

A background image of a construction site, showing a dense network of blue and red scaffolding against a bright sky. The scaffolding is made of metal poles and cross-braces, creating a complex grid-like pattern. The colors are slightly desaturated, giving it a professional, architectural feel.

Insurance & Reinsurance



LEGAL
INSIGHT.
BUSINESS
INSTINCT.



“Lydian is a top name for insurance.”

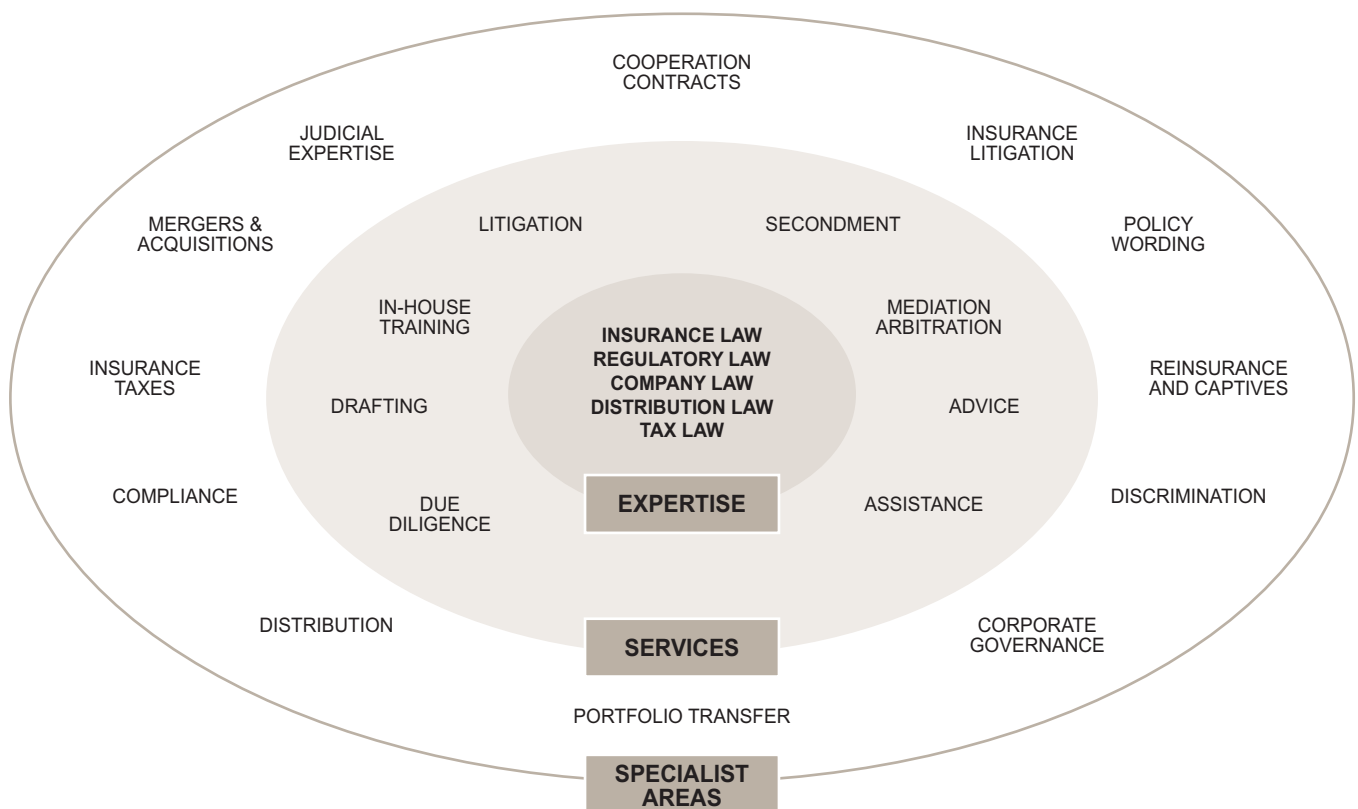
Legal 500

Lydian is highly recommended in Insurance law by PLC Which Lawyer?

Both Hugo Keulers and Sandra Lodewijckx are individually recommended as Insurance law practitioners by PLC Which Lawyer?

