

A photograph of a modern glass skyscraper at night, with lights reflecting on the windows. The image is overlaid with a semi-transparent blue filter. The text is positioned on the left side of the image.

CLYDE&CO

Legal services for MGAs

Market leaders, MGA specialists

February 2024

Contents

- 3-4 [Market leaders, MGA specialists](#)
- 5-8 [Our services](#)
- 9 [Flexible pricing](#)
- 10-11 [Insurance services for the MGA sector](#)

Market leaders, MGA specialists

We provide advice to MGAs and capacity providers in the UK and globally.

Our services for the MGA sector include:

- Commercial advice
- Corporate services
- Regulatory advice
- Policy wording and reviews
- Claims and litigation advice
- Audits, benchmarking and contract/binder reviews
- Advice in relation to the production of TOBAs
- Reserving reviews
- Employment law advice
- Casualty advice
- Cyber

We understand the MGA market and the issues an MGA will face in dealing with claims or commercial issues.

We have experience of advising the MGA sector on corporate and regulatory points, coverage issues and wordings, claims management, litigation and commercial concerns, including employment disputes.

Market leaders, MGA specialists



Michael Payton
Chairman

+44 (0)20 7876 4321
michael.payton@clydeco.com



Carolena Gordon
Global Senior Partner

+1 514 764 3664
carolena.gordon@clydeco.ca



Rob Crossingham
Partner, Professional & Commercial Disputes

+44 (0)20 7876 4626
rob.crossingham@clydeco.com



Henry Kirkup
Partner, General Liability

+44 (0)113 261 5564
henry.kirkup@clydeco.com



Viran Ram
Partner, Property, Public & Product Liability

+44 (0)1865 336 646
viran_ram@clydeco.com



Rosehana Amin
Partner, Cyber

+44 (0)20 7876 4093
rosehana.amin@clydeco.com



Eva-Maria Barbosa
Partner, Corporate/Commercial

+49 89 24442 0101
eva-maria.barbosa@clydeco.com



Heidi Watson
Partner, Employment

+44 (0)20 7876 4480
heidi.watson@clydeco.com

Our services

We assist the MGA sector in all its insurance specific legal needs – be it policy wording reviews, coverage advice, claims/litigation services, or pursuit of subrogated recoveries – and everything in between.

How we can support your business.

Corporate, Commercial and Regulatory

As long-standing specialists in the MGA market, we advise MGAs at every stage of their development.

This includes helping them to raise capital to start or grow their business, managing the issues around regulation, commercial operations or overseas development, helping with acquisitions (including renewal rights transactions) or disposals and, should the need arise, helping businesses to close their books and manage the resulting legacy.

We have specialised expertise across the insurance sector.

We advise MGAs on the following specific matters:

- Drafting commercial agreements between MGAs and their capital providers including profit commission arrangements.
- Regulatory issues involving FSMA, FCA rules, ongoing relationship matters with the FCA and authorisation status.
- Contractual matters, including TOBAs, agency agreements and AR agreements.
- Transactional matters, including capital raising, restructuring and M&A.

- Data protection and security of information, including procedures to protect sensitive/confidential information.
- General business services, including drafting policy wording, underwriting guides, forms of client communication and business terms.

Cyber

To address the cyber risk facing your organisation, our global team provides a market-leading end-to-end cyber solution, tailored to your needs.

Our team of dedicated cyber breach response specialists is one of the largest in the world. We manage the full lifecycle of global cyber risks for clients.

In the event of a cyber incident, we would support you with a flexible suite of services, depending on the requirements, ranging from initial legal advice to providing a comprehensive breach response.

We assist clients on all cyber and related issues, from breach readiness audits to breach response, and through to successful resolution.

Our service philosophy is built around the need to maintain business continuity. It is structured into three main categories of support: **Readiness**, **Respond** and **Recover**.

Our services

Claims and Litigation Services

We handle claims across all business lines for insurers. Our team of MGA experts understands the unique needs of this sector, from both an MGA and carrier perspective.

As the number one insurance litigation firm, our expertise ensures a reduction in overall indemnity spend and a reduction in any reputational and financial risks connected with liability claims.

We have a dedicated team of experienced and sector-specific lawyers who are well supported by technology and use sector-specific MI to manage and track performance.

