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New Technologies

(Autonomous Vehicles and Robots- Cyber Risks- New Technologies and Insurance Process)

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I. DRIVERLESS/AUTONOMOUS VEHICLES AND VESSELS

1. Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to liability in tort for injuries inflicted by the use of such vehicles or vessels? If so, please provide a short explanation.
Comment: answers may include the liability of drivers, producers of vehicles and the suppliers of satellite technology.

There are no specific laws that have already been enacted in Israel or proposals for laws relating to liability in tort for injuries inflicted by the use of autonomous vehicles and vessels.
The issue of autonomous vehicles has been discussed several times by various committees in the Israeli Parliament; for example, in March 2017 the Economics Committee of the Israeli Parliament held a special meeting to discuss how to prevent or reduce road accidents. The discussions focused on the various measures to achieve this objective, including the use of technology, such as enforcing the installation of life-saving warning systems in vehicles, (such as Mobileye) and encouraging the use of autonomous vehicles. Other than the general discussions of the Parliament, no additional discussions by the Parliament or proposal for laws were held.
There are several associations that promote legislation relating to driverless/autonomous vehicles and vessels such as the Israeli Association for Intelligent Transportation Systems (ITS). ITS has established a special group consisting of experts in order to prepare a position letter which will be presented to the Parliament on steps that should be taken in order to enable the use of Autonomous vehicles in Israel, including required amendments in the Torts Ordinance and the Law for Compensation of Road Accident Victims – 1975 (the Compensation Law). The position of ITS will be presented at the end of 2017, and may lead to change in legislation.

In view of the above, it is clear that technology and reality exceed the legal developments. By the end of 2017, an autonomous driving center is expected to be operative in Israel (jointly funded by the US Department of Transportation and the Israeli Government) which is intended to serve as a trial site to examine the use of autonomous vehicles, implications, risks etc., prior to approving it for public use.

2. Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to compulsory insurance coverage for injuries inflicted by the use of such vehicles or vessels? If so, please provide a short explanation.
Comment: answers may relate to motor vehicle insurance and product liability insurance.

There are no new specific laws which have been adopted in Israel, or proposals for laws, relating to compulsory insurance coverage for injuries inflicted by the use of autonomous vehicles or vessels. The existing legislation in Israel provides a very partial and insufficient solution for such insurance.

The Compensation Law establishes a no-fault system pursuant to which any person who is injured in a road accident in which a motor vehicle was involved, is entitled to compensation without having to prove liability, and regardless of who caused the accident or whose liability it was. The Compensation Law forbids driving a motor vehicle without having a valid insurance policy. This mandatory insurance covers not only the driver's bodily injuries, but also the passengers in the vehicle who were injured and any third party who may have been injured by the motor vehicle.
The Compensation Law applies to anyone who uses the vehicle.

The definition of the term "use the vehicle" is quite broad and applies to anyone who is: "*...driving a motor vehicle, entering or existing thereof, parking...*"

In view of the definition in the Compensation Law, it appears that it does not apply to self-driving vehicles. The law may apply to semi-autonomous cars, where there is a driver in the car who uses an autonomous technology.

Another relevant law is the Motor Vehicle Ordinance - 1970 which states that: No person shall use or allow any other person to use a motor vehicle, unless he or the person who uses the vehicle holds a valid insurance policy pursuant to the provisions of the Ordinance. The Ordinance can be interpreted to apply to any autonomous vehicle/semi-autonomous vehicle where there is a driver in the vehicle, but it is not intended to apply to fully autonomous vehicles.
Therefore, an amendment to the legislations will be required in the future.

We should add that the Israeli Defective Products (Liability) Law -1980 imposes strict liability on manufacturers of defective products. However, this law does not include and imposition of compulsory product liability insurance on manufacturers.

3. How do you envisage the future of personal lines in motor vehicle insurance in the next 5-10 years in your jurisdiction?
Comment: you may wish to comment on the future of motor vehicle insurance and the plans being made by the industry for new products

We expect significant changes in the future in personal lines in motor vehicle insurance. Technology will penetrate the insurance of motor vehicle in many ways. The purchase experience of this type of insurance is expected to be mainly digital through the internet, either directly from the insurance company or through an intermediary (the broker) who will also have a digital platform. These sites will offer the client an easy and rapid service of comparing insurance prices, terms and on-line purchase of the insurance.
Currently in Israel such website is already operative - Wobi (in cooperation with the leading insurance companies in Israel), which offers such a service.
This is a form of marketing that characterizes new competitors with the potential to reduce insurance premium.
The role of the insurance agent in this form of marketing is expected to be negligible, unless the insurance agents will take the advantage of the development of technology, which enables them to offer a variety of products, with the emphasis on matching each insurance product to the specific costumer.