A COMPREHENSIVE, EFFICIENT APPROACH

Not only are our people specialists in their field, they also know what is important to the insurance industry; indeed, some of them have worked for insurance companies, and therefore know this world from the inside. Our lawyers have excellent and frequent contact with academics, insurer’s associations and regulators, and provide high quality assistance to a variety of clients in the insurance industry.



THE FULL SCOPE OF LYDIAN'S SERVICES

We have in-depth expertise in the following matters:

- Claims and disputes
- Distribution of insurance products
- Regulatory
- Life and non-life insurance
- Policy wording
- Insurance taxes
- Reinsurance and Captives

CLAIMS AND DISPUTES

Claims are daily business not only for insurers and brokers, but also for Lydian. We assist our insurance clients in all classes of insurance such as property insurance, construction all risk (CAR) insurance, business interruption, product liability, public liability, D&O, professional liability and life insurance. We have assisted our insurance clients in these areas in the largest and most important claims over the last decade in Belgium. This includes policy disputes, subrogation claims and defence work. In addition, we are one of the very few Belgian firms that has experience in handling reinsurance/retrocession disputes before Belgian courts and advise US and UK retrocessionaires on the handling of underlying Belgian claims by the original insurers. Furthermore, we often assist UK and US law firms in reporting to reinsurers on their market about claims handling under the original policies and we also assist domestic insurers in the arranging of market meetings. We are therefore used to participating in market meetings on the London market. Our insurance litigation work is not limited to just acting before the state tribunals and courts, but also includes both ad hoc and institutional arbitration proceedings and also mediation. In our defence work, we have extensive experience in taking into account both the concerns of the insurers and their clients. An important feature of Lydian's claims work for the insurance industry is also its experienced and value adding cooperation with international and domestic loss adjusters and experts appointed by our common clients.



DISTRIBUTION OF INSURANCE PRODUCTS

Lawyers from our Insurance & Reinsurance Team:

- support and advise insurance companies on the legal compliance of their advertising campaigns and commercial initiatives (including market practices and MiFID-rules of conduct);
- draft and advise on cooperation agreements between insurance companies and third parties (affinity program, collective insurance contracts, ...);
- advise on matters of outsourcing;
- draft and check agreements on cooperation and partnership between insurance companies and insurance intermediaries, and provide assistance in the event of litigation following termination of the agreements;
- advise on the code of conduct for insurance intermediaries;
- advise on the field of application of the law on intermediation in insurance (agency law, intermediation law and the FSMA rules on introduction);
- advise on the professional liability of insurance intermediaries.

REGULATORY

Lawyers from our Insurance & Reinsurance Team:

- advise insurance companies, reinsurers, 'mutualities' and insurance intermediaries about their regulatory framework and provide assistance in discussions with their regulators (the National Bank, the FSMA and the OCM);
- conduct due diligence investigations of the insurance portfolio of clients and advise insurance companies on compliance and corporate governance;
- assist insurance companies and insurance intermediaries with respect to the exercise of their activities in the framework of the EU's fundamental principles of freedom to provide services and the freedom of establishment;
- advise on regulatory issues with respect to mergers between reinsurers/insurers and insurance portfolio transfers;
- advise insurance companies on premium increase procedures;
- assist clients in the runoff of insurance portfolios;
- advise clients on the practical implementation of the MiFID-rules of conduct (incl. management of conflict of interests, transparency about inducements, ...).

LIFE AND NON-LIFE INSURANCE

Lawyers from our Insurance & Reinsurance Team:

- advise on the legal compliance of the policy conditions of various life insurance products, such as unit linked insurances;
- develop and advise on new life insurance products and check whether the policy conditions comply with Belgian law;
- assist and represent clients in litigation before court;
- advise insurers about the tax treatment of their insurance products;
- advise insurers and insurance intermediaries on the new MiFID-rules of conduct applicable to the sector.

POLICY WORDING

We have extensive experience in advising, reviewing and drafting policy conditions for Belgian and non-Belgian insurers. This is extremely important in Belgium because most insurance products are governed by imperative provisions of the 25 June 1992 Statute on non-marine insurance contracts. This Statute must also be complied with by EU insurers active in Belgium under the FOS principles. In particular, we have drafted or reviewed the following policy conditions: D&O insurance, fraud insurance, credit insurance, public liability and product liability insurance, life insurance, and also fire, motor and legal assistance insurance. Where applicable, we take into account the consumer protection legislation. Furthermore, we frequently advise insurers, brokers and foreign law firms on particular clauses in insurance policies or reinsurance slips. In this work, we do not only factor in legal issues and concerns, but also take into account international and Belgian market practise.

