INNOVATION ABOUNDS

OPPORTUNITIES FOR GROWTH IN THE GLOBAL MGA MARKET

OCTOBER 2024

GLOBAL INSURANCE LAW CONNECT

CONTENTS

INTRODUCTION

Welcome to the first Global Insurance Law Connect report on the *Managing General Agent (MGA)* market.

MGAs have long been a thriving part of the mainstream global insurance market, providing a unique environment for new insurance ideas and allowing small teams to innovate and demonstrate agile approaches to service and claims. MGAs can also enable start-up entrepreneurial underwriting teams to gain backing from good quality capacity without the need to be directly regulated. As a result, the number of MGAs has grown in most major global insurance markets over the past decade, particularly in the US and UK. More recently, less developed insurance markets have noted the innovation that MGAs can bring to end customers, and some have taken steps to encourage their own MGA ecosystem to develop.

With such global interest in the MGA business model, Global Insurance Law Connect recently asked our members across five regions — Asia-Pacific, Europe, the UK, the Middle East, and Latin America — to provide an analysis of MGA activity in their local markets.

The results of this survey highlight the variations in approaches to their establishment and use by insurance markets in 18 countries. They also demonstrate how insurers and distributors in every region can leverage MGAs to support innovation across products, claims, technology, and service. In multiple different ways, MGAs are healthy for the insurance market, and this is reflected in their ongoing growth and widening geographical spread.

Despite some recent predictions that the MGA market would soon become saturated, our research found that this is still a rapidly growing market that is increasingly providing solutions the commercial and consumer markets have struggled to fulfil.

Our research also showed that regulatory approaches are crucial for the growth and success of each MGA market. Regulators differ widely in their supervisory control of MGAs. Some countries have no immediate plans to legislate to include MGAs in insurance regulation, and regulators in these countries seem to be less aware of the benefits MGAs can bring. As a result, these markets tend to be inactive with few MGAs, if any. Other jurisdictions are open to the establishment of MGAs but leave regulation of these businesses to be covered by existing insurance laws.

In contrast, a growing group of jurisdictions have introduced specific regulations for MGAs to recognise their regulatory differences from other insurance entities and to promote further growth in the MGA sector. The introduction of such legislation has been a significant factor driving growth in countries including Australia, Belgium, and the United Arab Emirates.

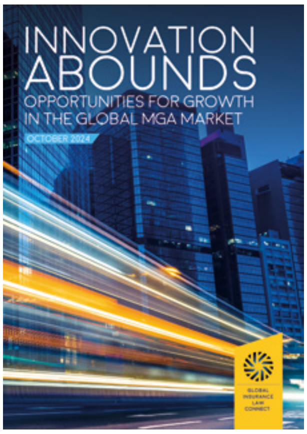
Finally, with an increasing interest in establishing MGAs we have examined, region-by-region, some of the creative ways in which the MGA sector is expanding; whether providing underwriting solutions for niche or specialty commercial lines, providing tailored products for the personal lines market, or collaborating with the insurtech sector to create digital insurance solutions.

The insights shared by our members illustrate the MGA model's global adaptability to meet specific market needs and create new growth and distribution opportunities for established players, as well as attracting entrepreneurial talent to the insurance sector.

Best wishes

Gillian Davidson
Global Insurance Law Connect – Chair

If you would like to get in touch regarding the content of this report, please contact Michaela Hickson at michaela.hickson@globalinsurancelaw.com



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MGAS:
A GROWING GLOBAL PHENOMENON

Despite predictions in recent years that delegated authority business was fast approaching 'peak MGA', appetite in the global insurance industry for the innovative and agile distribution channel that MGAs represent is booming again, and in many new and different ways.

The initial surge in MGA formation in the early noughties was prompted by a wave of demand for specialist coverage in areas where traditional markets were found to be lacking in either capacity or expertise. Increasingly, however, the MGA market is also closely linked to the growing digitisation of insurance products and services, the delivery of on-demand personal lines coverage, and growth in tailored policies for professionals and small business owners.

More (re)insurers are now partnering with MGAs in order to capitalise on market hardening and expand their footprint, attracted by their specialist expertise and agility in bringing products to market. MGAs are also seen as being less encumbered by legacy technology and are more likely to be at the leading edge of innovation in insurance, particularly with respect to the insurtech space.

In essence what we begin to see is that MGAs serve as an informal zone for more experimental products and ideas the world over. Their backing by recognised capacity allows them credibility, while their independent management and underwriting also allow them to think differently about how to service clients and solve new risk problems, such as how to insure vulnerable properties in the era of climate change. Together these attributes make them a valuable part of the global insurance ecosystem, as well as one which takes in an increasing amount of GWP and is attractive to investors, including private equity.

WHAT IS THE GLOBAL VALUE OF MGAS?

Recent analysis from insurance industry analysts Insuramore[1] shows that MGAs, MGUs and coverholder groups generated revenue of around USD 23.9 billion worldwide in 2023, of which 70-75% came from the direct commercial property and casualty (P&C) insurance market.

According to the report, this represents an annual growth rate of over 20% compared to 2022, almost double the rate of growth over the same period in the global insurance broking sector, with MGAs estimated to have written over USD 200 billion in premiums globally.

It is a notable tribute to the financial value of this sector that many markets are also now seeing the rise of specialist MGA support businesses, or 'incubators'. These provide back-office services to young MGA businesses, help them with the regulator and systems set-up and sometimes also help to broker deals on capacity for them at the start-up stage. This institutionalisation of the MGAs' route to market helps to build and maintain the pipeline of new businesses being launched.

