management Act
- Access to Information Act
- The Statistics Act
- The Electronic and Postal Communications (Online Content) Regulations

Parliament had recently passed the Personal Data Protection Act, 2022 which will specifically address and protect personal data in Tanzania, and it will come into effect in due course.

Tanzania

What are the growth opportunities and challenges faced by the insurtech market?

The Tanzanian insurtech market is still in its infant phase with opportunities being plentiful. Sale of insurance through innovation and technology presents a challenge because not everyone has a smartphone. The lack of mobile service infrastructure in certain areas is a further hindrance, as is awareness and trust in technology and insurers. The majority of Tanzanians remain uninsured due to the high costs thereof.



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What are the main challenges that insurtechs face when setting up in UK?

Depending on the nature of their business, an insurtech firm may require authorisation in the UK as an insurance intermediary (or less commonly as an insurer). Authorisation will be required if the business involves the carrying out in the UK of a regulated activity under the Financial Services and Markets Act 2000, which includes effecting and/or carrying out insurance contracts as insurer, dealing in insurance as agent, arranging insurance and assisting in the performance of insurance contracts. There are however a number of exclusions and exemptions which may be relevant.

Identifying whether or not authorisation is required can be difficult for insurtechs, but it is important to get this right as it is a criminal offence to carry out a regulated activity without authorisation.

If an insurtech requires UK authorisation, they will need to set up either a UK branch or a company and apply for permissions from the Financial Conduct Authority **(FCA)** (and the Prudential Regulation Authority if they intend to act as an insurer). This requires a number of conditions to be met on an ongoing basis, including (modest) capital requirements, senior manager approval, compliance with product development regulations, etc.

The regulatory requirements for insurance or insurance distribution can present a significant operational and compliance cost.

While EEA-based insurtechs can no longer enjoy passporting rights into the UK, the regulatory regimes remain, for the moment, very similar.

Integration with legacy systems

Another challenge some insuryechs may face lies in the technological integration of their offering with legacy systems.

Privacy and transparency concerns

Since the insurance businesses is heavily data-driven, data privacy and compliance with the UK data protection legislation should be an important consideration for all insurtechs.

Funding

Access to funding remains the single most-cited barrier for insurtech start-ups.

Regulatory Sandbox

The FCA has a Regulatory Sandbox that allows firms to test innovative propositions in the market with real consumers. It’s open for applications at any point throughout the year.

The idea of the sandbox was to help companies to understand how regulatory requirements would apply to their innovative services or products, and/or what type of authorisation they might need, speed up the creation of a minimum viable product; and take advantage of the opportunity to test their product live with real customers to refine their business model.

Lloyd’s Lab

In 2018, Lloyd’s of London created the Lloyd’s Lab, a hub for insurance innovation within the 330-year-old specialist insurance and reinsurance market that is Lloyd’s. Lloyd’s Lab is an insurtech accelerator programme which aims to help innovative ideas gain traction and success in our market. The selected businesses benefit from the insights, mentorship and practical support of both the market and corporation, allowing them to develop products and services that cater to the current needs and future ambitions of the marketplace.

Insurtech UK

Insurtech UK is a trade association for the community of insurtech startups in the UK counting over 100 insurtech businesses in their membership as well as a number of partners (insurers, brokers, financial and legal advisors, etc).

UK

Insurtech Board (Tech Nation)

Tech Nation is a UK government non-departmental public body created to support founders and the wider leadership team of tech start-ups. To further enhance the UK's position as a global leader in the future of financial services, HM Treasury established the Insurtech Board, powered by Tech Nation, bringing together insurers, entrepreneurs, investors and consumer representatives to develop collaborative initiatives that help insurtechs achieve scale and benefit consumers.

The Insurtech Board achieves its goals by bringing together stakeholders from across the ecosystem including insurance, insurtech, investors, regulators and policy-makers.

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

The UK remains one of the oldest and largest insurance markets in the world, with London at its heart. The London market is characterised by a strong concentration of stakeholders, with major insurers and brokers having operations in London and being home to many specialist underwriters. It provides a rich pool of partnership opportunities, talent and capital. Because of this it is a popular hub for insurtech companies to develop their offering in a market that has everything to enable expansion.

Many insurtechs undertake regulated insurance distribution activities and accordingly need to comply with a host of regulatory requirements, spanning the following areas and more:

- Product development
- Client categorisation
- Identifying client demands and needs
- Information disclosure requirements
- Financial promotions
- Handling client money
- Reporting

It is important to have a thorough understanding of the applicable regulatory requirements and implement practical systems and controls to ensure compliance.

