
Foreword

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As I write this Foreword, in the summer of 2011, the haunting images of devastation in Japan, New Zealand, Chile and Haiti are still very clear in my mind. These events provide a vivid reminder to governments, insurers and businesses why insurance is absolutely crucial for economic development. Nobody has any doubt that the first three countries, prosperous and well insured, will rebuild and recover, but for Haiti the future is, tragically, more uncertain. No economy has ever really thrived without some form of risk transfer, precisely because it helps us to recover more quickly when something goes wrong.

Insurance has always had this simple purpose – to protect people and businesses against risks, and hence the wider economy. There is a simple maxim: what is good for the insurer is generally good for society. My first message to regulators and lawmakers across the world, as they design new rules to govern financial services, is to remember this. Insurance and law have, at their heart, the same aim: to protect society.

The right rules can help the industry to achieve this, but the wrong rules will hinder us. To get to the right rules one needs the best thinking on the subject. Lloyd's has worked with Edward Elgar Publishing to produce this book on insurance law and regulation because we want to play our part in promoting that best thinking. Many of the contributors to this book are recognised leaders both in academia and the practice of law. Their thoughts and expertise will feed the important discussions about how this industry should be regulated.

When it comes to understanding the importance of law and regulation, Lloyd's has good credentials. The Lloyd's market is over 320 years old. During its history, the market has seen and, indeed, played its part in the development of insurance law and regulation. It was originally a market of a few wealthy individuals, providing insurance to their fellow merchants, and subject to very little law and even less regulation. Now the world is a very different place, with substantive law governing insurance contracts and ever more sophisticated regulation.

But regulators cannot simply create rules to resolve disputes between the insurer and insured: they must also create an environment which allows an insurance industry to flourish; because insurance is a commercial enterprise, and its first duty is to be commercially sustainable. If it is not, claims cannot be paid.

This is not simply a collection of essays about English Law. The London insurance market is global in its reach. Lloyd's syndicates currently accept business from over 200 territories, in both developed and emerging economies. This is nothing new; the market has always been international. Long before the collapse of the Berlin wall set trade barriers falling across the world, and centuries before the digital revolution enabled real-time international trade, Lloyd's had appointed agents in every significant trading post in the world.

So, this volume covers developments in insurance law in countries as diverse as China and Sweden and the US and Brazil. We hope that it will help policymakers, lawyers and all those who have a role to play in insurance law to see what works in some countries, and what has failed. What makes good insurance legislation? A delicate balance between allowing the industry to flourish, whilst protecting the policyholder. If we can achieve this, economies – and societies – will be stronger, and better able to withstand catastrophe and loss.