1. Revenues: MGA / MGU Group Global Rankings, Insuramore, 11 June 2024

LEADING MARKETS ARE WELL-ESTABLISHED

The US is a major market for MGUs, as they are known locally, accounting for half of global MGA premium in 2023, according to analysis by insurance asset management firm Conning.[2] Of the estimated USD 102 billion written by US MGUs, more than USD 14 billion was written by fronting companies, and around USD 7.5 billion was binder business written by Lloyd's syndicates.

The UK MGA market also continues to grow at pace, reportedly generating at least USD 5.7 billion in premium annually. Other significant and growing MGA markets outside the US include the Netherlands (USD 4.62 billion), Australia (at least USD 3.8 billion), and Canada (at least USD 3 billion).[3]

In the Middle East, there is also a highly active MGA market in the United Arab Emirates, where MGAs are playing a key role in the growth of the wider insurance market in the region.

The picture across Europe is more variable, with niche markets evident in Austria, Denmark, France, Poland and Switzerland, a small but growing market in Germany, and significant recent MGA growth in Belgium, Ireland and Spain. Most European markets have some form of MGA ecosystem, although many are still extremely undeveloped. Opportunity exists here for a surge of growth.

As Jesper Ravn, partner at Ark Law in Denmark, explained: "It is hard to predict how the Danish MGA market will evolve in the coming years. The number and size of MGAs is still relatively limited, with the major exception of RiskPoint, which has established itself as a global leader in the W&I insurance market."

However, Dr Clemens Völkl, partner, Völkl Rechtsanwälte in Austria, commented: "The MGA market in Austria is small, with a focus on forestry and agriculture, manufacturing, logistics and niche motor risks (vintage, classic and premium sports cars). There are also a few MGAs that specialise in property damage and professional liability."

SECONDARY MARKETS POISED FOR GROWTH

In less-developed markets MGAs are also being recognised as a useful innovation tool and in some places growth could be explosive.

The wider Asia-Pacific market is expected to be a big growth area for MGAs. Although they remain in their infancy in China, they are gaining ground in key financial centres such as Beijing, Shanghai and Shenzhen. India has yet to approve their operation, but the insurance regulator is reported to be considering their use, and MGAs are able to operate in Gujarat International Finance Tec-City if they register as an eligible entity under the regulatory authority.

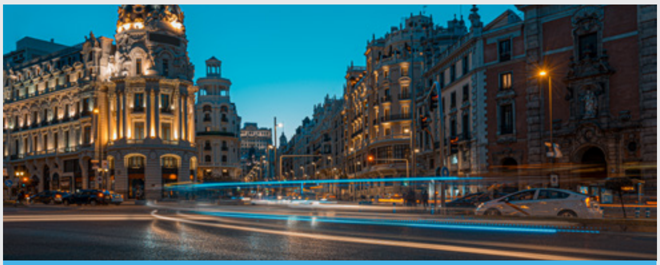
In Latin America, the maturity of the MGA sector varies greatly between markets. The relevance of MGAs has increased in Brazil, particularly since its reinsurance market opened up to foreign investment in 2007.

Meanwhile, the Mexican MGA market has grown significantly in recent years. Aldo Ocampo, partner at Ocampo 1890, explained: "The growth in the MGA market has been driven by the need for specialised insurance solutions and increased market efficiency, in a market where insurance penetration remains relatively low and traditional insurers may not always meet specific needs."

However, currently there are no MGAs in Chile. Patricio Larrain Prieto, partner at Prieto Abogados, commented: "We do not expect they will be authorised to operate in the near future. This would require the approval of a law in Congress, which takes time. In addition, there are currently too many players in the Chilean insurance market."

THE ROLE OF LLOYD'S AS A GLOBAL MGA LEADER

Finally, it is important to recognise the role of Lloyd's in the global MGA market, both as a source of capacity, but also as a marketing agency to share information about the existence of MGAs and the benefits they can bring to carriers and customers alike. As it has been for many years, Lloyd's continues to be a key player in the MGA space and the largest single market for MGAs; and has been an additional driver of MGA formations in countries like Belgium and Australia.



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PATRICIO LARRAIN PRIETO, PARTNER, PRIETO ABOGADOS

2. U.S. MGA Market Grows Swiftly - Exceeds $102 billion in Premium in 2023, Conning, 11 July 2024
3. Figures from MGA market associations, reported in an October 2023 commentary by Conning, and published by Program Manager, 16 October 2023: Global MGA market tops $110bn as US market exceeds $90bn

A FAST ROUTE TO MARKET: THE GROWING ROLE OF MGAS IN RISK INNOVATION

Although innovation is widespread, the growth curve for MGAs does have two clear major themes. MGAs are used in almost every country to support expansion into niche or emerging lines; and to bring innovative and cost-effective solutions to the consumer market.

TECHNOLOGY DELIVERED

Technology is a driving force behind these innovative solutions. "MGAs are leveraging advanced tools like AI and data analytics to improve underwriting processes, streamline claims management, and improve customer engagement. MGAs are also expanding into emerging markets and niche sectors that traditional insurers may overlook," according to Fernando Blanco Gamella, partner, Blanco & Asociados Abogados in Spain.

Almost all territories see a growing role for MGAs in the tech space. This is not just in terms of using technology to improve processes; but MGAs can also be a great route to market for insurtech developers or as a digital distribution platform for traditional market players. In this case, the model provides both a low-cost alternative for tech entrepreneurs to set up an insurance platform distributing innovative insurance solutions, and a partnership opportunity between the tech space and brokers/insurers to develop new products based on cutting-edge technology.

The UK MGA market is also benefiting from incubation schemes such as the Lloyd's Lab and Howden Ventures, which bring together investors with tech entrepreneurs and insurance specialists to create innovative solutions.

In short, new ideas can get to market more quickly through the MGA distribution model, and with lower risk to large carriers who are interested in experimenting with a new idea.

