

Regulatory Challenges in Cross-Border Insurance Transactions: An Analysis of Emerging Legal Frameworks

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Abstract

The rate of growth of cross-border insurance transactions has been very high in the last few years as a result of globalization of the financial market, the emergence of multinational insurance and the digital platform. Despite this growth, the global insurance sector continues to face high regulatory disintegration, which creates inconsistencies in licensing, solvency regulation, reporting and data protection. These disparities tend to raise the compliance costs and make different markets inaccessible to different insurers working in different jurisdictions. The objective of the current research was to determine the key regulatory impediments to intercountry insurance transactions, and also to test how the new global regulations, like the Insurance Capital Standard (ICS), Solvency II, and International Financial Reporting Standards (IFRS) 17, could be effective in facilitating regulatory convergence. It used a qualitative, doctrinal, and comparative research design to look at statutory frameworks, supervisory guidelines, international standards and judicial interpretations in major jurisdictions, such as the European Union, the United States, the United Kingdom, Singapore and some of the emerging markets. It was found that there were still existing gaps in the adoption and enforcement of new frameworks, with wide dispersion in standards of solvency, financial reporting practices, data protection and dispute resolution procedures. Compared jurisdictions like the EU and Singapore also showed a relatively higher alignment, but the United States and most of the developing markets had lower harmonization rates.

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1. Introduction

The process of globalization of financial markets in recent decades has profoundly changed the format, extent, and range of insurance business across the globe. Insurance businesses are becoming more and more active across international borders and provide insurance directly across borders, by reinsurance, by creating branches, and by electronic distribution channels.¹ This change was further accelerated by the digitalization of operations in the insurance industry, whereby multinational insurers can establish operations across jurisdictions with such a high volume and complexity of transacting cross-border insurance, resulting in significant differences in licensing practices, solvency, reporting practices, consumer protection, and dispute resolution practices.²

This regulatory fragmentation poses severe challenges to the regulators and multinational insurers.³ Traditionally, states use domestic legal frameworks to regulate insurance based on national priorities in risk management, their school of supervision philosophy, and market metalwork. Consequently, cross-border business is often prone to conflicting and even overlapping regulation that increases compliance costs, operational risks, and limit market entry, which is especially common with highly regulated jurisdictions in terms of licensing and capital requirements.⁴ Moreover, there remains considerable divergence in the regulation of emerging fields such as digital insurance, cyber-risk regulation and cross-border data regulation and this reflects that the global insurance markets have not reached the degree of harmonization that would facilitate a smooth flow of risk transfer and a sustainable network of international market integration.⁵

The fast development of hybrid financial products and digitally enabled systems of distribution has also complicated cross-border insurance regulation, as the traditional boundaries of insurance, finance, and technology have been blurred. With the use of increasingly automated underwriting, algorithmic pricing, and third-party digital intermediaries by multinational insurers, regulators are finding it difficult to tell how much supervisory authority is possible and what types of standards are applicable to such practices. The variations in the national methods of controlling the InsurTech platforms between the sandbox approach and the stringent licensing requirements introduce additional inconsistencies in the ways in which the cross-border digital offerings are considered and accepted. Such technological advancements have not only created operational uncertainties but also new regulatory risks, which increase the need to have more transparent cross-jurisdictional supervisory cooperation and more updated legal definitions that can reflect the current market practices.

Despite the initiatives that have been launched by global standard-setting bodies with the primary one being the International Association of Insurance Supervisors (IAIS), to harmonize supervisory frameworks, there has been unequal progress. The Insurance Capital Standard (ICS) which was developed as a globally recognized solvency standard, has been adopted only in part, and is not bindingly enforceable in large markets.⁶ The Solvency II regime of the European Union has also been developed as an advanced and comprehensive regulatory framework that nevertheless has little to no equivalence recognition even outside the European Union.⁷ IFRS 17,

the proposed global insurance financial reporting standard, has only had a very patchy adoption record and has not succeeded in being bindingly enforceable across markets.⁸

