AIDA Climate Change and Catastrophic Risk Working Party
Comparative Law Project on Parametric Insurance 2026

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FOREWORD AND KEY FINDINGS

In times of ever-increasing risk – whether it be emerging risks such as climate, cyber/AI, geopolitical or traditional risks – insurers look to parametric insurance as a risk transfer instrument. Although parametric insurance has been available for over a quarter of a century, it remains an area that is not always well-understood and that frequently gives rise to actual and perceived legal and regulatory issues.

The AIDA Climate and Catastrophic Events Working Party ("CCEWP") is therefore delighted to present the first part of the Comparative Law Questionnaire on the Regulatory and Legal Framework for Parametric Insurance 2026. Earlier this year, the CCEWP developed a questionnaire on parametric insurance which was circulated to insurance law experts in the majority of AIDA jurisdictions, and we are extremely grateful for the many responses we have already received. These responses have been compiled in this report covering in **total twenty six countries**: from Africa, South Africa; three countries from Asia (Israel, Singapore, and Turkey); six countries from Europe (Austria, Belgium, Germany, Spain, Sweden, and the United Kingdom), six Central and North American countries (Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua), eight South American ones (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Uruguay), and two from Oceania (Australia and New Zealand).

Common themes across the jurisdictions surveyed

No statutory definition of "parametric insurance" is the norm. Most jurisdictions lack any statutory or regulatory definition of parametric insurance. Only a handful have an express legal anchor: Chile (the most developed, via the 2022 Fintech Law amending DFL 251 plus the dedicated NCG 546 regulation), Colombia (Laws 1955/2019 and 2294/2023), Uruguay (Insurance Law arts. 54 and 58, which expressly carve out parametric products), Ecuador (a late-2025 Commercial Code amendment, not yet fleshed out), and Argentina (only for agricultural index insurance via the 2015 Joint Resolution). Costa Rica relies on a regulator's legal opinion rather than statute. In Austria, the supervisor (FMA) has offered a descriptive definition in a 2019 report, but without any statutory anchor.

Almost every jurisdiction concludes parametric products are (or most likely are) insurance contracts, usually relying on a broad statutory definition of "insurance" and the presence of risk transfer, a premium, and an uncertain event. South Africa is the notable outlier, where it is currently treated as derivative-like financial product. In the United Kingdom, parametric products could either be characterised as insurance or as derivatives, depending on how they are structured.

Agriculture and natural catastrophe/weather parametric insurance structures dominate. Agriculture (especially weather-index cover for drought and rainfall) is the leading segment nearly everywhere. Energy and infrastructure risks appear mostly as discussion. Sovereign-level CCRIF parametric cover features in Mexico and Nicaragua.

The relationship between parametric triggers and indemnity principle is the central doctrinal issue. The recurring legal question is whether a payout decoupled from proven loss conflicts with the indemnity principle and the prohibition on unjust enrichment/wagering. Most jurisdictions resolve this through flexibility, requiring a "reasonable correlation" between the index and likely loss, or genuine economic exposure, rather than strict proof of loss.

Insurable interest survives, in a softened form. Insurable interest is almost universally still required, but satisfied by demonstrating economic exposure correlated to the trigger rather than ownership of a damaged asset.

The calculation agent is unregulated almost everywhere. No jurisdiction has a bespoke licensing regime for the calculation agent or for third-party index/satellite/cat-model data. Controls are indirect, via outsourcing rules, good faith, conflicts-of-interest provisions, and, in the EU jurisdictions, via the IDD/Solvency II/DORA frameworks.

Distribution follows the general insurance regime. Standard intermediary licensing applies; non-insurance entities (platforms, tech providers, MGAs) may participate only in technical/ancillary roles unless formally authorised as insurance intermediary or distributor.

Basis risk and mis-selling are the universal practical concern. Almost every contributor flags basis risk (payout without loss, or loss without payout) plus trigger-wording clarity, data reliability, and policyholder expectations as the principal risks and most likely future dispute source.

Almost no litigation exists. Reported parametric disputes are essentially absent everywhere; only Türkiye (a 2021 Insurance Arbitration Commission decision) and Uruguay (isolated trigger-interpretation disputes resolved in the insurer's favour) report any activities.

Key areas of divergence

The survey highlight many technical areas that are regulated differently. We see a spectrum of regulatory approaches:

- Express, dedicated regime: Chile is furthest advanced (statutory definition, closed catalogue of permitted risks/indices, mandatory disclosure legend, ratification for remote sales, single-coverage requirement). Colombia and Uruguay have introduced statutory recognition of parametric insurance but the regimes are lighter on detail.
- Sector-specific only: Argentina regulates only agricultural index insurance, with a heavier authorization track than ordinary products.
- Permissive but unregulated: The largest group (Austria, Germany, Belgium, Spain, Sweden, the United Kingdom, Singapore, Israel, Mexico, Costa Rica, El Salvador, Guatemala, Honduras, Brazil, Bolivia, Türkiye) permits parametric insurance under general (insurance) law without bespoke rules.
- Outlier-restrictive/uncertain: Paraguay is the standout where the contributor concludes a pure parametric product is probably not permitted, because property insurance is strictly

indemnity-based and requires quantification of actual loss. South Africa treats parametric insurance as derivative-like and only recently licensed its first product.

The main area of jurisdictional split is whether proof of loss can be fully dispensed with. Some jurisdictions permit pure parametric trigger-only payments (Chile, Colombia, Uruguay, Mexico, Argentina's agricultural model, Costa Rica, Honduras). Others insist a loss element survives: Belgium characterises parametric cover as damage insurance still requiring some actual loss or proxy for loss; Germany permits it only if structured as sum/event insurance outside property insurance (pure parametric property cover is incompatible with the Sachversicherung concept); in Austria, non-personal insurance must in principle be written as indemnity insurance, but academic opinion considers parametric cover permissible (either as falling outside the purpose of the indemnity requirement or as a permissible lump-sum valuation), though the point is untested in the courts; an insurable interest and an element of actual loss would be required for parametric insurance (as opposed to derivative products) in the United Kingdom, and Bolivia and Paraguay lean toward requiring a causal/loss connection.

Parametric product approval processes range from no filing at all (Belgium, Germany, Sweden, the United Kingdom, Singapore, Honduras, Israel for endorsements) through "file-and-use" notification (Brazil, Uruguay, Argentina's deposit system, Chile's deposit system) to effective prior approval (Costa Rica in practice, Mexico's CNSF technical-note registration, El Salvador and Guatemala's pre-use filing, subsidized rural products in Brazil and Argentina).

We hope that this survey provides a helpful jurisdictional guide to legal issues and developments in relation to parametric insurance, and we also hope that this report will encourage contributions from many more jurisdictions. Please do get in touch with the CCEWP if you would like to get involved in this project.

Yves Hayaux du Tilly L. and Dr Franziska Arnold-Dwyer on behalf of the CCEWP

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SOUTH AFRICA

By

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Norton Rose Fulbright, University of Johannesburg and North-West University

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Currently, South Africa does not have a statutory or formal regulatory definition of parametric insurance.

However, there is an emerging market-understood and supervisory recognition of the concept. The Prudential Authority has acknowledged the legitimacy and potential of parametric (index-based) insurance products in its interim regulatory approach, permitting insurers to offer weather index-based policies while the statutory framework is still under development.[1]

This reflects a progressive shift toward accommodating non-traditional insurance models, even in the absence of a formal definition. Parametric insurance is generally understood in the market as a product that provides pre-agreed payouts triggered by objective, measurable events (such as rainfall levels), rather than proof of actual loss.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Parametric insurance would most likely be classified as a derivative-like or financial product rather than traditional insurance under current South African law.

As noted by Simoes, parametric insurance in South Africa is classified within the derivatives framework.[2] This classification arises because parametric products do not indemnify actual loss, which is a core requirement for non-life insurance under the Insurance Act 18 of 2017.

At the same time, regulators are actively exploring its treatment:

- The Prudential Authority, together with the South African Reserve Bank (SARB) and the Financial Sector Conduct Authority (FSCA), has considered parametric insurance within a regulatory sandbox.

[1] Richman "Weather index-based products a game-changer".
[2] Simoes "Index Insurance: 2020 Status and Regulatory Challenges" 2021 12(*Index Insurance 2020 Status and Regulatory Challenges_0.pdf (2025-09-18).

- This sandbox aims to familiarise regulators with basis risk and product structure, build supervisory capacity and assess whether and how such products can be integrated into the insurance framework.

This indicates that while currently treated as derivative-like, parametric insurance is in a transitional regulatory phase.[3]

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Yes. In South Africa, parametric insurance is primarily used and actively developing in the agricultural and climate-risk sectors.

The agricultural sector is the leading area of application, particularly through weather index-based insurance designed to protect farmers against risks such as drought and irregular rainfall. Santam Ltd is currently at the forefront of this development and, as of late 2025, became the first insurer to receive a licence to offer parametric (weather index) insurance in South Africa, specifically within agriculture.
Beyond current use, parametric insurance is also widely discussed in broader disaster risk and climate resilience contexts:

The Draft Climate Smart Agriculture Strategic Framework explicitly supports the development of weather-indexed insurance products for small-scale farmers.[4] Industry participants such as Old Mutual Insure recognise that, despite definitional and supervisory challenges, parametric insurance has significant social value in addressing systemic climate risks, insurance protection gaps and financial inclusion for underserved communities.
Overall, parametric insurance in South Africa is currently applied in agriculture (especially weather risk) and increasingly considered for wider disaster risk financing and climate-related applications.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Parametric insurance is not expressly prohibited in South Africa, but it is also not fully recognised within the current insurance law framework.

- The existing system is firmly rooted in the indemnity principle, which requires compensation for actual loss.
- Because parametric insurance pays out based on pre-agreed triggers rather than proven loss, it falls outside the traditional definition of non-life insurance under the Insurance Act 18 of 2017.

[3] Simoes (n 2) 12.
[4] *Government Gazette* 41811 (3 August 2018).

- As a result, it is often treated as falling within a derivatives framework rather than as conventional insurance.

However, the Prudential Authority (PA) has acknowledged and allowed the development of parametric (index-based) products, particularly in the form of weather-index insurance. These developments indicate that parametric insurance is functionally permitted on a limited and evolving basis, even if not yet fully embedded in legislation.

Therefore, it appears as if parametric insurance is implicitly permitted but not formally recognised as a standard insurance product under current South African law.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

No, parametric insurance products are not expressly regulated in South Africa. This creates a regulatory gap, particularly in relation to: product design, consumer protection, pricing and sustainability.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Yes, the regulatory authority granted Santam a licence to offer parametric insurance (also known as Weather Index Insurance) in the agricultural sector.

Additionally, there are ongoing regulatory and policy initiatives, but they are still at a developmental stage. The Prudential Authority has considered parametric insurance within a regulatory sandbox, in collaboration with South African Reserve Bank (SARB), National Treasury and the Financial Sector Conduct Authority (FSCA).

The sandbox is intended to help regulators understand new risks (especially basis risk), build supervisory capacity and allow controlled experimentation with parametric products.

National Treasury (2025) has identified parametric insurance as part of disaster risk financing strategies and announced pilot projects with municipalities to test product structure and pricing. Policy frameworks (e.g. Climate Smart Agriculture Strategy) explicitly support the development of weather-index insurance.[5]

There are clear policy momentum and experimental regulation (sandbox, pilots), but no finalised legislative framework yet.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

[5] ***Government Gazette* 41811 (3 August 2018).**

There is no parametric-specific approval regime currently in place, but general insurance supervision applies:

- Because parametric insurance is not formally regulated as a distinct product class, there are: no explicit rules requiring prior approval of triggers, pricing models, or actuarial assumptions specific to parametric products
- However, products developed within the regulatory sandbox are subject to supervisory oversight and review by regulators. The broader twin peaks model means: the Prudential Authority oversees financial soundness and the FSCA oversees market conduct and consumer protection
- Additionally, insurers must still comply with general insurance regulatory requirements, including actuarial justification of pricing, fair treatment of customers (e.g. Policyholder Protection Rules).

Therefore, there is no dedicated pre-approval or filing regime specific to parametric insurance, but sandbox products are reviewed, and general insurance regulatory oversight still applies.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Traditional South African insurance law requires compliance with the indemnity principle, meaning compensation for actual patrimonial loss.

However, parametric insurance does not depend on proof of actual loss, as it pays based on pre-agreed triggers. The indemnity principle is not rigid and has historically evolved (e.g. valued policies, new-for-old). Therefore, parametric insurance may still be valid if: it retains a compensatory purpose and does not result in unjust enrichment or wagering.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Insurable interest remains relevant in South African insurance law. Even for parametric insurance: the insured must still have a recognisable economic interest in the subject matter and the contract must reflect genuine risk transfer, not speculation.
Insurable interest can be interpreted more flexibly, especially in climate-risk contexts and it may be satisfied by demonstrating exposure to economic harm linked to the trigger event, even if loss is not individually proven.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Parametric insurance does not require proof of loss or causation. It bypasses traditional claims processes, including: loss assessment and causation analysis.
Instead, the only requirement is that the agreed trigger is met (e.g. rainfall threshold).

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?
It appears that there is no requirement to prove causation between the event and actual loss. Payment is made automatically upon satisfaction of the agreed parameter.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?
The policyholder Protection Rules 2017 would be applicable.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

The 2020 A2ii survey highlighted inadequate data, limited supervisory and insurer capacity, and the lack of enabling legislation as ongoing barriers to reconciling parametric insurance with South Africa's current regulatory framework.[6]

[6] Simoes (n 2) 23.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Several product-specific and practical challenges arise in the design and implementation of parametric insurance. A central concern is basis risk, which refers to the potential mismatch between the payout triggered by the index and the actual loss suffered by the insured. This may result in situations where a policyholder receives a payout without having suffered loss, or conversely, suffers loss without receiving compensation. This misalignment raises concerns regarding fairness, consumer protection, and the compatibility of parametric insurance with the indemnity principle.

Further challenges arise in relation to trigger design and data reliability. Parametric products depend on objectively measurable indices, such as rainfall or temperature data, which must be accurate, credible, and sufficiently granular. In South Africa, limitations in data infrastructure and actuarial modelling capacity may undermine the reliability of these triggers and, in turn, the effectiveness and trustworthiness of the product.

Transparency and policyholder understanding also present significant concerns. Due to their technical nature, parametric insurance products may be difficult for policyholders, particularly vulnerable farmers, to understand. This creates a risk of misaligned expectations, especially where policyholders assume that payouts are linked to actual loss rather than predefined triggers.

Finally, the claims process and communication model differ fundamentally from traditional insurance. While the absence of a need to prove loss allows for rapid payouts, it also removes the familiar claims validation process, which may lead to confusion or mistrust if payouts do not align with perceived losses. This underscores the importance of clear disclosure and effective communication in ensuring that policyholders understand the nature and limitations of parametric cover.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Despite certain barriers, recent policy and strategy developments by National Treasury highlight significant opportunities for integrating parametric insurance into South Africa's disaster risk framework.[7] The Disaster Response Financing Strategy identifies parametric insurance as a

[7] South African Government "Treasury on enhancing South Africa's approach to disaster risk insurance" 2025 (https://www.gov.za/news/media-statements/treasury-enhancing-south-africa%E2%80%99s-approach-disaster-risk-insurance-01-aug (2026-04-10)).

valuable complement to indemnity-based products, particularly for disasters where damage assessment delays payouts.[8] Layered financing that combines grants, reserves, indemnity cover, and parametric instruments could enhance resilience for both municipalities and vulnerable farmers.[9]

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

[8] South African Government (n 7).
[9] South African Government (n 7).

ASIA

ISRAEL

By

Peggy Sharon

Levitan, Sharon & Co.

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

No, currently in the Israeli Insurance market there is no statutory nor regulatory definition of parametric insurance. It is still a rare coverage which can be found in a few fields of insurance, such as climate hazards in Agriculture, Earthquake, and cloud services outage as an endorsement within traditional insurance policies.

In the market it is understood as being an insurance whereby the Insurer agrees to automatically pay an agreed sum to the insured upon the occurrence of an event of certain magnitude or level, without proof of loss or damage to the insured. This is a new mode of insurance which so far has not been used by many Israeli Insurers.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

So far, it is classified as a specific coverage included in an insurance policy and not as a separate financial product.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

In Israel we can find parametric insurance (also known as index insurance) afforded for coverage of climate hazards in agriculture, and earthquakes of certain magnitude .

In addition, we have found one policy which provides parametric insurance for cloud outage which lasts more than a certain period.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

The parametric insurance is permitted according to the Law. Although the Law does not specifically relate to it, as will be hereinafter described, it meets the requirements set by the law, being a contract with an insurer, whereby the insurer undertakes to pay insurance benefits to the insured upon the occurrence of an insured event.

The Israeli Insurance Contract Law, 1981 defines an insurance contract in Article 1:

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"An Insurance contract is a contract between an Insurer and an Insured which obligates the Insurer, in consideration of insurance premium, to pay insurance benefits to the beneficiary upon the occurrence of the Insured event."