INSURING THE UNINSURABLE

Climate change is, of course, one of the biggest global insurance stories of our age. Here too MGA innovation can be useful. In tandem with the wider insurance industry, climate-related natural catastrophe covers are a growing area of development for MGAs.

This is particularly true for Australia, where the Australian Prudential Regulatory Authority's Executive Director of Insurance, Sean Carmody, recently reiterated that as many as 1 in 25 Australian homes are expected to be uninsurable by 2030. Carmody added that with the expectations of increased frequency and severity of climate change-driven extreme weather events, there was the accompanying expectation of "an emerging insurance crisis." Here, specialist flood risk mitigation products and new parametric covers are being brought to market under MGA cover, supporting initial efforts to resolve this emerging property insurance challenge.

This is not just true of Australia. In the UK, Beale & Co reports seeing major growth with respect to technology, with MGAs creating bespoke insurance products in areas such as parametric cover for flood risks. MGAs are also a leading driver of the growing use of drones across a range of commercial sectors to analyse risks and assess hard-to-access damage in devastated natural catastrophe areas.

The expansion of the renewable energy sector also promises to generate some huge opportunities for the (re)insurance industry, and MGAs' specialist underwriting expertise is likely to play a growing role in delivering solutions for renewable property, construction, liability and business interruption risks. Alongside this, the wider emphasis on sustainability is driving appetite for insurance to cover a range of green industries and environmental initiatives.

"THE CONTINUING COMMODITISATION OF THE PERSONAL LINES SPACE COMBINED WITH RISING PROPERTY VALUES AND PREMIUMS, IS ALSO MOTIVATING INSURERS TO OUTSOURCE THE MARKETING AND DISTRIBUTION OF SPECIALIST INSURANCE LINES TO MGAS."

GILLIAN DAVIDSON, PARTNER, SPARKE HELMORE LAWYERS

A WAY INTO A NEW MARKET

In some markets, the use of MGAs is expected to grow as a lower cost solution for foreign insurers looking to establish in certain markets, through cooperation with local insurance entities. In Greece, KG Law views this as the most likely opportunity to grow the sector in the near-term, particularly for consumer products such as health and motor.

Robert Byrd, partner, Byrd & Associates in France, commented: "In France, the MGA model is mostly chosen by insurtech companies. However, as part of a long-term strategy, it can also be an intermediate step for insurers before setting up an insurance company, to test the market and gain field experience."

Poland currently has a small MGA sector focused on personal lines such as motor and with potential to grow through niche products such as gap insurance, but Jakub Pokrzywniak, partner at WKB Lawyers in Poland, commented: "There will also be a trend of new fintech-based MGAs to address opportunities in the market for distribution of insurance products via mobile phone apps."

CREATING SPECIALIST COVERS AND FILLING NICHE CAPACITY GAPS

Niche and emerging lines are viewed by many as a natural home for MGAs, for both insurance and reinsurance capacity, not least because the specialist underwriting knowledge available within underwriting agencies means they can often respond to market demand more quickly than traditional carriers.

Gillian Davidson, partner at Sparke Helmore Lawyers in Australia, commented: "The continuing commoditisation of the personal lines space combined with rising property values and premiums, is also motivating insurers to outsource the marketing and distribution of specialist insurance lines to MGAs."

Cyber is commonly cited as one of the leading growth areas where MGAs are bringing new ideas to a global market that has seen both a chronic lack of capacity and a gradual retrenchment of terms from major insurers. However, cyber is mentioned alongside marine aviation and transportation (MAT) lines, motor fleet, construction, agricultural and crop insurance, financial lines such W&I/R&W and surety, and various types of professional liability cover, particularly D&O, as well as fine art and specie. This is a wide list of cover types and demonstrates the flexibility of the MGA model, which can adapt to any type of underwriting approach or line of cover.

MGAs are also able to launch or pivot rapidly to meet new local demand. For example, Lyndon Richards, partner at Beale & Co in the UAE, commented: "In territories such as the UAE, where sovereign wealth funds are allocating significant investment capital to large infrastructure projects, the need for specialist construction coverage is likely to benefit the MGA market, with the industry regarded as 'low-hanging fruit'." In a similar vein, Sparke Helmore Lawyers suggests that there is likely to be a sharp increase in demand for sports cover in the run-up to the 2030 Olympic Games in Brisbane, and this could increase MGA focus on this specialist area in Australia.

In a year in which political instability and social unrest seem rife, there has been an inevitable rise in interest in coverage for political violence and terrorism risks. The emergence of standalone markets for these risks, especially after property all-risks insurers started excluding them, has also driven MGA growth in this area.

These examples, ranging from construction to terrorism and sport, demonstrate just how specialist covers are delivered by smart MGAs whose underwriters recognise and can take advantage of a new market opportunity.

PERSONAL LINES WILL SEE MGA GROWTH TOO

Personal lines business deserves a special mention as a growth opportunity by itself. MGAs are providing a digital platform for coverage including travel, accident and health insurance, and motor.

Jan Holthuis, partner at Buren Legal in China, commented: "In China, the small but developing MGA market is expected to see robust growth via personal lines business, with life insurance thought to be the main opportunity for growth." Datebao, which kick-started adoption of the MGA model in China, has partnered with online insurance platforms to market and distribute solutions including the "Family Bucket" life insurance product.

MGAS AND CLAIMS

MGAS CAN BE A FULCRUM FOR THE ADOPTION OF NEW CLAIMS TECHNOLOGY

As the MGA market grows in size and scope it is inevitable that it will receive and process more claims. However, the extent to which MGAs are authorised to handle claims varies across territories: in some countries, claims handling is either undertaken by insurers or outsourced to third party administrators (TPAs), rather than residing with the MGA.