The FCA has been focusing on setting higher standards to protect consumer interests through outcome-based regulation. To this end, a new 'Consumer Duty' is being introduced to put the onus on firms to act to deliver good outcomes for consumers. The goal is for the new consumer duty to enable further digitalisation and assist in managing the entry of Big Tech in the UK retail financial services market by ensuring a level playing field.

UK

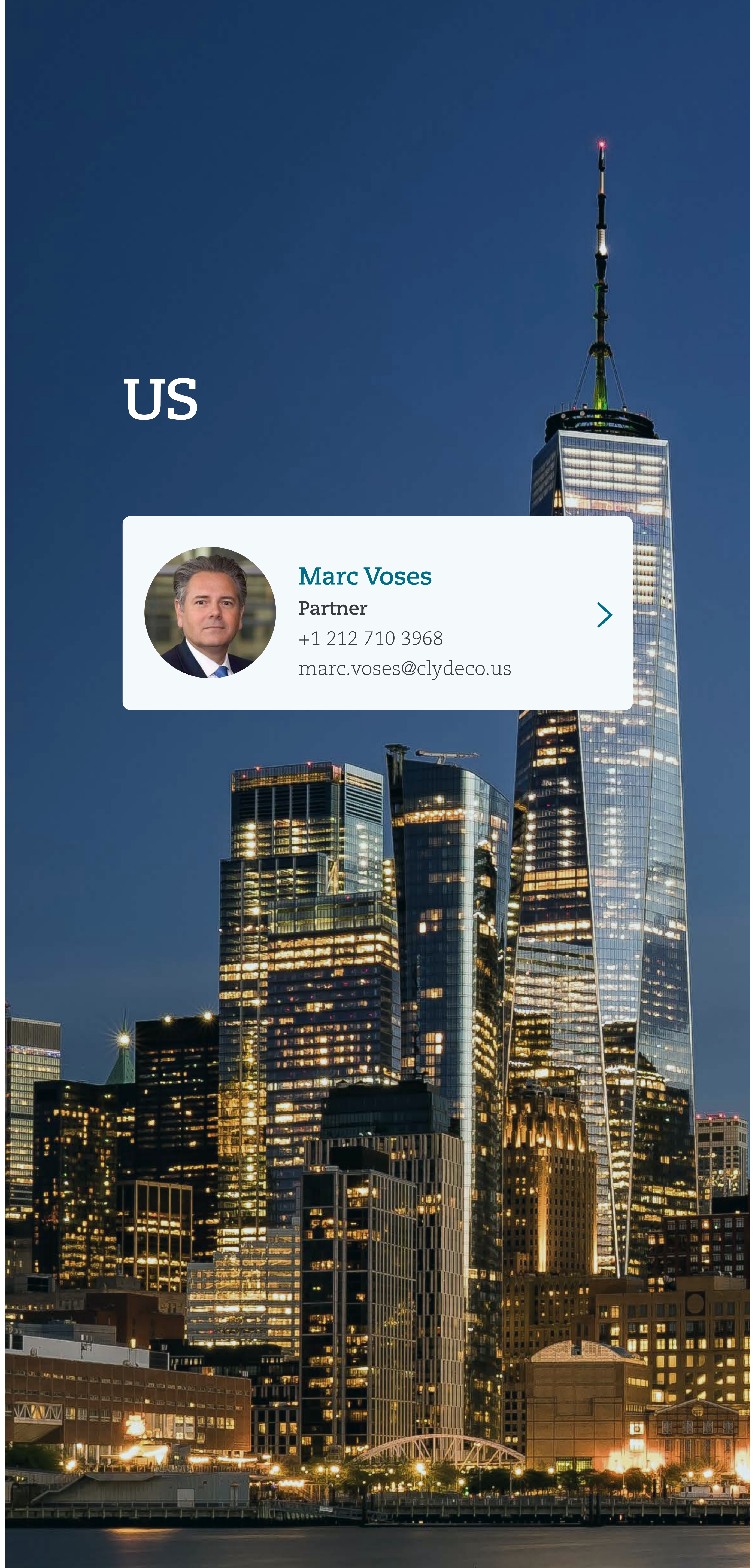
What are the growth opportunities and challenges faced by the insurtech market?

There is great appetite in the London market for innovation, both on the data collection and analytics side and in distribution models. This is driven by the general digitalisation of consumer goods and services retailing and the constant evolution and emergence of risks.