The Parametric Contract of Insurance satisfies this definition. The Insurer undertakes to pay the Insured/the beneficiary insurance benefits upon the occurrence of an Insured Event, which is defined as an event beyond a pre-determined threshold, for example, an earthquake beyond 7.8 at the Richter scale, floods or rainfall above a certain quantity or level, within the area of the Insured Business.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Parametric insurance is not expressly regulated and currently there are no ongoing initiatives or legislative proposals to introduce specific regulations or guidance for parametric insurance.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

No.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

In principle, any new insurance plan introduced by an Insurer should be sent for approval to the Regulator under the Control over Financial Services (Insurance) Law ,1981 (hereinafter- the Control Law) in the Ministry of Finance. This regulator controls the insurance market, and issues licenses and permits to Insurers to be admitted transacting insurance business in Israel.

One of the tasks of this regulator is to examine new insurance plans prior to their marketing to the Insureds.

So far, the parametric insurance has not been sold as a Stand-Alone insurance policy but rather as endorsements (riders) or extensions to existing policies. Such endorsements or extensions do not require specific approval by the regulator. Therefore, it cannot be said that the Regulator has examined or reviewed the parametric insurance product.

As mentioned, any change of insurance plan including its wording and pricing methodology is subject to prior approval by the Supervisory Regulator. It is expected that when a Stand-Alone policy based on parametric or index triggers would be offered, then it would be thoroughly reviewed by the Regulator prior to its distribution in the market.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Traditionally, property insurance requires the occurrence of damage to the property and imposes on the Insurer the duty to indemnify the Insured for such damage, yet the law permits other modes of property insurance which do not require proof of the actual damage by the Insured.

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Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

The insurable interest is not a requirement specified in the Insurance Contract Law, 1981, as a condition for a valid insurance contract. However, it is assumed to exist indirectly, from the fact that the insured is entitled to be indemnified for the loss caused to the insured due to the damage to the property, due to the occurrence of the insured event.

The Insurance Contract Law provides in Article 55 (a) that the duty of the Insurer is to indemnify the latter for the damage caused to the insured due to the loss or damage to the property insured. The entitlement to indemnification for such loss, implies that the insured has insurable interest in the property.

Article 55(a) of the Law:

"In property Insurance, the Insurer must indemnify for damage caused to the Insured or the beneficiary due to loss of or damage to the Insured property."

In indemnification insurance, the payment for the damage caused is aimed at placing the Insured or the beneficiary in the position prior to the occurrence of the Insured Event.

Hence, the notion of property insurance assumes that the insured had an interest in the property and that damage caused to the property results in loss to the insured and a right to indemnify, therefore.

This is specifically provided in the law in article 56(c):

"The insurance benefits will be calculated as to place the beneficiary, as far as possible, in the position in which he would have been had the event insured against not occurred."

However, we should note these two points:

a. Article 55(a) of the law can be stipulated against, as this article is not jus cogens, and the parties can define the Insured Event for property insurance without including the damage and/or the indemnification factors.

b. The Insurance Contract Law enables the parties to agree in advance on the quantum of indemnification – agreed value insurance, and according to article 56(d) where the parties have agreed in advance on the amount of indemnification, the insurance benefits will be as agreed, independently of the amount of the damage caused.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

In view of Article 56(d) where the amount of the indemnification was agreed in advance, no actual damage should be demonstrated beyond the satisfaction of the trigger.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

No.

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The index, or the parameters, which are defined in the specific policy are based on the likelihood that when these indexes or parameters are met, damage will be caused to the property. AI and Big Data can afford good basis for prediction of the risks covered, and new technologies and advanced sensors may assist in ascertaining the occurrence of the index trigger.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

So far, the calculation agent's function or the index which triggers payment under parametric insurance is a third-party index for earthquake such as the Richter scale or any other acceptable and common scale which measures seismic earthquakes.

Since the notion of a parametric insurance is so innovative and unregulated notion there are no rules governing the use of third-party indexes and the trigger mechanism.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

The regular distribution of insurance products is carried out by insurance agents which are supervised, registered and regulated under the Control Law of Financial Services (Insurance), 1981.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

The notion of embedded insurance where insurance or a guarantee is afforded by manufacturers or sellers of products, has not yet expressed any relation to parametric insurance as it usually concerns the guarantee of the product and securing its replacement and repair, etc.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

As to a consumer protection requirement, it should be noted that the substantive law on insurance is the Insurance Contract Law, 1981 which is consumer protective orientated. This law does not distinguish between commercial policyholders and the small consumers, nor does it distinguish between sophisticated and non -sophisticated Insureds. The disclosure duty posed on

the Insurer does not differ when it concerns a small non-sophisticated consumer or a commercial Insured.

For example, the disclosure duty which is imposed on the Insured by the law requires the Insurer to pose questions to which the Insured should give a complete and honest answer. The answers need not be broader than what was asked albeit the answer should be honest and complete. Besides the duty to answer the questions in the pre-contractual stage, the Insured is required not to withhold from the Insurer a material fact with the intention to defraud the Insurer.

The court in Israel interprets the insurance policy in favour of the Insured in cases of ambiguities and only in rare cases the court would consider the fact that the Insured is a commercial sophisticated enterprise.

In addition, the law and the precedents impose on the insurer towards the insureds, duties of disclosure relating to the policy and its terms, and also a duty to ascertain that the insured is aware of and understands the conditions and exclusions of the policy.

In accordance with these lines, we believe that the duties concerning parametric insurance products will be similar -full transparency and duty to ascertain the understanding of the insured.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

As mentioned above, so far there are no regulatory references to the parametric insurance products in Israel.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

Since the phenomenon of parametric insurance is rare and new so far, similarly to the fact that there is no regulatory action, there are no judicial precedents involving parametric insurance contracts in Israel.

The common themes that can be foreseeable as sources of dispute may be interpretation of the trigger or the methodology in cases of disruption which may cause unrealistic results or indexes which may raise questions concerning the integrity of the data.

As mentioned above, because the experience with the parametric insurance is so limited so far, we cannot relate to additional concerns regarding the triggers of the parametric insurance.

8. Outlook

ASIA

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

The regulatory environment in Israel can be considered as being conservative since one of the main objectives of the Control Law is to protect the Insureds in their dealing with the Insurers and in addition, to secure the stability and strength of the insurance companies to be able to stand by their obligations.

For this purpose, the Control over Financial Services (Insurance) Law requires from the Insurers financial deposits as safeguard for their reserves and on the other hand, entitles the Regulator to interfere, usually in favour of the Insured against Insurers in legal disputes, class actions etc. and provide the court with its position where it is required for the interpretation of the Insurance Contract Law or of its application in certain cases.

However, since parametric insurance may be beneficial for the Insureds, for example to obtain coverage for risks they cannot otherwise obtain (e.g, the coverage for earthquake is expensive and is not included in the standard apartment policy but requires specific purchase separately). The parametric insurance can be a feasible solution for this difficulty.

It can also be expected that in the agricultural field, this insurance can be attractive to obtain a certain monetary benefit which is paid sooner than the regular claims procedure of climate hazards which may harm the crops.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

Recently in Israel there are more publications, articles and open lectures dealing with the parametric insurance. This is expected to promote both the awareness of this tool and the demand from the consumers which may encourage more insurance companies to offer the parametric insurance either in a Stand-Alone policy or in a hybrid way adding the parametric cover into the usual regular property coverage.

The Insurance Contract Law which was enacted in Israel in 1981 has not undergone a reform during the years even though several amendments were introduced a few years after its legislation.

However, it seems that in the coming years a reform will be carried out to adapt the law the new technologies, to AI which brings to the market new strategies and requires new solutions which currently are not provided by the law.

We believe that one of the issues which will be dealt with in such a reform would be new methods of distribution and new products including the parametric insurance.

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ASIA

SINGAPORE

By

Simon Goh and Alvin Ee

Rajah & Tann

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Singapore does not have a prescribed definition of parametric insurance or policies under statute or regulations. It is generally understood in the market that unlike traditional insurance which indemnifies actual losses, parametric insurance solutions make fixed payouts based on insured events hitting certain pre-defined parameters.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Parametric insurance would most likely be classified for regulatory purposes as insurance. Whilst there is no definition for "insurance" under Singapore statute or regulations, parametric insurance should satisfy the common law principle of the assumption of insurance risk or the undertaking of insurance liability which is embodied in the definition of "carrying on insurance business" under the Insurance Act 1966 (the "IA"). The Monetary Authority of Singapore's ("MAS") (the supervisory authority for, among others, the insurance industry in Singapore) 2009 Consultation Paper on Proposed Amendments to the Definition of Carrying on Insurance Business, provides the following identifying features of insurance:

a) The insured becomes entitled to something upon the occurrence of an event that the insurer is liable for;
b) The event must be one that involves some element of uncertainty;
c) The insured must have an insurable interest in the subject matter of the contract; and
d) The risk must be a pure risk, in other words, a risk involving the possibility of loss only or at best a "no gain" situation.

The statutory definition for "derivatives contract" under the Securities and Futures Act 2001 excludes "*any contract of insurance in relation to any class of insurance business specified in section 3(1) of the* [IA]".

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Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Given the absence of natural catastrophes, major unexpected adverse weather, and largescale agriculture and energy infrastructure in Singapore due to limited land space, the use of parametric insurance in Singapore is largely for offshore risks. An example is the SEADRIF Insurance Company incorporated and licensed as an insurance company in Singapore in 2019, which was set up to provide parametric sovereign disaster risk insurance to ASEAN+3 member countries.

However, as noted in the Keynote Address by Mr Alvin Tan (Minister of State, Ministry of National Development and Ministry of Trade and Industry, and Board Member of MAS) at the Closing of GAIP Summit and Opening of PROGRESS Seminar on 16 September 2025, parametric insurance adoption remains limited in Asia. Reasons the Minister noted include low market awareness, nascent track records, data and infrastructure constraints, and differing regulatory views due to parametric insurance's non-indemnity nature.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

There are no general prohibitions of parametric insurance under Singapore law.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

There are no insurance laws or regulations applying specifically to parametric insurance products. Whilst there have not been any formal/ public regulatory consultations on parametric insurance, Mr Gan Kim Yong, Singapore's Deputy Prime Minister and Minister for Trade and Industry, and Chairman of the MAS, shared in his keynote address at the 20th Singapore International Reinsurance Conference on 4 November 2024 that the "*MAS is studying ways to support the growth of parametric insurance, including through research on the regulatory treatment of such solutions in the region as well as information on independent and reliable data resources*".

The industry trade association for reinsurers in Singapore, the Singapore Reinsurers' Association, also published a white paper in 2020 titled "*Parametric Risk Transfer: A solution to narrow Asia's protection gap*" putting forth recommendations on how the use of parametric risk transfer solutions could be further promoted in Singapore and in the region.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

There is no general requirement under Singapore law for insurance products (including parametric insurance products) to be "*registered, filed, approved or otherwise reviewed"* with/ by the MAS.

ASIA

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

There is no general requirement under Singapore law for policy wordings, triggers, pricing methodologies, or supporting actuarial materials to be "*subject to prior approval, filing or supervisory review"* by the MAS. However, if a new insurance company is incorporated and licensed to conduct a relatively novel line of business in the Singapore market, the MAS may impose licensing conditions for closer regulatory scrutiny.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

The position under Singapore law is unclear. There has not been any authoritative guidance (such as from the MAS or the Singapore Courts) on whether a parametric insurance contract must comply with indemnity principles or proof of actual economic loss to be valid. In the common law tradition and as established in *Castellain v Preston* (1883) 11 QBD 380, the indemnity principle applies to policies intended to cover the policyholder for losses suffered. On this basis, actual economic loss sustained by the insured is likely to minimally be required.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

It is likely that insurable interest requirements apply to parametric insurance. In Singapore, there is no statutory requirement of insurable interest for indemnity policies under the IA. However, the common law position as established in *Lucena v Craufurd* (1806) 2 Bos & Pul (NR) 269, 127 ER 630, HL (UK) and *Macaura v Northern Assurance Co* [1925] AC 619, HL (UK) is that a policyholder must have insurable interest in the subject matter of his or her indemnity policy before he or she can recover under the policy. The recognised insurable interest must take the form of a legal or equitable interest, which generally takes the form of some proprietary interest in the subject matter.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Singapore law does not provide any extra or specific requirements for proof of loss or similar claim substantiation for parametric insurance beyond that for other types of insurance.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Singapore law does not provide any extra or specific requirements for proof of loss or similar claim substantiation for parametric insurance beyond that for other types of insurance.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

No, the functions of calculation agents are not subject to any regulatory, licensing, governance, or conduct requirements in Singapore. We assume such functions, in relation to parametric insurance, involve the determination of matters such as whether a trigger event had occurred, the amounts payable, and other outcomes based on mechanisms under the parametric insurance policies.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

No, there are no legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data in Singapore.

The MAS Guidelines on Outsourcing (Financial Institutions other than Banks) (January 2025) set out the risk management practices the MAS expects insurance companies (among other financial institutions) to put in place for outsourcing arrangements, which would include outsourced calculation agent functions.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

No, there are no specific legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms for parametric insurance under Singapore law.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

Yes, the same regulatory regime applicable to traditional insurance products applies. The distribution of (re)insurance policies (excluding direct life insurance policies, which are regulated under a different statute) in Singapore is principally regulated under the IA. In broad terms, only (i) licensed (re)insurers, (ii) registered insurance brokers, and (iii) insurance agents registered under the General Insurance Association of Singapore's Agents' Registration Board and authorised to act for a licensed insurer under a written agreement may carry on the business of arranging contracts of insurance in Singapore. Conduct obligations (such as, among other things, compliance with fit and proper criteria for broking staff and adherence to guidelines for boards and senior management on

fair dealing) would apply to the (re)insurer / broker / agent in the same manner as for traditional insurance products.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Persons which are not licensed as (re)insurers or registered as insurance brokers or insurance agents (such as online platforms, technology providers, embedded insurance distributors, managing general agents) may participate in the distribution chain only to the extent their activities do not amount to (i) receiving proposals for, or issuing policies in Singapore, (ii) collecting or receiving premiums on policies in Singapore or (iii) arranging contracts of insurance. Such technology service providers may, for instance, operate as "passive" portals by providing the licensed (re)insurers/ intermediaries access to and use of their platforms, such that the marketing of the products are directed by the licensed (re)insurers/ intermediaries without the technology service providers being actively involved in advising on the insurance product.

The administration of claims made under parametric insurance products, like any other traditional insurance product, is not a regulated activity in Singapore.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

There are no consumer protection requirements specific to parametric insurance. Product providers and distributors may wish to take note specifically of the MAS' Guidelines on Fair Dealing - Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers [FSG-G04] (the "Fair Dealing Guidelines") which sets out MAS' expectations for customers to, among other things, be provided with clear, relevant, and timely information that accurately represent the products and services offered and delivered, and for customers to be offered suitable products and services. Given the technical nature of parametric mechanisms and the binary nature of parametric pay-outs and the potential for basis risk, particular attention would need to be paid to clearly disclose the trigger mechanisms and the data sources and to consider whether the products offered are suitable, especially for small businesses or retail customers.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

No, the foregoing positions do not differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds. MAS expects insurance companies to apply the principles in the Fair Dealing Guidelines to all customers. However, the focus will be different between commercial and consumer policyholders and sophisticated and non-sophisticated insureds. Under the Fair Dealing Guidelines, insurance companies have discretion to consider how best to achieve the outcomes in a proportionate manner, having regard to its own business model, the nature of products and services offered, the potential harm to customers, and the needs and interests of customers, especially those who are more vulnerable. For instance, there will be less of

a need to keep policy terms and parametric mechanisms simpler for commercial / sophisticated insureds.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

The principal challenge is the absence of any bespoke statutory or regulatory framework for parametric insurance and the resulting need to apply long-established legal doctrines (in particular the indemnity principle, the prohibition against gaming and wagering contracts under section 5(1) of the Civil Law Act 1909 and the requirement for insurable interest) to a product that, by design, decouples payout from actual loss. The strict application of these principles may not be fit-for-purpose, thereby causing legal uncertainties. There is also relatively limited awareness of parametric insurance and track record, all of which limit the supply and demand for parametric insurance.

The limited adoption of parametric insurance in the region in turn curbs supply from product providers, curtails the growth of related service providers (such as modelling and reporting agencies) and inhibits the overall development of parametric insurance as a protection class.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

No specific major issues have arisen in the Singapore market given the limited adoption of parametric insurance. From a more theoretical perspective, basis risk (the gap between the parametric payout and the insured's actual economic loss) might be the most prominent practical concern, particularly where the product is marketed to less sophisticated insureds. This key difference from traditional insurance products thus calls for greater expertise of intermediaries and underwriters and better availability of advice for potential policyholders, so as to appropriately manage policyholder expectations and to ensure that the policyholders obtain the cover they need. However, the lack of adoption impedes the development of such expertise, which in turn discourages adoption.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

To date, there are no litigation / regulatory action / disputes / complaints / judicial precedents involving parametric (re)insurance contracts in Singapore.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

There are no reported decisions from the Singapore Courts or the MAS on parametric (re)insurance. As noted above, given the apparent complexity of parametric mechanisms and the

current lack of expertise and customer awareness of parametric insurance products, there may initially be issues of mis-selling or negligent advice by intermediaries, or accusations of unfair dealing by insurance companies. Disputes may also potentially arise as regards the construction of the wording of the trigger clause, particularly where there is misunderstanding (particularly from less sophisticated insureds) as to how the trigger (or triggers, under hybrid dual trigger structures that utilise both an indemnity trigger as well as a parametric trigger) is intended to operate.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The Singapore legal and regulatory environment is best characterised as evolving and broadly favourable. There is no express prohibition against parametric insurance and the MAS has consistently expressed its interest in supporting market development, consistent with Singapore's positioning as Asia-Pacific's leading (re)insurance hub. At the same time, the absence of any bespoke statutory or regulatory framework, and the lack of judicial or supervisory guidance on the application of the indemnity principle, prohibition against gaming and wagering contracts and insurable interest requirements to parametric products, and the construction of the terms and conditions of parametric insurance leave legal uncertainty for insurers, service providers and policyholders.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

The development of parametric insurance in Singapore will need to be driven by the introduction of capacity and expertise from product and service providers. Such introduction may not take place organically due to the lack of adoption of parametric products in the region. The development of parametric insurance may therefore need to be driven by the government to develop an ecosystem in the region, such as by way of grants, training programmes, or government-led provision or procurement of parametric insurance.