In Australia, for example, while MGAs have the option to amend their licence to be authorised for claims handling services in accordance with recent regulatory changes, Gillian Davidson, partner at Sparke Helmore Lawyers in Australia, commented: “There has been a continued trend towards the outsourcing of claims to TPAs, both direct from insurers and by intermediaries with claims binders (subject to the insurers’ consent).”

A general talent shortage in the insurance sector has also driven increasing interest in offshoring claims, but this option is complicated by the regulatory restrictions around privacy consent and the potential need to have onshore personnel involved in the claims process.

However, more widely it appears that MGAs are likely to be given more opportunities to manage claims where they do not already have that authority from insurers.

Technology is expected to be a significant driver of both a greater volume of claims handling by MGAs, more efficient processing and, in some cases, automated claims management systems. A number of GILC members have expressed the view that AI, machine learning and data analytics will play a growing role in claims handling, to both streamline processes and improve the accuracy of claims assessment.

MGAs are likely to play a key role in improving the customer experience by offering turnkey digital platforms for submitting and tracking claims, in line with growing consumer demand for seamless digital interactions. This is proving an increasingly attractive option for insurers to both reduce the cost of bringing new products to market and leveraging the capabilities of MGAs’ digital platforms, with some carriers setting up ‘white label’ subsidiaries that interact exclusively with MGAs.

Interestingly, while MGAs have typically carved out a place in the insurance ecosystem by providing technical underwriting capacity for specialty lines and niche risks, or by filling the risk gap in distressed lines of business that traditional carriers have retreated from, they could also find use among traditional insurers for improved claims handling services.

In Switzerland, Dominik Skrobala, partner at gbf Attorneys-At-Law, noted that: “While the consumer landscape is becoming more technology-driven, industrial insurers are continuing to look for ways to improve their claims handling efficiency. Any MGAs that can offer solutions in this area should find strong demand in the market.”

“WHILE THE CONSUMER LANDSCAPE IS BECOMING MORE TECHNOLOGY-DRIVEN, INDUSTRIAL INSURERS ARE CONTINUING TO LOOK FOR WAYS TO IMPROVE THEIR CLAIMS HANDLING EFFICIENCY. ANY MGAS THAT CAN OFFER SOLUTIONS IN THIS AREA SHOULD FIND STRONG DEMAND IN THE MARKET.”

DOMINIK SKROBALA, PARTNER,
GBF ATTORNEYS-AT-LAW

INVESTOR BACKING WILL SEE CONTINUED GROWTH

The outlook for future growth in the MGA sector is positive. One aspect of that not previously covered in this report is the interest from investors in backing MGA startups, and the involvement of MGA 'incubators' such as Accelerant's US and UK vehicle Mission Underwriting. Mission provides back-office support to a stable of MGAs and supports them in sourcing their capacity. This type of model is becoming increasingly common, giving MGAs a supportive structure that also reassures capacity providers that their investment is being well managed and will not be hindered by typical start-up operational problems.

In fact, investors have long been positive about the returns that MGAs can generate, and this continues to be a theme. Global credit ratings agency AM Best's report on MGAs particularly referenced the continued interest from private equity firms who see MGAs' ability to generate stable cash flows as an attractive investment opportunity.

AM Best also referenced the continued interest from private equity firms, who view the Delegated Underwriting Authority Enterprises (DUAE) segment's ability to generate stable cash flows as an attractive investment opportunity.

However, not everything in the garden is blooming. AM Best also suggested that the sector needs more oversight. This is clear from the results of our member survey, that many national regulators take a hands-off approach for MGAs, without any specific oversight suited to their innovative and fast-moving business model. It is to hoped that more regulators around the globe will begin to develop specialist MGA legislation which gives the sector a better opportunity to flourish and recognises its unique risk profile, based on the small size and fast pace of these businesses. With such oversight in place, markets can grow rapidly, as can be noted in the example of Belgium, where an interested regulator and the involvement of Lloyd's have created a strong hub for local MGA innovation (see section on page 11 'Europe poised for growth').

This example emphasises the benefits of a clear regulatory framework for developing a functional MGA market in individual jurisdictions.

US AND UK WILL CONTINUE TO LEAD THE GLOBAL MARKET

While the US is by far the leading market in premium volume for MGA business, the UK MGA market is expected to see continued growth in the short term, particularly due to continuing private equity interest in the model.

AM Best noted the MGA sector's sustained global growth, particularly the continuing double-digit growth in the US in 2023, citing its ability to provide solutions for under-served and emerging risks, its partnerships with specialty carriers, and its importance as a distribution channel for surplus lines business.

In the UK, MGAs are seeing growing competition from companies based in low-tax jurisdictions such as Bermuda and the Channel Islands, due to more favourable tax and regulatory regimes, but Beale & Co expects growth in offshore MGAs to plateau as the market softens.

According to Ross Baker, partner at Beale & Co in the UK: "Some buyers in the UK market still lean towards the traditional insurance sector due to concern about the longevity of MGAs, while some brokers perceive them as a threat to their own placement facilities."

With all this said, growth continues to be strong. To counteract the concerns about MGA longevity, there is a growing trend for new businesses to secure multi-year capacity deals.

With these in place, MGAs are better able to reassure their brokers that they are worth investing time in, and placing client business with, on the basis that they will be around for the medium to long term.

> "SOME BUYERS IN THE UK MARKET STILL LEAN TOWARDS THE TRADITIONAL INSURANCE SECTOR DUE TO CONCERN ABOUT THE LONGEVITY OF MGAS, WHILE SOME BROKERS PERCEIVE THEM AS A THREAT TO THEIR OWN PLACEMENT FACILITIES."
>
> ROSS BAKER, PARTNER, BEALE & CO

ASIA-PACIFIC RISING

The Australian market is one of the most innovative users of the MGA structure; and MGAs deliver much wider benefits than the small business problem-solving product solutions than they do elsewhere. For example, in Australia, the consolidation of the intermediary space has continued to concentrate a large proportion of broker market share among a handful of the largest companies. The provision of back-office services — research, agent training and computer software — is increasingly provided by the larger broking networks. This means that the smaller agents, dealing with clients, pay a fee for these services, which may be in the form of a shared commission.