Policyholders receive a personal service and can access a range of risk services.

The claims services we offer include litigation services and a sector-specific TPA Claims Management Service.

Our ethos is to work in close partnership with our clients in proactively implementing agreed strategies for all individual cases.

In an evolving market, we constantly review our service provision to ensure it remains 'best in class' and represents the best possible value for money. From the simplest of fast-track claims to the most complex and high-profile cases, we have the

technical capabilities and specialist expertise to fully support our MGA sector clients.

These services are all offered at an agreed cost.

Property

The property team advises clients on a range of property matters, from drafting policies or handling a regular flow of instructions for the coverholder/MGA markets, through to advising on the largest and most complex international disputes for the London Market and international insurers.

We are well versed in the core property, business interruption and standard wordings in the market and give coverage advice on a range of issues. We can offer a global view of COVID BI developments along with localised key issues.

A coverage dispute can arise on any claim irrespective of value and we are acutely aware that even the smallest of claims can give rise to complex issues. We have market-leading coverage expertise in our London and regional offices and can therefore provide cost-effective advice on claims of any value. Our coverage expertise extends to giving advice on fraud, particularly exaggerated claims and manufactured evidence, shadow

directorships, and on the suppression of defences.

In addition, we regularly pursue subrogated recoveries against the owners of neighbouring premises, contractors, architects, surveyors and the manufacturers of defective products. We also undertake fire spread and latent defect claims.

Policy Wording

Our team is often called upon to draft policy wordings for the market, across various lines of business. We produce innovative wordings which are informed by our experience, and which minimise ambiguity. For clients that instruct us in relation to claims work, we can provide preferential rates for policy wording reviews and drafting.

The services we offer include:

- Audit of wordings.
- Drafting of wordings for any new class for example: eco product or cyber.
- Management of wordings for a fixed period.

These services are all offered at an agreed cost.

Our services

Subrogated Recoveries

We operate a number of successful bespoke recovery schemes for our clients, both for complex and volume workflows across multiple business lines, as well as being nominated handlers for large loss subrogation work. We consistently deliver strong results in respect of viable recoverable outlays at little cost and typically under either a pure conditional fee arrangement (CFA), a discounted CFA or a contingency fee agreement.

By way of example, our scheme has recovered an average of £596 per £1 spent (excluding abandons) for one insurer, across 47 cases.

Coverage Disputes

We provide coverage advice on issues under all types of policies, including in relation to SME policyholders. For example, we are well versed in the core property market and routinely advise in relation to occupancy and protection clauses, survey conditions, warranties and denial of access in different conditions.

Most notable reported examples of our coverage work include Sugar Hut Group Limited and Others v Great Lakes Reinsurance (UK) plc and Dalecroft Properties and recently we acted for three of the eight insurers in the FCA Test case on Business Interruption claims arising out of the Covid-19 pandemic.

For MGAs specifically, we understand the need for a competitive and efficient triage service and offer a fixed fee in respect of a quick turnaround coverage review.

Employment

We are synonymous with insurance and our employment, pensions, incentives and immigration group provides advice on all aspects of workplace law to insurers, brokers, intermediaries and other market participants. We understand the market and what it needs and demands – financial and human capital – and we can partner with you in all aspects of managing your people through the entire employment lifecycle.

From bringing in teams, to managing hybrid working, to designing remuneration and reward structures, to helping you have the difficult conversations and protecting your confidential data and other business assets, we have experience in it all and can guide you through it.

We are adept in advising on high-value and reputational disputes – whether poaching, employee DSARs, harassment and #MeToo, to whistleblowing and other regulatory issues. We know the pitfalls and can provide commercial, pragmatic advice and support.

We also understand that MGAs frequently do not have the same level of internal resources – whether HR, legal or compliance

– as the composite insurers, syndicates or larger brokers and so we recognise that we need special products tailored to you.

Complaints Handling

We handle FOS complaints on a cost-effective basis for many of our clients, particularly in the MGA space where the existence of an in-house complaints team is less likely than within a large insurance carrier. Our lawyers routinely prepare responses to complaints from policyholders and handle the complaints which go beyond the adjudicator's decision.