Another significant change is the decrease trend in the number and severity of car accidents that is expected, in view of implementation of sophisticated lifesaving systems in the vehicles and the use of autonomous and semiautonomous vehicle. These developments are expected to reduce the premium for compulsory insurance. Since personal lines in motor vehicles are the backbone of local insurance companies in Israel, this may have a dramatic impact on the local market.

A good indication about the future may be learnt from the increased use of the technology developed by an Israeli company called Mobileye. This company developed a computerized vision system and artificial intelligence, data analysis, positioning and mapping for driver assistance and autonomous driving. Local insurance companies have required the installation of this system which led to a significant reduction in premium for compulsory insurance (in the region of about 15% to 20%).

We already see a trend, which is expected to increase, of personal insurances becoming more individual compatible, and dependent on the personal data of the insured and the use of the vehicle.
For example, one of the local insurance companies has already launched a special insurance intended for young drivers, which is based on actual use of the vehicle rather than on an annual premium which does not take into consideration the frequency and distance of the vehicle use by young drivers. The insured purchases a "kilometer/mile bank" and pays premium according to the distance he/she drives. For the purpose of this insurance, the young driver uses a special Internet Application developed by the insurance company for the insured's mobile phone. An additional benefit of the system is that it provides feedback about the driving habits of the driver.
Another insurance company has launched a new insurance program which is based on the individual specific driving habits of the insured. Pricing is determined on the basis of monitoring the driver's behavior, while using innovative technology and according to the information gathered about the driving habits of the driver, and his/her "safe driving score". The significance of this score is that carful drivers will pay less premium (up to a 30% discount).
This personalized trend is expected to be a main factor in vehicle insurance in the next 5-10 years.

4. Driverless cars and autonomous vehicles apart, how do you assess the following technological developments that are expected to not only reshape the auto sector but also the insurance industry around it?

(a) connected cars (i.e., Internet enabled vehicles, (IEV));
(b) automated driver assistance systems (ADAS);
(c) car/ride sharing;
(d) alternative fuel vehicles.

Comment: answers may include identifying the legal and regulatory regime and provisions in your jurisdiction.

New combined insurance products will be developed to deal with the new risks associated with these new technological developments, which will include cover for bodily injury as a result of the use of such modes of driving and also include product liability, third party losses, cyber risks and financial losses that may be caused to third parties.

Car/ride sharing is expected to be a significant phenomenon in Israel in the next few years. This will not only influence the driving habits and the expected decrease in the number of cars owned by an average family, but also will require new insurance solutions. Commercial car/ride will require new insurance solutions since the current policies usually exclude commercial rides. Different insurance solutions will be required for social car/riding sharing. Insure-tech solutions are currently being developed for these new requirements.

II. CYBER RISKS

5. Identify the concerns have emerged in your jurisdiction as a result of cyber risks. Is there any legislation in place or under consideration that might affect such risks?

Comment: possible matters include cyber-terrorism, hacking, computer or software failure and financial fraud.

The State of Israel, like all other countries, is dealing with various cyber threats including: hacker and ransomware attacks, denial of service attacks, identity thefts etc.
However, Israel's main challenge today is dealing with cyber terrorism, which, in most cases, is directed by anti-political and anti-Israeli sources against security bodies, military industries, and governmental entities, as well as against the private sector, in an attempt to cause damage to the State of Israel and to Israel's economy.

The Government of Israel established the National Cyber Bureau which works to promote the national capability in cyberspace and to improve Israel's challenges in cyberspace.
One of the objectives of this body is to advance legislation and regulation in the cyber field.

Legislation and Regulation

In Israel, legal cyber related regulation has not kept pace with the rapid technological developments and associated risks involved and, generally speaking, there are no specific regulations obliging an Israeli entity to report about a cyber event to the regulator or to parties who may be affected, including clients, whose personal information may have been leaked as a result of a cyber-attack or other cyber risk.

The existing legislation mainly relates to privacy protection laws, including: the Protection of Privacy Law, the Electronic Signature Law, the Credit Data Services Law, as well as regulations under these laws.

The Israeli Law, Information and Technology Authority (**ILITA**), was established by the Ministry of Justice of Israel in September 2006, with the purpose of becoming the national data protection authority, which regulates personal data protection issues and increases the enforcement of privacy and IT-related offences.
However, since 2006, no specific cyber regulations have been enacted by the Israeli legislator until recently.