Another area that is expected to grow is around trade associations and industry bodies setting up discretionary risk mutuals for more challenging covers such as professional indemnity and public liability. The mutuals self-insure the first layer deductible and then place upper layers into the traditional insurance markets via MGAs.

More widely, there is a growing role for MGAs in the Australian market as risk advisors and underwriting experts, in addition to placing risks.

Elsewhere in Asia, China is also an open door for MGA growth. China has the vast consumer base that lies behind the country's position as the world's second-largest asset and wealth management market, and this provides substantial opportunities for MGAs. With insurance market expansion supported by new technology as well as government encouragement of innovative business models, more traditional insurance companies in China are recognising the benefits of MGAs, while regulatory clarity and support from financial authorities could further propel the market forward.

Currently, MGAs are not eligible to operate in the Indian insurance market. However, the Indian insurance regulator is examining the scope of MGAs in the Indian market and there could be the potential for opening for MGAs in future.

Sakate Khaitan, partner at Khaitan Legal Associates in India, commented: "It is expected that once the regulatory environment is created for MGAs in India, some of the current insurance intermediaries, who as of now are only allowed to focus on distribution, may have a bigger role to play in the scheme of things, revolving around product development and underwriting expertise for specific business segments."

"IT IS EXPECTED THAT ONCE THE REGULATORY ENVIRONMENT IS CREATED FOR MGAS IN INDIA, SOME OF THE CURRENT INSURANCE INTERMEDIARIES, WHO AS OF NOW ARE ONLY ALLOWED TO FOCUS ON DISTRIBUTION, MAY HAVE A BIGGER ROLE TO PLAY IN THE SCHEME OF THINGS, REVOLVING AROUND PRODUCT DEVELOPMENT AND UNDERWRITING EXPERTISE FOR SPECIFIC BUSINESS SEGMENTS."

SAKATE KHAITAN, PARTNER, KHAITAN LEGAL ASSOCIATES

EUROPE POISED FOR GROWTH

In leading European insurance markets such as France and Germany, the expectation is that the MGA sector will continue to grow and evolve in the coming years. But it is likely that this growth will come at a slower pace in some of the less developed markets in Europe.

Regulatory support is key. In Belgium, the number of MGAs has been steadily growing each year since the Insurance Act was amended in October 2023, with 56 MGAs registered with the FSMA as of the end of 2023. Sandra Lodewijckx, partner, Lydian in Belgium, explained: “This trend is expected to continue as new MGAs establish themselves in Belgium and more existing insurance intermediaries change their status to that of an MGA.”

A number of MGAs have settled in Belgium to conduct distribution activities in Europe through the EEA passporting system, while an additional driver of growth has been the establishment of Lloyd’s Insurance Company S.A. (Lloyd’s Europe), which now conducts much of its (re)insurance business in the EEA through its head office in Brussels.

Even in less established markets there is clear interest in the model, and the possibility of further developments, but as Kyriakides Georgopoulos (KG) Law notes about the Greek market, there is the need for greater legal and regulatory clarity around the status of MGAs and greater buy-in from local insurers for delegating underwriting authority to MGAs if the market is to develop successfully.

Zaphirenia Theodoraki, senior associate at KG Law in Greece: “Although there are currently few MGAs in Greece, we have already been approached by clients who are interested in exploring the possibility of entering the Greek market in order to operate under this business model. In the coming years, we expect that more parties will express interest and will require assistance in relation to the operation of MGAs in Greece.”

Both Spain and Switzerland seem poised for growth in their respective MGA markets, driven by growing demand for niche, personalised and specialist insurance products, the continuing digitisation of the insurance sector which is driving better data analysis, operational efficiencies and an improved customer experience, and the cost efficiencies and greater agility the model offers to insurers seeking to grow their digital presence.

The scale of the Italian MGA market is more difficult to assess, with no official sources on the exact number of Italian insurance agencies structured as MGAs. According to Giorgio Grasso, partner at BTG Legal in Italy: “There is a growing opportunity for MGAs offering specialised products such as cyber and fine art and specie, and a growing focus in the local market on digitisation of insurance processes and insurtech.”

In Ireland there are both internal and external drivers for the growth of MGAs. Tara Cosgrove, partner at Beale & Co in Ireland, explained: “The improved landscape for personal injury claims, the increased demand for bespoke insurance products and specialist underwriting expertise, and the ability of MGAs to quickly respond to customer demand and market conditions will all contribute to its expansion.”

And as with other EU countries that licence MGAs, Ireland is an attractive market because of the ability to passport into EEA countries. However, there are indications that growth could be inhibited longer-term if the current shortage of underwriting capacity continues.

MIDDLE EAST GROWS AT PACE

In UAE, the indications are that MGA market expansion will keep pace with growth in the wider economy and an increasingly sophisticated workforce in the region. The Dubai International Financial Centre (DIFC) estimates that MGAs represent around 43% of the DIFC’s 120 insurance entities, contributing around USD 2.1 billion of gross written premiums.

Against a backdrop of an estimated 20% growth in the (re)insurance sector in the UAE, the general consensus is that this overall trend will continue alongside increased infrastructure spending and growing insurance penetration in the region. Although this comes from a fairly low base, it offers increasing optimism for insurance market growth in the coming years.

