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Subject: Compliance with regulatory provisions in the event of refusal by an insurer to take in charge for a bodily injury claim occurring in France

All Bureaux,

Following the recent case law of the Court of Cassation, insurers who want to refuse to take charge of a claim must comply with the formalism provided for in the French Insurance Code.

Indeed, the Court of Cassation considered that the provisions of article R421-5 of the Insurance Code should be interpreted as an overriding mandatory provision ('loi de police') within the meaning of private international law. This article only concerns claims with bodily consequences.

For an accident occurring in France, French and foreign insurers, who intend to contest the existence of the insurance contract or invoke a non-insurance or partial insurance, a refusal of coverage enforceable against victims (suspension for non-payment of premiums or termination of the contract) must declare it to the Guarantee Fund and to victims or beneficiaries by registered letter with acknowledgement of receipt at the same time and in the same form.

A company that does not comply with this formalism may be condemned to pay for the damage.

However, the Guarantee Fund has agreed not to avail itself of these provisions in all cases where the guarantee of the French Bureau is due.

The correspondents have been informed of these provisions.

Best regards,

BCF Director



Xavier Legendre