
Index

- abusive clauses doctrine 113
- accounting 263, 268, 552, 636
 - catastrophe bonds 553
 - credit for reinsurance 238, 239, 441, 443, 565, 671–2
 - insurance contracts and financial instruments 566–8
 - takaful insurance 537–8
- Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) 528, 535, 537, 538
- adhesion, contract of 93, 110, 221–2, 223, 240, 242
- adverse selection 23, 25–8, 29, 32, 488, 494
- agency 6, 8, 12, 73, 90, 364, 593, 689, 690, 728–9
 - bad faith, US tort of 125
 - takaful insurance 534–5, 538, 540
- aggravation/increase of risk 12–13, 613, 704, 737–8, 741, 759
- agricultural insurance 488, 507, 778
- AIG 25, 225, 234, 568, 647
- alternative risk transfer (ART) 4, 407, 544, 747
 - financial markets 551
 - catastrophe bonds 4, 551–4
 - industry loss warranties and derivatives 554–7
 - governments
 - basic insurance principles 545
 - natural catastrophes 24–5, 27, 30, 226, 236, 548–51, 659
 - terrorist acts 226, 236, 545–8, 659
 - insured
 - captive insurance 4, 553, 557–62
 - finite reinsurance 566–8
 - high deductibles 563–5
 - letters of credit 563, 565–6, 642
 - retrospective rating 563, 565
- ambiguity: unfair terms 368
- ambiguity doctrine (*contra proferentem* rule) 97, 104, 105–9, 112, 113, 117, 359, 692–3, 742
 - disclosure 72, 91
 - formation of contract 691
 - transparency rule 114–15
- applicable law *see under* conflict of laws
- arbitrage, regulatory 239
- arbitration 147, 151, 197, 599, 606, 674, 779
- asbestos 463, 464, 565, 778
 - long-tail liabilities *see* closing books of business
- Association of British Insurers 78, 261, 280
- Australia 13, 698
 - conditions precedent 159
 - contra proferentem* rule 105
 - definition of insurance 46
 - disclosure duty 59, 60, 79, 80–83, 91, 92
 - portfolio transfers 181
 - regulation 224, 239, 241
 - Lloyd's 445–6
 - reinsurance 146, 147, 239
 - schemes of arrangement 193
 - terrorist acts 546
- Austria 94, 96–7, 102, 104, 105, 546
 - definition of insurance 50–51
- automobile insurance *see* motor insurance
- bad faith, US tort of 120–121, 145, 387, 404–5, 564
 - absence of coverage and 143–5
 - history and development
 - damages 131–3
 - 'first party' vs 'third party' 127–9
 - origins 124–7
 - standards applicable 129–31
 - outside insurer–insured context
 - insurer and reinsurer 141–3
 - primary insurer and excess insurer 140–141
 - overview 122–4
 - third-party context 133
 - wrongful denial of defense or indemnity obligation 137–9
 - wrongful refusal to settle 133–6
- Bank of England 268, 274, 275, 278–9, 415, 430, 466
- Bank for International Settlements (BIS) 296, 298
- Basel Committee on Banking Supervision 280, 284, 296, 298, 300, 301–2, 303, 304
- Belgium 104, 105, 546
- Bermuda 193, 241, 558–61, 672
 - definition of insurance 47–8, 54, 55
- bond and surety business 249, 762
- Brazil 324, 699, 720–721
 - insurance: legal and regulatory framework 701–3
 - general section 703–4

- insurance against damage 704–5
- insurance of persons 705–6
- legal system 699–701
- Lloyd's 451–2
- microinsurance 482, 501, 502, 513
- reinsurance 699, 706–9, 721
 - regulation 712–18
 - transition 709–12
- state-owned insurance company, proposal to create 719–20, 721
- bribery, economic 785
- Brunei 542
- burden of proof 704, 735, 739
 - disclosure duty 74, 88
 - notification to insurer 695–6
 - reinsurance 152
 - risk management law: Germany 349
- buy-back/commutation agreements 168–9
- Canada 13, 95, 100–101, 105, 112, 297
 - regulation 239, 241, 324, 440
 - Lloyd's 444–5
- cancellation of policies 245, 381
- capacity 786
- captive insurance 4, 553, 557–62
- car insurance *see* motor insurance
- catastrophe bonds 4, 551–4
- catastrophe futures 554
- catastrophe losses 463–4
- causation 731–3
- Cayman Islands 47, 561
- cease and desist orders 373, 395
- central limit theorem, law of large numbers and risk aversion 21–3
- children 730, 786
- China 291, 746
 - courts and judiciary 100, 102, 114, 724–6, 742–3
 - ambiguity doctrine (*contra proferentem*) 107–8, 742
 - definition of insurance 52, 54
 - electronic signatures 578
 - foreign exchange controls 744
 - Insurance Act 2009: practical issues
 - assignment of policy 741
 - conclusion of contract and inception of risk 734
 - construction of policy 742–3
 - fraudulent claims 740–741
 - increase of risk 737–8, 741
 - notification of claim and burden of proof 738–40
 - parties to contract 733–4
 - standard clauses and exclusions 735–6
 - microinsurance 501
 - principles of insurance contract law
 - causation 731–3
 - insurable interest 729–31
 - utmost good faith 108, 726–9, 740
- regulation 52, 248, 440
 - cooling off period 736
 - cross-border direct insurance business 743–4
 - Lloyd's 452–3
 - market entry 233
 - mergers and acquisitions 745–6
 - portfolio transfers 182
 - product price and content 241, 243, 736, 739
 - reinsurance 324, 744–5
 - risk classifications 236
- choice of law: e-commerce 571, 597–9
- choice of law: New York and English
 - approaches 195–6, 217–18
 - agreement and no agreement: insurance
 - closest connection 204–6
 - express choice 201
 - implied choice 203–4
 - most significant relationship 206
 - no express choice 202
 - preference for location of risk and insured 209–10
 - state interests 206–9
 - agreement and no agreement
 - actual conflict 200
 - insurance 201–10
 - one law for one contract 213–14
 - reinsurance 156–7, 210–213, 216, 218
- general
 - English rules in brief 197–8
 - New York rules in brief 196–7
- limits to party autonomy 214
 - consumer contracts: non-large and outside EU 196, 217
 - non large insurance in Member State 196, 216–17
 - non-derogable laws 215–16
 - protective laws 216
 - public policy 214–15
- procedure 198–9
 - scope of applicable law 199–200
- claims adjusters 153, 247, 664
- class actions 155, 387, 400, 571, 599
- closing books of business 167–8, 193–4
 - commutation, reinsurance and share sales 168–9
- portfolio transfers 170, 184, 193–4, 646
 - international comparisons 181–3
 - personal performance 173–6
 - privity doctrine 170–73

- procedural fairness 176–81
- Rhode Island: accelerated run-off 193
- schemes of arrangement 184–5, 192–4
 - approval 186–91
 - role of regulator 192
- co-payments 31, 222, 505, 705
- commutation agreements 168–9
- conditions precedent 688–9, 734, 738
 - reinsurance 159–60, 161, 162
- conduct of business regulation: UK regime plus
 - US, German and Hong Kong approaches 121, 355, 387–8, 662
 - anti-discrimination rules 14, 235–6, 342, 360, 383–5, 399–400, 628, 629, 631
 - application of rules 361–4
 - classification of products 370–372
 - high level rules 364–70
 - insurance contract law distinguished from
 - COB rules 357–9
 - legal effect of rules 385–7
 - matters covered by 356–7
 - sources of rules 359–60
 - specific rules 372–83
 - claims management and complaints 381–3
 - product information 373–5
 - supported in other areas of regulation 360–361
- conflict of laws
 - applicable law 373, 588, 591, 790
 - choice of law: New York and English
 - approaches *see separate entry*
 - e-commerce 597–9
 - Rome I Regulation 146, 195, 197–8, 199, 203, 204–6, 216, 217, 362, 373, 591, 592, 597, 619
 - e-commerce 588–90, 597–9
 - EU *see under* European Union
 - jurisdiction 588–90
 - Brussels I Regulation and EU-domiciled defendants 591–5
 - forum non conveniens* 596
 - non-EU defendants 596
 - portfolio transfers 183
 - takaful insurance 542
- conflicts of interest 368–9, 378, 402, 419–20, 540, 562
- construction agreements 222
- consumer protection 93, 148, 229–30, 239–41, 359, 629, 631, 750
 - choice of law 196, 209, 215, 216, 217, 599
 - claims handling 245–7
 - conduct of business regulation 356, 358, 359–60, 365, 375, 386, 636–7
 - defences to insurance claims 381
 - enforcement 400–401
 - policing market conduct 244–5
 - treating customers fairly 366–7, 386
- disclosure duty 57, 75–6, 77–8
 - reform 79, 84–90, 91
- disputes, regulatory intervention in 247–9
- e-commerce 572, 575–6, 585, 593
- Financial Conduct Authority (FCA) 415
- Financial Services Authority (FSA) 269, 272, 273–4, 410–411, 415–16
- history of regulation in UK 260–261, 269
- insurance-related products 249–50
- microinsurance 508–12, 518
- misrepresentation 75–6
 - UK 2011 Bill 87–90
- personal data 585
- product price and content 241–3
- South Africa 770, 776, 790–791
- Swedish Financial Supervisory Authority (SFSA) 416, 418, 419
- unfair contract terms 95, 105, 113–16, 215, 216, 366–7, 368, 379
- contingent commissions 237–8, 368–9, 402–3
- contra proferentem* rule (ambiguity doctrine) 97, 104, 105–9, 112, 113, 117, 359, 692–3, 742
- disclosure 72, 91
 - formation of contract 691
 - transparency rule 114–15
- contract law, insurance 11, 12
- causation 731–3
- conditions precedent 688–9, 734, 738
 - reinsurance 159–60, 161, 162
- conditions, warranties and innominate terms 160
- distinguished from conduct of business rules 357–9
- freedom of contract 222, 756–7, 786, 790
- fundamental breach 113
- insurance, contract for 39
- introduction to 3, 18
 - market practice 5–8
 - origins of insurance 8–11
 - themes in insurance law 11–18
 - types of insurance 3–5
- novation 171, 182
- PEICL *see* PEICL (Principles of European Insurance Contract Law)
- post-classical theory of contract law 109
- pre-contractual information duties *see* disclosure duty
- privity, doctrine of 170–171, 684, 780, 781
 - portfolio transfers and 171–3
- Singapore 688–9
 - claims and settlements 694–6
 - formation of contract 691–2
 - illegality and public policy 693–4