INSURANCE TAXES

Lawyers from our Insurance & Reinsurance Team advise clients on insurance tax issues, including VAT and insurance premium taxes.

We also represent clients in insurance tax litigation.

We have extensive knowledge of the tax issues of many insurance products to which they pay attention during the review of policy wording.

REINSURANCE AND CAPTIVES

Our Insurance & Reinsurance Team is one of the very few in Belgium that has experience in working for reinsurers and advising on captive structures. We often work together in this respect with our Corporate & Finance Department to work out security instruments for claims on captive reinsurers. Together with our Tax colleagues, we advise on the tax implications of captive schemes. We have also experience in advising insurers on how to secure their claims on captive reinsurers, especially in the context of the liquidation of a captive and the transfer of its business to a newly created reinsurance captive.

We are also one of the very few Belgian firms that has acted in reinsurance/retrocession disputes before the Belgian courts, in particular with respect to the interpretation of “as original” language in reinsurance/retrocession slips under Belgian law. Furthermore, we have experience of acting for UK, German and US reinsurers in reviewing and monitoring of claims handling conducted by leading local insurers of mass claims or very large insurance claims. We are used to speaking “the market’s language” and to organizing or participating in market meetings.

LEGAL INSIGHT. BUSINESS INSTINCT.



A TEAM WITH EXPERIENCE

We have a team with the experience to foresee problems and respond in an appropriate way to change.

All the lawyers in our team have particular areas of expertise, whether in reinsurance or direct insurance, or whether in non-life or life insurance. Together they have experience of handling every legal aspect of insurance and reinsurance issues. They are true experts in their field and have excellent contacts with the relevant authorities at national and regional level and also with peers in the most reputed insurance law firms in Europe and elsewhere in the world.

OUR EXPERTS

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Hugo Keulers is a partner at Lydian, where together with Annick Mottet Haugaard he leads the Commercial & Litigation Department.

Hugo graduated with a law degree from the Catholic University of Leuven (KU Leuven) in 1991. He was a member of the KU Leuven team that won the prestigious Telders Moot Court Competition (The Hague) in the same year. In 1995, he obtained a degree in insurance science from the IPO Management School of the University of Antwerp (UIA). In 2002 he completed a postgraduate course in financial management at the KU Leuven.

In 1991 Hugo started as an attorney with Loeff Claey's Verbeke (now Allen & Overy Belgium), where, from 1999, he was responsible for developing the insurance law practice.

Hugo joined Lydian in 2001. Mainly because of him, our firm was quoted in the Legal 500 as 'a top name for insurance'. PLC Which Lawyer?, the Legal Media Group's Expert Guides and the European Legal Experts all mention him as one of Belgium's top lawyers in the area of insurance. Hugo is recommended by The International Who's Who Legal in The International Who's Who of Insurance & Reinsurance Lawyers 2010 and 2011 handbook.

He is one of the few Belgian lawyers with experience in handling complex reinsurance disputes before the Belgian courts. Hugo's practice today is mostly focused on large and complex liability and insurance claims in areas such as all risk property, construction all risk insurance, ALOP insurance, D&O, professional indemnity and product liability insurance. He is the trusted advisor of a large number of international and Belgian insurers on complex and sensitive legal issues, often with an important financial impact.

Hugo is a member of the insurance committee of the International Bar Association, of the Belgian Risk Management Association (BELRIM) and of the Belgian Association of Insurance Lawyers. He has also contributed to the 2010, 2011 and 2012 Substantive Projects of the IBA Insurance Committee.

LEGAL INSIGHT. BUSINESS INSTINCT.

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Sandra Lodewijckx is a partner in the Commercial & Litigation Department and her practice is focused on the insurance industry.

Sandra graduated with a law degree from the Catholic University of Leuven (KU Leuven) in 1994. After her studies she took a number of supplementary courses in insurance and risk management, including at Assuralia and with the

German reinsurer, Münchener Rück.

From 1994 to September 2000, she worked as a department manager at ING Insurance (now Vivium). In September 2000, she became an attorney at Loeff Claeyss Verbeke (now Allen & Overy Belgium), where she was a member of the Banking & Finance Department.