The most useful clarifications would come in the form of formal guidance confirming the regulatory classification of parametric insurance and explaining the applicability (or modified application) of the indemnity principle, prohibition against gaming and wagering contracts and insurable interest requirements to such products.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

Singapore's role as a regional (re)insurance hub, together with the MAS' demonstrated willingness to engage with insurance innovation (including through supporting the establishment of Natural Catastrophe Data Analytics Exchange (NatCatDAX), a natural catastrophe data facility for the region, participating in the Singapore-domiciled Southeast Asia Disaster Risk and Insurance Facility (SEADRIF), the first regional catastrophe risk facility in Asia by ASEAN member states, incentivising Singapore catastrophe bond issuances through the Insurance-Linked Securities Grant Scheme, as well as ongoing exploration and engagement with industry stakeholders regarding the introduction

ASIA

of protected cell company structures), suggests that parametric structures are likely to develop materially over the coming years.

ASIA

TURKEY

By
Aysel Korkmaz
Gün + Partners Law Firm

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

There is currently no statutory or regulatory definition of parametric insurance in Türkiye. However, the concept has been acknowledged in practice and referenced by public and quasi-public bodies.

In particular, the Turkish Academy of Sciences, in its July 2020 report titled COVID-19 Global Outbreak: Report on Judicial Changes and Interactions, referred to and defined "Parametric Insurance Agreements" as agreements where insurance indemnity is paid upon the occurrence of a predefined triggering event, such as a pandemic or natural event, based on predetermined objective parameters or index limits rather than traditional loss adjustment.

The report also noted that, in parametric insurance, claims payment can be made automatically once the agreed parameter is satisfied, without requiring lengthy examination procedures.

In addition, a May 2021 decision of the Insurance Arbitration Commission expressly referred to the definition provided in the aforementioned report and recognized parametric insurance as a type of coverage that has recently begun to emerge both globally and in Türkiye.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Although there is currently no specific legal framework governing parametric insurance in Türkiye, parametric insurance products are being offered by several insurance companies in practice.

In addition, a May 2021 decision of the Insurance Arbitration Commission noted that coverage operating "irrespective of the occurrence of damage" deviates from traditional insurance techniques and classifications, and identified such coverage as corresponding to "parametric insurance".

Based on the currently available information, parametric insurance appears to be treated in practice as a form of insurance product, albeit one that differs from traditional insurance concepts and classifications.

ASIA

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

The available information does not identify specific market segments in detail. However, the Turkish Academy of Sciences' 2020 report discussed parametric insurance in the context of pandemic-related disruptions and travel insurance, including examples involving automatic payment upon train or airplane delays exceeding predetermined thresholds.

More generally, several insurance companies in Türkiye have reportedly begun offering parametric insurance products.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Yes. Although there is currently no specific legal framework governing parametric insurance in Türkiye, several insurance companies have already begun offering parametric insurance products in practice.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

There is currently no specific legal or regulatory framework governing parametric insurance in Türkiye.

Based on the available information, no specific ongoing legislative initiatives or regulatory proposals have been identified. Nevertheless, parametric insurance has already been acknowledged in academic and quasi-judicial contexts, including by the Turkish Academy of Sciences and the Insurance Arbitration Commission.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

ASIA

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

The available information suggests that satisfaction of the agreed parameter may be sufficient for payment under parametric insurance products.

In particular, the Turkish Academy of Sciences described parametric insurance as a system in which predetermined insurance indemnity is paid automatically once the agreed parameter or index threshold is met. Similarly, the May 2021 decision of the Insurance Arbitration Commission referred to policy wording providing coverage "irrespective of the occurrence of damage".

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

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The principal challenge appears to be the absence of a dedicated legal and regulatory framework for parametric insurance in Türkiye.

In addition, the May 2021 decision of the Insurance Arbitration Commission suggests that parametric insurance may raise questions regarding its compatibility with traditional insurance techniques and classifications, particularly where payment may be triggered irrespective of proof of actual damage.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

A notable development is a May 2021 decision of the Insurance Arbitration Commission concerning a policy clause providing coverage “irrespective of the occurrence of damage”.

In its decision, the Commission stated that such coverage deviates from traditional insurance techniques and classifications and noted that the relevant coverage corresponded to a type of insurance known as “parametric insurance”, which had only recently begun to emerge both globally and in Türkiye.

The decision also expressly referred to the definition of parametric insurance contained in the July 2020 report of the Turkish Academy of Sciences.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The legal and regulatory environment for parametric insurance in Türkiye may currently be characterized as evolving.

Although there is no dedicated regulatory framework governing parametric insurance, several insurers have already begun offering such products in practice. In addition, parametric insurance has been recognized and discussed in academic and quasi-judicial contexts, including by the Turkish Academy of Sciences and the Insurance Arbitration Commission.

ASIA

The emergence of disputes relating to such products also indicates that the market is developing despite the absence of formal regulation.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

EUROPE

AUSTRIA

By

Julian Spadinger

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1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

There is no statutory definition of parametric insurance in Austrian insurance law. The Austrian regulatory authority responsible for insurance (Financial Market Authority: FMA) does not provide an official definition either. However, in a report published by the FMA in 2019, parametric insurance is defined as follows: "With parametric insurance, there is no need to determine whether the insured has actually suffered a loss or how much that loss amounts to. Instead, the agreed-upon sum becomes payable as soon as a specific parametric trigger occurs." [1i]

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

The FMA thus implicitly assumes that parametric insurance policies should be classified as insurance and not as other financial products. This is also consistent with a view in scholarship that classifies a parametric insurance product available on the Austrian market as insurance and distinguishes it from other types of contracts. [2]

The topic of parametric insurance has not been intensely discussed in Austria. However, such insurance already exists in the agricultural sector, where the Austrian Hail Insurance Company offers what is known as "drought index insurance" ("Dürreindexversicherung"), which uses water shortages and heat as parameters for determining compensation payments. This insurance also falls under the Hail Insurance Subsidy Act, under which the government covers a portion of the insurance premiums.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Parametric insurance naturally comes close to a derivative within the meaning of the Austrian Securities Supervision Act ("Wertpapieraufsichtsgesetz 2018"; "WAG 2018"). After all, a derivative is also based on an underlying value on which the derivative's performance depends. While derivatives are sometimes used for speculation, in practice they are also deployed to hedge against uncertain risks.[3] When derivatives are linked to the weather ("weather derivatives"), as is the case, for example, in the

[1] Digitalisierung am österreichischen Finanzmarkt 2019, available at Publikationen - FMA Österreich.
[2] Perner, Versicherung in Krisenzeiten in FS Lovrek (2024) 579 (583 et seqq.).
[3] *Seggermann* in *Saria*, WAG 2018[2] (2025) Section 1 marginal no. 63.

energy sector[4] or the tourism industry[5], the similarity to the drought index insurance offered in Austria—as mentioned earlier—is particularly apparent.

Unlike a derivative, however, parametric insurance always requires the presence of an insurable interest or a need on the part of the customer. From a regulatory perspective, insurance must, therefore, serve to meet a need, which is not necessarily the case with a derivative.[6] In other words: While anyone could purchase a weather derivative on the capital market, only a farmer who bears the risk of crop failure can take out drought index insurance. Finally, the premium calculation for insurance (including parametric insurance) is based on an actuarial calculation according to the law of large numbers[7], whereas a weather derivative is based on a financial mathematical valuation.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction? If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Austrian insurance regulatory law does not require ex ante approval of a new insurance product. Parametric insurance products may therefore be offered on the market by licensed insurance companies, provided they comply with the general requirements of the Austrian Insurance Supervision Act ("Versicherungsaufsichtsgesetz"; "VAG").

First, the product must constitute "insurance" in the regulatory sense. As already mentioned above, this is not entirely self-evident. However, the regulatory definition of "insurance" must be distinguished from the contractual understanding of the term (see 3.), as the respective purposes pursued differ.[8] In any case, parametric insurance policies also meet the criteria deemed necessary under insurance supervision law[9]: There is a risk that triggers the policyholder's need for a third party to assume the risk; this risk is assumed in exchange for a premium; and, should the risk materialize, there is a legal entitlement to the insurance benefit.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Also, insurance policies are no longer subject to ex ante review by regulatory authorities in Austria.[10] As a result, they are now subject only to ex post judicial review (more on this below).

3. Core Insurance Law Concepts

[4] *Griehser*, Die Bewertung von Wetterderivaten, ÖBA 2007, 928 (929).
[5] See VwGH 27.05.2025, Ra 2024/15/0070: referred to as a weather derivative but offered by an insurance company.
[6] See also *Hoffmann*, Parametrische (Sach-)Versicherungen – Rechtliche Einordnung, Gestaltungsanforderungen und makroökonomische Wirkungen, r+s 2024, 304 (307).
[7] See Fletzberger in Korinek/G. Saria/S. Saria, VAG (2016) Section 1 marginal no. 9; BVerwG 1 A 26/91 VersR 1993, 1217.
[8] Fletzberger in Korinek/G. Saria/S. Saria, VAG Section 1 marginal no. 8.
[9] *Fletzberger* in *Korinek/G. Saria/S. Saria*, VAG Section 1 marginal no. 9.
[10] See only *Perner*, Privatversicherungsrecht[2] marginal no. 2.81.

EUROPE

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Under Austrian insurance contract law, non-personal insurance may, in principle, only be agreed upon as so-called "indemnity insurance"[11]. Indemnity insurance compensates for financial loss caused by the occurrence of an insured event (Section 1 of the Austrian Insurance Contract Act [VersVG]); the insurance benefit is capped at the amount of the loss (Section 55 VersVG).

Parametric insurance does not seem to fit into this framework. Even in cases such as insuring against crop failure due to drought, this is obviously not personal insurance, which means that only indemnity insurance is permitted. However, parametric insurance is precisely not linked to a specific loss; rather, compensation is based on an index, and no loss adjustment takes place. It is, therefore, conceivable that a policyholder might receive compensation that exceeds his actual loss. At first glance, this appears to contradict Section 55 VersVG.

Nevertheless, the few academic opinions in Austria have so far held the view that parametric insurance policies to protect against crop failures (Dürreindexversicherung) are permissible. This is justified by the argument that the purposes of the requirement that non-personal insurance be structured as indemnity insurance do not apply to parametric agricultural insurance.[12] On the one hand, by being decoupled from the obligation to provide concrete proof of damage, parametric drought insurance does not come into problematic proximity to betting and gambling.[13] On the other hand, it does not create negative incentives for the policyholder's behaviour: after all, the policyholder cannot influence a risk such as the weather anyway. Accordingly, the policyholder cannot act with particular negligence with regard to the insured risk. On the contrary, parametric insurance could even provide positive behavioural incentives, since it is in the policyholder's interest to save the crop: after all, the insurance benefit would still be paid out.

Drought index insurance is therefore deemed permissible. The specific rationale for this is not considered to be of primary importance: It may be based on the fact that, in the field of agricultural insurance, fixed-sum insurance is exceptionally deemed permissible; that parametric insurance is classified here as indemnity insurance, for which proof of a specific loss may be exceptionally waived[14]; or that reliance on an index constitutes a permissible valuation method within the meaning of Section 57 VersVG[15]. Under Section 57 VersVG, lump-sum compensation for losses is permissible for the purpose of simplifying proof of loss, provided that the actual insured value is not significantly exceeded. The difficulty of providing concrete proof of loss in the case of major weather events in the agricultural

[11] *Fenyves* in *Fenyves/Perner/Riedler*, VersVG Section 1 marginal no. 19.
[12] *Perner* in FS Lovrek (2024) 579 (586).
[13] *Perner* in FS Lovrek (2024) 579 (583 et seqq.).
[14] *Perner* in FS Lovrek (2024) 579 (587 et seq).
[15] *I. Vonkilch*, Rechtliche Grenzen der Versicherbarkeit, ÖJA 2025, 257 (283).

sector, as well as the fact that losses in this context typically occur precisely when there is a lack of precipitation, support the view that reliance on an index never constitutes an impermissible significant excess of the insured value within the meaning of Section 57 VersVG.

It can, therefore, be concluded that the agreement of parametric insurance is recognized as permissible in Austria, at least in the area of drought risk. This implies that waiving the requirement for specific proof of loss in this area is approved. At the same time, it should of course be noted that these issues have so far been little researched or discussed in Austria.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

Under Austrian law, there are no insurance-specific statutory or regulatory provisions that address or regulate a calculation agent.

However, it is important to bear in mind the governance requirements set forth in Section 106 et seq. of the VAG. These provisions stipulate, for instance, that the insurance company remains responsible for compliance with all regulatory requirements even in the event of outsourcing (Section 109 VAG). To the extent that an independent "calculation agent" is involved in these tasks, this must therefore be taken into account.

Finally, from a contract law perspective, reference can be made to the law on general terms and conditions. Since the reference to "third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms" ultimately shapes and influences the insurer's performance, one might ask whether such a reference is permissible in general terms and conditions. However, such a clause can certainly be drafted in a transparent manner (within the meaning of Section 6 para 3 of the Consumer Protection Act, KSchG). Furthermore, the link to external parameters is already established at the time the contract is concluded, so that a subsequent unilateral change in performance within the meaning of Section 6 para 2 number 3 KSchG cannot be assumed. This is also the position of the Austrian Supreme Court, for example, regarding the linking of an interest rate to an interest rate indicator that cannot be modified by the parties.[16]

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

[16] OGH 19.05.2010, 6 Ob 220/09k; OGH 17.03.2010, 7 Ob 15/10x.

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Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

As parametric insurance policies are classified as insurance policies (see above), the sale of such policies is subject to the standard regulations for insurance distribution. Therefore, a business license is required, for which proof of qualification must be provided. This includes a qualification exam to obtain a business license, as well as ongoing continuing education totalling 15 hours per year.[17] The commercial and independent sale of parametric insurance—regardless of whether it takes place via an online platform—must therefore comply with these regulatory requirements. In addition, insurance sales can, of course, also be conducted directly through the insurer. In any case, however, insurance sales must be conducted in the best interests of the customer, and the customer must be provided with comprehensive information about the insurance product (Sections 128 et seq. VAG)

Insurance sales practices typically require the selling insurer or insurance intermediary to provide advice. The policyholder must be given a personalized recommendation tailored to the policyholder's wishes and needs. In doing so, the insurer or intermediary must also explain why the recommended product best meets the policyholder's wishes and needs. In the context of parametric insurance, it must therefore be explained why an index-based insurance policy better meets the customer's needs than another insurance product that may also be offered, which compensates for specific and proven losses. Furthermore, the policyholder must be provided with an information sheet containing all relevant product information (Section 133 VAG). This also includes a summary of the insurance coverage, including the main insured risks, the sum insured, and a summary of excluded risks. In the case of parametric insurance, it will be necessary to explicitly highlight its specific mechanism of operation once again. It will be important here—just as it is in the context of personal consultation—to explain potential gaps in coverage that may arise from the index-based insurance benefit. In particular, the lack of information about the specific risks associated with parametric insurance could provide the basis for potential claims for damages against the insurance intermediary. After all, the more complex the product, the higher are the demands placed on the specific consultation. [18]

The duties to provide information and advice generally apply regardless of whether the policyholder is a commercial policyholder or a consumer. However, a particular customer's lack of experience may require a higher standard of advice. In practice, therefore, the scope of advice provided will be less extensive for experienced commercial policyholders than for the average consumer.[19]

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

[17] *Perner*, Privatversicherungsrecht[2] (2024) marginal no. 2.162.
[18] *Perner*, Privatversicherungsrecht[2] marginal no. 2.174.
[19] *Perner*, Privatversicherungsrecht[2] marginal no. 2.174.

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In the author's view, as mentioned above, the primary challenges in distributing parametric insurance lie in providing sufficiently clear information about the specific features and risks of this insurance product. A particular challenge in this context—but also in general—is certainly the legal uncertainty that currently exists. As already mentioned, there has been little discussion regarding the contractual and regulatory classification of parametric insurance. Above all, however, there is no case law on this matter yet; it therefore remains to be seen how the Austrian courts—and in particular the Austrian Supreme Court (OGH)—will handle such insurance products, which deviate significantly from the basic concept of indemnity insurance under the Insurance Contract Act (VersVG).

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

At present, there are no published Austrian court decisions dealing with parametric insurance contracts.