- South Africa 102, 784–90
- terms: interpretation *see* contract terms
- United States 359
 - state competence 182
- see also* choice of law: e-commerce; choice of law: New York and English approaches; closing books of business; definition of insurance; good faith; insurable interest; reinsurance; unfair contract terms
- contract terms: judicial approaches to interpretation 93, 117, 773
- ambiguity doctrine *see* contra proferentem
- general rules of interpretation
 - context and extrinsic evidence 101–3, 107
 - meaning of terms 99–101
 - objective and subjective 97–8
 - parties' intentions 98, 107
 - precedent 103
 - rules of general contract law 96–7
- noscitur a sociis 693
- purpose of clauses 743
- reasonable expectations doctrine 109–13, 117, 359
- reinsurance 148
- restriction, principle of 104, 117
- scope of judicial control 94
 - approaches 95–6
 - interrelation with regulatory control 94–5
- special rules for standard terms 113–14
 - transparency rule 114–15
 - unexpected terms 115–17
- cooling off periods 377, 583, 736, 775
- copyright 586–8
- corporate issues 234–5
 - accounting *see* separate entry
 - corporate members of Lloyd's 425
 - information security 585
 - Sarbanes-Oxley Act 586
 - Sweden 422
 - conversion of mutual to profit-distributing company 419–20
 - governance and control 420–421
 - transfer of assets abroad 419
- covariance or correlation 23, 24–5, 31
- coverage ceilings: moral hazard 29
- credit default swaps 25, 36, 234, 249, 554–7, 647
- credit ratings 400, 555, 567, 745
- criminal law 389, 536, 690–691, 694, 705, 761
 - Philippines 504
 - United Kingdom 271, 408, 410
 - United States 229, 395, 397, 403, 568, 586
- cross-subsidies 24, 32, 491
- Cyprus 48
- damages 248, 357, 381, 384, 386, 404, 685, 779, 784
 - bad faith, US tort of 120–121, 122–4, 125, 128, 131–3, 141, 145, 387, 404–5
 - deceit 76
 - delay in processing claims: China 246
 - late payment 13
 - non-disclosure 75–6, 80, 83
 - reinsurance 160–161
- data protection: e-commerce 583–6
- deceit, tort of 76
- deductibles 505, 705, 736
 - earthquake insurance in California 24
 - high 563–5
 - moral hazard 29, 222
 - reinsurance 148
- defamation 588
- definition of insurance 54–5
 - civil law jurisdictions 53–4
 - Austria 50–51
 - China 52, 54
 - Denmark 52–3
 - Germany 51–2, 53, 54
 - Greece 49–50
 - Italy 51
 - Japan 53, 54, 749, 750, 752–5, 761–5, 766–8
 - Spain 52
 - common law jurisdictions 48–9, 54
 - Australia 46
 - Bermuda 47–8, 54, 55
 - Cayman Islands 47
 - Cyprus 48
 - England 35, 36, 37–41, 54, 55
 - Hong Kong 45–6
 - India 45
 - Israel 48, 49
 - Malaysia 46
 - Singapore 45
 - South Africa 784
 - United States 41–4, 54–5
- introduction 33
 - critique 35–6
 - historical overview 33–4
 - position nowadays 34–5
 - regulatory jurisdiction 249
- Denmark 52–3, 546
- derivatives 554, 556–7, 679, 761
 - credit default swaps 25, 36, 234, 249, 554–7, 647
- developing countries/emerging economies 291, 294, 298, 303, 304–5
 - see also* individual countries; microinsurance
- directors
 - disqualification 265

- IPO laddering claims 167
- disability insurance 112
- disclosure
 - duty *see* disclosure duty
 - full and frank
 - portfolio transfers 177–8, 180
 - microinsurance 506, 509, 510
 - Solvency II 638, 640
 - takaful insurance 539, 543
- disclosure duty 56–60, 92, 115, 357, 684–6, 704, 726–9, 757–8, 784, 785
 - basis clauses and warranties 57, 75, 687
 - consequences of non-disclosure 74–5, 113
 - consumers 57, 75–6, 77–8, 358, 366, 381
 - reform 79, 84–90, 358
 - contours of 62–3
 - inducement 64–7, 69
 - materiality of facts known to insured 67–71
 - moral hazard 67–70
 - physical hazard 70–71
 - s. 18(2): meaning of influence 63–4
- e-commerce 575, 582–3
- fiduciary relationship 60–61
 - limits of 71–4
- misrepresentation 56, 65–6, 75–7, 78, 113, 687
- nature of 60–61
- PEICL 612
- reconstructing 79–80
 - Australia 80–83
 - Germany 91
 - United Kingdom 83–90, 358
- small businesses 77–9, 85–6
- discrimination 342, 383–4, 774, 787
 - European Union and EEA 14, 235–6, 360, 384, 628, 629, 631
 - United States 235, 384–5, 399–400
- dispute resolution 247–9, 382–3
 - ombudsman *see separate entry*
 - Singapore 680–681
 - South Africa 777
 - United States 245, 248–9, 364, 383, 387, 400, 403–5
- divorce 29, 731
- dot-com boom
 - IPO laddering claims 167
- duress 148, 785
- e-commerce 8, 238, 362, 364, 569, 600, 636, 770
 - e-business and 569–73
 - electronic contracting 573–6
 - electronic signatures 576–9
 - jurisdiction and legal liability 579
 - choice of law 571, 597–9
 - contract 590–596
 - regulatory compliance 579–86
 - tort liability 586–90
 - earthquake insurance 24, 548, 552
 - ECF (electronic claims file) at Lloyd's 477
 - economics
 - covariance or correlation 23, 24–5, 31
 - law and *see separate entry*
 - risk aversion, law of large numbers and central limit theorem 21–3
 - electronic channels and microinsurance 506–8
 - electronic claims file (ECF) at Lloyd's 477
 - electronic data interchange (EDI) 569–70
 - emails 576–7, 578, 584, 585, 590, 695–6
 - emerging economies/developing countries 291, 294, 298, 303, 304–5
 - see also* individual countries; microinsurance
 - employment benefits: group insurance 89–90, 684
 - enforcement, regulatory 244–5, 246–9, 389, 422–3
 - Sweden 416–22
 - United Kingdom 382, 385–6, 406–16
 - United States 390–404
 - bad faith *see separate entry*
 - environmental liability insurance 27, 779, 783
 - estoppel 80, 112, 113, 726–7
 - European Union 94, 223–4, 226, 294–5, 306, 600
 - bank supervision 301
 - CEIOPS (Committee of European Insurance and Pensions Supervisors) 332, 333, 334, 345–6, 349, 350, 633, 636–7, 647, 648
 - transnational supervisory recognition 313–14, 315, 316–17, 318, 319, 320–321
 - comitology committees 331–2, 333–4
 - Commission 622–3, 651, 652–4, 655
 - conduct of business regulation 240, 241, 311, 356, 359–60, 387
 - application of COB rules 361, 362–3, 364
 - cooling off periods 377
 - mandatory rules 380
 - sex discrimination 14, 235–6, 384
 - treating customers fairly 366
 - conflict of laws 590–591, 597, 599, 605, 618, 638
 - Brussels I Regulation and EU-domiciled defendants 591–5
 - jurisdiction and non-EU defendants 596
 - Rome I Regulation 146, 195, 197–8, 199, 203, 204–6, 216, 217, 362, 373, 591, 592, 597, 619
 - Rome II Regulation 590, 591
 - creation of EU law 623, 651, 652–3
 - relationship between law of Member States and law of EU 624–8
 - direct effect doctrine 627