Along with these structural issues, the development of global financial governance has increased the regulatory demands on insurers having cross-border operations. Most jurisdictions are progressing to more complex risk-based tools of supervision, such as a regime of stress-testing, conduct-of-business, and market-behaviour posture tools. Although all the measures are meant to enhance consumer protection and financial stability, their application has been diverse, which means that multinationals are expected to comply with them differently as insurers. More so, the inclusion of the environmental, social, and governance (ESG) into insurance regulation, like climate-related financial reporting and sustainability-based capital requirements, introduces a new source of regulatory uncertainty. Certain regulators have built in compulsory reporting on ESG, others are guided by voluntary reporting, and others have not introduced formal requirements. Such differences make the work of insurers to come up with common operating models, which are ESG-sensitive, a challenge, especially when cross-border portfolios are realised by regions with different sustainability requirements. As financial markets move towards more green and transparent risk-management activities, the absence of compatibility in ESG-based regulation of insurance is prone to increase the gaps in harmonisation. This also highlights the importance of concerted cross-border regulatory strategies that are in a position to address both the conventional prudential issues and the new sustainability-based supervisory requirements.

The issue that is underlined by this research is the fact that the problem of regulatory inconsistencies persists and disregards the effectiveness, transparency, and stability levels of the international insurance markets. Cross-border insurers have to contend with a large number of operational and compliance risks that arise due to the dissimilar legal requirements, varying supervisory interpretations, and lack of binding global regulatory conflict resolution mechanisms. These issues also pose significant questions to policymakers and stakeholders in the industry regarding the suitability of existing global frameworks in tackling systemic constraints of national regulatory frameworks, and in ensuring greater coherence in supervisory coordination.

Objectives of the Study

1. To declare and critically assess the significant regulatory obstacles, including the disparity in licensing, solvency variance, reporting differences, data management controls, and dispute settlement limitations, limiting the effectiveness and integration of cross-border insurance deals in major jurisdictions.
2. To assess the ability, the adoption rates, and the harmonization abilities of new international regulatory frameworks, such as IAIS ICS, Solvency II, and IFRS 17, to resolve these cross-border regulatory differences and enhance the convergence of supervisory practices.

2. Literature Review

Literature on cross-border insurance regulation points out to the growing interdependence of international insurance markets and the resulting necessity of convergence of regulations. This conceptual literature formed the basis of determining the differences between direct cross-border insurance transactions, freedom-of-services models, and reinsurance transactions, stating that each mode of operation presents dissimilar regulating and legal needs.⁹

The historical research recorded the development of insurance regulation to more centralized and risk-oriented regulation frameworks as compared to localized solvency regulation.¹⁰ Comparative studies of the insurance regulation in Europe and the United States also revealed the underlying differences between the U.S. system of insurance regulation based on the states and the EU centralized insurance supervision system.¹¹ International trade agreements, including the World Trade Organization (WTO) General Agreement on Trade in Services (GATS) commitments, also played a role in liberalizing insurance, but scholars generally claim that these mechanisms are not sufficiently effective to overcome systemic complexities in cross-border services.¹²

A significant literature has been devoted to regulatory fragmentation, where consistent gaps in solvency regimes, licensing policies, consumer protection policies, and taxation policies have been found.¹³ Such fragmentation, researchers point out, also leads to reporting duplication, higher compliance costs, slow market entry, and less competitiveness across borders, and creates less legal certainty around multinational market participants.¹⁴ Fragmentation further aggravates the fact that similar data protection laws are enforced inconsistently across jurisdictions, thereby constraining operations further.¹⁵

The section in the literature on new regulatory frames examines the attempts to foster global harmonization.¹⁶ Research on Solvency II equivalence also reports a lack of awareness in foreign jurisdictions and inconsistency in applying the standard in foreign jurisdiction, with scholars too describing the rapid expansion of digital insurance and InsurTech markets as a growing area of applicability of the standard to cross-border insurance regulation.¹⁷ Scholarship on the IAIS Insurance Capital Standard (ICS) has generally noted its potential to be used as a global standard of solvency, though its voluntary character and lack of foreign jurisdiction adoption continue to be seen as significant barriers to comparability and effectiveness as an international reporting framework.¹⁸