Future disputes could concern the wording of the "trigger clause," the obligations of intermediaries, or—as mentioned—the general admissibility and classification of parametric damage insurance.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

The legal and regulatory environment in Austria is generally favourable for parametric insurance, although some issues remain uncertain. The broadly defined concept of insurance, as well as the absence of prior regulatory approval for new insurance products, generally promote the introduction of innovative insurance solutions.

For several years now, an insurance solution for natural disasters has been a topic of political discussion. Since innovative products may also be required in this area,[20] legislative efforts in the field of natural disaster insurance could lead to new developments in the area of parametric insurance as well.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform. No additional observations.

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[20] *Perner/Walther*, Versicherungsrecht und Naturkatastrophen, VRW 2025, 14 (19).

EUROPE

BELGIUM

By

Olivia Delagrange and Javier Montero

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1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

There is no specific legal or regulatory definition of parametric insurance under Belgian law. No Belgian legislative instrument expressly enshrines this term. Parametric insurance is understood by reference to the general principles of insurance law as codified in the Act of 4 April 2014 on Insurance ("Insurance Act") [1].

In practice, parametric insurance may be defined as a product under which cover is triggered by the occurrence of a pre-agreed index or objective parameter (rainfall levels, wind speed, seismic magnitude, etc.), irrespective of proof of actual loss. The contract determines in advance the trigger threshold, the source used to measure this index, and the amount of the indemnity due so that settlement can take place swiftly without any prior assessment of the losses actually incurred[2].

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Parametric insurance is therefore most likely to qualify as an insurance contract. Under Article 5, 14°, an insurance contract is defined as a contract under which, in return for payment of a fixed or variable premium, one party, the insurer, undertakes towards another party, the policyholder, to provide the benefit stipulated in the contract if an uncertain event occurs which the insured or, as the case may be, the beneficiary has an interest in not occurring.

Under Belgian law, parametric cover can only qualify as insurance insofar as it meets this statutory definition. Given the breadth of that definition, most parametric structures will fall within its scope (parametric insurance satisfies each of these elements: a premium is paid, the trigger event is uncertain, and the insured has an interest in the non-occurrence of the triggering event). In non-life insurance, however, the indemnity principle continues to apply: the insured may not receive more than the actual loss suffered. If the parametric payment were to exceed the damage, this could lead to the contract being (wholly or partly) invalid or to a limitation of its effects.

In practice, parametric cover is therefore best characterised as damage insurance. The existence of a loss must still be shown, even though the occurrence of the trigger and the causal link are determined ex ante by objective parameters. This generally enhances legal certainty, as the insurer must intervene when the trigger occurs and a loss within the agreed band of cover is demonstrated. Conversely, if the loss falls manifestly outside that band, the cover will not respond in full.

[11] Banque de données Justel

[2] Assurances paramétriques

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Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

In Belgium, parametric insurance is primarily used in agriculture, where it relies on objective weather indices (e.g. drought and rainfall).

Its use for natural catastrophes remains limited due to the mandatory regime under the Insurance Act which integrates such risks into fire insurance and is based on a traditional indemnity principle requiring proof of actual loss[3].

In other sectors (energy, infrastructure, events), parametric insurance remains marginal in practice.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction? Yes.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance? Parametric insurance is not expressly regulated in Belgium. Currently, there is no specific legislation, regulatory circular or publicly known legislative proposal dealing with this type of product. It is therefore governed by the general rules of insurance law.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process. No.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

There is no prior approval or filing requirement for policy wordings, trigger definitions, pricing methodologies, or actuarial materials under Belgian law. However, the Financial Services and Markets Authority ("FSMA") retains the power, under Article 304 of the Insurance Act, to request all information and documents necessary to verify ongoing compliance, but does not exercise prior product approval.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

The validity of a parametric insurance contract does not, as such, depend on the use of a traditional loss-adjustment process or on systematic proof of actual economic loss in each individual case. However, where a parametric product qualifies as an insurance of damages, it is subject to the indemnity principle: every insurance of damages has an indemnity character and the insurer's performance is limited to the loss actually suffered (Articles 93 and 105 of the Insurance Act) In that context, the existence of a loss must still be demonstrated, but the parametric mechanism simplifies

[3] Article 123 of the Insurance Act.

the evidentiary burden. Once the objective trigger is met, the occurrence of the event and the causal link are in principle already determined.

Parametric covers must therefore be structured so that the trigger and payout operate as a reasonable proxy for likely loss. The payment is not entirely automatic. The insured must be able to show that a loss of the type contemplated by the contract has occurred and that it falls within the band of losses which the parametric amount is designed to compensate. If, by its design or in a specific case, the payout is manifestly disconnected from any real loss (for instance because the indemnity clearly exceeds or bears no relation to the damage suffered), the arrangement could be criticised as incompatible with the indemnity principle and may be declared invalid in whole or in part or have its effects limited.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Yes, insurable-interest requirements apply equally to parametric insurance. For insurance of damages, the policyholder must have a genuine economic interest in the preservation of the insured activity or asset (article 91 of the Insurance Act).

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Belgian insurance law imposes general duties to declare the loss and to cooperate with the insurer (article 74 of the Insurance Act). These duties are not removed by using a parametric trigger.

In parametric contracts, satisfaction of the agreed index is typically used to establish the occurrence and quantum ceiling of the covered event. But wordings still require some substantiation of loss beyond the trigger, for example an obligation for the insured to confirm the existence and proportion of the loss after the risk period or an obligation for the policyholder to provide an attestation of losses actually suffered before payment.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

In parametric practice, the satisfaction of the index is treated as a contractual proxy or presumption that a loss-causing event has occurred. The insured is then required only to confirm that they did in fact suffer loss within the contractual caps, rather than to prove in detail how each unit of loss was caused. Wordings therefore tend to make:

- the parameter a necessary condition for cover
- a confirmation or attestation of actual loss a further condition for payment.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

The calculation agent function is not subject to any specific regulatory licensing or authorisation requirement under Belgian insurance law. The Insurance Act does not define calculation agent as a separate regulated role, nor does it lay down bespoke governance or conduct rules for this function.

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In practice, the calculation function is typically performed either by the insurer itself or by an affiliated or third-party service provider under the terms of the insurance contract. Where it is performed by the insurer, it falls within the general organisational and conduct-of-business framework applicable to insurance undertakings :

- Article 16 of the Insurance Act requires insurers to have an adequate management structure, administrative and accounting organisation, IT security and internal control systems to ensure compliant and sound operations to ensure that all parties involved are treated honestly, fairly and professionally.
- Article 16/2 of the Insurance Act regulates outsourcing of operational functions. The insurer remains fully responsible for compliance with the Insurance Act, and must ensure that the delegate cooperates with the FSMA and that both the insurer and the FSMA have effective access to the delegate's data and premises.
- Articles 272 et seq. of the Insurance Act impose professional and organisational requirements on insurers when they distribute insurance (e.g. designation of persons responsible for distribution, internal policies and procedures).

Where the calculation function is outsourced to a separate entity, this will normally constitute an outsourcing of operational functions within the meaning of Article 16/2, with the consequences just described (full responsibility retained by the insurer, cooperation and access duties of the delegate).

In addition, all insurance distributors, including insurers when distributing their own products, are required to act honestly, fairly and professionally in the best interests of their clients under Article 279 of the Insurance Act, and to put in place arrangements to identify and manage conflicts of interest and to ensure transparency on remuneration and other incentives under Article 283 of the Insurance Act. If the calculation agent is itself an insurance intermediary, it must be duly registered and comply with the professional and organisational requirements set out in Articles 259-267 of the Insurance Act (registration in the FSMA register, fit and proper requirements for management and staff, minimum knowledge and competence, payment of FSMA contributions, etc.).

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

There are no express legal requirements mandating the independence of the calculation agent or imposing specific governance rules on trigger methodology. The Insurance Act does not regulate calculation agents as a distinct function.

However, several provisions indirectly bear on these issues. Under Article 283, §§ 8–10 of the Insurance Act, insurance distributors must maintain effective organisational and administrative arrangements to prevent conflicts of interest from harming clients, must take appropriate measures to detect such conflicts, and, where they cannot be avoided, must clearly disclose their nature and sources to the client before contract conclusion. Where the calculation agent is the insurer or an affiliated entity, the risk that trigger determinations could be made in a manner favouring the insurer is a structural conflict of interest that falls within the scope of these provisions.

From a more fundamental insurance-law perspective, this also ties in with the requirement of uncertainty (*alea*) that underpins the definition of an insurance contract in Article 5, 14° of the Insurance Act. An arrangement in which the occurrence of the trigger is effectively certain ex ante, or

can be influenced ex post by the insurer or another party involved in the trigger determination, would not only raise acute conflicts-of-interest concerns, but could also be criticised as falling outside the very concept of insurance, which presupposes an uncertain event.

As regards transparency, Articles 23 and 28 of the Insurance Act require that insurance contracts be drafted in clear and precise terms and that marketing documents, including descriptions of triggers and pay-out formulas, not be misleading and remain consistent with the mandatory information to be provided to policyholders. In practice, parametric wordings address this by specifying in the policy the data source and the calculation methodology.

Finally, where the calculation function is outsourced, Article 16/2 requires that the delegate cooperate with the FSMA and that both the insurer and the FSMA have effective access to the relevant data and premises. More generally, Article 304 empowers the FSMA to request all necessary information and documents and to carry out inspections.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

There are no specific provisions in the Belgian Insurance Act that govern the use of third-party indexes, weather data, satellite data, catastrophe models or automated trigger mechanisms in insurance contracts. The choice of index and data source is therefore a matter of contractual freedom subject to the general principles of insurance and contract law.

The Insurance Act does not contain dedicated evidentiary rules for such data either. In the absence of special provisions, their evidentiary value would be assessed by Belgian courts under the general rules of evidence. This makes it particularly important that the policy wording clearly specifies the data source and the calculation methodology.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

The distribution of parametric insurance products is not subject to any specific licensing regime, but falls within the general insurance distribution framework of the Insurance Act.

Under Article 5, 20°, an insurance intermediary is defined as any independent natural or legal person, other than an insurance undertaking or ancillary insurance intermediary, who accesses or exercises the activity of insurance distribution for remuneration. Under Article 259 of the Insurance Act, no intermediary may exercise its distribution activity unless registered in the corresponding category of the FSMA's register, and Article 263 prohibits the use of the titles insurance broker ("courtier d'assurance"), insurance agent or insurance sub-agent without such registration. Registration requires that the intermediary and its staff in contact with the public possess and maintain appropriate knowledge and competence, have adequate expertise and professional integrity, are not subject to disqualifying circumstances, and hold professional indemnity insurance covering the entire EEA (Article 266 of the Insurance Act). The FSMA decides on registration within sixty days and maintains a public online register (Article 268 of the Insurance Act). Distributors that make use of unregistered intermediaries incur civil liability for the acts performed by such intermediaries in the course of their distribution activity (Article 259, §2 of the Insurance Act).

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May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Yes. Non-insurance entities may participate in the distribution or administration of parametric insurance products, but only within the general framework for insurance distribution in the Insurance Act.

If they carry out insurance distribution (presenting, proposing, preparing, concluding insurance contracts or giving advice), they must either:

- qualify as insurance intermediaries under Article 5, 20° and be registered in the appropriate category of the FSMA register, with all the associated professional and organisational requirements (Articles 259, 263, 266–268 of the Insurance Act); or
- qualify as ancillary insurance intermediaries under Article 5, 56° (distribution not their main activity, products complementary to a good or service, no stand-alone life or liability cover) and, where the conditions of Article 258, §1 of the Insurance Act are met (including a maximum premium of EUR 200 per year, or EUR 200 per person for contracts of three months or less), benefit from the limited-scope exemption for ancillary intermediaries. In that case, the insurer or registered intermediary using them must still ensure a minimum level of client protection (Article 258, §2 of the Insurance Act).

Where a non-insurance entity performs only purely technical or administrative functions (e.g. data processing, IT services) and does not itself present, offer, conclude, or advise on insurance contracts, it falls outside the statutory definition of insurance distribution and is not subject to the distribution regime (Article 5, 46°, second paragraph, d)–e) of the Insurance Act)

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Yes. While there are no parametric-specific rules, several general consumer-protection provisions of the Insurance Act are particularly important for parametric products because of their complexity:

- IPID (non-life products). For non-life insurance, an Insurance Product Information Document ("IPID") must be provided and drawn up by the manufacturer (Article 284, §§5–6 of the Insurance Act). It must clearly and non-misleadingly describe the cover, main exclusions, obligations at inception, during the contract and in case of claim, and the contract duration/termination (Article 284, §§7–8 of the Insurance Act).

- Demands-and-needs / suitability-type duty. Before conclusion, the distributor must identify the client's demands and needs and ensure the proposed product is consistent with them, with the depth of this assessment adapted to the product's complexity (Article 284, §§1–2 of the Insurance Act).

- Product governance. Manufacturers must operate a product approval process so that each product is designed for a defined target market and its risks are assessed. These provisions do not apply to large risks (Article 288, §§1–3 of the Insurance Act). Distributors may only offer products whose essential characteristics they understand and can explain (Article 288, §4).

- Conflicts of interest and disclosure. Distributors must have arrangements to prevent conflicts of interest from harming clients, detect such conflicts, and, where unavoidable, disclose their nature and sources before contract conclusion (Article 283, §§8–10 of the Insurance Act). This can be engaged where the same group designs the trigger and determines whether it has been met.

All of this comes in addition to the general requirements that contracts be drafted in clear and precise terms (Article 23 of the Insurance Act) and that marketing documents not be misleading (Article 28 of the Insurance Act).

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

Yes, the applicable framework differs materially depending on the type of policyholder.

For large risks as defined in Article 5, 39° of the Insurance Act (certain commercial/industrial property and liability risks, subject to size criteria), several distribution-level protections are expressly disapplied. For example, insurers and intermediaries are exempt, for these risks, from the general pre-contractual information duties of Article 281 §3 of the Insurance Act, from the conflict-of-interest and remuneration-transparency duties in Article 283 §7 of the Insurance Act, from the IPID and associated disclosure requirements in Article 284 §9 of the Insurance Act, and from the product-approval and target-market rules in Article 288 §3 of the Insurance Act. Sophisticated commercial policyholders purchasing parametric cover for large risks therefore operate in a lighter regulatory environment with greater contractual freedom.

For retail clients, defined in Article 5, 19°/2 of the Insurance Act as any client who is not treated as a professional client, the full set of distribution obligations continues to apply, including the demands-and-needs assessment (Article 284, §§1–2 of the Insurance Act), IPID for non-life products (Article 284, §§5–8 of the Insurance Act), product governance (Article 288, §§1–2 of the Insurance Act), and the general duty to act honestly, fairly and professionally in the client's best interests (Article 279 of the Insurance Act).

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

The main legal challenge in Belgium is the tension between the parametric mechanism and the mandatory indemnity character of damage insurance. Under the Insurance Act, every insurance of damages has an indemnity character and the insurer's performance is limited to the loss actually suffered (Articles 93 and 105), so a parametric payout that is not reasonably linked to actual loss may be vulnerable to challenge as incompatible with those provisions.

A second challenge is that the Insurance Act does not expressly address parametric products, and the materials provided contain no product-specific legislation, FSMA guidance or case law. Insurers and distributors must therefore structure and enforce parametric covers within the general framework, which creates some legal uncertainty.

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Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Basis risk is a central practical challenge. If the agreed parameter triggers when the policyholder has little or no loss, or fails to trigger despite real damage, there is a real risk of complaints that the product was not consistent with the client's demands and needs or that disclosure was inadequate, given the suitability-type duties and information obligations in Article 284 of the Insurance Act.

Data reliability is equally critical. The Insurance Act does not lay down standards for trigger data. In the absence of specific regulatory rules, careful contractual specification of the data source and calculation methodology is the primary tool to manage such risks.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

To the best of our knowledge, no reported judicial decision, regulatory action, or published dispute involving a parametric insurance or reinsurance contract exists in Belgium.

Foreseeable dispute themes, given the general framework of the Insurance Act and the way parametric contracts are drafted, include in particular:

- Trigger and methodology : interpretation of the trigger clause, choice of reference data source, handling of missing/anomalous data, etc.
- Basis risk and mis-selling : situations where the index does not match the policyholder's actual loss (trigger without loss, or loss without trigger), potentially leading to complaints under the demands-and-needs and information duties.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The current Belgian environment for parametric insurance is formally permissive but practically uncertain. Nothing in the Insurance Act expressly prohibits index-based triggers. The statutory definition of an insurance contract is broad (Article 5, 14° of the Insurance Act) and the Insurance Act accommodates both insurance of damages and insurance of persons, leaving room in principle for parametric structures if they are properly classified. At the same time, the mandatory indemnity character of damage insurance (Articles 93 and 105 of the Insurance Act) and the absence of any parametric-specific provisions or case law remain legally uncertain.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

The most useful developments would be targeted clarification rather than a new regime:

1. FSMA guidance on the classification of parametric products, the conditions under which the indemnity principle may be satisfied by an index-based mechanism, and minimum disclosure standards ;

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2. legislative clarification of how a contractually agreed index can operate as a proxy for loss without infringing Articles 93 and 105.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform. No additional observations

EUROPE

GERMANY

By
Dr. Henning Schaloske and Dr. Kevin Bork
Clyde & Co.