In specific areas, such as financial institutions, there has been new regulation. In August 2016, the Commissioner of the Capital Markets, Insurance and Savings issued a circular directed solely to financial institutions, regarding the main principles of proper cyber risk management and the duties of such financial institutions to manage such risks. The circular deals with corporate governance principles which any financial institution must adopt in respect of cyber risk management. It specifically refers to the duties of the board of directors and of the CEO, which include the duty to appoint a special steering committee to manage cyber risks, to allocate sufficient financial resources for handling cyber risks, the duty to establish reporting procedures within the organization regarding cyber threats and the duty to discuss and approve a cyber risk policy by the board of directors on an annual basis. The most interesting duty which this circular includes is, for the first time,

a reporting duty imposed upon the financial institution, to report to the Commissioner, as well as to the board of directors, regarding any significant cyber-attack resulting in disrupted IT systems for over three hours, as well as, in case an indication exists that data relating to clients, members or employees was leaked.

In March 2017, the Israeli parliament approved new Regulations for the Protection of Privacy (Information Security) – 2017. The Regulations establish, for the first time in Israel, a specific updated and comprehensive arrangement regarding protection of databases. They present new duties regarding the management of databases, including the establishment of written information security procedures (similar to WISP in the U.S.). One of the most significant duties, according to the regulations, refers to the duty to report any "severe data breach" to the Database Registrar and to parties whose personal data was compromised.
The Regulations will enter into force in March 2018, and will become the first step initiated by ILITA to impose specific cyber related duties on Israeli entities, and specifically notification duties. Israeli entities are expected to adopt inter organizational procedures and risk management enhancement steps in implementing the Regulations.

6. How has the insurance industry responded to cyber risks? In particular:

(a) do property policies cover losses from cyber risks, or is special insurance required?
(b) is insurance and reinsurance readily available?
(c) are there any special restrictions imposed on cyber risks, e.g. event limits or deductibles?

The penetration rate of cyber policies in general, and in particular in small and medium-sized enterprises (SMEs), has been relatively low until now, and is estimated to be in the region of about 1%. In the last year, there has been a sense of gradual awareness and interest about this important insurance product, but it is far from being part of the basic basket, which management of any company, association, or business entity, deems essential.

Most insurance companies in Israel are now offering a standalone cyber policy or cyber cover as a rider for existing policies.

In many standard property insurance policies, cyber risks are excluded, and thus a special policy or endorsement/rider is required. Other property policies that do not specifically exclude cyber risks do not usually cover the various exposures that are covered by the standalone policies.

There are no special restrictions imposed on cyber risks with regard to event limits or deductibles.

III. NEW TECHNOLOGIES AND THE INSURANCE PROCESS

7. To what extent have the availability of new technologies affected the way in which insurance policies are placed? In particular:

(a) has there been any effect on the traditional use of agents and brokers?
(b) has the underwriting process been affected by the availability of information, particularly big data, from sources other than the applicant for insurance?
(c) has the means of providing information to policyholders changed significantly, e.g. are written documents provided or are policyholders directed to websites?

The availability of new technologies affected the insurance industry in many ways. Many doubt the role of the insurance agencies in personal lines of business, which used to be very significant in the market. As mentioned above, the insurance agents will be relevant in these classes of business only if they succeed to develop new technological tools for the benefit of their clients.
Israel is a hub for insure-tech start-up companies, which develop new tools for the insurance industry, mainly in the areas of cybersecurity, fraud and mobility. These new start-ups help insurers to explore potential relevant solutions for the insurance industry, including the development of machine learning against large amounts of data.
There are several examples for the effect of technology on insurance companies, promoted both by the State and by the insurance companies.
The State of Israel established the Pension Clearing House, which is a central information system that is supposed to include and present information on pension funds, study funds and life insurance. The main purpose is to allow the public to receive information about their personal savings and perform operations in a simple manner.

Insurance companies use the digital technology not only to allow easy purchase of personal insurances, but also to improve the service at a time of an incident or a claim. The new applications that have been developed or are being developed intend to provide the customers with easy access to the insurance company at the time of a claim, more transparency and information and assistance at the time of the accident. Some applications include cameras in the vehicle that provide real time information at the time of an accident and enable the insured to document the accident and submit digital evidence to the insurance company.

8. To what extent is genetic testing regarded as important by life and accident insurers? Is there any legislation in place or in contemplation restricting requests for genetic information, and are there any relevant rules on privacy that preclude its disclosure?

