



Claim Repudiation:

Unravelling the Complexities

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Claim repudiation is the denial of an insurance claim by the insurer. When a claim arises, as a first step, the insurer will typically ascertain whether the event is covered under your policy and whether it attracts any exclusions.

In the entire spectrum of insurance contracts, whether it be complex commercial lines of insurance or personal lines of insurance, claims get repudiated for only a handful of reasons, most of which can be avoided through vigilance.

Here is what you need to know:

Proposal Form: The proposal form is your starting point and forms the basis for the insurer to underwrite risk. Any misinformation, misrepresentation, or concealment gives your insurer the right to void the insurance cover and refuse payment of claim. Therefore, the information provided under a proposal form must be accurate and complete. Be mindful of the coverage, limits of insurance, standard deductions etc. while filling in the proposal form and make sure you fully understand each part of the form. As a matter of good practice, retain a complete copy of the proposal form in your record along with all the supporting documents supplied to the insurer / which the source of the information filled in.

Coverage and Exclusions: Your insurance, for all practical intents and purposes, is a culmination of the cover read with exclusions. Ensure that you fully understand the coverage under your policy. In complex business models, insurance cover can often be complex and therefore, seek professional help when needed. The flipside of coverage is exclusions. Your policy will list out situations aka exclusions in the case of which, a claim or part of the affected claim, will not be paid out. Ensure that you know and understand the practical implementation of the exclusions and test those against your business models. An insurer often provides extensions / endorsements to provide for cover in cases which are otherwise not covered under the policy / excluded. Avail an endorsement suited to your needs / business. Seek advice from your broker.

Claim Notification: Your policy will contain a specific process to be followed for notifying a claim. Make sure you familiarize yourself with the procedure. If you are a company, implement an internal SOP for claim notification. Ensuring that a claim is notified in a timely and compliant manner is the first step to payment of claim and any lapses in this process can result in repudiation of the claim itself. Please reach out to your broker immediately to notify a claim or circumstance to insurer.

Other Policy Terms: Depending on its nature, your policy may contain certain terms which are required to be followed. Noncompliance can lead to repudiation. Therefore, be aware of terms in the nature of “change in circumstances”, payment of premium etc. Be aware of the expiry of the term of your policy and renew in time to avoid any uninsured period. For companies, have an SOP for ensuring compliance with policy conditions. Failure to adhere to policy terms can result in repudiation of claim. Please seek advice from your broker.

Effective communication: When it comes to insurance, communication is key and ineffective / delayed communication can result in repudiation of claim. Make your communication effective by adhering to these best practices:

- Address clear and written communication during the submission of proposal form. There is no privilege in the information / documents shared with the Insurer and therefore, what you share with the insurer, can be used against you in a litigation.
- Once a claim arises, fully cooperate with the Insurer, and promptly provide all the information / documents sought.
- In case of a company, designate a responsible officer to oversee the process of claim assessment and ensure that such officer is marked on all communication with the insurer.
- If any communication is being addressed / received by your Broker, make sure it is under your instructions and you are copied on such communication. Even otherwise, reach out to your broker from time to time to request for copies of the communication being exchanged on your behalf.
- In a post claim scenario, the language of your communication assumes massive significance. In case of any future litigation, this can be used in evidence by and against you. Therefore, make sure your communication reflects the true intent, is clear and does not amount to unintended admission of liability. Please seek advice from your broker.
- There is no common interest privilege in the documents shared with the insurer during assessment of a claim. Therefore, be aware of the nature of documents being shared.
- Retain complete record of all correspondence with the insurer including documents / information shared. Please keep your broker informed.
- In case of doubt, please seek legal assistance for drafting key letters / emails in a likely disputed claim.
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By proactively addressing these potential pitfalls and taking steps to avoid them, you can enhance your chances of a successful claim settlement and avoid the frustration and financial consequences of claim repudiation. Ultimately, staying informed, vigilant, and proactive is key to safeguarding one's interests and maximizing the benefits of insurance coverage.

For any further information or details or support on how you can avoid repudiation of your claims, please reach out to Khaitan Legal Associates and the Marsh team on the coordinates mentioned below.

MARSH INDIA FINPRO TEAM

LEADERSHIP	CLAIMS TEAM
ANUP DHINGRA Managing Director, FINPRO IMEA anup.dhingra@marsh.com	SIDHARTHA PATTNAIK Senior Vice President, Head of Claims, Marsh India sidhartha.pattnaik@marsh.com
BHISHMA MAHESHWARI Chief Client Officer, Senior Vice President, Communications, Media and Technology Leader, Marsh India bhishma.maheshwari@marsh.com	AKSHARA SHARMA Vice President, FINPRO, Marsh India akshara.sharma@marsh.com
JAY SHAH Chief Growth Leader, Senior Vice President, Financial Institution Leader, FINPRO, Marsh India jay.shah@marsh.com	ARPITA CUDDAPAH Senior Manager, FINPRO, Marsh India arpita.cuddapah@marsh.com
NACHIKET SHAH Senior Vice President, Management Liability Leader, FINPRO, Marsh India nachiket.shah@marsh.com	AISHWARYA SHETTY Assistant Manager, FINPRO, Marsh India aishwarya.shetty@marsh.com
ANSHU MAHESHWARI Senior Vice President, FINPRO, Marsh India anshu.maheshwari@marsh.com	URJA DOSHI Assistant Manager, FINPRO, Marsh India urja.doshi@marsh.com
INDRANIL ROY Senior Vice President, Corporate Segment Liability and Construction Leader, Marsh India indranil.roy@marsh.com	

KLA TEAM

KLA TEAM	KLA TEAM
SAKATE KHAITAN Senior Partner Sakate.khaitan@khaitanlegal.com Phone: +44 20 7034 1430 (UK) Phone: +91 22 614 00000 (India)	SMITI TEWARI Partner (Claims and advisory) Smiti.tewari@khaitanlegal.com Phone: +91 22 614 00000
BIPUL KHANDURI Senior Consultant Bipul.khanduri@khaitanlegal.com Phone: +91 22 614 00000	DHIRAJ MHETRE Partner (Claims and advisory) Dhiraj.mhetre@khaitanlegal.com Phone: +91 22 614 00000
VARSHA JALAN Partner (Regulatory and Corporate) Varsha.jalan@khaitanlegal.com Phone: +91 22 614 00000	ARUSHI ARORA Senior Associate (Regulatory, Corporate and Claims) Arushi.arora@khaitanlegal.com Phone: +91 11 3511 7041

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