Sandra joined Lydian on 1 January 2002 and is specialised in insurance law and pensions law. She assists Belgian and international (insurance) companies, professional organizations and insurance intermediaries with all insurance-related issues. She also advises companies on the different aspects of supplementary pensions, corporate governance, pension plans and management agreements. She has extensive experience in litigation involving insurance and pension matters. She regularly assists large Belgian insurance companies in strategic litigation with their agent networks. Her combined knowledge of collective insurance and pensions makes her also a unique personality on the Belgian market.

Sandra maintains very good contact with insurers, actuaries and control authorities. She is in demand as a speaker on insurance and supplementary pensions and has written several articles on the subject, amongst others about the introduction of class actions in the Belgian legal system.

Sandra is a member of the Antwerpse Kring van het Verzekeringswezen, the Association des Juristes d'Assurances (AJA) and the Cercle Royal des Assureurs de Belgique (CRAB/ KKVb). She is also a member of the Belgian Pension Lawyers Association (BePLA) and a Member of the Board of Directors of the pension fund Voorzorgskas voor advocaten, gerechtsdeurwaarders en andere zelfstandigen OFP.

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Jo Willems is a senior associate in the Commercial & Litigation Department.

Jo graduated in 2004 with a law degree from the Catholic University of Leuven (KU Leuven). In 2005 he obtained a DESS degree in Economic Law from the University of Brussels (ULB). Jo was admitted to the Brussels Bar in 2005.

Jo specialises in commercial law and litigation and has extensive experience of acting for insurance clients in complex and strategically important disputes. He assists insurance clients in matters of distribution, product liability, public liability and professional indemnity. He also advises insurance companies on the legislative and regulatory provisions that apply in connection with life insurance. Jo has published articles on the introduction of class actions in the Belgian legal system.

ANNE CATTEAU

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Anne Catteau is a senior associate in the Commercial & Litigation Department.

She graduated in 2003 with a law degree from the Catholic University of Leuven (UCL). A year after she obtained a DES degree in company and insurance law from the University of Ghent (UG). Anne joined Lydian in September 2004.

Anne has broad experience in all fields of insurance law. She mainly assists clients in insurance intermediation, from contract drafting to complex disputes following termination of cooperation agreements between insurers and brokers. She is also regularly involved in liability disputes, including construction all-risk insurance and product liability insurance.

She is a regular speaker on various insurance topics and has written several articles amongst others on the introduction of class actions and also on various insurance topics, such as product liability insurance or the statute of limitations of insurance claims.



HIGHLIGHTS OF OUR RECENT EXPERIENCE

A LEADING BELGIAN TECHNOLOGY COMPANY

Assisting a leading Belgian technology company and its product liability insurer in (i) defence against liability claims by German companies, and (ii) subrogation claims against its Belgian supplier in relation to a high-tech construction. Our client's subrogation claim amounts to more than 3 million EUR.

A COMPANY ACTIVE IN THE CONSTRUCTION OF OFFSHORE WIND TURBINES

Acting for a company active in the construction of offshore wind turbines in a 13 million EUR insurance claim against its insurers following defects in the construction of six offshore wind turbines in the Belgian North Sea. This case is a landmark case closely followed by those in the international insurance industry concerned about construction all-risk insurance disputes.

A NATIONAL HEALTH SERVICE

Providing legal advice and assisting with the conversion of a national health service ('mutualité') into an insurance company. This is one of the first conversions of a health care mutual into an insurance company following a recent change in Belgian health care insurance following legal action by the EU Commission against Belgium.

AN INSURANCE COMPANY IN LITIGATION WITH ITS AGENTS

Successfully assisting an insurance company in a class action litigation initiated by agents, followed by helping our client in the negotiations with another group of more than 200 agents. This case demonstrates our ability to handle complex distribution disputes involving numerous parties. This project represents an investment of 50 million EUR for our client.

INSURERS INVOLVED IN LIABILITY CASES FOLLOWING THE FINANCIAL CRISIS

Acting and advising leading international insurers in different layers of both the Professional Indemnity and D&O Insurance Programmes of financial institutions after the financial crisis of 2008.

