



INSURANCE LAW




OUR APPROACH

Partner-led teams, cost-effective resourcing of work and agile project management are all central to our delivery of quality legal services. We remain committed to providing clients with value for their legal spend through reliable, professional and commercial advice, efficiency and cost effectiveness, while maintaining the highest levels of service delivery.

PRACTICE OVERVIEW

Cliffe Dekker Hofmeyr (CDH) offers multi-disciplinary insurance law expertise, allowing a seamless and dedicated service to our clients. Our insurance lawyers combine a detailed knowledge of the law with a commercial awareness of the insurance industry.

Our team brings extensive insurance experience to the full range of disputes, commercial transactions and regulatory issues. Clients include the top five life offices, several large short-term insurers, brokers and various financial services providers in South Africa and abroad. These industry leaders call on our M&A team to successfully negotiate key strategic commercial transactions and provide high-level regulatory guidance. When dealing with disputes, our Dispute Resolution team work hard to resolve issues early on where possible, avoiding litigation to preserve valuable business multi-disciplinary relationships. Insurers send repeat mandates to our team, demonstrating their confidence in our ability to successfully lead them through complex legal issues arising in their environment.



"Cliffe Dekker Hofmeyr is invested in partnership and in providing excellent service and value for money."

"There is good team unison and understanding of the issues at hand."

CHAMBERS GLOBAL 2024

"CDH has an understanding of its clients' businesses and their needs, and has specialists in each industry field". The team is commended for their "excellent service."

CHAMBERS GLOBAL 2022

"The service we receive from them is excellent," highlighting that the firm has "a footprint in the country and outside."

CHAMBERS GLOBAL 2020

OUR SERVICES

We support clients in all aspects of insurance law locally, across the rest of Africa, and abroad, including:

DISPUTE RESOLUTION

- Complex insurance-related litigation
- Disputes over insurance and reinsurance cover
- Guarantee disputes
- Claims handling, monitoring and coordination
- Drafting of arbitration clauses and agreements
- Directors and Officers (D&O) insurance, fiduciary, professional liability, and fidelity cover
- Product and general liability cover
- Environmental liability cover
- Claims related to insurance and reinsurance intermediaries
- Class action proceedings
- Cover and contribution litigation
- Cyber insurance and forensic investigations

- D&O and professional liability cover and defence
- Products liability defence
- Construction insurance
- Environmental claims
- Mining infrastructure claims
- Business interruption
- Suits between health insurers and providers
- Disability or regulatory issues arising out of personnel policies
- Restructuring and crisis management response
- Advising major renewable energy projects on the African continent on complex insurance disputes arising during the pre-commissioning construction phase and thereafter

Corporate

- Corporate insurance mergers and acquisitions, joint ventures, restructurings and expansion into new markets
- Capital market raising
- Structuring and implementing insurance and reinsurance transactions
- Drafting insurance guarantees
- Distribution, outsourcing and other commercial contracts
- Cell captive arrangements
- Broad-based black economic empowerment

Regulatory

- Compliance with relevant legislation and codes
- Drafting policies
- New product development and structuring
- Provision of opinions
- Policies for mining rehabilitation provisions

Clients cite the team's strengths as *"strong leadership, attention to detail, an exceptional level of professionalism, good planning and a high standard of execution."*

CHAMBERS GLOBAL 2019





OUR EXPERIENCE

Our team brings extensive insurance experience to the full range of disputes, commercial transactions and regulatory issues.

We have acted as counsel for leading insurers in several big-ticket commercial transactions and defended numerous actions across the full range of claims faced by leading insurers and brokers including policy based:



1 Personal injury claims



2 Fraud claims



3 Professional indemnity claims



4 All other delictual claims



5 Assisting insurers and brokers in contractual disputes relating to:

 Claims

 Existence of cover

 Limits of cover



Our recent corporate insurance transactions, dispute and advisory work include:

- Structuring of transactions and actions, including fundamental transactions and corporate actions, inclusive of drafting of relevant sale, transfer regulatory and company secretarial documentation
- Structuring of cooperative arrangements between FSPs and non-regulated partners and amongst themselves, including cell captive insurance and shariah-law compliant arrangements
- Preparation, execution and implementation of industry specific documentation and agreements such as policies, binder-, intermediary services- and administration agreements
- Assisting financial sector clients with the resolution of operational and financial related insurance considerations, including corporate recapitalisation requirements
- Assist in and prepare relevant documentation for purposes of compliance, exemptions and deviations from primary and secondary insurance legislation
- Advising insurers and intermediaries as well as other clients with commercial insurance related requirements, including restructuring of relationships in order to comply with regulation or to de-regularise the relationship structure
- Assist various local and foreign clients in the long-term, short-term, captive and cell captive insurance sector in regard to the aforesaid and otherwise, and whether from a product supply-marketing-, selling, servicing, leads referral and regulatory perspective
- Provision of legal opinions for financial services sector clients, including statutory and regulatory compliance opinions
- Establishment of new life insurers.
- Advising a leading insurance company on a defamation action
- Advising a major administrative entity in relation to litigation proceedings in a personal injury claim
- We regularly assist underwriters of commercial indemnity policies with advice on the merits of marginal claims and in defending subsequent litigation