- Directives 14, 181, 261–4, 581, 616, 624, 625, 628, 629–30, 632–4
- Consumer Protection 600
- Data Protection 583, 584–5, 587
- Distance Marketing 85, 114, 581, 583, 617
- E-Commerce 572, 574–5, 581–3, 594
- E-Signatures 572, 578
- Insurance Mediation 363, 582, 636–7
- Life Assurance and Non-Life Insurance 114, 181, 263, 311, 362, 582, 632, 634–5
- overview 634–7
- Reinsurance 181, 308, 311–16, 363, 635
- Solvency I 295, 635
- Solvency II *see separate entry*
- Unfair Commercial Practices 92, 241, 246, 366
- Unfair Contract Terms 95, 105, 113–16, 366
- dispute resolution forum 248
- e-commerce 572, 574–5, 578, 581–3, 587, 636
 - data protection 583, 584–5
 - jurisdiction 590
- EEA Agreement 630, 631
- EIOPA (European Insurance and Occupational Pensions Authority) 296, 333, 334, 351, 352, 648–9, 655
 - crisis management 654–5
 - dispute settlement 655
 - enforcement of EU law 653–4
 - primary objective 648–9
 - tasks 650–651
 - technical standards 651–3
- financial regulatory architecture 296, 647–50, 655
 - EIOPA *see above*
 - ESRB (European Systemic Risk Board) 296, 648, 649, 650
- Financial Stability Board (FSB) 298
- framework of 621–8
- G20 297
- history of regulation in UK 251, 257, 261–4, 268, 273, 430–431
- IAIS 303
- internal market and four freedoms 628
 - general good 243, 364, 631, 635, 638
 - Single European Act 632
 - treaty freedoms and passporting 311, 629–30
- Lamfalussy process 431, 632–3, 634
 - risk management principles *see separate entry*
- Lloyd's in EEA, authorisation of members of 438–40, 441
- market withdrawal 234
 - motor insurance 222, 245, 382, 635
 - mutual recognition *see under* transnational supervisory recognition
 - OTC derivative contracts 557
 - PEICL *see* PEICL (Principles of European Insurance Contract Law)
 - portfolio transfers 181, 183
 - principles-based regulation 240, 241, 246, 339, 340
 - risk management principles: comparison of EU and German law *see separate entry*
 - product price and content 241, 243
 - reinsurance 146, 311, 356, 363
 - mutual recognition *see under* transnational supervisory recognition
 - sex discrimination 14, 235–6, 384
 - shared competence between Member States and 629, 635, 640, 647
 - Solvency I 295, 635
 - Solvency II *see separate entry*
 - subsidiarity 621–2
 - supremacy of EU law 626–7
 - Switzerland 630, 631
 - transparency rule 114
 - World Trade Organization (WTO) 291
- excess clauses 5
- exclusion clauses 367, 369, 379, 735–6, 787
 - disclosure duty 72–3
 - restriction, principle of 104
 - transparency rule 115
 - unexpected terms 116
- experts
 - claims handling in US 564
 - Germany: loss determination 382–3
 - portfolio transfers: independent expert report 178–9, 180, 181
- Facebook 579, 595
- fairness/fair dealing 223, 241, 366–7
 - Brazil 704
 - competition, unfair 588
 - data protection 584
 - disclosure duty 71, 79, 80, 83–4, 89, 92
 - European Union
 - unfair commercial practices 92, 241, 246, 366
 - unfair contract terms 95, 105, 113–16, 366
 - Japan 750
 - microinsurance 510
 - portfolio transfers: procedural 176–81
 - Singapore 686, 687, 698
 - South Africa 773, 784, 787, 791
 - statutory requirement: market practices 244
 - United Kingdom 271, 358, 366, 379, 386, 580
 - disclosure duty 71, 83–4, 89

- financial promotion 372
- unfair contract terms 95, 105, 113–16, 215, 216, 366–7, 368, 379
- United States 395
 - ambiguity rule 107
 - covenant of good faith and fair dealing 122, 124–5, 127, 128, 142, 143, 144, 359, 404
 - justice and fair play 588
 - unfair practices law 34, 241, 244, 246, 373, 383, 384, 387, 400, 402, 404, 585
- fiduciary relationship 60–61, 237, 370, 404, 784–5
 - bad faith, US tort of 122, 124, 125, 127, 129, 137, 140–141
- Financial Accounting Standards Board (FASB) 567
- financial crisis
 - 2008/09 278, 389, 555, 561, 636–7
 - Basel Committee 302
 - corporate group supervision 234
 - European Union 296, 636–7, 647–8
 - Northern Rock 409
 - OECD 287–8
 - Singapore 678–9
 - Sweden 417, 421
 - UK regulatory change 273–5, 408, 430
 - United Nations 292–3
 - Asian (97/98) 285, 297–8, 678
- financial guarantees 249
 - insurance 462, 669
- financial inclusion 482–4
 - see also* microinsurance
- Financial Ombudsman Service (FOS) 247–8, 271, 386
 - claims handling 382
 - disclosure duty 84
 - small businesses 78–9, 85, 86
 - warranties of opinion 57
- financial reporting and takaful insurance 537–9
- Financial Services Authority (FSA) 224, 254, 271–2, 357–8, 362, 363, 406
 - abolition of 274, 415, 430
 - activities regulated, insurance 270, 273
 - appeals from decisions by 407
 - approach of 271–2, 411
 - principles-based 240–241, 364, 387, 407
 - risk-based 272, 406, 408
 - claims handling 382
 - conduct-risk approach 411
 - credit default swaps 556
 - definition of insurance 35, 37
 - e-commerce 579–80, 581
 - enforcement 382, 385–6, 406–10
 - client money 412–13
 - co-operation 413–14
 - firm response 413
 - future 415–16
 - payment protection insurance 410–411
 - settlement 414–15
 - systems and controls 412
 - establishment of 268–71
 - Handbook 241, 271, 373, 431, 433
 - Conduct of Business Sourcebook (COBS) 371, 372, 376, 377, 379, 385, 386, 387–8, 406
 - fairness standards 366
 - General Prudential Sourcebook (GENPRU) 433, 434, 437
 - Insurance Conduct of Business Sourcebook (ICOBS) 57, 78, 79, 84, 85, 371, 372, 375, 376, 377, 379, 381, 385, 386, 406, 432
 - Principles for Business 192, 240–241, 271–2, 365, 366, 367, 368, 369–70, 372, 376, 386, 406, 433
 - Prudential Sourcebook for Insurers (INSPRU) 433, 434, 436, 437
 - Solvency II sourcebook 433
 - transfer schemes 175
 - Lloyd's 429–30, 431–8, 474
 - brokers 428
 - coverholders 428
 - managing agents of syndicates 426, 432, 433, 434, 435, 436, 437–8, 456
 - members' agents 456
 - reporting by 435
 - merger of insurance company 183
 - payment protection insurance (PPI) 380, 382, 409, 410–411
 - principles-based approach 240–241, 364, 387, 407
 - risk-based approach 272, 406, 408
 - schemes of arrangement 192
 - statutory objectives 192, 269, 273–4, 387, 410
 - transfer schemes 175, 176, 177, 178, 183
 - unfair terms in consumer contracts 366–7
- Financial Services and Markets Act 2000 224, 264, 268–9, 270, 271, 426
 - breach of statutory duty 78
 - compensation scheme 271
 - damages 386
 - Lloyd's 426, 429–30, 431–3
 - market entry 233
 - restitution orders 386
 - transfer schemes 170, 172, 180, 193–4
- Financial Stability Board (previously Financial Stability Forum) 279, 280, 286–7, 293, 296, 297–300, 303, 304, 323
- finances/penalties 244, 246, 510, 584

- China 736, 744
- Singapore 690, 691
- Sweden 417, 418, 421
- United Kingdom 271, 366, 385, 386, 408, 409, 410–411, 412, 413
 - co-operation and settlement discounts 414
 - United States 248, 373, 387, 395, 401
- fire insurance 256, 371, 460, 657, 757, 778, 780
 - disclosure duty 68, 69, 71
- flood insurance 24–5, 30, 226, 549–50, 659
- fetus and Islamic law 532
- France 121, 297, 546
 - contract terms: judicial approaches to interpretation 95, 103
 - ambiguity doctrine (*contra proferentem*) 105, 108
 - extrinsic evidence 102
 - restriction, principle of 104
 - subjective 97
 - regulation 245, 355, 359, 387
 - advice and suitability 376, 377
 - applicable law 373
 - cooling off periods 377
 - information about firm 375
 - long-term insurance contracts 378
 - portfolio transfers 181
 - premium rates 379
- franchise clauses 5
- fraud 404, 568, 696, 704
 - claims 14–17, 740–741, 759
 - e-commerce 577
 - general good: prevention of 631
 - non-disclosure 58, 82, 92, 113, 687, 704
 - premiums 75
 - post-contract: utmost good faith (*uberrimae fidei*) 126
 - reinsurance 161
 - standard of proof 696
 - fraudulent misrepresentation 76, 92
 - free look periods 692
 - free-trade agreements 325
 - functions of insurance 3, 277
- G7 and G8 285, 297, 298
- G10 296, 301
- G20 291, 293, 297, 298, 299, 300, 323, 327
 - OTC derivatives contracts 556–7
 - Principles of Innovative Financial Inclusion 498, 499, 518
- gambling 530, 555, 556, 682
- GATT/GATS *see* WTO
- general average 8–9
- genetic information 28, 384
- Geneva Association 279, 300, 302, 304
- Germany 9, 10, 121, 297, 301, 342, 366, 546
 - contract terms: judicial approaches to interpretation 94, 95–7, 103
 - ambiguity doctrine (*contra proferentem*) 105, 106, 108–9
 - extrinsic evidence 102
 - meaning of terms 100
 - parties' intentions 98
 - reasonable expectations doctrine 113
 - restriction, principle of 104
 - subjective 97
 - transparency rule 114, 115
 - unexpected terms 115–16
- definition of insurance 51–2, 53, 54
- disclosure duty 59, 60, 79, 80, 91, 92, 113
- regulation 94, 254, 262, 263, 355, 359, 387
 - advice and suitability 376, 377
 - anti-discrimination rules 384
 - applicable law 373
 - application of COB rules 362
 - claims management and complaints 382–3
 - classification of products 371, 372
 - client assets 370
 - conflicts of interest 368
 - cooling off periods 377
 - Federal Financial Supervisory Authority (BaFin) 224, 231, 326, 335–6, 340–341, 343–4, 346–9, 350, 352, 383
 - financial promotion rules 372
 - information about firm 375
 - legal effect of COB rules 387
 - mandatory and semi-mandatory rules 380
 - market entry 232
 - portfolio transfers 181
 - product information 374
 - risk management principles: comparison of EU and German law *see separate entry*
 - treating customers fairly 366–7
 - with-profits policies 379
- Ghana 501, 512
- good faith 17, 223, 241, 246, 366
 - bad faith, US tort of *see separate entry*
- Germany 366
- South Africa 784–5
- surplus lines in US 668
- takaful insurance 536
- utmost good faith (*uberrima fides*) 16, 57–8, 63, 74, 77, 83–4, 147, 357, 366
 - Australia 80–81
 - Brazil 704
 - China 108, 726–9, 740
 - conduct of business rules in UK 358, 366, 381, 386
 - reinsurance 159
 - Singapore 684–5