Throughout the literature, researchers have found it possible to identify the gaps that need to be filled by the research, such as a lack of comparative analysis of emerging frameworks, empirical evaluation of the effect of compliance burden and provision of a more robust theoretical model of the coordination of regulations across borders.^{19,20} The study has provided this gap through an integrative process of doctrinal comparison analysis and offering a thorough evaluation of the issues of regulatory challenges across boundaries and the efficacy of the emerging frameworks. An emerging literature in the modern day has also discussed how technological change and global governance reforms have implications for cross-border insurance regulation. Researchers point out that the emergence of digital insurance operations, marked by data-driven underwriting, AI-based risk assessment, and cross-border delivery of services on the cloud, has increased regulatory divergence instead of reducing it. Scholars note that the contemporary regulatory practices of national privacy law, international data-governance arrangements are increasingly conflicting, causing the supervisory treatment of digital intermediaries to spill over into larger areas of corporate-governance and sustainability. Some studies have investigated how new global initiatives, such as the sustainable finance regulation, are put together. This growing literature emphasises that regulatory fragmentation has now become multidimensional, and various factors, which include prudential, technological, operational, and sustainability-related issues, have complicated purposeful cross-border regulatory harmonisation.

3. Methodology

3.1 Study Design

This research employed qualitative, doctrinal and comparative legal research design in order to investigate issues that emerge with regard to cross-border insurance regulation. The qualitative aspect made it possible to interpretively comprehend the functioning of regulatory norms within jurisdictions, whereas the analysis of the doctrines helped in studying the substance, structure, and development of the insurance laws. The convergences, divergences and tensions in the laws of the key markets have been established through comparative law inquiry. The third strategy combined with the two, the research to an even greater degree, because it established a systematic review of the regulatory issues. The design could also be used to look more contextually at how the new formations would be attempting to harmonize or redefine international insurance governance particularly in the global market which was changing so rapidly.

3.2 Data Sources

The research has been founded on the equal proportion between the primary and secondary sources of law to ensure that it would be analytically detailed and credible. The international conventions and bilateral treaties turned out to be the most significant ones, and as the regulatory principles of the supervisory authorities, including EU, IAIS, and WTO/GATS. These were the records that provided the fundamental legal principles on which the cross-border insurance activities were to be carried out. Regulatory notices and cases, which are also formal form of supervisory communication were also regarded in order to get an idea of how it is proceeding in practice. Peer-reviewed articles, academic commentaries, policy briefs, industry white papers and annual reports of multinational insurers were the types of secondary sources. These sources helped to put the regulatory problems into perspective, to bring into focus the scholarly argumentation, and to give an industry perspective of the compliance burden and new governmental trends.

3.3 Jurisdictional Scope

The research was done on a set of jurisdictions that were selected on the basis of their relevance to international insurance movements and regulatory influence. Members of the European Union, the United States, and the United Kingdom were leading examples, as they possessed sufficiently developed solvency regimes and a wide international presence. It also exploited Singapore and some of the emerging markets to capture the emerging regulatory paradigms in the emerging insurance centres. This was a mixture of stable or emerging regulatory conditions that allowed a full comparative analysis. The chosen jurisdictions revealed different supervisory philosophy, market designs and the level of regulatory integration that provided a multidimensional view of the way regulatory issues were represented in different legal settings and the manner in which new structures attempted to address the differences.

3.4 Analytical Framework

The thematic analytical framework was used so as to establish the basic regulatory barriers and describe the differences of legal requirements in jurisdictions. Themes, such as licensing, solvency supervision, capital requirements, and provision of dispute resolution and data management have been analysed to map structural inconsistencies. The analysis itself consisted of the systematic coding of legal texts and the possibility to divide the regulatory provisions into the following thematic clusters. This plan helped to thoroughly compare how each jurisdiction addressed the

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same issues and what were the areas of concord and discord. The framework also helped to determine the extent to which the international standards emerging were affecting the home regulatory reforms providing an indication of where there were gaps, overlaps and where there was legal harmonization.