Genetic tastings are currently not regarded as important by life and accident insurers, mainly due to the restriction in using such tests for insurance purposes.
Pursuant to the Genetic Information law - 2000, an insurer is not allowed to request an insured or a person who is applying for insurance to undergo genetic testing, and is not allowed to request the results of such genetic testing. Moreover, according to the law, an insurer is not allowed to use genetic information about a person and is not allowed to use the fact that a person refused to undergo or provide the insurer with genetic information in the decision whether or not to insure such a person and with regard to the terms of the insurance contract.

The law also states that a waiver of medical confidentiality regarding medical records or medical information which is signed by a person will not apply to release of genetic information.
Consent to give the results of a genetic test should be made in writing and must be explicit.

There is only one reservation under the law, in case the insured requests a life insurance or sickness or disability insurance in an amount exceeding the amounts laid down by the Ministry of Finance for any such insurance. Only in such a case, the insurer may ask the insured whether he has undergone genetic testing regarding a disease designated by the Ministry of Health during the three years prior to submitting such proposal, and whether he is aware of the results of such testing. Only in this case, can the insurer make use of the genetic information he received. However, until now, the Minister of Finance has not enacted any regulations regarding the amounts of the insurances, and therefore the reservation which allow insurance companies to ask for genetic tests are currently not in force.
This means that currently insurance companies are not allowed to use any genetic testing information in these types of insurances.

9. Has the assessment of claims been affected by the availability of data. In particular, are there any industry-wide arrangements in place whereby insurers can share information on fraud?

In 2005, the Ministry of Transportation and the Ministry of Justice, together with the Commissioner of Insurance in Israel, decided to act in order to reduce insurance fraud, and established a central database in the compulsory vehicle insurance sector. The database enables companies to cross-reference information from various sources, through the use of advanced software, and assists claims clearers in the insurance companies in their efforts to combat insurance fraud. In December 2005, the selected operator of the database, ISO Claimsearch Israel Ltd., announced that the database was ready for operation and shortly after started to operate. The database receives and cross-references information sent from all the insurance companies from public databases such as National Insurance and the Ministry of Transport, and from the general public. The primary use of the database is in claims management and in underwriting. The database operator returns the results of processed tests to the insurance company; on the basis of these results, and the examinations carried out by the insurance company, it can decide whether to pay the amount immediately to the insured and close the claim, or whether more extensive investigation of the incident is warranted. The two principal advantages of this method are the saving in time and resources in locating fraud in the claim, and the ability to accelerate the clearance of claims identified as above reproach. Underwriting – in compulsory insurance, insurance companies currently apply differential tariffs according to the profile of the vehicle and the drivers. The underwriting function enables the verification of the profile of the vehicle and drivers as forwarded by the policyholder, thus preventing fraud upon the purchase of insurance intended to secure a discount in the premium. The information obtained by the insurance companies from the database enables them to enhance the level of certainty they enjoy regarding the profile of the driver and vehicle and, accordingly, an increase in the use of the vehicle and driver profile, and in the weight attached thereto, in determining the premium.

The Motor Vehicle Insurance Regulations (Establishment and Management of Databases) regulate the establishment and management of the said database

10. Are there any other ways in which the new technologies have affected the insurance process in your jurisdiction?

As mentioned above, the new technologies have affected every aspect of insurance mainly in private lines, in the underwriting stage, opportunities for the client to compare prices and terms, faster and more efficient ways to purchase insurance, claims handling, providing information and receiving information digitally etc.
Another aspect of the new technology is that the information about the insurance products is much more transparent to clients. More information is available, including about the products and the insurance companies, which lead to a greater competition and added value in these classes of business to the insureds/policyholders.

IV. OTHER NEW TECHNOLOGY RISKS

11. Are there any other particular risks from new the new technologies that have been identified in your jurisdiction? If so, is there any legislation in place or under consideration to regulate them?

Another area that is influenced by new technology is the use of drones for various purposes, for commercial reasons. This new trend creates many new risks from legal point of view as well as commercial risks. From insurance point of view these new risks impose challenge to the insurance industry, how to insure such new risks. In addition, insurance companies will no doubt make use of this new technology for their own purposes, to gather information about a risk/a business, to monitor a project that is insured etc.

Other technologies developments will no doubt have significant influence on the insurance industry. Internet of Things (IoT), advanced analytics, telematics, digital platforms, and artificial intelligence are all some of the developments that provide new ways to assess, control, deal with customers, reduce cost and improve efficiency. These technologies will require the development of new insurance products, services, and business models.
These trends present opportunities to the insurance market but at the same time present new potential competitors from areas that are not necessarily from the insurance industry.