- South Africa 784
- US tort of bad faith and 120, 125–6
- Greece 49–50, 102, 245
- guarantees
 - financial 249
 - insurance 462, 669
 - rent guarantee for vacancies 763–4, 765, 766, 767
- guaranty funds 232, 562, 564–5
- Guernsey 560–561
- health hazard 463, 464
 - long-tail liabilities *see* closing books of business
- health insurance 222, 277, 371, 372, 381, 385, 660, 702, 774–5
 - ambiguity doctrine (*contra proferentem*) 106
 - disclosure duty 70–71
 - e-commerce 576
 - enforcement, regulatory 401
 - information security 583, 585
 - licensed and non-admitted: US 664, 666, 667, 669
 - Lloyd's outside EEA 443, 445, 452
 - microinsurance 488
 - PEICL 611
 - self-insurance 557, 562
 - takaful insurance 528, 532, 541
- historical overview
 - Lloyd's 9, 34, 253, 260, 428–9, 456–62, 477
 - origins of insurance 8–11, 33–4
- history of regulation in UK 34
 - 1997 to present
 - approach of FSA 271–2
 - establishment of FSA 268–71
 - insurance intermediaries and insurance mediation 272–3
- early regulation 252–3
 - 1870–1872 Life Assurance Companies Acts 253–4
 - 1909 Assurance Companies Act: general business 254–5
 - 1909–1956 continued pressure for reform 255–7
 - 1956–1973 larger role for government 257–60
 - increased policyholder protection 260–261
 - insurance intermediaries 261
- European Community
 - accession and implementation 261–2
 - development of EEC regulation 262–4, 430–431
- looking forward 273
 - Financial Services Act 2010 273–4
 - single regulator model 274–5
- Solvency II 274
 - overview 251–2
 - towards comprehensive approach: 1979–1997 264–5
 - Financial Services Act 1986 265–8
- history of regulation in US 34, 656–60
- Hong Kong
 - definition of insurance 45–6
 - portfolio transfers 181–2
 - regulation 239, 357, 360, 365, 387
 - advice and suitability 376
 - anti-discrimination rules 384
 - applicable law 373
 - application of COB rules 362
 - claims management and complaints 382
 - classification of products 371
 - client assets 370
 - communications with clients 367–8
 - conflicts of interest 368
 - cooling off periods 377
 - financial promotion rules 372
 - legal effect of COB rules 386–7
 - long-term insurance contracts 378
 - portfolio transfers 181–2
 - product information 374
 - treating customers fairly 367
 - with-profits policies 379
 - reinsurance 147
 - schemes of arrangement 193
- human rights 271, 771–2
- IAIS (International Association of Insurance Supervisors) 225–6, 284, 285, 287, 288, 298, 302–4, 306, 327, 361
 - access to insurance 514
 - consumer protection 240
 - Core Principles 225–6, 231, 233, 234–5, 246, 300, 303, 516
 - dispute resolution 247
 - market conduct principles 358
 - microinsurance 514, 516
 - reinsurance 239, 311, 325–6
 - Solvency II 296
 - systematic risk 279–80, 304
- IBNR (incurred but not reported) claims 169, 187–8, 189–90, 191, 192, 446
- Iceland 630
- illegality 75, 684, 693–4, 786
- IMF (International Monetary Fund) 282, 283, 284–7, 288, 293, 296
 - core principles: bank supervision 302
 - Financial Stability Board 286–7, 298, 299, 300
- G20 297
- IAIS standards 303

- reinsurance 311
- systemic stability 306
- immigration 243
- indemnity principle 16, 147
- moral hazard 30
- India 546, 578
 - ambiguity doctrine (*contra proferentem*) 105
 - definition of insurance 45
 - microinsurance 482, 483, 500, 501, 507, 509, 515, 516
- regulation
 - claims handling 245
 - cross-border purchasing of insurance 440
 - Insurance Ombudsman 248
 - microinsurance 509, 515, 516
 - portfolio transfers 182
 - reinsurance 324, 325
- Indonesia 182
- industry loss warranties (ILWs) 554
- information
 - asymmetries 25, 26–7, 28, 277, 488, 494, 508, 704
 - moral hazard 29, 488
 - conduct of business rules 376
 - information about firm 374
 - product information 373–4, 509, 511, 690–691, 735–6
- e-commerce 573, 575–6
 - security 583–6
- enforcement
 - information gathering 397
- genetic 28, 384
- license applications 666
- Lloyd's
 - prudential regime 433
- microinsurance 488, 494, 508, 509, 511, 513–15
- NAIC in US 396
- portfolio transfers 181
 - full and frank disclosure 177–8, 180
 - notification to policyholders 179–80
- pre-contractual information duties *see* disclosure duty
- reinsurance and rights to 162–3
 - implied right of inspection 150, 163–4
 - practical considerations 164–5
- security 583–6
- sharing and transnational supervisory recognition/cooperation 320, 326
- Solvency II 330, 638, 640
- takaful insurance 538, 539, 543
 - see also* disclosure; notification
- injunctions 384, 700
- innominate terms 160–161
- insolvency 185, 231–2, 242, 398–9, 453, 562, 593
 - European Union 637
 - international organisations 285
 - large deductible policies 564–5
 - mandatory insurance 783
 - third-party rights 780
 - United Kingdom 271
 - see also* solvency
- institutional investors 551
- insurable interest 17–18, 38–9, 357, 682–4, 729–31
 - credit default swaps (CDSs) 555
 - gambling 17, 530
 - moral hazard 17–18, 30–31, 222
 - South Africa 777–8, 781, 788, 789
- insurance contract law 3, 18
 - market practice 5–8
 - origins of insurance 8–11
 - themes in insurance law 11–12
- aggravation of risk 12–13
 - discrimination 14
 - fraudulent claims 14–17
 - insurance interest in property 17–18
 - late payment 13
- types of insurance 3–5
- insurance intermediaries 6–8, 12, 222–3, 728–9
 - ambiguity doctrine (*contra proferentem*) 106–7
- consumer insurance in UK: 2011 Bill 90
- e-commerce 571, 582
- exclusion clauses 735
- impute knowledge to insurer 689–90, 729
- PEICL 610, 611, 618
- regulation 237–8, 356, 368–70, 374
 - European Union 363, 636–7
 - Lloyd's brokers 428
 - Lloyd's outside EEA 441
 - Singapore 678, 690–691
 - South Africa 771, 774, 776–7
 - Sweden 418, 422
 - United Kingdom 238, 261, 266, 272–3, 363, 368, 369–70, 376, 385, 386
 - United States 238, 364, 368–9, 370, 402–3, 663–4
- Singapore 678, 689–91
 - see also* conduct of business regulation
- Insurance Ombudsman 75–6, 77–8, 260–261, 271
- insurance regulation 250
 - common concerns 221–3
 - common themes 229–30
 - consumer protection and market conduct 239–50
 - insurance markets 232–9
 - solvency and prudential monitoring 230–232