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

German insurance law does not provide a statutory or regulatory definition of parametric insurance. This absence reflects the traditional Civil Law approach, which avoids product-specific definitions and instead relies on functional criteria for classification of insurance business.[1] Also the number of authors specifically dealing with the phenomenon of parametric insurance is still very limited.[2] Court decisions or arbitral awards applying German law are at least not known in the market. Legal evaluations of parametric insurance therefore hinge on general principle of insurance contract law. This observation might suggest that there are no legal issues, but that would be a fallacy. Any design of parametric insurance schemes remains subject to legal uncertainties, as there are no clear guidelines in legislation or case law.

First and foremost, parametric product can be insurance. According to established case law of the Federal Court of Justice (*Bundesgerichtshof - BGH*) and the Federal Administrative Court (*Bundesverwaltungsgericht - BVerwG*), an insurance contract entails the promise of a certain compensation for a loss resulting from the occurrence of an uncertain event in return for a premium payment, whereby the assumed risk is distributed among a large number of persons threatened by the same risk, and the risk assumption is based on a calculation derived from the law of large numbers.[3]

As a variation of this definition parametric insurance (or index insurance) resp. index-based insurance) can generally be described as insurance coverage where payment is triggered by the occurrence of a predefined, objectively measurable parameter, without the need to establish the insured's actual economic loss.[4] This version of "pure" parametric insurance needs to be distinguished from products which are only enriched with parametric elements. Where these criteria are not met, a parametric product may be regarded as gambling or product-attached guarantee.[5] But it also needs to

[1] *Larenz/Canaris,* Methodenlehre der Rechtswissenschaft, 3rd ed., 1995, pp. 122 et seqq., pp. 290 et seqq.; legislative considerations regarding insurance contract law: Bundestagsdrucksache 16/3945, p. 56.
[2] In noteworthy detail, only *Hoffmann,* Parametrische (Sach-)Versicherungen – Rechtliche Einordnung, Gestaltungsanforderungen und makroökonomische Wirkungen, Recht und Schaden 2024, p. 304; specifically, regarding weather index insurance: *Reimann,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 4, 3rd ed., 2025, Kap. 65, paras. 298 et seqq.
[3] In detail *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, paras. 6 et seqq.
[4] The definition of insurance in general is based on BVerwG, Versicherungsrecht 1993, p. 1217 (p. 1218).
[5] *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, paras. 100 et seqq.

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be distinguished from derivative-like products within the meaning of sec. 1(11)(8) of the German Banking Act (*Kreditwesengesetz - KWG*) and sec. 2 (3)(2), sec. 35 of the German Securities Trading Act (*Wertpapierhandelsgesetz - WpHG*). Typical examples include catastrophe bonds (cat bonds) or options on catastrophe loss indices. If risk is assumed and the product serves to indemnify for an economic loss, these products will likely qualify as insurance. Whereas the product is derivative-like if market and payoff elements predominate.[6] Terms and conditions of said-to-be insurance products take this distinction into account in the contractual description of the risk insured against.[7] This distinction is particularly clear in cases where the policy obliges the policyholder to prove a specific economic loss. However, the main advantage of parametric insurance is sought in the absence of a requirement to prove a loss causing delineation difficulties.[8]

The classification as insurance is not a mere academic question but has very concrete practical implications. In particular, a negative determination means that the Insurance Contract Act (*Versicherungsvertragsgesetz - VVG*) does not apply. On the contrary, where the parametric product qualifies as insurance, providers need to carry out an insurance license to offer insurance business.[9] Where such license is missing, parametric insurance contracts remain valid, but the providers are confronted with criminal charges and significant fines, sec. 331 (1) no. 1 German Insurance Supervisory Act (*Versicherungsaufsichtsgesetz - VAG*).[10]

The variations of parametric insurance products are primarily a phenomenon of property insurance. Parametric insurances as personal insurances are rather untypical - yet, where the insurance product is not a property insurance, German insurance contract law imposes fewer restrictions.[11]

Within the property market, parametric products are primarily used or discussed in the context of natural catastrophe risks, weather-related exposures, agriculture, renewable energy projects and reinsurance. Yet, it still must be considered to be a niche product, preferably used in the B2B market.[12] Established insurers offer parametric products mostly as an additional cover.[13] In agricultural insurance products, parametric triggers became increasingly popular.[14] Covers there rather compensate for financial losses caused by weather fluctuations than by extreme weather events.[15] Consumer-facing use remains limited but is increasing in climate-related contexts, e.g. rain insurance for vacations.[16]

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[6] Cf. *Büttner,* in: Lüer/Schwepcke (eds.), Rückversicherungsrecht, 1st ed., 2013, § 13, para. 64; *Franz,* in: Bürkle (ed.), Compliance in Versicherungsunternehmen, 3rd ed., 2020, § 5, para. 13; *Trafkowski,* Kreditderivate und Versicherungsderivate als Risikotransferverträge, 2009, p. 134.

[7] *Hoffmann,* Parametrische (Sach-)Versicherungen – Rechtliche Einordnung, Gestaltungsanforderungen und makroökonomische Wirkungen, Recht und Schaden 2024, p. 304 (pp. 310 et seq.).

[8] See ch. 3 in further detail.

[9] Sec. 15 VAG. Insurers' offering of derivative instruments is restricted to business directly connected with insurance, see *Präve,* in: Dreher (ed.), Versicherungsaufsichtsgesetz, 14th ed., 2024, § 15, paras. 31 et seqq.

[10] *Pohlmann,* in: Kaulbach/Bähr/Pohlmann (eds.), Versicherungsaufsichtsgesetz, 6th ed., 2019, § 8, paras. 10 et seqq.

[11] See in detail ch. 3b.

[12] Offered e.g. from an increasing number of insurers and MGAs. New market participants like Parametrix Insurance offering a solution for cloud outages, Descartes Underwriting and FloodFlash entered the German market recently.

[13] *Reimann,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 4, 3rd ed., 2025, Kap. 65, para. 302.

[14] *Dietert,* in: Bruck/Möller, Großkommentar zum Versicherungsvertragsgesetz, 10th ed., 2026, § 1, pp. 323 et seq.

[15] *Reimann,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 4, 3rd ed., 2025, Kap. 65, para. 300

[16] *An example for a German Insurtech offering products for business and consumers is Wetterheld, based* ***in Hamburg.***

Where policyholders are consumers, legal evaluations may differ as they must take into account consumer-protection law.

Also, products which are only enriched with parametric elements are becoming more common, e.g. a cargo insurance which provides short-term coverage for constantly emerging risks, or a storm insurance which, based on a so-called "smart clause" in the policy, retrieves data and automatically makes a coverage decision by comparing weather.[17]

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Germany applies a principles-based supervisory regime. Insurance products are not subject to formal ex ante approval or filing requirements.[18] By contrast and following a general EU-wide development since 1994, the German Federal Ministry of Finance shortly even tore down some of the last barriers of approval requirements for products.[19] Nonetheless, BaFin still operates through so-called Circular Letters ("*Rundschreiben*"), information sheets ("*Merkblätter*") and other forms of authoritative statements. Albeit not having legally binding effect upon insurers, insurers face a factually binding effect as BaFin uses this instrument to express its expectations towards the insurance industry.[20]

To date, neither the legislator nor BaFin have specifically addressed parametric insurance. The market therefor is not confronted with product-specific regulation. However, this lack of regulation does not imply that parametric insurance operates in a legal vacuum but rather that it is subject to the general framework of insurance supervision under the VAG.

Merely, with respect to enhanced requirements regarding new insurance products, BaFin has explained its expectations regarding transparency und product value in its value for money and product oversight and governance publications.[21] From these it can be derived that the trigger mechanism and the distinction between compensation for loss and sum payments need to be described clearly and understandable and that the customer gains clarity regarding the negative base risk.[22]

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[17] *Looschelders/Derkum,* in: Chibanguza/Kuß/Steege (eds.), Rechtshandbuch Künstliche Intelligenz, 2nd ed., 2026, § 5 Kap. N, para. 12.

[18] *Dreher,* in: Prölss/Dreher (eds.), VAG, 14th ed., 2024, Einleitung, paras. 105 et seqq.

[19] Non-life insurers are no longer required to submit compulsory insurance terms and conditions according to Art. 54 no. 3c Standortförderungsgesetz (Bundesrat-Drucksache 5/26, p. 78) removing sec. 47 no. 13 VAG.

[20] *Brand,* in: Brand/Baroch Castellvi (eds.), Versicherungsaufsichtsgesetz, 2nd ed., 2024, Einführung, para. 90.

[21] Merkblatt 01/2023 (VA) zu wohlverhaltensaufsichtlichen Aspekten bei kapitalbildenden Lebensversicherungsprodukten, issued on May 8, 2023.

[22] Further details in ch. 5.

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Parametric products are not registered or approved prior to market entry.[23] Such approach shifts the risk of unlawful conception of an insurance product to the provider of such product. This is particularly important in parametric insurance, where the description of the insured risk can be challenging with respect to its legal nature.[24] Therefore, the insured risks should be described in detail to match a specific class of business in accordance with Annex 1 of the Insurance Supervision Act (VAG). Where insurers do not carry the respective license, BaFin retains broad ex post supervisory powers and may take measures against the insurer or scrutinize innovative products where transparency, prudential soundness or consumer protection issues arise. Insurers also remain responsible for actuarial adequacy (sec. 138 VAG) and sound governance (sec. 23 VAG).

3. Core Insurance Law Concepts

a. Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

b. Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

c. Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

d. Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Under German law, property insurance is invariably casualty insurance ("*Schadenversicherung*").[25] Sec. 88 VVG expressly ties the insurable value to the costs of repair or replacement at the time of loss and thereby presupposes the existence of damage to a tangible object. According to established commentary, a cover insuring a tangible object cannot validly provide abstract, damage-independent benefits.[26] The insured event is the concrete impairment of the insured matter, and the insurer's obligation is strictly limited to compensating the resulting financial loss.[27] Parametric payouts without actual damage are therefore permissible only outside the legal framework of property insurance, namely as sum-based or event-based insurance.[28]

a. Limitations of Property Insurance

This qualification has far-reaching practical and regulatory consequences. If a product is labelled as property insurance but designed to trigger payments irrespective of an actual loss, it risks characterisation as an impermissible abstraction from the indemnity principle. Such characterisation may not only affect the validity of individual contractual clauses but may also have implications for the supervisory classification of the product under German insurance supervisory law. From a contractual perspective, this necessitates a clear functional separation between classic indemnity-based covers

[23] As is common for insurance products except for specific product types, cf. *Präve,* in: Prölss/Dreher (eds.), VAG, 14th ed., 2024, § 12, para. 10.
[24] See in ch. 3.
[25] Prevailing opinion in academia, see e.g. *Jula,* Sachversicherunsgrecht, 5th ed., 2024, paras. 1 et seq.; *Armbrüster,* in: Prölss/Martin (eds.), VVG, 32nd ed., 2024, Vorbemerkungen zu §§ 74–99, para. 64; *Wandt,* in: Martin/Reusch/Schimikowski/Wandt (eds.), Sachversicherung, 4th ed., 2022, § 1, para. 11
[26] *Armbrüster,* Privatversicherungsrecht, 2nd ed., 2019, paras. 469 et seq.; *Wandt,* in: Martin/Reusch/Schimikowski/Wandt (eds.), Sachversicherung, 4th ed., 2022, § 1, paras. 95 et seqq.
[27] *Armbrüster,* in: Prölss/Martin (eds.), Versicherungsvertragsgesetz, 32nd ed., 2024, § 88, paras. 2 et seqq.; *Staudinger,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 88, paras. 3 et seqq.
[28] *See* ch. 3b.

and parametric or index-based structures, which must be grounded in an event- or sum-insurance model rather than linked to the insured object as such. The strict concept of property insurance ("*Sachversicherung*") under German law limits the integration of autonomous parametric elements into traditional property insurance and places heightened emphasis on careful product design and terminology.

The reason is that the legal concept of property insurance is characterised by three core elements: (i) an insured event consisting in damage to or loss of a physical object, (ii) an indemnity obligation limited to the actual loss suffered by the policyholder, and (iii) the limitation on profiteering under damage through the occurrence of the insured event. Pursuant to sec. 74 (1) VVG, the insured value is the value of the insured interest. The insured interest describes the legal relationship under which the policyholder may suffer a loss as a result of the occurrence of an insured event.[29] In property insurance, there are already numerous established rules governing the insured sum and the insured value, which allow for compensation arrangements that are not strictly tied to the loss actually incurred. In particular, policies often differentiate between indemnification based on time value and compensation on a new-for-old basis, with the latter enabling reimbursement of the costs required to restore or replace the insured property rather than merely compensating for its depreciated value. In addition, contractual mechanisms such as fixed insured sums, agreed values, and provisions addressing under- or overinsurance help predetermine the scope of coverage in normative terms. As a result, the insurance benefit deviates from the specific damage sustained in the individual case.

Although it has now been established that a strict prohibition on profiteering under damage in insurance law does not apply,[30] a limited prohibition on profiteering does still come into play. This is based on the consideration of distinguishing insurance from gambling, preventing economically pointless payments, and minimising incentives to provoke an insured event. In casualty insurance, the principle of actual loss coverage ("*konkreter Schadenbedarf*") is upheld.[31] Authors therefore argue that it is possible to agree on a sum payable upon occurrence of the insured event but that there needs to be a link to the loss, at least.[32]

This would be opposed by an insurance payment that is detached from loss coverage, as is the case in purely parametric insurance. Courts will even argue that the insured value can be agreed upon quite freely in the insurance contract in accordance with sec. 88 VVG but that some connection with the actual loss is necessary to fit the guiding principle of property insurance. Hence, where this principle is neglected, clause may be ruled in contradiction with said principle and therefore invalid following sec. 307 (2) no. 1 of the German Civil Code (*Bürgerliches Gesetzbuch - BGB*).[33]

[29] *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, paras. 17 et seq.; *Armbrüster,* in: Recht genau, Liber amicorum für Jürgen Prölss zum 70. Geburtstag, 2009, p. 2.

[30] Already BGH, Versicherungsrecht 2001, 749; BGH, Neue Juristische Wochenschrift-RechtsprechungsReport 1997, 1243 (1244); *Bartholomäus,* Das versicherungsrechtliche Bereicherungsverbot, 1997, S. 40 ff.; *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, para. 28; legislative considerations regarding insurance contract law: Bundestagsdrucksache 16/3945, p. 79.

[31] See in greater detail Schreier, Das Verhältnis zwischen Schadensrecht und Schadensversicherung, 2017, pp. 130 et seqq.

[32] *Prahl,* Zur Schadensversicherung fremden Interesses für eigene Rechnung – oder alternativ eine Summenversicherung, Versicherungsrecht 2019, p. 854 (p. 861); *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, para. 29.

[33] Cf. *Staudinger,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 76, para. 8.

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This assessment is not challenged by sec. 76 VVG, which permits the parties to agree in advance on a fixed value of the insured object (so-called taxed value or *Taxe*). Yet, such an agreement would not transform property insurance into a sum-based or abstract cover. Rather, it merely replaces the ex post determination of the amount of loss and relieves the policyholder of proving the value of the damaged object. The occurrence of damage to the insured property remains an indispensable prerequisite for the insurer's payment obligation.[34] Sec. 76 VVG therefore modifies the quantification of indemnification but leaves the indemnity principle itself untouched. It cannot serve as a doctrinal basis for parametric payouts triggered independently of damage, nor does it allow payment solely upon the occurrence of an external parameter without physical impairment of the insured object. Just like with parametric insurance, one could argue that the parties can agree on a *Taxe* that might be significantly higher than the actual insured interest.

Sec. 76 sentence 2 VVG limits this approach by stating that the *Taxe* needs to be verified against the real value and courts have ruled that the excess should not be larger than 10%.[35] Academia has discussed whether it is possible to exclude the applicability of this limitation. But the prevailing opinion is that such exclusion would contradict the principle of actual loss coverage and contradict the basis of casualty insurance which is the insured interest.[36] Yet, there is room for argument that sec. 76 sentence 2 VVG can be teleologically reduced to its purpose indicating that checking against the actual loss is not necessary where there is at least an economic interest.[37]

Continuing from these considerations, one can conclude that statutory restrictions do not prohibit parametric elements whatsoever. Parametric triggers may be used as auxiliary mechanisms, for example as presumptions of loss occurrence or as tools for standardised damage estimation and claims handling. In this case, however, the insurer's payment obligation remains strictly capped by the actual damage suffered. What is not permissible, by contrast, is the replacement of the indemnity logic within property insurance by an autonomous parametric payout. A model of "pure" parametric property insurance - where the insured interest lies in the integrity of the property, but payment is triggered exclusively by the fulfilment of an objective parameter (such as wind speed, rainfall or seismic intensity), irrespective of any physical damage - is incompatible with the concept of property insurance under German insurance contract law.[38]

b. Parametric triggers in sum insurance

Alternatively, parametrically triggered covers may be offered as insurance contracts providing fixed sums (e.g. liquidity support, emergency costs or predefined mitigation expenses) upon the occurrence of a defined natural event. Although economically linked to a building or other tangible asset, such covers do not qualify as property insurance and are therefore not subject to the indemnity rules of secc. 74 et seqq. and secc. 88 et seqq. VVG. The parametric approach aligns with the approach of sum insurance which pays out a fixed sum irrespective of any specific consequences the insured event may have had.[39]

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[34] *Armbrüster,* in: Prölss/Martin (eds.), Versicherungsvertragsgesetz, 32nd ed., 2024, § 76, paras. 2 et seq.; *Halbach,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 76, para.

