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# E-commerce and Distribution of Insurance Products: A Few Suggestions for an Appropriate Regulatory Infrastructure

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How to develop an appropriate level of regulation is essential to promote this transaction method and to ensure the interests of consumers.

This Article addresses insurance regulation governing electronic commerce and analyses various developed regulatory models and their frameworks. In terms of prudential regulation, it is suggested that operational risk arising from E-commerce should be incorporated into solvency regulation. In encountering with risks caused by electronic transactions, an insurer should be required to hold adequacy of capital and maintain a certain level of risk management. In relation to market conduct regulation, this Article intends to apply behavioural theory to re-examine the current information-based insurance regulation.

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1. See CAPGEMINI ([2012](#)), p. 7.
2. *Ibid.*, p. 10.
3. *Ibid.*
4. *Ibid.*, p. 11.
5. When E-commerce has improved the transaction costs, the Internet and mobile devices have become important tools for insurers to acquire new businesses in several countries, such as Canada, France, India, the Netherlands, Spain, and the US. *Ibid.*, pp. 11-19.

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12. This element mainly focuses on the assessment of the macro-prudential environment and system-wide risks, such as interest rates and longevity risk. *Ibid.*, p. 20.
13. The PRA examines the sustainability and vulnerability of an insurer's business model. Under this assessment, the PRA analyses an insurer's "profitability, risk appetite, performance targets and underlying assumptions, and an insurer's own forecasts and their plausibility". In doing so, the PRA can determine the capacity of the insurer to mitigate risks. *Ibid.*, p. 20.
14. These objectives were also the main task of the FSA before the establishment of the FCR. See Financial Conduct Authority ([2013](#)), pp. 15–32.

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18. *See above footnote 6, p. 8.*

19. *See above footnote 6, p. 9.*

20. Due to fault in the process of information flows, both parties may have disputes over the insurance products. For example, the insurance provisions and conditions are ambiguous on the website. *See above footnote 6, p. 7.*

21. *See above footnote 6, p. 5.*

22. For others concerning strategic risks, *see above footnote 6, pp. 5-6.*

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[1999] OJ L 13/12.

27. Directive 2002/65/EC concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC, [2002] OJ L 271/16.
28. See European Commission ([2000](#)).
29. *Ibid.*
30. Art. 8 (1)(2) of Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market

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relating to taxes or costs, limitations of period for which the information provided is valid, the arrangements for payment and performance and any costs of using the means of distance communication. *Ibid.*, art. 3 para. 1(2).

36. E.g., the existence or absence of a right of withdrawal , and where the right of withdrawal exists, its duration, and the condition for exercising, the minimum duration of the distant contract, information on any rights the parties may have to terminate the contract, practical instructions for exercising the right of withdrawal, the Member State or States whose laws are taken by the supplier as a basis, any contractual clause on law or compete court and languages used in the contract. *Ibid.*, art. 3 para. 1(3).

37. E.g., out-of-court complaint and redress mechanism, the existence of

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44. *See* Uniform Law Commission (1999).

45. E.g., Tennessee, Maryland, and Alaska. *See* Insurance Advocate ([2013](#)).

46. *Ibid.*

47. *Ibid.*

48. For example, it is estimated that nearly 3.1 million auto insurance policies were purchased through the Internet in 2012. *See* Insurance Information Institute ([2014](#)).

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paper which intends to communicate with stakeholders has been published in November 2013. This paper indicates that it is possible to have more specific regulations governing insurance business in E-commerce in the future. See Canada Electronic Commerce Committee (ECC) in Canada Council of Insurance Regulators (CCIR) ([2013](#)).

57. Xinhuanet News ([2013](#)).

58. China Insurance Regulatory Commission ([2014](#)).

59. China Insurance Regulatory Commission ([2014](#)), *para* 2(1)-(5).

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68. See Llewellyn ([1999](#)), p. 35.

69. *Ibid.*, p. 22.

70. It is observed that the characteristics of financial products are different from other goods and services. For instance, “it may be a long time before the consumer is aware of the value and faults of a financial product”. This can usually be found in the disputes arising from insurance contracts in the event of accident of insured or damage of insured properties. *Ibid.*, pp. 37–38.

71. *Ibid.*, p. 35.

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that is adjusted to yield the answer. The initial value, or starting point, may be suggested by the formulation of the problem, or it may be the result of a particular computation. In either case, adjustments are typically insufficient. That is, different starting points yield different estimates, which are biased toward the initial values.” See above *footnote* 72, p. 1128, quoted by George et al. ([2000](#)), pp. 195–196.

79. Lin (2010–2011), p. 345. See generally Rabin ([1998](#)), pp. 26–29.

80. See above footnote 72, p. 1115.

81. *Ibid.*

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89. E.g., the main characteristics of the product; terms, exclusions and conditions of that product; the total premium and other charges that the consumer may have to pay; options and coverage. *Ibid.*, p. 7.
90. Unlicensed entities must not “provide advice; hold themselves out as licensed insurers or firms; or post insurance publications, which could mislead a consumer into thinking they are an insurance provider”, *ibid.*, p. 12.

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