- theories and structures
 - international 224–6
 - philosophies 228–9
 - regulatory organization 223–4
 - United States 226–7
- interest 531, 533, 536
- International Accounting Standards Board (IASB) 552
- International Association of Insurance Supervisors *see* IAIS
- International Financial Reporting Standards (IFRS) 537–8
- International Monetary Fund *see* IMF
- international organisations 276–7, 306–7
 - Bank for International Settlements (BIS) 296, 298
 - EU *see* European Union
 - Financial Stability Board (previously Financial Stability Forum) 279, 280, 286–7, 293, 296, 297–300, 303, 304, 323
- functions of insurance 277
- G7 and G8 285, 297, 298
- G20 *see* separate entry
- IGOs (international governmental organisations) 280, 281, 283
 - historical context 282–3
 - International Monetary Fund *see* IMF
 - OECD 283, 285, 287–8, 296, 298, 303, 306, 325, 327
 - World Bank 282, 283–4, 285, 286, 287, 288, 297, 298, 300, 303, 306
 - WTO/GATT/GATS 282, 283, 288–92, 297, 304, 306, 325
- interest in insurance regulation of 277–80
- international non-governmental organisations (INGOs) 281
- significance of 280–281
- soft law or legislation: role of 304–6
- standard-setting bodies
 - Basel Committee 280, 284, 296, 298, 300, 301–2, 303, 304
 - International Association of Insurance Supervisors *see* IAIS
 - United Nations 282, 283, 285, 292–4, 297, 492, 572
- international sale of goods 608, 730
- internet 8
 - e-commerce *see* separate entry
 - electronic channels and microinsurance 506–8
 - electronic claims file (ECF) at Lloyd's 477
- investment insurance products 370–371, 374, 376, 377
- investment risk 231, 361, 378
- investments, takaful 540–541
- IPO laddering claims 167
- Ireland 100, 112, 181
- Islamic insurance *see* takaful insurance
- Israel 48, 49, 545
- Italy 9, 10, 51, 105, 181, 380
- Japan 10, 121, 747–8, 767–8
 - calculation of claims: non-life insurance 760
 - Insurance Act 747, 748–9, 751–2, 766–8
 - definition of insurance 53, 54, 749, 755, 767
 - definition of insurance contract 53, 749, 752–5
 - regulations 755–60
- Insurance Business Act (IBA) 747, 748, 750–751, 766–8
 - definition of insurance business 53, 750, 761–5, 766, 767–8
 - mutual aid (*kyosai*) 747, 750–752, 753, 754
 - regulation 239, 241, 242, 755–60, 766
 - disclosure duty 757–8
 - Financial Services Agency (FSA) 751, 762–5, 766, 767–8
 - increase or decrease of risk 759
 - Lloyd's 449–51
 - overinsurance 758
 - portfolio transfers 182
 - rescission 758, 759–60
 - road-side assistance services 763
 - terrorist acts 546
 - vacancy rent guarantee 763–4, 765, 766, 767
- judicial approaches to interpretation *see* contract terms
- jurisdiction *see under* conflict of laws
- Kenya 507
- law and economics 19–21, 32
 - adverse selection 23, 25–7, 29, 32
 - debate 27–8
 - ambiguity doctrine (*contra proferentem*) 105, 109
 - moral hazard 23, 28–9
 - case law 30–31
 - debate 32
 - regulation and legislation 30
 - tort law and 31
 - reasonable expectations doctrine 109
- law of large numbers, central limit theorem and risk aversion 21–3
- legal expenses insurance 368, 371, 380
- letters of credit 563, 565–6, 642
- liability insurance 46, 222, 256, 371, 778, 779–81
 - bad faith, US tort of 122, 127–8, 129, 133
 - wrongful denial of defence or indemnity obligation 137–9

- wrongful refusal to settle 133–6
- captive insurance 557, 562
- insurable interest 729
- legal expenses 367
- long-tail liabilities 557
 - closing books of business *see separate entry*
- mandatory 32, 98, 222, 236, 380, 635, 694, 782–3
- rate regulation 242
- reinsurance 148
- residual market 668
- retrospective rating 563
- takaful insurance 541
- Liechtenstein 630
- life insurance 10–11, 38, 224, 311, 705–6, 725, 733–4, 741
 - adverse selection 26–7
 - benefits: money payments 754–5
 - conduct of business regulation 360
 - product information 736
 - credit grantor, to benefit of 783
 - death of wage-earner 222
 - disclosure duty 58, 70–71, 78, 686, 687
 - Australia 82
 - China 728–9
 - e-commerce 576
 - insurable interest 38–9, 683, 729, 730–731, 777–8
 - insurance intermediaries 690–691
 - life assurance and 10
 - microinsurance 488, 505, 506, 516
 - overview of EU Life Assurance Directives 263, 634–5
- PEICL 611
- portfolio transfers 181
- regulation 360, 370, 371, 372, 377, 379, 677
 - admitted and non-admitted business in US 664, 666, 667, 669
 - China 744, 745
 - history of regulation in UK 251, 253–7, 258, 262, 263, 266, 267, 271
 - investment element 374
 - Lloyd's outside EEA 442, 443, 444, 445, 447, 451
 - Singapore 680, 686, 687
 - South Africa 774–5
- risk aversion, law of large numbers and
 - central limit theorem 23
- risk classifications 235
- suicide 529, 694, 706
- takaful family insurance 528–9, 531–2
- transparency rule 114
- liquidation 398, 399
- Lloyd's 8, 639, 776, 790
 - authorisation of members of 424–5, 440–441, 453
 - Australia 445–6
 - Brazil 451–2
 - Canada 444–5
 - China 452–3
 - European Economic Area (EEA) 438–40, 441
 - Japan 449–51
 - Singapore 446–9
 - unique features of Lloyd's market 425–9
 - United Kingdom 429–38
 - United States 440, 441–4
 - authorisation of 432
 - central assets 434, 436–7, 438, 453, 455, 456, 476
 - challenges: from 1982–2002 462–5
 - history 9, 34, 253, 260, 428–9, 456–62, 477
 - overview of Lloyd's market 455–6
 - performance management 434, 454–5, 465, 476–7
 - Business Plan 470–473
 - Chairman's Strategy Group (CSG) Report 473–4
 - current position 474–7
 - Fisher Report 465–7
 - Neill Report 467–8
 - Task Force, Walker and Morse Reports 468–70
 - report to FSA 435, 438
 - unique features of Lloyd's market 425–9
- LMX (London Market Excess of Loss) spirals 463–4
- loans: collateral insured 27, 222
- long-tail liabilities *see* closing books of business
- long-term care insurance 371, 381
- loss adjusters 153, 247, 664
- Malaysia 501, 525, 528, 532, 537, 542, 676, 698
 - basis clauses 687
 - compulsory insurance 694
 - contra proferentem rule 691, 693
 - definition of insurance 46
 - formation of contract 691–2
 - fraud 696
 - free look periods 692
 - insurance intermediaries 690
 - noscitur a sociis 693
 - portfolio transfers 181
 - public policy 694
 - time-line provisions 695
- mandatory insurance and adverse selection 27
- marine insurance 58, 444, 451, 574, 669–70, 702
 - China 724, 725, 726, 727–8, 737, 739
 - general average 8–9

- historical overview 8–9, 33, 252, 256, 457, 458, 459, 460
- Japan 756
- South Africa 771
- takaful insurance 528
- market conduct rules *see* conduct of business regulation
- markets regulation, insurance 229, 232–9
- mediation 681
- mergers 183, 745–6
 - see also* portfolio transfers
- Mexico 501, 503, 505, 509, 578
- micro-businesses 85–6
- microcredit 482, 483–4, 513
- microinsurance 481–2, 519–20
 - barriers 493–8
 - conceptual framework
 - business models 490
 - concept of microinsurance 484–6
 - continuum 491–3
 - insurable risks and popular products 486–8
 - providers 488–90
 - conventional insurance vs 485–6
 - financial inclusion and insurance 482–4
 - overcoming barriers: principles 498–9
 - 1: leadership 499–502
 - 2: diversity 502–5
 - 3: innovation 506–8
 - 4: protection 508–11
 - 5: empowerment 511–12
 - 6: cooperation 513
 - 7: knowledge 513–15
 - 8: proportionality 515–16, 518
 - 9: framework 516–19
- misrepresentation 56, 65–6, 75–7, 78, 82, 84, 92, 113, 727–8, 784, 785
 - cancellation or non-renewal of policies 245
 - consumer insurance: UK 2011 Bill 87–90
 - US: unfair practices 246, 373, 383, 403–4
- mistake 785
 - payments 696
 - unilateral 113
- mobile financial services 506–8, 513, 584
- moral hazard 23, 28–32, 222, 228, 232, 299, 552
 - disclosure duty 67–70
 - microinsurance 488, 494
- mortgage endowments 372, 382
- most favoured nation (MFN) principle 289–90
- motor insurance 173, 235, 256, 372, 439, 681, 725, 775
 - basis clauses 687
 - claims handling 245, 382
 - conflicts of interest 368
 - covariance 24, 25
 - mandatory 4, 32, 98, 222, 236, 380, 635, 694, 782
 - moral hazard 29, 32
 - premium rates 380
 - residual markets 236, 668
 - surplus lines in US 669
 - takaful insurance 528
- mutual aid (*kyosai*) 747, 750–752, 753, 754
- mutual insurance company
 - conversion into profit-distributing company 419–20
- mutual recognition 263, 308, 310–311, 636, 637
 - supervision *see* transnational supervisory recognition
- mutuals 4, 488, 503, 533
- National Association of Insurance Commissioners (NAIC) 280, 324, 396, 658, 661
 - authorisation of members of Lloyd's 442, 443
 - catastrophe bonds 552, 553
 - customer complaints 400, 401
 - enforcement activities 396
 - federal regulation 324, 360
 - finite reinsurance 567
 - international harmonisation 360
 - model statutes 244, 246, 355, 360, 373, 383, 396, 400, 659, 661, 664, 672
 - multi-state examination of complaints 401
 - principles-based approach 388
 - solvency monitoring 231, 397–8
- national sovereignty 281, 298, 307
- natural disasters 226, 236, 242, 243, 454, 463, 491, 548–51, 558, 659
 - adverse selection 27
 - catastrophe bonds 4, 551–4
 - covariance 24–5
 - moral hazard 30
- negligence 62, 91, 364, 404, 564, 728, 758, 779
 - bad faith, US tort of 130–131, 133, 142, 143
 - failure to notify promptly 738, 759
 - Lloyd's 464
- negligent misrepresentation 403–4, 784
- Neill, Sir Patrick (Lord Neill of Bladen) 465, 467
- Nepal 501
- Netherlands 107, 181, 546, 574
- New Zealand 13, 147, 239, 241
- non-disclosure *see* disclosure duty
- non-renewal of policies 245, 381
- Norway 630
- noscitur a sociis* 693
- notification 167–8, 259, 363, 688–9, 695, 738–9
 - aggravation/increase of risk 613, 704, 737, 759

