

The Anatomy of Non-Payment Insurance Policies:

What should policyholders look (and look out) for?

Trade Finance

Marian Boyle

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Webinar aims

- Discuss main types of clauses found in comprehensive non-payment insurance (**NPI**) policies
- Practical advice for policyholders on drafting
- Managing duties during the lifetime of a policy

NPI Policies: Overview

- Play important role in credit support package in trade and commodity finance transactions
- Protect against the risk of a party not paying
- Contrast:
 - › Trade credit insurance – multi-buyer policies
 - › Political risk insurance policies

The Legal Framework: Insurance Policies

- Insurance contracts subject to general English contract law principles
- Subject also to specific rules/principles peculiar to insurance
- Understanding the legal principles that apply specifically to insurance contracts is vital
- Core principles of policy interpretation

Key Clauses found in NPI Policies

- Insuring clause
- Exclusions
- Warranties
- Conditions precedent
- Fair presentation clause

General conditions – ongoing obligations

- Management of the insured transaction:
 - › Acceleration/rescheduling
 - › Amending the insured transaction
- Notification of circumstances
- Loss mitigation
- Claims process
- Waiting period
- Governing law and jurisdiction clause

NPI Policy – Summary

- No substitute for careful reading of the policy terms
- Ensure any operational obligations imposed are manageable
- Stress test drafting
- Ongoing policy obligations need active monitoring
- Minimise risk of dispute: maximise chances of smooth claims process in the event of loss

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Marian heads the UK insurance and disputes practices working closely with the firm's established trade and export finance team, and U.S.-based disputes team, offering advice on insurance, risk management and commercial dispute resolution.

With over 20 years' experience, Marian advises banks, insurance brokers, investment funds, government agencies and corporates on commercial insurance arrangements which support structured trade, commodity and pre-export financing as well as corporate finance, energy, property, M&A and outsourcing transactions. She also drafts and interprets insurance policies and advises on the use of insurance by credit institutions and investments firms as credit risk mitigation for capital adequacy purposes under the Capital Requirements Regulation.

Marian's contentious experience includes advising clients in relation to disputes arising from trade credit, professional negligence and transactional disputes. These disputes are often international in nature and result in large-scale, highly complex multi-party litigation and arbitrations.

Awards & Recognition

Chambers UK, 2022

Chambers UK, 2022 ranked Sullivan in Commodities: Trade Finance (UK-wide)
Geoffrey Wynne and Simon Cook are Ranked Lawyers in Tier 1 and Tier 2 respectively
Sam Fowler-Holmes is recognised as an “Up and Coming” lawyer

The Legal 500 UK, 2022

Sullivan ranked in Tier 1 for Trade Finance by *The Legal 500 UK, 2022* for the eighth year running
Partner Geoffrey Wynne is included as a Leading Individual for Trade Finance in the “Hall of Fame”
Simon Cook and Mark Norris are recognised as Leading Individuals
Sam Fowler-Holmes is recognised as a Next Generation Partner and Hannah Fearn as a Rising Star

IFLR1000 Banking and Finance Guide, 2022

Sullivan recognised for Banking Lending - Lender Side, United Kingdom, in *IFLR1000's Banking and Finance Guide, 2022*
Partner Geoffrey Wynne is ranked as a Leading Lawyer in the United Kingdom

Global Trade Review (GTR) “Best Trade or Supply Chain Finance Law Firm”, 2022

GTR named Sullivan “Best Trade or Supply Chain Finance Law Firm” at the GTR Leaders in Trade Awards in 2022

Trade Finance Global “Best Trade Finance Law Firm” 2022

Sullivan named “Best Trade Finance Law Firm” 2022 by *Trade Finance Global* (in connection with BAFT) at its International Trade Awards, 2022

In 2021, 2020 and 2019, GTR named Sullivan

The “Law Firm of the Year” in the category “Leaders in Trade for Innovation” at the 2021 GTR Leaders in Trade Awards and “Best Trade Finance Law Firm” at the GTR Leaders in Trade Awards in 2020 and 2019

2021 Lexology “Client Choice” award for Banking, United Kingdom

Geoffrey Wynne named a recipient of the Lexology “Client Choice” Award 2021 for Banking, United Kingdom

Trade Finance Global “Best Trade Finance Law Firm” 2019

Sullivan named “Best Trade Finance Law Firm” 2019 by *Trade Finance Global* at its International Trade Finance Awards, 2019





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