[35] *Halbach,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 76, para. 8; *Armbrüster,* in: Prölss/Martin, VVG, 32nd ed., 2024, § 76, para. 13; *Langheid,* in: Langheid/Rixecker, VVG, 8th ed., 2025, § 76, para. 2.

[36] *Armbrüster,* in: Recht genau, Liber amicorum für Jürgen Prölss zum 70. Geburtstag, 2009, pp. 11 et seq.

[37] *Armbrüster,* in: Recht genau, Liber amicorum für Jürgen Prölss zum 70. Geburtstag, 2009, pp. 12 et seq., 19.

[38] *Hoffmann,* Parametrische (Sach-)Versicherungen – Rechtliche Einordnung, Gestaltungsanforderungen und makroökonomische Wirkungen, Recht und Schaden 2024, p. 304 (p. 310).

[39] Cf. *Wandt,* Versicherungsrecht, 6th ed., 2016, paras. 34, 721; *Armbrüster,* in: Recht genau, Liber amicorum für Jürgen Prölss zum 70. Geburtstag, 2009, p. 3.

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Under German insurance contract law, sum insurance ("*Summenversicherung*") is an insurance contract in which the payment of a fixed abstract sum is contractually agreed, regardless of the actual financial loss suffered.[40] The insurer pays the predetermined amount based on an abstract coverage of needs, not on the basis of a concrete damage or the value of the insured object. Unlike casualty insurance, the sum insured is specified in the contract and does not depend on the actual loss or the insured value.[41] Accordingly, proof of loss and proof of causation are not required; the insurer's payment obligation arises solely upon verification that the agreed parameter has been met. Parametric covers are therefore viable only outside property insurance, as event- or sum-based insurance.

From a German legal perspective, the legal admissibility of parametric insurance does not depend on compliance with indemnity principles or proof of actual loss, but on the correct contractual classification. While indemnification and proof of damage remain mandatory within property insurance, parametrically triggered covers structured as sum- or event-based insurance are legally valid notwithstanding the absence of loss or causation. Insurable interest requirements apply but are satisfied by a legitimate economic exposure to the triggering event rather than by ownership of or damage to a specific asset.[42] This can be done by calculating the sum payable based on the expected actual loss and stating it in the contract. Although such sum insurance does not require insured interest per se.[43] Even in sum insurance, it is argued that totally decoupling the sum payable from the expected actual loss may cause concerns.[44] To avoid a declassification as an insurance contract, parametric sum insurances should entail a link to the underlying economic interest.

Where parametric insurance is brought out as sum insurance, the terms and conditions need to be carefully adapted in comparison with similar product of casualty insurance. Mostly, new parametric products are created by taking the property insurance as a basis. However, because the indemnity principle does not apply, these statutory provisions do not apply as a matter of law.[45] All of the contractual clauses therefore need to be checked and amended for a new product to carry the sum insurance logic. The most vivid example where this observation becomes obvious are clauses which copy regulations of German insurance contract law which are designed for property, i.e. casualty insurance (secc. 74 et seqq. and secc. 88 et seqq. VVG). On the contrary, German contract law provides for default rules in life and health insurance as traditional examples of sum insurance. Yet, there are no general provisions specifically designed for sum insurance which could apply - not even the term "sum insurance" can be found in the VVG. Even provisions of general insurance contract law are often waived, e.g. the notice of claims as these instruments are irrelevant for pay-out.[46] Hence, provisions

[40] *Schneider,* in: Beckmann/Matusche-Beckmann (eds.), Versicherungsrechts-Handbuch, 4th ed., 2025, § 1, para. 78.
[41] *Armbrüster,* in: Recht genau, Liber amicorum für Jürgen Prölss zum 70. Geburtstag, 2009, p. 3.
[42] The term “insured interest” is generally understood to refer to a legal entity’s financial interest in an asset, the impairment of which would result in an economic loss to the legal entity, see *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, para. 17; *Brambach,* in: Rüffer/Halbach/Schimikowski (eds.), Handkommentar VVG, 4th ed., 2019, § 74, para. 7.
[43] *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, para. 18.
[44] *Looschelders,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 1, para. 29
[45] *Schneider,* in: Beckmann/Matusche-Beckmann (eds.), Versicherungsrechts-Handbuch, 4th ed., 2025, § 1, para. 79; *Armbrüster,* in: Prölss/Martin (eds.), Versicherungsvertragsgesetz, 32nd ed., 2024, § 74, para. 2b.
[46] *Reimann,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 4, 3rd ed., 2025, Kap. 65, paras. 7, 305; *Keller,* Ernteversicherungen als Risikomanagementinstrument, 2010, p. 60.

addressing trigger and payout mechanisms but also obligations of the policyholder, particularly upon the occurrence of the insured event, need to be made up in the insurance contract.

c. Parametric Structures in Reinsurance

The legal assessment differs in reinsurance. Under German law, reinsurance contracts are not subject to the strict, object- and damage-centred concept of property insurance governing primary insurance, cf. sec. 209 VVG.[47] The insured interest in reinsurance does not lie in the integrity of a tangible object, but in the risk assumed by the primary insurer arising from its insurance portfolio.[48] Typically, the reinsurance contract assumes the risks originally incurred in connection with the reinsured items and the scope of cover as specified in each policy.[49]

Against this background, parametric and index-based triggers - such as industry loss indices or predefined catastrophe parameters - are admissible in reinsurance practice and doctrine, particularly in the field of natural catastrophe covers. The reinsurer's payment obligation may therefore arise without proof of individual underlying losses or physical damage, provided that the agreed trigger has been satisfied. Where the original policy does not entail parametric triggers and the reinsured risk decouples from the original risk insured against, the same questions regarding the nature of the contract my arise as in primary insurance.[50]

The relative openness of reinsurance to parametric triggers therefore reflects its autonomous dogmatic position and does not signal a general relaxation of indemnity principles in property insurance. On the contrary, the long-standing acceptance of parametric mechanisms in reinsurance tends to underline the doctrinal boundary: While abstraction from individual loss is permissible at the reinsurance level, it remains incompatible with the legal concept of indemnity-based property insurance under German insurance contract law.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

a. Calculation Agent: Regulatory Status and Licensing

Under German law, there are no insurance-specific statutory or regulatory provisions that recognise, license, or regulate a "calculation agent" as a defined role in insurance contracts, including

[47] Prevailing opinion in German academia, at least for provisions of indemnity insurance, e.g. *Cannawurf/Schwepcke,* in: Lüer/Schwepcke (eds.), Rückversicherungsrecht, 1st ed., 2013, § 13, paras. 38 et seqq.

[48] *Schwepcke,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 3, 3rd ed., 2024, Kap. 32, para. 1.

[49] *Cannawurf/Schwepcke,* in: Lüer/Schwepcke (eds.), Rückversicherungsrecht, 1st ed., 2013, § 13, para. 291.

[50] See ch. 1.

parametric structures. Neither the Insurance Contract Act (VVG) nor the Insurance Supervision Act (VAG) contains provisions governing calculation agents, trigger verification agents, index administrators, or similar functions. Regulatory supervision under the VAG focuses on the insurance undertaking itself, its governance, risk management, and outsourcing arrangements, rather than on the independent regulation of third-party service providers such as data suppliers or calculation agents. Any involvement of a calculation agent is therefore a matter of private contract design and internal organisational arrangements of the insurer.

b. Independence, Conflicts of Interest and Governance

German insurance law does not impose mandatory statutory rules requiring specific independence of a calculation agent, separation from the insurer, avoidance of conflicts of interest at calculation-agent level or governance standards comparable to those applicable to regulated benchmarks.

However, indirect requirements may arise at insurer level. Insurers are subject to the VAG and must maintain sound governance, effective risk management, and adequate internal controls.[51] Where calculation or trigger determination is outsourced, the insurer remains responsible for proper organisation and risk control, including the management of conflicts of interest and data reliability.

German law does also not impose parametric-specific transparency rules on trigger methodologies, index construction, calculation formulas or access to raw datasets (e.g. weather measurements or satellite data). From a supervisory perspective, insurers must be able to demonstrate to BaFin that their products and operational processes are adequately governed and that risks are understood and controlled. There is no obligation to disclose trigger methodologies or underlying data publicly or to policyholders beyond what is contractually agreed.

c. Use of third-party data, indexes, models, and automated triggers

German insurance law contains no provisions regulating or restricting the use of third-party weather services, satellite data, catastrophe models, proprietary or public indexes, automated or algorithmic trigger mechanisms. Unlike regulated financial benchmarks under EU financial-markets law, insurance trigger indexes are not subject to benchmark regulation merely because they are used in insurance contracts. This is confirmed by the absence of any BaFin guidance or statutory provisions addressing insurance trigger data or index administration.

There are no special evidentiary rules governing trigger verification in parametric insurance. Courts would assess trigger fulfilment under general evidentiary principles of civil procedure, without any presumption in favour of particular data providers or technologies.

However, this appears questionable in light of any ancillary provisions that e.g. describe the procedure for measuring or calculating the trigger. If these were classified as secondary benefit descriptions analogous to traditional General Terms and Conditions of Insurance (AVB), they would be subject to review. One can argue that they do not serve to limit the insurance coverage originally promised in broad terms but rather to provide a necessary specification of the trigger as a primary

[51] Cf. sec. 23 VAG; overview: *Bürkle,* in: Bürkle (ed.), Compliance in Versicherungsunternehmen, 3rd ed., 2020, § 1, paras. 13 et seqq.

benefit description. Consequently, they should also exempt from content review.[52] As there is still no case law in this respect, potential future court decisions cannot be predicted with reliable certainty.

5. Distribution and Consumer Protection

Where parametric insurance products qualify as insurance products, they are subject to the German implementation of the EU Insurance Distribution Directive (IDD) and corresponding statutory requirements.

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

Where parametric insurance products qualify as insurance products,[53] they are subject to the German implementation of the EU Insurance Distribution Directive (IDD)[54] and corresponding statutory requirements. Their distribution is limited to licensed insurance undertakings and authorised insurance intermediaries within the meaning of the VAG and the VVG, sec. 34d (1) of the German Trade, Commerce and Industry Regulation Act ("*Gewerbeordnung*" - GewO). Non-licensed entities may not distribute parametric insurance products in their own name.[55]

It can be said that the primary regulatory risk associated with parametric insurance lies not in product permissibility, but in compliant distribution, particularly with respect to advisory and conduct-of-business obligations rather than prudential rules. Distribution activity therefore triggers the full set of IDD-based conduct requirements applicable to insurance mediation and advice. These apply to insurance intermediaries which can be insurance brokers, insurance agents, managing general agents (MGAs), embedded insurance distributors depending on whether they distribute insurance products. If they do, they must carry a license as insurance distributor and act in accordance with the GewO and the VVG.

Service providers which do not distribute such as online platforms, technology providers or data providers are not directly regulated by insurance authorities where they do not classify as insurance intermediaries. However, insurers are obliged to control their service providers where they outsource elements of their insurance undertaking, sec. 32 (1) VAG, as they retain full responsibility for complying with regulations.

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[52] To this date, only *Hoffmann,* Parametrische (Sach-)Versicherungen – Rechtliche Einordnung, Gestaltungsanforderungen und makroökonomische Wirkungen, Recht und Schaden 2024, p. 304 (p. 311).
[53] See ch. 1.
[54] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution of 20 January 2016, OJ L 26/19
[55] Cf. sec. 1a VVG.

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It is important to note that consumer protection requirements are particularly relevant for parametric insurance products, precisely because the payout mechanism deviates from traditional indemnity logic and bears the risk that the policyholder may not be entitled to a compensation which covers its damage in full. A key aspect in parametric insurance therefore is the obligation to clearly explain the nature of parametric triggers and the concept of basis risk, including the possibility of negative basis risk, i.e. no payout despite the occurrence of actual damage, and payouts that may exceed or fall short of the policyholder's actual loss.

Failure to adequately explain these features may constitute mis-selling or breach of advisory duties of the intermediary and the insurer itself, sec. 6 and sec. 65 VVG, particularly where the policyholder expects parametric insurance to function as a direct substitute for property insurance.[56] Providers themselves frequently emphasise that parametric insurance is not designed as a "1:1 replacement" for traditional insurance, but as an additional building block within a broader risk transfer and liquidity protection concept.[57] This positioning must also be reflected in distribution and advice, particularly vis-à-vis consumers.

The applicable regulatory position differs significantly between consumers and commercial policyholders: Consumers benefit from the full scope of IDD-based advisory, suitability, and disclosure obligations, including heightened scrutiny of mis-selling and unfair commercial practices. Commercial policyholders, especially sophisticated or experienced insureds, are subject to a reduced advisory intensity, reflecting their greater ability to understand parametric mechanisms and basis risk. Where large risks are involved, insurers as well as insurance intermediaries are exempt from their obligation to advise, sec. 6 (5) and sec. 65 in connection with sec. 210 (2) VVG.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

While international debates often focus on whether parametric insurance sufficiently "resembles" insurance, German law is more concerned with how the product is communicated and distributed.

The issue arises regarding basis risk as the central structural challenge of parametric insurance. Basis risk is generally understood as the divergence between the actual economic damage suffered by the policyholder and the pre-agreed parametric payout. Insufficient explanation of this feature may give rise to liability risks in distribution and advisory processes.[58] And courts will assess whether the policyholder's legitimate expectations were adequately addressed when concluding the contract, particularly in consumer business.

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[56] *Armbrüster,* Privatversicherungsrecht, 2nd ed., 2019, para. 825.
[57] *Lier,* Versicherungswirtschaft 6/2019, p. 30; *Hoffmann,* Parametrische (Sach-)Versicherungen – Rechtliche Einordnung, Gestaltungsanforderungen und makroökonomische Wirkungen, Recht und Schaden 2024, p. 304 (p. 312).
[58] *Hoffmann,* Parametrische (Sach-)Versicherungen – Rechtliche Einordnung, Gestaltungsanforderungen und makroökonomische Wirkungen, Recht und Schaden 2024, p. 304 (p. 312).

In addition, parametric triggers must be drafted in a manner that allows the policyholder to ascertain, at least in principle, whether a payment obligation has arisen. Ambiguous trigger definitions may be exposed to scrutiny under sec. 307 BGB.[59] Where the trigger can be considered objective and issued from a neutral instance, e.g. federal and district statistical offices,[60] clauses are more likely to be ruled valid.

From a supervisory standpoint, challenges relate primarily to product governance and reputational risk rather than solvency or risk transfer. BaFin may intervene where parametric products create a systematic risk of misunderstanding, especially in retail markets, even though the product structure itself might be lawful.

7. Disputes and Litigation

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

As of the date of writing, there is no published German judicial decision directly addressing parametric insurance contracts. This absence can be attributed to the still limited penetration of parametric products in mass consumer markets. Another reason, at least in B2B businesses, might be that the products are bought with clear expectations regarding the extent of the cover. Future disputes may most likely arise with respect to the Interpretation of trigger clauses and insufficient advice regarding basis risk and payout mechanics.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

Overall, the German legal and regulatory environment for parametric insurance is open and adaptable, but still at an early stage of market maturity. Currently, the existing legal frameworks of the VVG and VAG are sufficiently flexible to accommodate parametric insurance without legislative amendment. Hence, there is no movement in Germany for introducing a separate regulatory category for parametric insurance. On a regulatory side, the principles-based approach of the supervisory regime necessitates a rather abstract, non-product-specific regulation. Parametric insurance can be seen as an evolutionary development within fixed-sum insurance rather than a disruptive innovation.

Currently, politics and the market discuss about the necessity and feasibility of providing cover for Nat Cat events. In particular, there is discussion of a quasi-obligatory natural hazards reinsurance scheme to be funded by insurers and the state, to be activated in the event of natural disasters that exceed capacity. Parametric insurance could also be considered here but is not currently under discussion. This is because the priority is on covering the damage that has actually occurred and

[59] Cf. *Staudinger,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 1, 3rd ed., 2022, § 76, para. 8.

[60] Cf. *Reimann,* in: Langheid/Wandt (eds.), Münchener Kommentar zum VVG, vol. 4, 3rd ed., 2025, Kap. 65, para. 316

facilitating reconstruction. From the industry's perspective, prevention is crucial - here too, parametric insurance does not offer a real alternative due to its lack of direct links to meeting specific needs.

Nevertheless, demand appears to be rising in the field of extreme weather events - though as a supplementary product to property insurance rather than as a standalone policy. Compared to sole property covers, parametric covers provide the advantage that pay-out is fixed and therefore "compensation" is known in advance.[61]

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

In conclusion, the German legal framework generally allows for parametric insurance products. In the absence of specific regulation, legal assessments base on general insurance contract and general insurance supervisory law. Particularly, the legal frameworks allows for a variety of parametric products and further development as long as basic principles are adhered to and specific advisory needs are fulfilled. Currently, there are no signs of enhanced regulatory efforts regarding parametric insurance.