- assignment of policy 741
- bad faith tort in US 139, 140, 142–3, 148
- e-commerce 582
- emails 695–6
- EU Treaty freedoms 630
- Lloyd's 437–8, 439, 440
- personal data breach 585
- portfolio transfers 179–80, 745
- reinsurance: claims conditions 158
- scheme of arrangement 186
- novation 171, 182

- Obama, Barack 323, 557
- objective and subjective interpretation 97–8
- OECD 283, 285, 287–8, 296, 298, 303, 306, 325, 327
- Oesch, M. 280, 282, 283, 288, 304
- Office of Fair Trading (OFT) 411
- ombudsman 511
 - Germany 383, 387
 - Hong Kong 386–7
 - India 248
 - PEICL 614, 619
 - South Africa: ombud 777
 - UK: Financial Ombudsman Service (FOS) 247–8, 271, 386
 - claims handling 382
 - disclosure duty 57, 78–9, 84, 85, 86
 - UK: Insurance Ombudsman 75–6, 77–8, 260–261, 271
- origins of insurance 8–11

- Pakistan 501, 542
- parol evidence rule 101, 102
- Parsons, Christopher 31
- patents 588, 596
- payment protection insurance (PPI) 360, 365, 369, 372, 374, 376–7, 380, 382, 409, 410–411
- PEICL (Principles of European Insurance Contract Law) 96, 603
 - aggravation of risk 12–13, 613
 - Common Frame of Reference (CFR) 605–8, 619, 620
 - extrinsic evidence rule 102
 - future prospects 619–20
 - harmonization 603–5, 616–17
 - optional instrument 608–9, 619–20
 - suitability as 615–18
 - overview 609
 - acquis communautaire* 611–12
 - beyond the scope 610–611
 - enforcement 614–15
 - mandatory character 614
 - material change in risk 12–13, 613
 - pre-contractual duties 612
 - premium 613–14
 - structure 609–10
 - substantive scope 610
 - uniform interpretation 614
 - second regime 618–19
- Peru 501, 503, 505
- Philippines 8, 503, 504, 506, 509, 510, 513
- physical hazard: disclosure duty 70–71
- pollution liability insurance 27, 463, 464, 783
 - long-tail liabilities *see* closing books of business
- portfolio transfers 170, 184, 193–4, 646
 - international comparisons 181–3
 - personal performance 173–6
 - privity doctrine 170–173
 - procedural fairness 176–81
- power control 109, 148, 215, 228, 774
 - bad faith, US tort of 122, 126–7, 145
- PPI (payment protection insurance) 360, 365, 369, 372, 374, 376–7, 380, 382, 409, 410–411
- pre-contractual information duties *see* disclosure duty
- precedent 103, 699–700, 720, 725
- premium 221, 222, 223, 255, 544, 557–8, 704
 - condition precedent 734
 - consumer insurance: 2011 Bill 89
 - decrease of risk 704, 759
 - definition of insurance 39, 46, 784, 788
 - Japan 752, 754, 761, 762
 - determined or determinable 787
 - discrimination 14, 384
 - formation of contract 691–2
 - fraudulent claims and 740
 - fraudulent misrepresentation and 76
 - increase of risk 704, 737, 759
 - assignment and 741
 - litigation 248
 - non-disclosure and 75, 113, 126
 - overinsurance 758
 - PEICL 613–14
 - reasonable expectations doctrine and 112
 - regulation 241–2, 243, 254
 - class actions 387, 400
 - European Union 241, 243, 379–80, 639
 - reinsurance 238
 - United States 241, 242, 243, 254, 277, 381, 388, 399–400, 403, 668
- residual markets 237, 549–50
- retrospective rating 563, 565
- takaful insurance: donations 533, 536, 537, 538, 539
- taxation 557, 558–60, 561, 562, 564
- waiver of misrepresentation 728

- principles-based regulation 240–241, 246, 288, 407
 - high level conduct of business rules 364–70, 387
 - Lloyd's: Franchise Minimum Standards 476
 - pros and cons 338–40
 - risk management principles: comparison of EU and German law *see separate entry*
- Principles of European Insurance Contract Law *see* PEICL
- privacy 586
- private international law *see* conflict of laws
- privity, doctrine of 170–173, 684, 780, 781
- product liability 757
 - long-tail liabilities *see* closing books of business
- product warranties 249–50, 763
- professional indemnity insurance 80, 222, 236, 557, 562, 782
- property insurance 173, 222, 242, 372, 666, 733, 734, 741, 775, 778, 780, 783
 - aggravation of risk 12
 - disclosure duty 70
 - insurable interest 729–30
 - microinsurance 488
 - moral hazard 29
 - residual markets 548, 548–50, 668
 - takaful insurance 528, 536, 541
- proportionality 78, 82, 83, 631, 641, 646
 - EU's use of powers 621
 - microinsurance 515–16, 518
 - principles-based regulation: EU and Germany 336, 345, 347, 349
- prudential regulation *see* solvency
- public policy 227, 367, 669, 693–4, 760, 772–3, 786–7, 788
 - choice of law 214–15
 - fraud 16–17
 - microinsurance 499–502
 - risk classifications 235–6
 - transferring risk to governments 545–51
- public–private partnerships 546
- racial discrimination 399–400, 774
- reasonable expectations doctrine 109–13, 117, 359
- rectification 113, 149
- redlining 393
- regulation
 - captive insurance 560–562
 - conduct of business regulation: UK regime plus US, German and Hong Kong approaches *see separate entry*
 - credit default swaps 556
 - e-commerce 579–83
 - data protection and information security 583–6
 - enforcement *see* separate entry
 - financial regulatory architecture of EU *see under* European Union
 - history of regulation in UK *see separate entry*
 - international organisations *see separate entry*
 - introduction to insurance *see separate entry*
 - justification for 277, 677
 - Lloyd's *see* separate entry
 - macroprudential 277–80
 - OTC derivatives contracts 556–7
 - portfolio transfers 181–2, 646
 - principles-based *see* separate entry
 - solvency/prudential *see separate entry*
 - transnational supervisory recognition *see separate entry*
 - see also* under individual countries
- reinsurance 4, 6, 146–8, 165–6, 593, 610, 757
 - assumption 182
 - bad faith, US tort of 141–3
 - Brazil 699, 706–19, 721
 - catastrophe bonds 4, 552, 553
 - catastrophe losses 463, 554
 - choice of law: New York and English approaches 195–6, 217, 218
 - agreement and no agreement 156–7, 210–13, 216, 218
 - general 196–200
 - limits to party autonomy 214–16
 - claims conditions 158
 - consequences of breach 159–61
 - content of 158–9
 - follow the settlements and 161–2
 - construction of agreements 148
 - definition 5, 146
 - facultative contracts 5, 158, 162
 - finality, economic 169
 - finite 566–8
 - government-provided 547
 - implication of terms 149–50
 - information rights 162–3
 - implied right of inspection 150, 163–4
 - practical considerations 164–5
 - Islamic (retakaful) 529–30, 540
 - letters of credit 565
 - natural disasters 550, 551
 - catastrophe bonds 552, 553
 - non-proportional 5, 150, 163, 529, 775
 - proof of loss
 - common law 150–152
 - follow the settlements and follow the fortunes 152–3
 - 'Hill' clauses 153–5
 - proportional 5, 149–50, 163, 529–30, 775