Our services

IT & Technology

Technology is now widely recognised by the insurance market as one of the key tools through which insurers and insurance distributors can evolve and adapt their businesses.

Insurance businesses are investing increasing amounts of their time, resource and capital to secure a competitive edge through the use of technology – embracing new IT delivery models and spending large sums of money on cloud-based services and computer analytics projects – a trend that has not gone unnoticed by insurance regulators around the world.

Our technology-related work for the insurance industry is a real area of strength within Clyde & Co, with our dedicated technology team working almost exclusively for insurers MGAs and brokers (rather than suppliers) on technology-related projects. Our dedicated team knows how difficult technology projects can be – particularly ones that are complex, large or pushing at the boundaries of what is possible.

Our approach is to accept that there will always be a level of risk with these types of projects and, with this in mind, take a pragmatic and practical approach to finding solutions that work for our insurance clients, fast – and always in terms that our clients can understand.

Recent experience includes:

- Advising a major insurance business on the purchase of a number of business-critical IT solutions on a cloud and software-as-a-service basis, for both its personal and commercial lines business.
- Advising a leading independent, international insurance/reinsurance Lloyd's broker on the licensing, configuration and deployment of its new broker platform.
- Advising a major insurer on its first global project to develop and use artificial-intelligence software to carry out back-office administration on a fully automated basis.
- Advising an international insurer on the implementation of its new claims management system.
- Advising a well-known insurance business on the implementation of its new policy administration system.
- Advising insurers on a range of Insurtech projects, including the roll-out of an innovative global 'pay-as-you-roam' travel insurance product via a dedicated app.

Flexible pricing

We work with the MGA sector across business lines throughout the UK and internationally. We are acutely aware of the need to be commercial and competitive in our pricing to MGAs and therefore offer a range of flexible options.

Coverage Triage

For many MGA clients, we offer a coverage triage service on a fixed fee basis; this consists of a review of the key documentation and a one-page summary of whether there have been coverage issues identified, together with proposed next steps. Depending on the outcome of that review, we can offer a further fixed fee arrangement for dealing with the coverage issues.

Subrogated Recovery Schemes

The subrogated recovery schemes which we operate for our clients are regularly offered on the basis of a pure CFA, a discounted CFA or a contingency damages-based agreement ('DBA') where we share the risk and reward on claims with our clients.

Overall Indemnity Savings

Hourly rates and flexible pricing is only one way to ensure cost efficiency and overall savings. We recognise that MGAs are very alive to profitability and pricing issues; we are therefore proud of the millions of pounds we have saved our clients, through the quality of our advice, effective management of claims and our experience in limiting losses.

Specialist Complaints Handling

We operate specific schemes on niche accounts and policy wordings which see a high volume of complaints, for example,

under buildings defects policies. Under such schemes, fixed prices for the stages of the complaints process can be agreed to provide our clients with costs certainty.

Non-Claims Pricing

Corporate and Regulatory

We can offer MGA clients competitive and fixed fee solutions and will work with you to scope out the corporate project at the outset, in order to provide you with predictability over cost. With our expertise and experience, we will not be reinventing the wheel.

Employment

We provide special offerings tailored to MGAs including an employment contract review and healthcheck – covering issues such as how covenants will be enforced and implications of an employee taking client data – in return for a fixed price.

We can also provide flexible pricing in relation to larger projects – for example, we have an implementation package covering the core areas under the FCA's extended Senior Managers and Certification Regime (SMCR) that apply to all MGAs, to ensure you understand the conduct rules and how they apply to your people, for a fixed price.

Insurance services for the MGA sector

We offer specialist advice and expertise across the following business lines:



Accident & Health



Construction



Engineering



Marine



Specialty



Aviation



Credit Risks



Financial Lines



Motor



War & Terror



Bloodstock



Cyber



Fine Art and Species



Political Risks



Bermuda Form



Directors & Officers



Fraud



Product Liability

Insurance services for the MGA sector



Contingency



Employment Practices Liability



Healthcare



Professional Liability



Casualty



Energy



Liability



Property

480

Partners

2,400

Lawyers

5,000

Total staff

3,200

Legal professionals

60+

Offices worldwide*

*includes associated offices

www.clydeco.com



Scan the QR code to access our dedicated MGA page and sign up to the latest firm news, publications and event invitations.