REGULATIONS THE KEY TO LATIN AMERICAN GROWTH

Although the MGA market in Brazil has grown rapidly since the market opened up for the cession of risks to foreign reinsurers in 2017, and due to the growing sophistication of (re)insurance coverages available in the market, it is difficult to assess how the MGA market will develop in the near future, with the likely approval of the Insurance Law bill (PLC 29). João Marcelo dos Santos, partner at Santos Bevilaqua, commented: “It is expected that there will be a significant impact on large risks, reinsurance and specialised coverages – all markets in which MGAs have been active – but whether that impact is positive is currently uncertain.”

Aldo Ocampo, partner at Ocampo 1890 in Mexico, commented: “In Mexico, the MGA market is poised for growth, to meet the need for niche and specialised insurance products and for greater flexibility in delivering insurance solutions. Alongside the positive influence of technologies such as data analytics and artificial intelligence, a favourable regulatory environment in Mexico and government initiatives to increase insurance penetration are expected to create an environment that is conducive to the growth of MGAs. Strategic partnerships with international insurers will further boost this segment.”

CONCLUSION

There can be no doubt that MGAs are an indicator for growth and innovation in any insurance market. They facilitate entrepreneurial ideas and new risk solutions and provide a proving ground for new technology and distribution solutions.

As such, advisory support is needed, as well as backing from a supportive and understanding regulator, prepared to recognise their unique attributes and ability to grow and change the market.

The use of MGAs varies significantly around the world. In certain markets, they are used to fill capacity gaps and introduce niche underwriting ideas. In some places, MGAs help larger insurers stay innovative, while in others they showcase and support outsourcing models for claims and distribution. Even in countries where MGAs are yet to take off, this is certainly a marketplace that is growing and is likely to continue doing so for the near future. Investors and private equity are also supportive, and a whole new culture of MGA incubators will only increase the number of new businesses entering the market.

But consumers must be protected. As with all new and emerging models, there will be legal implications that will require the support of specialist insurance lawyers. We hope this overview gives a clear picture of the MGA market in each country where we have members and provides insight into its future development.

APPENDIX:
LEGAL AND REGULATORY REGIMES BY COUNTRY

AUSTRALIA

In Australia, MGAs are known as underwriting agencies and require an Australian Financial Services Licence (AFSL) to carry on financial services business. Because licensing does not distinguish between brokers, agents or underwriting agencies, any AFSL holder with the correct 'issuing' authorisation can be granted new business or a claims binder by a general insurer.

If holding a claims binder, however, agencies must also now be authorised specifically for claims and settling services, which was formerly an exempt service for general insurance. In 2023, many MGAs varied or applied to vary their licence in order to meet the new requirements.

Foreign insurers can conduct insurance business via an MGA in Australia if they have authorisation from the Australian Prudential Regulatory Authority or are a Lloyd's underwriter.

Changes to the definition of retail and wholesale clients may see the requirement for existing licensees to seek variations of their AFSL or modification of the products that they participate in.

AUSTRIA

The legal landscape for setting up MGAs in Austria has not changed significantly; there are no specific legal and regulatory issues related to the operations of MGAs and also no further legislative projects on the horizon. The provisions of the Insurance Contract Act, the Broker Act and the Insurance Supervision Act continue to apply.

Foreign insurance companies domiciled outside the EEA require a licence from the Financial Market Authority (FMA) to operate in Austria; insurers domiciled in another EEA member state do not require any further authorisation to operate in Austria.

Depending on the specific structure of an MGA's competencies, it may be that it requires a business licence or that it must cooperate with the FMA (Section 109 Insurance Supervision Act), but assessment of the need for a licence is always on a case-by-case basis.

BELGIUM

The Belgian 'Brexit Act' (the law of 3 April 2019 on the withdrawal of the UK from the EU), which among other laws amended the country's 2014 Insurance Act, introduced a new category of insurance intermediary in the Belgian market, the 'mandated underwriter' (equivalent to MGAs in other countries).

Although several insurance intermediaries were already conducting the activity of mandated underwriters in the Belgian market, their status and role was often unclear. The Belgian legislator therefore decided to formally regulate this category, in order to position Belgium as an attractive insurance marketplace post-Brexit.

Mandated underwriters must register as insurance intermediaries in the register of intermediaries kept by the supervisory authority, the Financial Services and Markets Authority (FSMA), and are subject to similar registration conditions and supervision as insurance brokers, as well as to IDD rules of conduct.

Many MGAs also make use of the EU passporting system, which allows financial service providers to operate in other EU/EEA countries with only minimal additional authorisation requirements.

BRAZIL

MGAs are classified in Brazilian regulation as insurance representatives, with their activities indirectly regulated by the Private Insurance National Council (CNSP) Resolution 431/2021, which also applies to insurers. Insurance representatives must comply with the requirements and conditions of the Resolution, under penalty of sanction for the represented insurer.

There has been no recent indication by the Brazilian regulator that it intends to change the rules on insurance representation. It is important to note that insurance representatives' activities are typically governed by the Brazilian Civil Code, so while the CNSP can exercise regulatory power, the basis for its measures is laid down in the law, providing some regulatory stability for MGAs.

MGAs, when operating on behalf of reinsurers, are not strictly regulated. When operating with local reinsurers, they are subject to the civil law, as representation service providers and agents. When operating with foreign reinsurers, they tend to be treated as service providers and viewed as a 'reinsurance arm', being largely subject to foreign insurance laws and regulations.

However, there are some regulatory restrictions - for example, insurance brokers cannot act as insurance representatives/MGAs in Brazil.

CHINA

At present, there are no nationwide laws and regulations in place in China governing MGAs, but the approach of regulatory authorities differs from province to province, with the metropolitan regions of Beijing, Shanghai and Shenzhen all favouring the setup of MGAs.

All licensed insurers and reinsurers (domestic and foreign) approved by the National Administration of Financial Regulation (NAFR) are entitled to write insurance and reinsurance business. The majority of MGAs in China at present are mature domestic insurers and agents experimenting with the model.