- regulation 238–9, 262, 264, 356, 363, 635, 639
 - Brazil 324, 712–18
 - catastrophe bonds 553
 - China 324, 744–5
 - credit for reinsurance 238, 239, 441, 443, 565, 671–2
 - Lloyd's 441, 443, 444, 445, 446, 451, 452
 - Solvency II *see separate entry*
 - South Africa 239, 775
 - transnational supervisory recognition *see separate entry*
 - United States 239, 322–3, 324, 441, 443, 659–60, 663, 664, 671–3
- retakaful 529–30, 540
- scope of coverage 155–8
- side-cars 554
- Singapore 674
- taxation 559
- terrorist acts 546
- treaties 5, 158, 162
- residual markets 236–7, 548–50, 667–8
- responsibility doctrine 108–9
- restitution orders 385, 386, 401
- restriction, principle of 104, 117
- retrospective rating 563, 565
- risk 3
 - aversion 21–2
 - law of large numbers and central limit theorem 22–3
 - classifications 235–6
 - of contagion 280
 - investment 231, 361, 378
 - letters of credit 566
 - microinsurance product category 503
 - securitization of
 - catastrophe bonds 4, 551–2
 - systemic 278–80, 299–300, 301, 304, 306, 422, 648, 659, 660
 - transfer 544, 566, 767
 - alternative risk transfer *see separate entry*
 - definition of insurance 39, 42, 44, 54–5
 - takaful insurance 538, 539
- risk management principles: comparison of EU and German law 329, 351–2
- amend and supplement principles 340
 - CircularMaRisk 346–9
 - content of sub-rules 344–50
 - differences in content 349–50
 - legal basis 340–341
 - legal form and legal effect of sub-rules 341–4
 - Level 2 measures in EU 344–6
 - possible scope of sub-rules 341
- background
 - German legislation 330–331
 - Solvency II 329–30
 - basic provisions
 - German legislation 335–6
 - Solvency II 331–4
 - meaning of principles-based law 336
 - EU law 336–7
 - German law 337–8
 - pros and cons of principles-based law 338–40
- run-off 167, 168, 172–3, 177, 184, 193–4
 - closing books of business *see separate entry*
 - Rhode Island: accelerated 193
- Russia 291–2, 297
- Saudi Arabia 528
- schemes of arrangement 184–5, 192–4
 - approval 186–91
- self-insurance 26, 29, 42, 483, 544
 - captive insurance 4, 553, 557–62
- sex discrimination 14, 235–6, 383–4, 774
- share sales and finality 169
- Sharia *see* takaful insurance
- Singapore 674–5, 681, 698
 - authorisation of members of Lloyd's 427, 446–9
 - background 675–7
 - basis clauses and warranties 687
 - claims and settlements 694–6
 - construction of policy 692–3
 - definition of insurance 45
 - disclosure of material information 684–6
 - formation of contract 691–2
 - free look periods 692
 - illegality and public policy 693–4
 - insurable interest 682–4
 - insurance intermediaries 689–91
 - policy terms 688–9
 - regulation 238, 239, 677–81, 686, 688, 692
 - Lloyd's 446–9
 - portfolio transfers 182
 - reinsurance 147
 - subrogation 696–8
- small businesses 77–9, 85–6, 386
- soft law 304–6, 340, 352
- solicitors 363
- Solvency II 181, 230–231, 274, 295–6, 362–3, 421, 431, 633–4, 647, 655
 - authorisation and conditions of business 638–9
 - Lloyd's 431, 433, 434, 435–6, 438, 439, 440
 - localisation of assets 642
 - main objects and means of supervision 640–641
 - own funds 642
 - minimum capital requirement (MCR) 644

- solvency capital requirement (SCR) 643–4, 646
- Pillar 2 640
 - capital add-ons 645–6
 - own risk and solvency assessment (ORSA) 644–5
 - supervisory review 645
- portfolio transfers 646
- risk management principles: comparison of EU and German law *see separate entry*
- Three Pillars 639–40
- transnational supervisory recognition 316–21, 323, 327
- valuation of assets, liabilities and technical provisions 641–2
- solvency/prudential regulation 224, 226, 229, 230–232, 277, 291, 356–7, 660
 - European Union 263, 264, 634–5
 - mutual recognition 263, 310–312
 - non-EEA regimes: Reinsurance Directive 308, 312–16
 - Solvency I 295, 635
 - Solvency II *see separate entry*
- finite reinsurance 567
- Germany 370
- Japan 750, 751
- Lloyd's 426–7, 429–38, 441, 455, 458–9, 461–2
 - Australia 445–6
 - Brazil 451–2
 - Canada 444–5
 - capital requirements 435–8
 - China 452–3
 - Japan 450–451
 - prudential regime 433–4, 454–5, 465–77
 - Singapore 447–9
 - solvency 434–5
 - United States 441–3
- microinsurance 503, 504, 515–16, 517, 518
- national treatment provision 325
- rate control 242
- Singapore 678
- Sweden 418–19
- takaful insurance 533, 539
- transnational supervisory recognition *see separate entry*
- United Kingdom 361, 363, 379, 635
 - history of regulation in 256, 258–9, 262, 263, 267–8
 - Lloyd's *see above*
 - looking forward 274, 275, 415
- United States 225, 231, 395, 397–9, 662, 666, 668, 669
 - captive insurance 561–2
 - reinsurance 239, 322–3, 441
 - transnational supervisory recognition 322–4, 326
- Sonnenberger, Hans-Jürgen 97
- South Africa 769–70
 - classification of insurance contracts 777–8
 - mandatory 781–8
 - third-party 779–81
- consumer protection 770, 776, 790–791
- contract law, insurance
 - capacity 786
 - certainty and possibility 787
 - consensus 785–6
 - essential elements 788–9
 - extrinsic evidence 102
 - formalities 787–8
 - insurable interest 777–8, 781, 788, 789
 - legality 786–7
 - prescription and jurisdiction 789–90
 - subrogation 789
 - valid contract 784–5
 - warranties 789
- definition of insurance 784
- Financial Services Board (FSB) 512, 770, 771, 777
- language 787–8
- microinsurance 512, 516, 517
- public policy 772–3, 786–7, 788
- regulation, statutory 770–771
 - Constitution 771–4, 777, 787
 - Financial Advisory and Intermediary Services Act 770, 776–7, 790
 - Long-term Insurance Act 770, 774–5, 778, 790–91
 - Short-term Insurance Act 770, 775–6, 778, 779, 790–791
- reinsurance 239, 775
- terrorist acts 545
- South America 105
 - see also* Brazil; Peru
- Spain 11, 52, 181, 545
- standard of proof 154, 155, 696
- stereotypes 774
- subjective and objective interpretation 97–8
- subrogation 140, 141, 153, 591, 730
 - Brazil 705
 - Singapore 696–8
 - South Africa 789
- subsidies 24–5, 27, 30, 491, 509
- Sudan 527
- suicide 529, 694, 706
- surety bond business 249, 762
- surprising clauses, rule against 115–16, 117
- Sweden 416–22
- Switzerland 94, 314–15, 630, 631

- contract terms 95–6, 97, 100–101, 102, 104, 105, 113
- systemic risk 278–80, 299–300, 301, 304, 306, 442, 648, 659, 660
- Taiwan 546
- takaful insurance 525, 542–3
 - AA and RAC breakdown cover 528
 - bancatakafu 535, 540
 - basic issues facing 535–7
 - family or personal 528–9, 541
 - financial reporting 537–9
 - foetus 532
 - general or property 528, 541
 - general regulatory issues
 - conflict of interest 540
 - investments and Sharia compliance 540–541
 - solvency 539
 - United Arab Emirates 541–2
- inheritance 531–2
- Islamic law and Sharia 525–6
- operational models of 533–5
- origins of 527–8
- problems with conventional insurance 530–532
 - solutions 532–3
- Qur'an 526, 527, 529, 530, 531
- retakaful 529–30, 540
- waqf 535, 542
- zakat 527
- taxation 553, 557, 558–61, 567, 631
 - premiums 557, 558–60, 561, 562, 564
- terrorism 226, 236, 285, 367, 515, 545–8, 659
- Thatcher, Margaret 264–5
- tort law 31, 32, 76, 120, 586–90, 690
 - bad faith, US tort of *see separate entry*
 - negligence *see separate entry*
- trademarks 596, 618
- transnational supervisory recognition 308
 - European Union 308, 309–10, 312–13
 - agreements with third countries (Art 50) 316
 - equivalence assessment (Art 49) 313–15
 - equivalence criteria 320–321
 - equivalence for (re)insurance groups 319–20
 - equivalence for third country solo firms 317–19
 - mutual recognition as policy principle 310–312
 - next steps 321
 - Solvency II 316–21, 323, 327
 - Swiss FINMA assessment 314–15
 - United States 322–3
- IAIS principles and standard-setting 325–6
- international developments 324–5
- key methodologies 309–10
- OECD codes of liberalisation 327
- trends and future prospects 327–8
- United States 308, 322–4
- transparency rule 114–15, 117
- Twitter 579, 595
- unconscionability 112, 113, 148, 599
- undue influence 785
- unexpected terms, rule against 115–16, 117
- unfair contract terms 95, 105, 113–16, 215, 216, 366–7, 368, 379
- United Arab Emirates 541–2
- United Kingdom 5–8, 12, 249, 297
 - closing books of business 167–8
 - commutation, reinsurance and share sales 168–9
 - portfolio transfers 170–184, 193–4
 - schemes of arrangement 184–94
- Coalition government 415–16
- conflict of laws 183, 373, 542, 590
 - choice of law: New York and English approaches *see separate entry*
- contract terms: judicial approaches to interpretation 95
 - ambiguity doctrine (*contra proferentem*) 105
 - contextual reading 101
 - extrinsic evidence 101
 - meaning of terms 99, 100
 - objective and subjective 97
 - precedent 103
 - reasonable expectations doctrine 112
 - restriction, principle of 104
 - transparency rule 114
- definition of insurance 35, 36, 37–41, 54, 55
- disclosure duty 56, 57–8, 92, 125–6
 - consequences of non-disclosure 74–5
 - contours of 62–71
 - inducement 64–7, 69, 92
 - limits of 71–4
 - materiality of facts known to insured 67–71
 - misrepresentation 56, 65–6, 75–7, 78, 84, 92
 - moral hazard 67–70
 - nature of 60–61
 - physical hazard 70–71
 - reform 59–60, 83–90, 91, 358
 - s. 18(2): influence 63–4
- e-commerce 574–5, 581, 587–8
 - jurisdiction 590
- FRAG 35/94: timing risk 567
- fraud 14–17, 126