[61] *Pollak,* Steigende Nachfrage nach parametrischen Versicherungen, published at https://www.marsh.com/de/services/international-placement-services/insights/parametric-insurance/increasing-demand-for-parametric-insurance.html (last accessed on April 27, 2026).

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SPAIN

By

Francisco de Leon

Simmons & Simmons LLP

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Parametric insurance is currently not regulated under Spanish law.

Neither the Spanish regulatory framework on the supervision of insurance and reinsurance undertakings —principally Law 20/2015, of 14 July, on the regulation, supervision and solvency of insurance and reinsurance undertakings ("LOSSEAR"), and its implementing regulation approved by Royal Decree 1060/2015, of 20 November ("ROSSEAR"), which transpose the EU Solvency II Directive into Spanish law— nor the basic statute governing the insurance contract —Law 50/1980, of 8 October, on the Insurance Contract— contain any definition or specific regulation of parametric insurance.

There are, however, several scholarly definitions.

Parametric insurance has been defined as "*a type of non-life insurance characterised by the fact that the insurer undertakes to pay a sum agreed in the contract, corresponding to the losses that would foreseeably be suffered by the insured upon the occurrence of an event of a certain magnitude, provided that such event takes place, based on information provided by an independent third party and, as a rule, regardless of the actual loss sustained by the insured. Accordingly, unlike traditional non-life insurance, it does not necessarily cover the actual losses arising from the insured event, nor does it cover a risk (such as fire, earthquake, etc.) in generic terms, since a claim only arises if the event reaches a specific intensity defined in the contract* […], *referred to as the 'index' or 'parameter'.*"[1]

From a more critical standpoint, which questions whether this product constitutes a genuine insurance contract, parametric insurance has also been defined as a product whereby "[…] *the*

[1] MUÑOZ PAREDES, MARÍA LUISA, "El seguro paramétrico o basado en índices", Revista Española de Seguros, no. 196, 2023, pp. 519 et seq.

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insurer, upon receipt of the 'premium', undertakes to pay the 'insured' a sum of money automatically if the stipulated condition is met."[2]

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

In our experience, on certain occasions when the possibility of entering into such products has been examined, the insurance undertakings and distributors offering the product have themselves presented the alternative of structuring it either as an insurance product or as a financial derivative instrument.

By way of illustration, some electricity producers —mainly in the renewable energy sector (photovoltaic and wind power)— have explored the possibility of hedging against the risk of negative electricity prices (i.e., coverage of the financial losses suffered by such producers as a result of negative pricing scenarios, arising from supply exceeding demand and from the regulatory mechanisms governing electricity prices).

In our experience, the insurers and brokers consulted have offered both solutions: a non-life insurance contract covering the financial loss, with certain parameters defined (specifically, price thresholds), or, alternatively, a derivative instrument. In the discussions held in this regard, some brokers and insurers have noted that both solutions have been adopted in other jurisdictions, with a certain predominance of derivatives over the structuring of the product as insurance in certain countries (as is the case, for example, in the United States).

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Yes. Discussions on its appropriateness have mainly focused on the types of areas listed in the question —natural catastrophes, weather-related risks, and the energy sector (as illustrated by the example of negative electricity prices referred to above)-.

Within the field of natural catastrophe risks, its use has also been specifically advocated in connection with volcanic eruption risk, drawing on the experience of the volcanic eruption on the island of La Palma in September 2021[3].[

2. Regulatory Status and Product Approval

[2] BATALLER GRAU, JUAN, "Sobre los mal denominados seguros paramétricos", Revista Española de Seguros, no. 204, 2025, pp. 689 et seq.

[3] See, in this regard, PERAZA DOMÍNGUEZ, JUAN MANUEL, "Seguros paramétricos. Una oportunidad para la industria aseguradora y el seguro de riesgos extraordinarios", VIII Edición Premio Internacional de Investigación en Gerencia de Riesgos Julio Sáez, Agers, available at: https://www.icea.es/es-es/formacion/accionesformativas/MemoriasMaster/2024/SEGUROS-PARAMETRICOS_JuanManuelPeraza.pdf

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Is parametric insurance permitted in your jurisdiction?

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

As noted above, there is no specific regulation of this type of insurance, nor is there a uniform doctrinal position regarding the legal nature of the product.

Nor is there a developed market or widespread experience with the product, beyond its offering by leading international insurers, reinsurers and brokers.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Spanish law does not subject the launch of new insurance products to any prior approval regime in respect of the policy terms and conditions.

It is possible, however, to submit queries to the insurance supervisory authority —the *Dirección General de Seguros y Fondos de Pensiones* (Directorate-General for Insurance and Pension Funds, hereinafter the "DGSFP")— as to whether a given product qualifies as an insurance contract[4]. To the best of our knowledge, however, the DGSFP has not yet issued any decision on the matter.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Under Spanish law, the validity of an insurance contract on losses (*seguro de daños*) is conditional upon compliance with the indemnity principle, as enshrined in Article 26 of the Insurance Contract Act (Ley 50/1980, de 8 de octubre, de Contrato de Seguro, hereinafter the "LCS").

However, the formulation of this principle under Spanish law is sufficiently flexible to accommodate new forms of insurance such as parametric insurance, in contrast to other legal systems —such as those of Chile and Colombia— which, having strictly enshrined the indemnity principle in their regulation of non-life insurance, have been compelled to amend several provisions in 2023 in order to allow parametric insurance products to be offered without raising doubts as to their lawfulness.

[4] This possibility is expressly provided for in Article 2.3 of the ROSSEAR.

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In our view, as MUÑOZ PAREDES remarks[5] Article 26 LCS does not prohibit any form of enrichment of the insured, but rather unjust enrichment, thereby leaving room for certain forms of justified or legitimate enrichment. Parametric insurance arguably constitutes one such case, given that its function as a complement to traditional non-life insurance —and as a primary instrument for risks not adequately covered by the conventional market— justifies a degree of departure from a strict pay-as-incurred model. Were a full loss adjustment process to be required in every case in order to prevent any conceivable enrichment, parametric insurance would lose its core utility as a swift-payment mechanism.

A further difficulty has been pointed out in connection with Article 67 LCS, which provides that, where the contract relates exclusively to loss of profits, the parties may not predetermine the amount of the indemnity.

This provision —of mandatory nature, since its purpose is precisely to safeguard the indemnity principle— may be raised as a potential obstacle to parametric structures designed to cover business interruption losses. In our view, however, this objection is not decisive, for the following reasons:

a) First, parametric insurance products covering natural catastrophes or financial losses will, in many cases, qualify as large-risk insurance within the meaning of Article 13(27) of the Solvency II Directive, transposed into Spanish law by Article 11 LOSSEAR[6].

   In such cases, Article 44, second paragraph, LCS allows the parties to depart from the otherwise mandatory provisions of the LCS —unless those provisions expressly provide otherwise.

   The same applies to reinsurance contracts, irrespective of the underlying class of business or risk reinsured, pursuant to Article 79 LCS.

[5] Op. cit. See also the following works mentioned in the article of professor MUÑOZ ALONSO

[6] Pursuant to Article 13(27) of Directive 2009/138/EC (Solvency II) and Article 11 LOSSEAR, large risks comprise: (a) risks classified under classes 4 (railway rolling stock), 5 (aircraft), 6 (ships – sea, lake, river and canal vessels), 7 (goods in transit), 11 (aircraft liability) and 12 (liability for ships) in Part A of Annex I to the Solvency II Directive;

(b) risks classified under classes 14 (credit) and 15 (suretyship) in Part A of Annex I, where the policyholder is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risks relate to such activity; and
(c) risks classified under classes 3 (land vehicles, other than railway rolling stock), 8 (fire and natural forces), 9 (other damage to property), 10 (motor vehicle liability), 13 (general liability) and 16 (miscellaneous financial loss) in Part A of Annex I, in so far as the policyholder exceeds the limits of at least two of the following criteria: (i) a balance-sheet total of EUR 6,600,000;
(ii) a net turnover, within the meaning of Fourth Council Directive 78/660/EEC of 25 July 1978, of EUR 13,600,000; and
(iii) an average number of 250 employees during the financial year.
Where the policyholder belongs to a group of undertakings for which consolidated accounts within the meaning of Directive 83/349/EEC are drawn up, the criteria set out in point (c) shall be applied on the basis of the consolidated accounts.

Accordingly, where the parametric product is designed for sophisticated commercial policyholders meeting the large-risk thresholds or in the context of a reinsurance agreement, the constraints arising from Article 67 LCS lose much of their force.

b) Second, Spanish insurance law already accommodates a number of well-established scenarios in which there is no exact, precise and undisputed correspondence between the actual loss sustained and the indemnity payable by the insurer. We can mention several examples of the above:

i. Valued policies (*pólizas a valor estimado*) under Article 28 LCS, used, for instance, in connection with works of art, where the value of the insured interest is conventionally agreed ex ante and operates as the indemnity ceiling.
ii. Personal insurance (*seguros de personas*), where the value of human life cannot be objectively determined and the sum insured is fixed by agreement between the parties.
iii. Personal injury arising from motor traffic accidents, where a statutory scale (*baremo*) assigns a predetermined economic value to the various forms of personal injury and death, without anyone questioning the genuine insurance nature of the compulsory motor third-party liability insurance.ç

In our view, these examples demonstrate that the indemnity principle, as construed under Spanish law, has long been compatible with mechanisms of conventional or statutory predetermination of the indemnity, and that a strict equivalence between actual loss and indemnity is not a structural prerequisite of the insurance contract.

That said, the academic debate on this question remains open. As noted in our previous response, some authors question whether parametric products qualify as genuine insurance contracts at all, precisely on the grounds of their potential incompatibility with the indemnity principle[7].

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Yes. The insurable interest is an essential element of the insurance contract under Spanish insurance law for non-life insurance and applies to parametric insurance as well.

Article 25 LCS provides that a non-life insurance contract shall be void in the absence of an insurable interest of the insured in the non-occurrence of the loss event.

That said, the concept of insurable interest has been construed in very broad terms by Spanish scholars and case law. It is unanimously accepted that the insurable interest does not require

[7] BATALLER GRAU, J., op. cit.

the insured to hold formal legal title over the insured asset; rather, it suffices that the insured has an economic or material interest in the asset or property at stake.

As the Spanish Supreme Court held in its judgment of 23 March 2006 and many other judgments: "according to doctrine and case law, the insured interest in non-life insurance contracts may not only consist in the ownership of the insured asset, but may also derive from any other economic relationship referred to such asset, as is the case of the holder of a mortgage credit secured by such asset, since in such a case the insured interest lies in the preservation of the integrity of the mortgage security in order to enforce the credit in the event of default"[8].

This broad construction of the insurable interest as an essential element for the validity of the insurance contract is particularly well suited to parametric insurance, since in this category of products the focus lies less on a specific physical asset of the insured and more on the financial exposure of the insured to the occurrence of a defined event. In a parametric context, the insurable interest is typically satisfied by the existence of an objective and statistically significant correlation between the parameter or trigger and the potential financial loss to be sustained by the insured. In other words, the trigger must be related to a specific risk to which the insured is genuinely exposed.

As noted in Spanish doctrine, parametric insurance is not a wager: the index or parameter must be linked to the actual risk borne by the insured, in such a way that, upon reaching the agreed threshold, the insured will foreseeably suffer a loss whose value can be reasonably estimated *ex ante*[9].

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

As mentioned above, there is no specific statutory requirement on this point under Spanish insurance contract law addressing parametric insurance. The general rule under Article 18 LCS requires the insurer to pay the indemnity once the relevant investigations and assessments necessary to establish the existence of the loss event and, where applicable, its amount, have been completed.

In practice, scholars who have analysed the matter consider that market wordings vary significantly. Some parametric policies operate on a pure if-then basis: the mere occurrence of the triggering event, as verified by an independent third party (such as a public meteorological agency or a private specialised provider) or by the insurer itself where it monitors the risk directly, automatically gives rise to the payment obligation. Other policies, however, contain safeguards aimed at preserving the indemnity function of the insurance and avoiding undue enrichment. These safeguards include, among others:

[8] Judgment of the Spanish Supreme Court (Civil Chamber) no. 260/2006, of 23 March 2006.
[9] MUÑOZ PAREDES, M.L., op. cit.

a) a requirement that the insured demonstrate that the triggering event caused some form of loss, even where no formal loss adjustment is carried out;

b) the insurer's express right to verify the actual losses suffered by the insured through expert assessment, in which case the claim may ultimately be settled on a traditional basis;

c) clauses requiring the insured to apply the indemnity received to the repair of damages or the mitigation of losses, within a stipulated time-frame —a contractual technique analogous to the reconstruction or replacement clauses traditionally accompanying new-for-old insurance[10].

Accordingly, whether and to what extent claim substantiation is required will depend on the specific contractual design adopted in each case.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Again, the answer depends on the contractual structure of the specific product. In our view, in its purest form, a parametric insurance contract operates on the basis of automatic payment upon the occurrence of the triggering event, regardless of the actual loss sustained by the insured.

This is the structural feature that distinguishes parametric insurance from traditional non-life insurance and underpins its primary commercial advantage —rapid payment without the need for loss adjustment.

It is true that, as noted above, this purely automatic structure may give rise to some tensions with the indemnity principle under Spanish law, and this may led market participants to introduce in their wordings various mechanisms aimed at preserving the indemnity function.

These may range from mere proof-of-loss requirements (less burdensome than a full expert assessment) to express provisions allowing the insurer to verify the existence and amount of the actual loss sustained by the insured.

From a doctrinal perspective, an insurance contract under which the insurer undertakes to pay irrespective of any loss suffered by the insured does not entirely fit comfortably within the concept of a valued policy (póliza estimada) under Article 28 LCS, nor, strictly speaking, within the broader category of non-life insurance.

[10] On the analogy with the traditional reconstruction clause, see MUÑOZ PAREDES, M.L., op. cit., pp. 519 et seq.

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It comes closer in structure to sum insurance (*seguro de sumas*), in which no actual loss is required for payment to arise[11]. Nevertheless, parametric insurance differs from traditional sum insurance in that the indemnity amount is not arbitrarily fixed, but rather objectively predetermined on the basis of the losses foreseeably to be sustained by the insured if an event of the agreed magnitude occurs, drawing on reliable statistical data. Furthermore, parametric insurance typically covers risks —such as natural catastrophes— where the insured cannot influence the occurrence of the loss event, which in itself constitutes a structural safeguard for the indemnity principle.

In practical terms, therefore, where the policy is structured to require some form of proof that the insured was actually affected by the triggering event —but without a full expert valuation of the losses— the contract would reasonably remain within the boundaries of non-life insurance under Spanish law, while preserving the utility of parametric insurance as a swift-payment mechanism. That is also the position of MUÑOZ PAREDES.

In any event, and by way of cross-reference to our earlier observations on the indemnity principle, it should be borne in mind that, where the parametric product qualifies as large-risk insurance within the meaning of Article 13(27) of the Solvency II Directive (as transposed by Article 11 LOSSEAR), or where it takes the form of a reinsurance contract, the otherwise mandatory provisions of the LCS will not apply, pursuant to Articles 44 and 79 LCS. This further softens the constraints arising from the LCS framework and provides additional contractual flexibility for the structuring of parametric solutions in those segments —which, as previously noted, will in practice account for a significant proportion of parametric insurance products offered in the international market-.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

There is no specific regulation in Spain governing the specific requirements that a calculation agent must meet, nor the index or parameters used that trigger the insurer's obligation to indemnify.

However, there are certain general principles of Spanish private law that apply to these arrangements.

[11] MUÑOZ PAREDES, M.L. op. cit.

a) Prohibition of unilateral discretion: The determination of whether the parameters triggering the insurer's obligation to indemnify have been met cannot be left to the sole discretion of the insurer, who is a party to the contract.

   Doing so would violate the concept of *necessitas*, an essential element of any contractual obligation. This contravenes Article 1256 of the Spanish Civil Code, which establishes that "*The validity and performance of contracts cannot be left to the discretion of one of the contracting parties*."

b) Determinability of the obligation: Similarly, the amount of the compensation to be paid by the insurer cannot be left to the discretion of the insurer, nor can its precise definition be deferred to a later time.

   The amount of the indemnity must be determinable based on the terms set forth in the executed insurance contract. This mirrors Article 1447 of the Spanish Civil Code regarding sales contracts, which requires the price at least to be determinable with reference to another certain thing or left to the judgment of a specific person, without being unilaterally decided by one of the parties.

In Spanish insurance practice, there is a clear example of delegating the determination of whether a claim has occurred to an independent third party. This takes place under the mandatory extraordinary risks insurance regime generally covered by the *Consorcio de Compensación de Seguros* (CCS)[12].

Under this scheme's regulations, the law expressly recognizes that the confirmation of certain natural events depends on certifications issued by specialized, independent public bodies entirely separate from the parties to the insurance contract:

a) Official certification of the occurrence of natural events: seismic phenomena, volcanic eruptions, and the falling of astral bodies are certified at the request of the Consorcio de Compensación de Seguros through official certifications issued by the Instituto Geográfico Nacional (IGN), and other competent public bodies.

[12] The Spanish extraordinary risks coverage system is a public-private partnership model regulated by the *Estatuto Legal del Consorcio de Compensación de Seguros* (approved by Royal Legislative Decree 7/2004) and the *Reglamento del seguro de riesgos extraordinarios* (approved by Royal Decree 300/2004).