3.5 Validation of Findings

To determine the reliability, a triangulation of the results was performed with various sources of law and policy. The regulatory provisions, judicial interpretation, supervisory reports, and scholarly discussion were cross-examined to make sure that there was homogeneity and no single school of thought was over-relied upon. The interpretive bias was reduced through this multi-source validation and the comparative conclusions became more plausible. The use of triangulation was also employed in finding areas where the legal frameworks were divergent in practice, despite the similarity of the formal rules which was a better representation of the reality of the problems of regulation. The mixture of evidence in the shape of international standards, national laws and independent scholarly research work assisted the study in ensuring that its findings displayed a comprehensive support and balanced perception of cross-border regulation of insurance.

4. Results

4.1 Key Regulatory Challenges Identified

The comparative analysis revealed that yet, some endemic regulatory issues that rendered the cross-border insurance business a thorny one existed. The licensing requirements were very different in the jurisdictions which causes delays and also increases compliance costs and barriers of entry to foreign insurers. The solvency requirements and the reporting requirements were also unequal and that is why there was overlapping of regulations; therefore, regulatory equivalence was not easy to achieve. Another type of restrictions were the data security policies, particularly with cyberspace and cross-border data transfers, particularly in the spheres where national legislation and international standards of data management oversight clash. There were also no internationally binding mechanisms on dispute resolution, and the insurers were left vulnerable to the uncertainties of the law. Moreover, the limitation on reinsurance dealings and capital flow impeded the diversification of risks and limited the market integration in both the advanced and developing economies.

The disequilibrium of regulatory barriers among jurisdictions. Table 1 shows that emerging markets and the United States have the highest composite barrier index, which is primarily contributed to by the complexity of licensing and solvency divergence. Singapore and the EU have relatively lower obstructions, indicating more consistent and synchronized regulatory frameworks that facilitate inter-border insurance operations.

Table 1: Cross-Border Regulatory Barriers Score by Jurisdiction (0-10 Scale)

Jurisdiction	Licensing Complexity	Solvency Divergence	Data Governance Restrictions	Reinsurance Restrictions	Composite Barrier Index
EU	6.2	3.8	5.1	4.0	4.8

U.S.	7.9	7.2	6.8	6.0	7.0
UK	5.8	4.5	5.9	5.2	5.3
Singapore	4.1	3.9	4.8	3.6	4.1
Emerging Markets Avg.	8.3	6.5	7.4	7.2	7.4

4.2 Gaps in Emerging Frameworks

Although there has been a massive improvement in the international regulatory programs, there were notable gaps within the newer frameworks that aim at harmonizing the insurance supervision. The IAIS Insurance Capital Standard (ICS) remained slow in its adoption and did not have a legal status to be bound on, which weakened its ability to be used as a globally accepted capital standard. The equivalence regime of Solvency II left a number of key insurance market regimes outside its international scope. The regulation of digital insurance lacked uniformity, and it was unified by no single standard that would regulate the activities of InsurTech across borders. Moreover, there was an inconsistency in the application of the IFRS 17 in different jurisdictions, leading to inconsistency in financial reporting. All these weakened the integrity of the international regulatory reforms and constrained the possibility of a coherent supervisory oversight.

There is evident inconsistency in the global adoption of emerging global frameworks, as shown in Figure 1. The IFRS 17 and digital regulation are ahead of the EU and Singapore, and the emerging markets are significantly behind. The U.S. is most disconnected from IAIS ICS and Solvency II guidelines, as it indicates structural division and the decentralization of American regulatory controls.