MERGER OF TWO INSURANCE COMPANIES

Together with our Corporate & Finance Department and our Employment, Pensions & Benefits Department, assisting an international insurance company on all legal aspects of the first cross-border merger between a Belgian and a Spanish insurance company under the new EU cross-border merger Directive. This was therefore a ground breaking transaction with the additional complexity that the Belgian insurance company also had a Swiss subsidiary.

A SECONDMENT TO AN INSURANCE COMPANY

Seconding one of our insurance lawyers two days a week to one of our clients that temporarily lacked internal insurance law support following the departure of an internal legal counsel with insurance law expertise. During the secondment our insurance lawyer was fully integrated into the legal department and rendered insurance law advice on a daily basis at an agreed fixed rate per day. This successful secondment lasted a year.

LIABILITY AND PROPERTY FILES


Assisting on a daily basis insurance companies and their claims managers in the management of claims, and rendering legal advice about the policy wording or claims issues. Our expertise in this field vary from D&O liability, product liability, all risk property, but also more specific insurance policies such as ALOP insurance and contamination insurance.

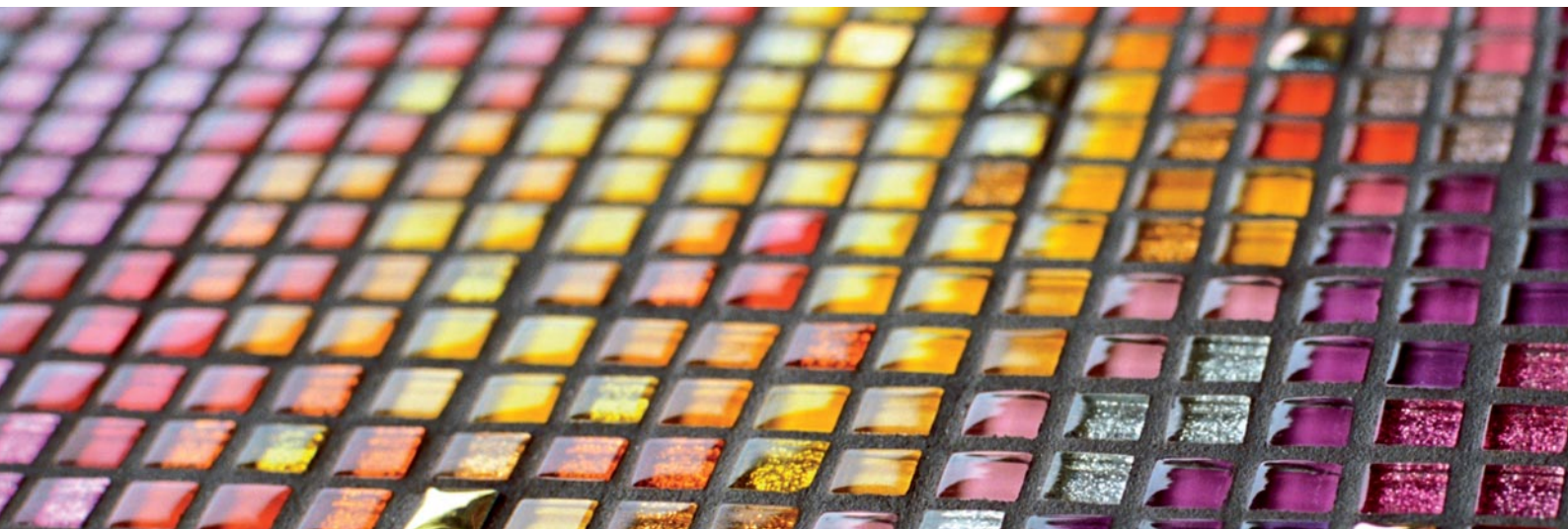
INSURANCE CLIENTS IN ARBITRATION

Acting for several co-insurers in relation to a 20 million EUR claim by their Belgian insured, a waste management company with branches and operational sites all over Europe, following an incident during the construction of an incinerator under CAR-insurance policy. Recently, CEPINA arbitration proceedings have been initiated in this matter against the insurers which we represent.

AN INSURANCE COMPANY IN LITIGATION AROUND CONCERNING MARKET PRACTICES

Assisting a leading Belgian insurance company in litigation initiated by a consumer organisation, concerning certain market practices and with respect to the application of the Act on Market Practices of 6 April 2010 (deriving from Directive 2005/29/EC concerning unfair business-to-consumer commercial practices).





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