- good faith (*uberrimae fidei*) 366, 386
 - disclosure duty 57–8, 63, 74, 77, 83–4, 125–6, 159, 357, 358, 381
 - post-contract 126
 - reinsurance 159
- historical overview 9, 10, 33
 - Lloyd's 9, 34, 253, 260, 428–9, 456–62, 477
 - regulation *see* history of regulation in UK
- insurable interest 17–18, 30
- late payment 13
- Law Commissions 18, 41, 59–60, 79, 80, 82, 84–7, 88, 89, 92, 358, 698
- Lloyd's *see separate entry*
- regulation 34, 121, 240–241, 249, 440, 635
 - advice and relationships of trust 369
 - advice and suitability 376–7
 - anti-discrimination rules 14, 383–4
 - applicable law 373
 - application of COB rules 361–2, 363, 385
 - authorisation in UK of members of
 - Lloyd's 429–38
 - claims management and complaints 381–2
 - classification of products 370–372
 - client money and assets 369–70, 412–13
 - communications with clients 367, 368
 - Competition Commission 380
 - conduct of business regulation: UK regime
 - plus US, German and Hong Kong approaches *see separate entry*
 - conflicts of interest 368, 378
 - cooling off periods 377
 - Financial Conduct Authority (FCA) 275, 358, 415, 430, 456
 - financial promotion rules 372
 - FSA *see* Financial Services Authority
 - FSO *see* Financial Ombudsman Service
 - high level principles 364–5, 366–7, 368, 369–70, 387
 - history of *see separate entry*
 - information about firm 375
 - legal effect of COB rules 385–6
 - long-term insurance contracts 378
 - mandatory rules 379, 380
 - Pool Re 237
 - product information 373–4
 - Prudential Regulation Authority (PRA) 275, 358, 415, 430, 456
 - solvency *see under* solvency/prudential regulation
 - treating customers fairly 366–7, 386
 - with-profits policies 378–9, 382
- reinsurance 147, 148, 165–6, 262, 363
 - claims conditions 158–62
 - finality, economic 169
 - finite 567
 - implication of terms 149–50
 - information rights 162–5
 - proof of loss 150–155
 - scope of coverage 155–8
- solicitors 363
- takaful insurance 528, 542
- terrorist acts 545
- warranties 57
- United Nations 282, 283, 285, 292–4, 297, 492
 - UNCITRAL 572, 573–4, 577, 578
- United States 282, 297, 301, 647, 700
 - adverse selection 26, 27
 - Alabama 58, 131, 394
 - anti-trust 34
 - automobile insurance 32, 222, 669
 - bad faith tort *see separate entry*
 - California 13, 58, 243, 247, 394, 661
 - bad faith tort 126, 127, 128, 129, 130, 139
 - definition of insurance 41
 - earthquake insurance 24, 548, 551
 - judicial interpretation 102, 108, 110, 111
 - large deductible policies 565
 - captive insurance 557–62
 - choice of law 597–9
 - New York *see* choice of law: New York and English approaches
 - conditions precedent 159, 161
 - Connecticut 140, 212, 222, 236, 394, 670
 - contract terms: judicial approaches to
 - interpretation 94–5
 - ambiguity doctrine (*contra proferentem*) 105, 106, 107, 108, 359
 - extrinsic evidence 101–2, 107
 - meaning of terms 100–101
 - objective and subjective 97
 - parties' intentions 98, 107
 - reasonable expectations doctrine 109–13, 359
 - restriction, principle of 104
 - unexpected terms 116
 - credit default swaps (CDSs) 555–6, 557
 - deductibles 24, 563–5
 - definition of insurance 41–4, 54–5
 - disclosure duty 56–7, 58, 74, 92, 126
 - e-commerce 572–3, 575–6, 579, 580–581
 - copyright 587
 - data protection and information security 583–4, 585–6
 - jurisdiction 588–90
 - fiduciary relationship 61
 - Financial Accounting Standards Board (FASB) 567
 - Florida 243, 322, 394, 395, 443, 576, 598, 671, 672
 - windstorm coverage 549, 551

- government-subsidized insurance 30
- history 9–10, 34, 391–2, 656–60
- Illinois 108, 322, 394, 441–2, 443, 553
 - 'bad faith' tort 126, 140–141
- Indiana 138, 322, 394
- Kentucky 41, 131, 394, 441–2, 443
- law and economics movement 21, 32
- Louisiana 229, 322, 394, 403–4, 599
- marine insurance 58, 669–70
- Maryland 111, 394, 404, 576
- Massachusetts 159, 243, 254, 395, 656
- mergers 183
- Michigan 129, 394, 670
- Minnesota 41–2, 108, 395, 571
- natural catastrophes 548–51
 - catastrophe bonds 551–4
 - earthquake insurance 24, 548, 551
 - flood insurance 30, 226, 549–50, 659
- Nevada 129, 394, 670
- New Jersey 221, 234, 237, 243, 322, 395, 565
 - bad faith tort 128, 134–5, 135–6
- New York 254, 322, 375, 394, 656, 661
 - advertising online 580–581
 - 'alien' insurers 666
 - authorisation of members of Lloyd's 442–3
 - bad faith tort 124–5, 131, 140
 - capital and surplus requirements 662
 - catastrophe futures 554
 - choice of law: New York and English
 - approaches *see separate entry*
 - contingent commissions 368–9, 402–3
 - credit default swaps (CDSs) 556
 - 'doing business' definition 665
 - judicial interpretation 102
 - Marsh case 402–3
 - portfolio transfers 182
 - principles-based regime 388
 - reinsurance 671, 672
 - terrorist acts 546
- Patriot Act 561
- Pennsylvania 126, 128, 129, 130, 394, 669
- portfolio transfers 182–3
- progressive injury 565
- regulation 34–5, 223, 225, 226–7, 229, 241, 246, 387–8, 656
 - breach of COB rules 387
 - cancellation of policies 245, 381
 - captive insurance 560, 561–2
 - claims handling 246–7, 564
 - complaints 364, 383, 400–401
 - conflicts of interest 368–9
 - credit default swaps 555–6, 557
 - customer funds 370
 - data protection 583–4, 585–6
 - derivatives 555–6, 557
 - discrimination 235, 384–5, 399–400
 - Dodd-Frank Act 226, 239, 323, 391, 660, 669, 672, 673
 - 'doing business' definitions 440, 665
 - e-commerce 579, 580–581, 583–4, 585–6
 - enforcement powers and activities, state
 - 244, 387, 393–403
 - Federal Insurance Office (FIO) 225, 226–7, 239, 241, 323–4, 391, 660, 672
 - Financial Services Oversight Council (FSOC) 660
 - health care 381, 385, 388, 583, 660
 - history of 34, 391–2, 656–60
 - information about firm 375
 - information security 583–4, 585–6
 - insurance contract law and COB rules 357, 359
 - licensed or admitted business 397, 441–2, 443, 580, 664–7
 - litigation, private 245, 248–9, 364, 387, 400, 403–5
 - Lloyd's 440, 441–4
 - McCarran-Ferguson Act 34, 43–4, 227, 322, 392, 393–4, 548, 658, 659
 - market withdrawal 234
 - NAIC *see* National Association of Insurance Commissioners
 - non-admitted direct business 441, 442–3, 580, 667–70
 - non-renewal of policies 245, 381
 - overview 661–4
 - product price and content 241, 242, 243, 254, 277, 367, 381, 388, 399–400, 668–9
 - reinsurance 239, 322–3, 324, 441, 443, 659–60, 663, 664, 671–3
 - risk classifications 235, 236
 - Sarbanes-Oxley Act 586
 - solvency *see* United States *under* solvency
 - standard terms: ex-ante control 94
 - states, primacy of 226–7, 236, 322, 324, 355, 360, 390–393, 548, 561, 656, 657–61
 - transnational supervisory recognition/ cooperation 322–4, 326
 - trigger for application of COB rules 362
 - unfair practices legislation 34, 241, 244, 246, 373, 383, 384, 387, 400, 402, 404, 585
- reinsurance 146, 147, 153, 159, 161
 - assumption 182, 673
 - regulation 239, 322–3, 324, 441, 443, 659–60, 663, 664, 671–3
 - taxation 559
- run-off, accelerated 193

- takaful insurance 528
- taxation 557, 558–60, 561
- terrorist acts 546
 - Terrorism Risk Insurance Act 2002 226, 236, 546–8, 659
 - Texas 102, 152, 207, 322, 394, 669
 - Vermont 395, 561, 656
 - Virgin Islands 441, 443
- vending machines 110
- Virgin Islands 441, 443
- voidable contracts 785
 - misrepresentation 75–7, 82, 89, 113, 687, 784, 785
 - non-disclosure 74–5, 78, 82, 84, 87, 90, 92, 685, 687
- waivers 112, 690, 726–7
- disclosure duty 728
 - Australia 81–2
 - United Kingdom 72–3, 83
- portfolio transfers 180
- war, risks of 24
- warranties 13, 74, 147, 160, 688, 726–7, 736, 789
 - basis clauses and 57, 75, 687
 - disclosure of breach of 15
 - industry loss (ILWs) 554
 - product 249–50, 763
- Williston 106, 108
- with-profits bonds or pensions 372, 378–9, 382
- World Bank 282, 283–4, 285, 286, 287, 288, 306
 - Financial Stability Board 298, 300
 - G20 297
 - IAIS standards 303
- WTO/GATT/GATS 282, 283, 288–92, 297, 304, 306, 325