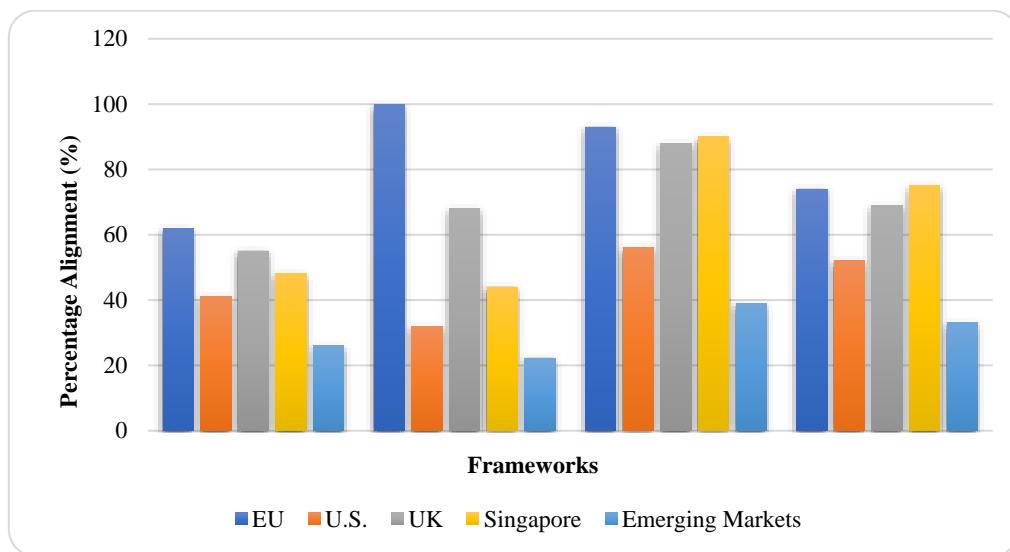


Figure 1: Adoption of Emerging International Frameworks

4.3 Comparative Insights

The comparative evaluation described apparent variations in regulatory philosophies and strategies of implementation across regions. The EU had a strong, but sophisticated, regulatory framework that generated harmonized capital standards compared to the more fragmented state-based regime in the U.S., which made cross-border harmonization difficult. In Asia, regulatory modernisation was rising at a faster pace, though supervisory rule cross-recognition was uneven, and this provided unequal access to the markets. Brexit developments in the UK have brought regulatory divergence with the EU, and this has led to new points of friction among the insurers operating in both regions. Such comparative results showed that such regulatory innovation was prevalent, but structural disparities still remain in the way of creating an actual integrated global insurance regulatory environment.

Significant differences in harmonization are identified in Table 2. Singapore and the EU have the greatest correspondence of the capital, licensing, and supervisory standards. In the U.S., convergence is moderate-to-low since the country is composed of fragmented states. Emerging markets are the least harmonized, which implies that there is the greatest demand for international structured regulatory support and capacity building.

Table 2: Comparative Regulatory Harmonization Gap Indicators

Indicator (0-100)	EU	U.S.	UK	Singapore	Emerging Markets
Capital Standards Convergence	82	47	63	71	39
Licensing Harmonization	76	42	59	68	33
Supervisory Coordination	81	55	66	73	45
Data Protection Alignment	79	62	74	85	51
Average Harmonization Score	79	51	66	74	42

5. Discussion

The results of the study demonstrate an ongoing trend of fragmentation of regulations that still affects the environment of cross-border insurance transactions. Regardless of the historical attempts of international organizations to encourage harmonization, national regulators still focus on local factors and draw different licensing regulations, inconsistent solvency requirements, and diverse data governance practices. Such discrepancies come as increased complexity of operations of companies with worldwide operations, in which they need to operate under two parallel reporting frameworks, opposing supervisory demands, and different dispute resolution frameworks. Even though new standards like the Insurance Capital Standard and the IFRS 17 are trying to bring standard practices, their very low uptake and lack of binding powers make them less likely to bring any material changes to the regulatory environment. The research

hence indicates that the transactions on cross-border insurance are still exposed to compliance risks and operational risks, especially where the regulatory regimes are changing very fast.