- ***AI and machine-learning:*** There is an increasing drive for insurers to adopt technological innovations such as AI and machine-learning to improve data management to enable effective data analytics, and to improve and automate underwriting processes.
- ***Embedded insurance:*** On the distribution side, “embedded insurance” has become very popular and is expected to show steady growth over the next decade, with customers being highly interested in purchasing relevant insurance when they need it through simple digital processes.
- ***Parametric insurance:*** Although somewhat of a regulatory grey area, parametric insurance is on the rise in the UK and is an area that insurers may wish to tap into through partnering with insurtech partners. The Covid-pandemic and resulting business interruption claims have undoubtedly shown the benefits of avoiding a lengthy loss adjustment process.
- ***Open insurance:*** The industry is also starting to consider the potential advantages of opening up and sharing data between insurers, intermediaries and other third parties, and opportunities to monetize proprietary information such as APIs. This can be another value proposition for insurtech innovators.

Regulatory change

While on the one hand there is regulatory reform by the introduction of an outcome-based consumer duty, the UK government has also embarked on its review and reform of Solvency II regulation for insurers and has undertaken to reduce the reporting and administrative burden on firms. The proposed reforms may also result in more foreign insurers establishing UK branches and in unlocking existing capital present in the UK market.



US

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What are the main challenges that insurtechs face when setting up in the United States?

Insurtechs are oftentimes unprepared for the layers of regulations that exist in each state and the rare significant differences between states. Because each state has control over regulating insurance operations within their states, operating an InsurTech in the US is akin to operating in 50 different countries at times.

Regulatory requirements required to underwrite risks, issue policies within a state, adjust claims, and work with producers are challenging. Our responsibility as counsel to insurtechs to reduce the friction in the process. From corporate formation to licensing to producer contracts to compensation agreements, there are a litany of legal considerations that we can and have addressed for clients.

What are the relevant regulatory bodies or innovation accelerators that support insurtechs?

The National Association of Insurance Commissioners (a membership of state insurance commissioners) acknowledges the benefits insurtechs provide to consumers and the industry as a whole. The NAIC Innovation and Technology Task Force and its E-Commerce Working Group and the Innovation Cybersecurity and Technology Committee are focused on driving innovative insurance solutions like insurtechs.

Some of the more well-known accelerators are:

- https://www.plugandplaytechcenter.com/
- https://www.revtechlabs.co/
- https://www.brokertechventures.com/
- https://www.techstars.com/accelerators
- https://hvflabs.com/

What are some of the industry characteristics or regulatory requirements that may affect an insurtech's business and distribution?

One regulatory requirement that is a hurdle for insurtechs to overcome is working with producers that have valid producer licenses. While the due diligence that is required to confirm the existence of a valid license is not onerous, it is a continuing obligation that insurance regulators will hold the insurtech accountable for (in addition to the producer) if the producer is not properly licensed. Contracts with producers can address this issue and provide for indemnification if a state regulator investigates an insurtech because of the producer's failure to maintain licensing.

States that require documentation that coverage has been sought from authorized insurers but have been declined before a surplus lines agent can approach a surplus lines insurer is another point of friction. Insurtechs frequently face headwinds because of this requirement but there are solutions to manage the process.

Partnering with companies that provide services that are complementary to the insurance being provided and may act as lead generators need to be managed to eliminate the appearance that the partner is offering the insurance being provided by the insurtech. This is especially important where the partner's website contains a link, portal, or other access to the insurtech's platform for the underwriting and issuance of the insurance policy. Appropriate disclosures can help mitigate these risks.

US

How do insurtechs best equip themselves to address cyber and data protection risks?

Due to the nature of insurtechs' operations, the risk presented by cyber and data protection threats is high. The streamlining of the insurance process through the use of technology makes insurtechs vulnerable to data breaches and data interception. US insurance regulators have robust cybersecurity guidelines that insurers (and all financial institutions) need to adhere to in order to protect consumers' information and the integrity of the financial system. We have assisted insurtechs in achieving compliance in conjunction with computer forensic firms that know how to implement our guidance on the cybersecurity rules. The penalties for failure to comply with cybersecurity regulations are significant monetary fines and third-party monitoring.

What are the growth opportunities and challenges faced by the insurtech market?

The US is an opportunity rich environment for insurtechs. From cyber to management liability to employment practices liability insurance, the ability to issue policies in the US while leveraging technology in the underwriting, policy issuance, and claims handling processes can lead to increased cost savings and loss mitigation.

There is no shortage of channel partners that want to provide frontend or backend services in conjunction with insurtechs issuing insurance policies. These include cyber pre-breach risk mitigation to post-breach remediation, property loss mitigation firms and recovery post-natural hazard events, and auto safety firms and post-accident recovery, to name a few.

480

Partners

2,400

Lawyers

3,200

Legal professionals

5,000

Total staff

60+

Offices worldwide*

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