MARKET RECOGNITION

Our Insurance Law team is externally praised for their depth of resources, capabilities and experience.

Chambers Global 2022–2023 ranked us in Band 3 for insurance.

Chambers Global 2015–2023 ranked our practice in Band 1 for corporate/M&A.

The Legal 500 EMEA 2018–2022 recommended us as Tier 1 in commercial, corporate/M&A.

The way we support and interact with our clients attracts significant external recognition.

The Legal 500 EMEA 2015–2021 recommended **Eugene Bester** for dispute resolution.

Tim Fletcher is the Chairperson and a Director in our Dispute Resolution team. *Chambers Global 2022–2023* ranked Tim in Band 2 for dispute resolution. *Chambers Global 2019–2021* ranked him in Band 3 for dispute resolution. *The Legal 500 EMEA 2016–2023* recommended him as a leading individual for dispute resolution.

The Legal 500 EMEA 2021–2022 recommended **Rachel Kelly** for corporate, commercial/M&A. *The Legal 500 EMEA 2023* also recommends Rachel for mining.

Chambers Global 2017–2023 ranked **Allan Reid** in Band 2 for energy & natural resources: mining. *The Legal 500 EMEA 2020–2023* recommended him as a leading individual for mining. From *2011–2019*, it recommended him for mining.

Clive Rumsey is the Head of the Construction & Engineering sector, and a director in our Dispute Resolution practice.

Chambers Global 2019–2023 ranked him in Band 1 for construction. *Chambers Global 2021–2023* ranked Clive in Band 4 for dispute resolution. *The Legal 500 EMEA 2020–2023* recognised Clive as a leading individual for construction. *The Legal 500 EMEA 2022–2023* recommended Clive for dispute resolution.

Susan Meyer is the Joint Head of the Healthcare & Pharmaceuticals sector, and a director in our Competition Law practice.

The Legal 500 EMEA 2021–2023 recommended Susan for competition. *IFLR1000 2018–2022* recommended her as a notable practitioner.

Tim Smit is the Joint Head of the Consumer Goods, Services & Retail sector, and a director in our Dispute Resolution practice.

The Legal 500 EMEA 2020–2023 recommended him as a next generation lawyer for dispute resolution.

Roxanna Valayathum is the Joint Head of the Healthcare & Pharmaceuticals sector, and a director in our Corporate & Commercial practice. *The Legal 500 EMEA 2023* recommended for corporate, commercial/M&A.



CLIENT TESTIMONIALS

"Attention to detail is fantastic with a very quick turnaround time."

Legal 500 EMEA 2020

"They are always coming up with innovative legal solutions."

Legal 500 EMEA 2020

"Their size and scope make them able to offer us a full service offering that is effective."

Legal 500 EMEA 2020

"The department has a strong commercial inclination and business sense."

Legal 500 EMEA 2020

"We have found the team to be highly commercial yet practical in implementing the transactions envisaged/desired by the counterparties. Project management has been very good. We know exactly where we are in the bigger process - there are no surprises."

Legal 500 EMEA 2020

"The team provides a well-balanced, practical, and business oriented service offering."

Legal 500 EMEA 2020

It has exceptional subject matter expertise, and understanding of the impact of litigation on business, and it is innovative and solution oriented.

Legal 500 EMEA 2020

Clients comment that the team is *"very good at guiding clients and being proactive when dealing with matters that impact their clients."*

Chambers Global 2020

Clients appreciate the team for its *"...legal knowledge and commerciality"* additionally commenting on *"...the excellent service - they are always looking to go above and beyond."*

Chambers Global 2020

"The firm gives excellent advice and insight into commercial matters and has deep knowledge of the law. It also has the ability to deal with shareholders from other geographies."

IFLR1000 2020

"The firm has incredible attention to detail and is very comprehensive in all aspects of its work."

IFLR1000 2020

"The firm is competent. They are leaders in their field of expertise and deliver on time."

IFLR1000 2020

OUR TEAM

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

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