The results compared to the past research support a number of the traditional findings and also point out new fields of disagreement. Previous literature on international insurance integration has often highlighted regulatory inconsistencies as a significant impediment to international integration of insurance regulation, especially in the areas of solvency alignment and supervisory co-operation, and similar trends can be observed here.^{21,22} Scholars of the U.S.–EU relationship in the context of regulatory relations have repeatedly pointed to geopolitical and market-structure variation in the extent of national adoption of the Solvency II standard, which is also indicated in the current study on fragmented supervisory philosophies.^{23,24,25}

Regardless of these contributions, the current research has a number of limitations associated with it. First, the area of jurisdiction, however varied, cannot be a complete reflection of the global regulatory environment. The chosen areas act as powerful reference points, but there are numerous upcoming markets with the new developing insurance markets that do not come under the analysis. Second, the research is based mostly on doctrinal and policy-based content, which might be inadequate to describe industry-level behavioural responses or even workable compliance strategies. The unavailability of empirical market data (e.g. effects on costs, effects of claims, firm-level compliance measures) restricts the capacity to estimate the operational implications of regulatory fragmentation. Furthermore, the dynamism of digital insurance oversight is high, and therefore, some regulatory advancements might have developed since this analysis period. Lastly, the publicly available documents will influence the findings, and these documents might not represent informal supervisory practices and negotiated regulatory frameworks that guide cross-border activities outside the public eye.

These findings have strong implications for the regulators, especially as far as the supervisory co-operation and establishment of globally consistent governing systems are concerned. The regulators might have to increase their involvement in the international standard-setting organizations and focus on mechanisms that facilitate information sharing across borders, shared supervision and coordinated enforcement. Mutual recognition and equivalence framework could also come in handy in reducing the repetition of regulations, but nevertheless it requires political will and consistency. There is also the opportunity to advance the discussion on an international insurance regulatory system that is legally binding especially with the increased integration of financial markets. The market system would be further enhanced by creating more certainty in the settlement of disputes whether through arbitration or through recognition of an international judgment.

The implications of the findings to the industry stakeholders are that there is a growing need to both provide strategic alignment of regulatory frameworks and create compliance infrastructure. Businesses that operate in varying jurisdictions must adopt the various solvency standards, data protection standards and reporting standards and possess good governance practices and compliance skills. The further development of cybersecurity and privacy management systems is needed in digital insurance in specific and cross-border data transfer in general. One of the means of reducing the legal uncertainties in case of international operation could be the standardization of contract models, particularly the issues of jurisdiction and dispute resolution. Moreover, insurers can capitalize on the application of technologies that can help them to make regulatory

reporting and international data management, and offer more responsive responses to the demands of supervisors.

Future studies may address the empirical aspects of cross-border regulatory issues by investigating industry-based measures, including compliance costs, time-to-market measures and how equivalence or mutual recognition agreements affect the behaviour of firms. The heterogeneity of regulatory modernization efforts would be more adequately explored through comparative studies that involve other emerging markets. The impact of digital platforms, AI-based insurance products, and global data mobility on the uniformity of cross-border supervision is also a possible topic of further research. Lastly, longitudinal research on the conclusion of IFRS 17 introduction and ICS negotiation findings might provide a very useful outlook into the future of worldwide regulatory integration.

6. Conclusion

The study has shown that the fragmented nature of the regulatory environment and uneven application of the emerging international standards, coupled with inconsistent supervisory approaches, have limited the extent of cross-border insurance transactions. The substantial differences in licensing regulations, solvency conditions, reporting demands, data management regulations, and conflict resolving principles all hampered the effectiveness and foreseeability of the cross-border activities. Even though the actions such as the Insurance Capital Standard, the Solvency II equivalence tests, and IFRS 17 were substantial steps towards the modernization of the regulations compared to the adopted number of them and the variety of their application, they possessed a lesser harmonization potential. Subsequent comparative analysis found out that the jurisdictional difference, particularly between the EU, the United States and the emerging markets was still referred to in determining market accessibility as well as exposure of the operational risks. The results point to the need of a more consistent international coordination to ensure easier interaction of regulatory framework and improved integration of the markets. The current studies can be extended with future studies by including empirical evaluation of compliance costs and operational burden experienced by the multinational insurers. The quantitative assessment of the delay in approval, reporting burden, and the capital resources distribution would provide a clearer picture of the effect of regulatory fragmentation on the firm's behaviour. The book of comparative studies should be expanded to more emerging markets, too, to have the best understanding of regional differences and institutional capabilities. Longitudinal research of the long-term adoption path of ICS and IFRS 17 would also help to understand whether the selected frameworks have a high likelihood of helping to realize significant global convergence.

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