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INSURANCE LAW

Threats, Opportunities Presented by New Technology in the Insurance Industry

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Netflix, Hulu and other streaming services have had a fundamental impact on the cable TV model. Companies such as Spotify have materially changed how the recording industry operates. The likes of Expedia and Travelocity have made traditional travel agencies relics of the past. Insurers, likewise, are not immune to the impact of technology. Traditional insurers face a number of challenges brought on by a myriad of insurance-related technological advancements, broadly referred to as "insurtech." This includes the emergence of a number of upstart tech-focused competitors looking to improve, and in some cases disrupt, the conventional insurance business model. With these challenges, however, come new opportunities for traditional insurers to increase efficiency, reduce costs and better serve their customers.

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> *While insurtech as a whole is still in its infancy, change can happen rapidly, especially when technology is involved.*

To understand insurtech's potential impact, it is important to understand exactly what it is. Simply put, insurtech is the technology that lies behind the business of insurance. That technology includes "big data," i.e., the mining, analysis, and utilization of tremendous amounts of previously uncategorized data; "machine learning," which is the application of artificial intelligence (AI) that provides systems the ability to automatically learn and improve from experience without being explicitly programmed; the Internet of Things, which is essentially the interconnection of everyday objects through data transmittal (for example the thermostat in your home telling your watch the current temperature); and finally, blockchain, a decentralized digital ledger that cannot be retroactively changed.

These technologies are already being used by insurers in a variety of ways. A number of startups focus on using advanced data analytic tools to more accurately determine risks, detect fraud, and identify coverage expansion opportunities in specific micro-segments of various industries. For example, U.K.-based startup CyStellar uses cloud based analytics, AI, and a drone-based surveillance system to assist agricultural insurers with risk assessment, underwriting, reserving and ratemaking. Similarly, another insurance startup, Makusafe, utilizes wearable technology (i.e., an armband that gathers data on numerous environmental conditions and hazardous human motion) and analytics software to quantify safety and accompanying risk for workers compensation insurers. Makusafe's cloud-based platform uses machine learning to uncover trends and generate real-time alerts to help insurers identify potential hazards.

Other insurtech companies focus on applying existing technologies to cultural shifts. A number of startups are developing products geared toward tech-savvy millennial consumers, with particular focus on providing insurance options in the "shared" economy space. Just as Airbnb brings together a person with a home for rent with a person looking to rent a home, companies like Lemonade and Friendsurance use policyholder pooling to provide coverage for similar risks, with unused premiums refunded to customers at the end of the policy term. This peer-to-peer business model has the potential to be particularly disruptive as it alleviates the need for intermediaries, i.e., insurance companies. Insurtech startups have also focused on the emergence of the gig economy, catering to the needs of digitally based mobile services such as ride-sharing, digital food delivery services and scooter sharing. One such company is London–based startup Zego which offers a range of niche policies targeting these services, including minute-to-minute coverage with pricing based on usage data from vehicles. Only in its fourth year, Zego already insures one-third of the U.K.'s food delivery services and, as a further sign that its business model has legs, just last month the company announced that it had raised $42 million in its second round of funding.

As insurtech startups proceed to lead the technological charge in the insurance industry, a number of forward looking legacy insurers have taken steps to partner with these companies in order to both utilize and assist in developing these potential advancements. For example, insurance giant Allianz has teamed with Praedicat, an insurtech company focused on science-based data analytics, to evaluate emerging risks. Among other things, Praedicat uses scientific literature to model more than 60,000 potential disease litigation scenarios by tracking the way diseases are generated by exposures over a lifetime and how the science is evolving over the same time period. Likewise, State Farm—the largest P & C insurer by market share in the United States—is using its own in-house innovation unit known as Red Labs to develop ways to use blockchain technology in its business. In late 2018, State Farm rolled out a blockchain capability aimed at reducing the time needed to complete the subrogation process by automatically compiling and facilitating payment amounts. Even the oldest insurer of them all, Lloyd's, recently announced that it was investing in Layr, a cloud-based commercial insurance platform that automates the broker and underwriter process for small businesses. Layr was an initial participant in Lloyd's Lab, which gives insurtech startups the opportunity to work with Lloyd's syndicates to test new technologies and seek potential funding.

Although a partnership between an established conventional insurer with deep industry knowledge and a large customer base and a technology-driven innovative startup is ideal, such a partnership can be difficult when the product itself is specifically intended to bring multiple insurers together. Much like Travelocity provides a single platform where a consumer can choose between competing airlines, a number of insurtech startups are taking a similar approach to providing consumers with a variety of insurance options, making partnerships with a single insurer challenging.

Existing and emerging technologies are also being implemented in the claims-handling process. A number of insurtech startups are focused exclusively on improving speed, efficiency and consumer satisfaction with respect to claims adjustment. One such company, Claimable, has developed an app to expedite claim processing by allowing easy access to (and gathering of) information needed to settle the claim. Interestingly, the app is primarily being used by other small- to medium-sized insurance startups in 11 countries. Another claims-focused startup is 360Globalnet, which markets itself as the next generation online digital claims and risk assessment system. This customer-led digital claims reporting and settlement interface puts the customer in charge of reporting and managing their own claims, reducing the life cycle of the claim and improving efficiency. The system provides increased transparency allowing the insurer to see what the supplier is doing and monitoring the entire process. Here in Philadelphia, insurtech company Livegenic is using various technologies that allow insurers to, among other things, conduct remote virtual inspections with policyholders designed to decrease cycle time and claim processing expenses while simultaneously reducing fraud.

Insurtech clearly has the potential to improve all aspects of the insurance business, from allowing insurers to more accurately assess risk, thereby increasing underwriting profitability, to transforming routine claims handling into a fully automated process, allowing human claim handlers to focus only on the most complex claims. Such advancements bring their own set of potential pitfalls and obstacles. Perhaps the most daunting challenge, and one that the insurance industry has been dealing with in various forms throughout its history, is the complicated regulatory and legal insurance landscape. Because insurance is primarily regulated through the states under the McCarran Ferguson Act, this means that insurtech companies (and traditional insurers who seek to embrace them) must find a way to navigate the myriad of differing and often conflicting insurance regulations among all 50 states. This is particularly challenging to insurtech models designed to bring people together, increase consumer options and promote transparency.

The regulatory and legal barriers to insurtech innovation exist on both the underwriting and claims sides of the insurance continuum. With the increased ability to identify, analyze and utilize large swaths of data, the question becomes what types of data can be legally (and ethically) used to evaluate risk. For example, the technology already exists for a life insurance company to more accurately evaluate a person's potential health risks by analyzing personal information available on social media. While such a practice is likely permitted in some states, it is just as likely forbidden under various anti-discrimination and privacy laws in others.

On the claims side, unfair trade practices regulations, as well as vast and differing bodies of case law, set various standards for the manner in which insurance companies handle claims. Likewise, insurance claims professionals are subject to varying licensing requirements in the state in which the insurer conducts business. An insurer's implementation of a fully automated claims handling process would thus raise the question of whether any such licensing requirements would be violated. Finally, there is the significant risk that an insurer's use of an automated claims process will be attacked by a policyholder who feels their claim was wrongly denied (it is not hard to imagine a claim for insurer "bad faith" arising from a coverage denial that was based on a computer algorithm).

While insurtech as a whole is still in its infancy, change can happen rapidly, especially when technology is involved. After all, it was not long ago that most of us viewed cable TV as a necessity. Traditional insurers should embrace insurtech developments, while remaining cognizant of the unique challenges they present, before they see their own proverbial cords cut. •