On 3 August 2022, the Beijing Administration issued a draft "Work Plan to Support and Standardize the Development of MGA" (the Beijing MGA Plan), under which the setup of MGAs would require insurance agencies, insurance brokers, or insurance adjusters to either headquarter in Beijing and operate nationwide, or headquarter outside of Beijing but have provincial-level branches in Beijing, and to apply to the Beijing Insurance Agency Association to obtain a MGA qualification.

Under the proposals of the Beijing MGA Plan, there would be compliance requirements for both insurance companies and professional MGA agents, including data processing, the agency scope, marketing requirements, commission accounting and auditing. However, the Plan has yet to be enacted.

DENMARK

The insurance industry in Denmark was regulated for more than a decade under the Danish Financial Services Act, which regulates all financial service providers. The Danish insurance industry lobbied for years for a separate law, which was finally introduced in 2023.

However, Denmark has no specific regulations set up to regulate MGAs and no planned regulatory changes in order to specifically address MGAs.

FRANCE

There is no legal or regulatory regime specific to MGAs at present in France. As the status of MGA does not exist under French law, it cannot be included in a company's Articles of Association and registered as such with the French Commercial Registry.

However, any person or legal entity who markets insurance products to individuals and companies is considered an insurance intermediary, within the meaning of Article L.511-1 of the French Insurance Code and must therefore be registered in the unique Register of Insurance, Banking and Finance Intermediaries (ORIAS).

There are four categories of intermediaries registered with the ORIAS: brokers, general insurance agents, insurance agents and insurance intermediaries' agents. MGAs are at liberty to register under one or more of any of these categories on the basis of the type of services they provide to their clients.

Although the role of a MGA is closer to that of an insurer's agent than a broker who represents the interests of the policyholders, MGAs in France generally opt for the status of brokers, because this status usually allows various underwriting and/or management delegations for multiple insurers. Setting up an MGA in France therefore involves meeting the conditions set out by regulations governing the intermediation and distribution of insurance and/or reinsurance products in France. This includes, among others, the Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, which is due for revision in a few years.

GERMANY

The MGA market in Germany has been growing, following a 2016 verdict from the Federal Supreme Court, according to which brokers were banned from doing claims handling for insurers due to a conflict of interest. Many brokers have since established MGAs in order to continue doing claims handling for certain insurers.

German insurance regulations have not changed with respect to MGAs and there are no upcoming regulatory changes. MGAs are considered to be insurance agents and therefore, they have to comply with the regulatory obligations of insurance agents.

MGAs have special power of attorney from insurers, according to which they are entitled to be sued and to sue (on behalf of the insurer). They are also entitled to underwrite insurance contracts within a special (limited) frame (mostly limited by amounts and certain risks). They are also entitled to do the premium collection and have to pay Insurance Premium Tax to the tax authorities.

MGAs in Germany only work with primary insurers and are not typically engaged by reinsurers. In the German market, there is a strict distinction between brokers and agents, and it is usually only brokers who work for reinsurers.

GREECE

No specific regulatory provisions have been introduced in Greece yet with respect to MGAs. Given that the number of MGAs currently established locally is quite limited, there is no clear view as to the other potential issues that could arise from their operation and hence, the regulatory changes that would be required in order to address them.

The two available licensing options for insurance intermediaries in Greece are as brokers or insurance agents. Greek law explicitly prohibits cooperation between the two types of intermediaries and, given that MGAs typically operate in Greece under an insurance agent licence, the main regulatory issue with respect to their operations relates to how they can structure cooperation with brokers without falling foul of this law.

INDIA

MGAs are currently ineligible to operate under the domestic economic laws of India. The Indian insurance regulator is currently examining the domestic market for MGAs, so while future regulatory changes are possible, there is no clarity to date as to whether the regulator will ultimately permit MGAs to set up operations in the country.

However, MGAs are eligible to register as International Financial Services Centre Insurance Offices (IIOs) in the Gujarat International Finance Tec-City (GIFT City) under the IFSCA (Registration of Insurance Business) Regulations, 2021.

Under these regulations, an MGA who has a valid binding agreement with a specific foreign (re)insurer is eligible to apply for registration as an IIO with the IFSCA and, if granted the certificate of registration to operate as an IIO, is required to comply with all regulations applicable to an IIO.

IRELAND

In 2021, the Central Bank published the Cross-Industry Guidance on Outsourcing which applies to all regulated firms, including MGAs.

In addition to increased Central Bank of Ireland oversight of MGAs, the market is also subject to the indirect impact of Solvency II on MGAs and the requirements of the Insurance Distribution Directive concerning professional standards, transparency in customer dealings and conduct of business rules.

MGAs operating on behalf of foreign reinsurers must ensure they comply with Solvency II requirements and EEA Passporting Requirements, if based in the EU, or in countries where the regulatory regime is deemed 'equivalent' to the EU.

MGAs acting on behalf of reinsurers outside the EU or equivalent countries require specific authorisation and must show compliance with Central Bank of Ireland requirements in respect of governance, solvency and risk management.

MGAs must also amend policy documentation to make it clear to consumers who their insurer is and what country they are incorporated in.

MGAs must comply with Irish GDPR and Consumer Protection legislation.

ITALY

There are no specific regulations applicable to the setup of MGAs in Italy and no anticipated regulatory changes with regard to their setup. MGAs are considered as insurance agents in Italy and are regulated as such, are regulated by Code of Private Insurance and by IVASS Regulation 40/2018.

That said, the Italian insurance supervisory authority (IVASS) recently issued Order 147/2024, published in the Italian Official Gazette on 4 July 2024, which amended the provisions on pre-contractual information referred to in Regulation no. 40/2018, regarding information on the distributor and distribution of insurance products.

The new provisions have been developed with the aim of simplifying the information provided to policyholders and to increase regulatory protection. In light of the above, intermediaries, including agents (and therefore MGAs), will have to provide new pre-contractual information to policyholders.

MEXICO

The Comisión Nacional de Seguros y Fianzas (CNSF) strictly supervises MGA activities in Mexico, ensuring compliance with financial and operational norms. Requirements include regular reporting, audits, and adherence to transparency and consumer protection practices.

MGA operations in Mexico on behalf of foreign reinsurers must ensure compliance with local regulations established by the CNSF, including the above requirements. Proper management of data transfer and information protection is crucial, especially when dealing with foreign entities.

MGAs must maintain clear and constant communication with foreign reinsurers to ensure all parties meet their contractual and regulatory obligations, minimising legal and operational risks. This involves navigating complex regulatory landscapes and ensuring that operations align with both domestic and international standards to avoid legal complications.

The regulations for establishing MGAs in Mexico have evolved to adapt to market dynamics and ensure safe and transparent operations, and recent regulatory changes have facilitated the incorporation of innovative technologies, improving operational efficiency and the customer experience.

Future changes are expected to strengthen the regulatory framework for MGAs in Mexico, enabling further digitisation and simplification of processes, and may address emerging risks to ensure greater protection for policyholders.

POLAND

Since the implementation of the EU Insurance Distribution Directive (IDD) into Polish law in 2018, there have been no significant regulatory changes regarding insurance distribution in the country.

Polish law does not provide dedicated regulations for MGAs, and they currently operate as registered insurance agents (insurance distributors). Loss adjustment operations are usually also held by the MGAs and regulated by the provisions of the Insurance and Reinsurance Business Act with regard to the outsourcing of insurance company functions.

There are no specific issues related to MGAs operations on behalf of foreign reinsurers to date. Polish law does not prohibit fronting and to date, WKB Lawyers is not aware of any challenges from the Polish Financial Supervision Authority to this business model.

SPAIN

There have been a few significant modifications to the legal regime governing MGAs according to the Royal Decree-law 3/2020 on insurance distribution.

Firstly, MGAs are now allowed to underwrite risks on behalf of Spanish insurance companies, whereas previously they could only represent foreign insurers domiciled in the EU. While MGAs were previously only able to act for a single insurance company, they can now act for multiple insurers.

Finally, it has been established that insurance companies may not always be liable for the responsibilities incurred by the MGAs

with which they have a contractual relationship, creating a possible requirement for MGAs to obtain liability insurance.

When conducting operations in Spain on behalf of foreign reinsurers, MGAs must comply both with the regulations of the Royal Decree-law 3/2020 and the General Directorate of Insurance and Pension Funds (DGSFP), which governs insurance intermediation and distribution in the country.

SWITZERLAND

The revision of the Swiss Insurance Supervision Act and the accompanying ordinances and circulars have fundamentally changed the rules of the game for MGAs in Switzerland.

Whereas it used to be possible to be both a non-tied and a tied intermediary in relation to a class of insurance, this is no longer possible. In addition, non-tied insurance intermediaries (brokers) are required to establish a presence in Switzerland before they can be entered in the Swiss Financial Market Supervisory Authority's (FINMA's) register of intermediaries.

MGAs tied to insurers are not affected by this requirement but will still need to ensure proper training and compliance processes, which the insurers doing business with them will have to verify at FINMA's request.

Both factors have led to MGAs having to separate their business into non-tied and tied intermediation, to establish a supervised presence in Switzerland where necessary and meet the new requirements with regard to professional liability insurance, transparency regulations, commissioning, training and further education and corporate governance.

The implementation deadline for certain requirements, in particular establishment requirements, expired at the end of June 2024. The Swiss Financial Market Supervisory Authority (FINMA) is currently reviewing compliance with the new requirements and taking corrective action where necessary.

UAE

The UAE Insurance Authority (IA) has implemented more rigorous licensing requirements for MGAs, in order to enhance transparency, financial stability, and consumer protection.

MGAs are now required to obtain a specific licence to operate, demonstrating their capability to meet regulatory standards.

The licence approval process involves the IA reviewing business plans, the liquidity of MGAs, and the qualifications of key personnel. Applicants must also provide detailed information about their operations, ownership structure, and management team.

As well as being licensed, MGAs must comply with all UAE insurance laws and regulations including those relating to underwriting, claims handling and financial reporting. MGAs also have to comply with data protection laws and regulations and their operations should not adversely affect policyholders' rights. Furthermore, they must comply with anti-money laundering regulations as well as those concerning combatting the finance of terrorism.

Reinsurance agreements must comply with UAE laws and regulations which, amongst other things, must include clear terms on the extent of the MGA's authority and responsibilities of the foreign reinsurer.

UK

The regulatory landscape for setting up MGAs in the UK has evolved over the years, reflecting broader changes in financial services regulation, increasing focus on consumer protection, and the impact of events such as Brexit.

Since Brexit, UK-based MGAs can no longer rely on EEA passporting rights to operate across the EU and must therefore establish entities in the EU or obtain specific licences to continue operations there.

There has been a continuous emphasis on improving conduct standards within the industry. For example, the Senior Managers and Certification Regime (SM&CR) gives senior managers clearly defined responsibilities.

For reinsurance agreements, MGAs must ensure that products sold through them meet UK consumer protection standards, which may differ from those in reinsurers' home countries.

If the foreign reinsurer is based in an EU country, Solvency II requirements may apply. The UK has been developing its own solvency regime post-Brexit, and MGAs may need to ensure that the foreign reinsurer complies with these requirements, affecting capital adequacy, risk management, and reporting standards.

MGAs must comply with GDPR Regulation and the UK's Data Protection Act, ensuring lawful processing of personal data and adequate safeguards for cross-border data transfers.

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