Under this regime, when taking out an ordinary insurance policy with a private insurer in specific branches (such as fire, motor vehicles, life, or personal accidents), a surcharge in favor of the Consorcio de Compensación de Seguros is mandatorily included. In exchange for this surcharge, the CCS directly assumes the coverage for damages caused by catastrophic natural events (such as floods, earthquakes, tidal waves, or unusual cyclonic storms) or human-made damages (such as terrorism or rebellion), provided the policyholder has a valid private policy in force and up to date with premium payments at the time of the loss.

b) The case of unusual cyclonic storms (TCA -*tempestad ciclónica atípica*-): This validation mechanism is particularly relevant for unusual cyclonic storms (such as tornadoes or windstorms characterized by gusts exceeding 120 km/h -which is the threshold for the TCA to be considered a extraordinary risk covered by the mandatory extraordinary risk insurance). The confirmation that the wind has exceeded this objective parameter—thereby triggering the CCS coverage—is determined exclusively based on the technical reports issued by the Spanish Meteorology State Agency (AEMET).

These examples illustrate how the Spanish legal system validates the use of an independent third party (in this case, a public body) as a calculation agent to verify objective data in order to determine the insurer's obligation to indemnify. The certificates and reports issued by those public agencies and bodies serves as a binding and decisive element to establish the insurer's obligation to indemnify, eliminating the discretion of the parties and ensuring the full validity of the contract.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

There is no specific regulatory framework in Spain governing the distribution of parametric insurance products.

Therefore, the general insurance distribution rules apply, derived from the EU Insurance Distribution Directive (IDD) and fully transposed into Spanish law by Royal Decree-law 3/2020 of 4 February 2020.

The distribution of parametric insurance in Spain is strictly limited to authorized insurance undertakings and registered insurance intermediaries.

a) Authorized insurance distributors:

Under Royal Decree-law 3/2020, only insurance companies duly authorized by the Dirección General de Seguros y Fondos de Pensiones (DGSFP) or registered insurance intermediaries may distribute insurance products in Spain.

Licensing and Registration: Intermediaries must be registered in the official administrative registry maintained by the DGSFP or the competent regional authority (when their distribution activity is limited to the territory of a specific Autonomous Community within Spain).

b) Cross-forder insurance distribution:

This includes distributors from other European Economic Area (EEA) Member States operating in Spain under the freedom to provide services (*libre prestación de servicios*) or the right of establishment (*derecho de establecimiento*).

Non-regulated service providers—such as online platforms, technology providers, embedded insurance distributors, or Managing General Agents (MGAs)—cannot distribute or market parametric insurance products on a standalone basis, unless they have obtained the appropriate licensing or registration as insurance intermediaries. However, they may participate under specific legal exceptions and structures:

a) Ancillary Insurance Intermediaries (Mediadores de Seguros Complementarios): Non-insurance entities (e.g., travel agencies, car rental companies, or digital platforms) may distribute parametric products if the insurance is strictly ancillary and complementary to the core good or service being sold. This activity is still subject to specific registration and conduct rules under Royal Decreee-law 3/2020.

b) Embedded Insurance and Collaborations: Technology providers and online platforms often partner with licensed insurance undertakings or registered brokers. In these embedded insurance scenarios, the platform may merely act as a technical channel or introducing party, or as an external collaborator of the insurance intermediary (a possibility expressly regulated under Royal Decree-law 3/2020), while the actual distribution activity, advisory services, and regulatory compliance remain the sole responsibility of the licensed partner.

c) Managing General Agents (MGAs):

In Spain, MGAs operate either as registered underwriting agencies (*agencias de suscripción*) that underwrite on behalf of an insurer, or as registered insurance intermediaries that handle distribution. In both instances, they are subject to registration and strict regulatory oversight.

On the other hand, parametric insurance products are fully subject to EU and Spanish product governance and consumer protection rules.

a) Product oversight and governance arrangements (POG):

In line with the IDD, manufacturers of parametric products must design the insurance to match the needs, characeristics, and objectives of a specific target market, ensuring appropriate distribution channels.

b) Previous information and conduct rules:

Distributors must specify the demands and needs (demanda y necesidades) of the customer before the contract is concluded. For non-life parametric products sold to consumers, distributors must provide a standardized Insurance Product Information Document (IPID) if the product does not qualify as a large risk insurance.

c) Unfair Terms and Restrictive Clauses:

As noted in our previous analysis regarding Article 3 of the LCS, any restrictive clauses—such as specific exclusions or strict data triggers—must be highlighted in bold and specifically accepted in writing by the policyholder to prevent them from being deemed unfair (*cláusulas abusivas*) under Spanish consumer law. Again, this would not apply in practice in the case of large risk or reinsurance products.

Finally, the applicable position differs significantly depending on the nature of the policyholder and the complexity of the risk:

a) Large risks exemption (*Grandes riesgos*):

Under Article 177 of Royal Decree-law 3/2020, distributors are exempted from certain pre-contractual information disclosure duties and strict conduct rules when dealing with "large risks" (*grandes riesgos*), as defined in the Solvency II Directive and Lossear (see definition in footnote 4 above).

b) Sophisticated vs. non-sophisticated Insureds:

For mass-market consumers, all strict disclosure, suitability, and pre-contractual information requirements under the IDD (Spanish Royal Decree-law 3/2020) and EU regulations directly applicable apply in full.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

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The main challenges associated with the offering, distribution, and enforcement of parametric insurance products in Spain revolve around their alignment with the core principles of Spanish insurance contract law, alongside specific practical hurdles identified by legal doctrine, as mentioned above:

a) The indemnity principle and subsequent prohibition of unjust enrichment

As previously noted, the primary legal challenge is reconciling the automatic, parameter-based payout of parametric insurance with the indemnity principle (*principio indemnizatorio*) set forth in Article 26 of the LCS.

Under Spanish law, insurance cannot be a source of unjust enrichment for the policyholder. Therefore, there must be a valid underlying insurable interest and an actual loss (in the very broad and flexible terms set out above), even if the payout is triggered by an objective parameter.

b) Limitations on the right of subrogation

Another challenge highlighted by legal doctrine is the potential inability of the insurer to exercise the right of subrogation against a third party liable for the damage, as provided by Article 43 of the LCS.

However, this limitation is often secondary in practice in some of the main fields of risks covered by parametric insurance , as subrogation rarely arises in the context of natural disasters or purely financial losses—such as negative electricity prices—where no liable third party exists.

c) Prohibition of unilateral determination or interpretation by the insurer of the terms of the agreement

As discussed in our previous analysis regarding the validity of contracts, parametric triggers must strictly respect Article 1256 of the Spanish Civil Code. To prevent the determination of the payout from being left to the unilateral discretion of the insurer, the calculation agent must rely on independent, verifiable, and transparent data sources—mirroring the institutional reliance on bodies like the AEMET in the extraordinary risks regime.

Despite these challenges, the broad and flexible definition of an insurance contract under the LCS provides sufficient legal grounds to consider parametric products as valid insurance contracts in the Spanish legal system, provided the objective parameter serves as a reasonable proxy for the actual financial detriment suffered by the insured.

EUROPE

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

To date, there are no reported judicial precedents, reported decisions, or specific regulatory actions involving parametric insurance or reinsurance contracts in Spain. However, applying general principles of Spanish contract and insurance law, several foreseeable sources of dispute can be anticipated:

a) Basis risk and policyholder expectations:

The potential mismatch between the parameter-triggered payout and the actual physical or financial damage suffered—is the most significant source of foreseeable disputes. If a policyholder suffers a severe loss but the predefined trigger threshold (e.g., wind speed or rainfall) is not met, the insurer's refusal to pay may lead to litigation (most probably based in the cause explained in d) below).

b) Mis-selling and pre-contractual information duties:

Under Spanish and EU consumer protection and insurance distribution laws (such as the Insurance Distribution Directive - IDD, transposed in Spain via Royal Decree-Law 3/2020), insurers and intermediaries have strict duties of prior information (including regarding the characteristics of the product) and transparency.

Failure to clearly explain the mechanics of the trigger and the inherent basis risk to the policyholder could result in claims for mis-selling, rendering the exclusion clauses unenforceable if they are deemed surprising or abusive.

c) Interpretation of trigger wordings and data integrity:

In the event of a dispute over whether a trigger event occurred, Spanish courts will interpret the contract using the rules set out in Articles 1281 to 1289 of the Spanish Civil Code. If the trigger wording is ambiguous, Article 1288 applies the contra proferentem rule, meaning the ambiguity will be interpreted in favor of the policyholder. Furthermore, disputes may arise regarding the reliability, temporary unavailability, or alteration of the data provided by the chosen calculation agent or third-party data provider.

d) Insured rights'restrictive clauses (*cláusulas limitativas de los derechos del asegurado*):

Under Article 3 of the LCS, any clause that restricts, limits, or narrows the rights of the insured party must be specifically highlighted *(destacadas especialmente*) in bold or italics ***and*** expressly accepted in writing (aceptadas de forma específica) by the insured.

In a parametric context, trigger thresholds or specific data requirements that restrict coverage might be construed by Spanish courts not merely as definitions of the risk, but as restrictive clauses (*cláusulas limitativas de los derechos del asegurado*).

If an insurer attempts to deny a claim because a specific, narrow data source was unavailable or failed to meet the strict technical trigger definitions, the insured party could argue that such a restriction is unenforceable unless it was explicitly highlighted and individually signed in accordance with Article 3 of the LCS.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

The environment for the development of specific regulation of parametric insurance may be regarded as uncertain, given that there are conflicting positions among the leading scholars in insurance law as to whether such products qualify as genuine insurance contracts.

We are not aware of any legislative initiative at national level aimed at regulating this type of contract.

That said, our view —based on prior experience— is that the insurance supervisory authority (the DGSFP) is unlikely to adopt a position opposed to the product or to its classification as an insurance contract.

We base this view on the legislative experience of other jurisdictions, particularly Chile, and we anticipate that the DGSFP will limit itself to requiring compliance with the general regulatory framework on the supervision and distribution of insurance —all the more so given that, in many cases, parametric insurance products will be structured as large-risk insurance, as defined under the Solvency II Directive, an area in which the protection of policyholders and insured parties does not need to be as stringent as in the case of "mass-market insurance", as we have explained in previous answers.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

See the answers in 7 and 8 above.

EUROPE

SWEDEN

By

Viveka Classson

Vinge

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Sweden does not have a statutory, regulatory, or market-understood definition of parametric insurance. Neither the Insurance Contracts Act (Sw. *försäkringsavtalslag (2005:104)*) (the "ICA"), the Insurance Business Act (Sw. *försäkringsrörelselag (2010:2043)*) (the "IBA"), nor any regulations or general guidelines issued by the Swedish Financial Supervisory Authority (Sw. *Finansinspektionen*) (the "SFSA") contain any specific or explicit definition or treatment of the term.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Parametric insurance would most likely be classified as insurance, provided that the product meets the requirements for insurance, although the position is not entirely settled. At the regulatory level, the fundamental criteria are that the activity consists of professionally undertaking, in exchange for consideration, to provide economic compensation or perform a specified service upon the occurrence of uncertain events, and a parametric product that meets these elements would typically fall within the scope of insurance business. At the contractual level, the ICA's scope is defined by reference to insurance against "economic loss" and the assumption that the insured has an interest exposed to risk. The boundary with derivative-like financial instruments has not yet been tested in case law, and the question of classification remains partly unsettled where the product lacks any connection to a genuine risk exposure.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Parametric insurance has not been the subject of significant discussion in Sweden. To the extent it has attracted attention, it has primarily been in the context of extreme weather events and climate change. As weather-related risks become more frequent and severe, parametric solutions have been discussed as a potential mechanism for faster and more efficient risk transfer in connection with such events. The SFSA's recently published a report on home insurance against natural damages in a changing climate (Sw. *Rapport: Boendeförsäkring mot naturskador i ett*

EUROPE

förändrat klimat, 9 February 2026) which confirms the heightened relevance of climate-related risk transfer in Sweden, although it does not specifically address parametric insurance.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Yes. There is no prohibition on parametric insurance in Sweden. An insurance undertaking duly authorised by the SFSA pursuant to the IBA may offer parametric insurance products, provided that the product falls within the scope of the authorised classes of insurance business and complies with general regulatory requirements.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Parametric insurance products are not expressly regulated in Sweden. As stated above, there are no specific legislative provisions, SFSA regulations, or regulatory guidance addressing parametric insurance as a distinct product category. At the time of writing, and to the best of our knowledge, there are no known ongoing legislative proposals, consultations, or regulatory initiatives in Sweden aimed at introducing specific rules for parametric insurance. As noted above, the SFSA's thematic analysis from February 2026 on consumers' access to home insurance against climate-related natural damages signals a growing supervisory focus on climate-related insurance issues, although it does not expressly address parametric products.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Parametric insurance is offered on the Swedish market, with the risk primarily carried by foreign insurance and reinsurance companies. A Swedish MGA is reportedly being established with the aim of offering a parametric insurance product to consumers on the Swedish market.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

No. Policy wordings, trigger definitions, pricing methodologies, and supporting actuarial materials are not subject to prior approval, filing, or mandatory supervisory review in Sweden. The SFSA may, however, review such materials in the course of its ongoing supervisory activities.

Separately, the Swedish Consumer Agency (Sw. *Konsumentverket*) has a consumer-protection supervisory remit in the insurance area and supervises that insurance marketing, information and contract terms meet applicable legal requirements. In practice, this means it can take action to prevent and restrict the use of unfair insurance contract terms, and supervises insurance marketing.

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3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Within non-life (indemnity) insurance, the ICA is built on the premise that compensation is paid for actual economic loss, and the rules on valuation of property damage reflect this starting point. This suggests that, as a default, the insured must show that the triggering event caused an actual loss. For commercial insurance, however, the ICA is largely non-mandatory, and the parties have considerable freedom to agree on how compensation is calculated. It should therefore be possible, in a commercial insurance context, to agree that the occurrence of an agreed parameter is sufficient to trigger payout, without any further proof of loss being required. For consumer insurance, by contrast, the ICA is mandatory for the benefit of the policyholder, leaving less room for such deviations. The application of these rules to parametric insurance has yet to be considered by the Swedish courts or the SFSA, leaving the legal position unsettled.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Yes. The requirement of insurable interest applies in Sweden and would apply to parametric insurance as well. Under Swedish insurance law, the policyholder must have a legitimate interest in the risk being insured. The precise manner in which insurable interest is assessed in the context of parametric insurance has not yet been addressed in Swedish case law.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

No traditional proof of loss should be required beyond demonstrating that the agreed trigger condition has been met. The ICA does not contain a specific provision requiring proof of loss as a separate claims-handling step, although for traditional indemnity insurance it is implicit in the requirement to determine the extent of actual loss. If the parties have agreed that payment follows from the satisfaction of an objective trigger, this must in principle be respected without requiring proof of actual loss.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

In a properly structured parametric insurance contract, satisfaction of the agreed parameter should be sufficient for payment. The insured should not be required to demonstrate that the triggering event caused actual damage or loss. This conclusion has, however, not been tested by the Swedish courts or the SFSA.

EUROPE

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

There are no specific Swedish regulatory, licensing, governance or conduct requirements governing the calculation agent function in the context of parametric insurance. The concept of a "calculation agent" is not defined in Swedish insurance legislation or SFSA regulations. However, general principles apply, as the function touches upon several roles and services. For example, responsibility for claims adjustment, the duties of the actuarial function, and the outsourcing rules under the IBA are all relevant. Furthermore, the principle of sound insurance standard in Swedish legislation imposes indirect requirements ensuring that, for instance, the calculation methodology and data sources used in a parametric insurance product maintain a sufficiently high level of quality.

If the calculation agent function is performed by a third party on behalf of an insurance undertaking, the outsourcing rules under the IBA may be applicable. The IBA requires insurance undertakings to have written instructions relating to outsourcing and to notify the SFSA if the undertaking intends to outsource critical or important functions or activities (implementing the Solvency II framework). Given that the trigger determination is central to the performance of a parametric insurance contract, there is a risk that the calculation agent function would be considered a critical or important function subject to these requirements. In addition, Regulation (EU) 2022/2554 on digital operational resilience for the financial sector ("DORA") imposes requirements on the management of risks arising from third-party ICT service providers, which may be relevant where the calculation agent function relies on digital infrastructure or data services.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

There are several general rules in the IBA that are possibly applicable, in particular the requirements relating to the management of conflicts of interest and to sound and prudent management. To the extent that the calculation agent qualifies as an insurance distributor, the product will also be subject to the product governance requirements under the Insurance Distribution Act (Sw. *lag (2018:1219) om försäkringsdistribution*) (the "IDA"), implementing Directive (EU) 2016/97 on insurance distribution (the "IDD") and Commission Delegated Regulation (EU) 2017/2358, which require that insurance products are designed and monitored in the interest of the identified target market. This implicitly requires that trigger mechanisms and calculation methodologies are fair and transparent.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

EUROPE

There are no specific Swedish legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms in insurance.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

The distribution of insurance products, including parametric insurance, is regulated by the IDA. Insurance distribution, defined as the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of insurance contracts, of concluding such contracts, or of assisting in the administration and performance of such contracts, requires authorisation from or registration with the SFSA. This applies regardless of whether the insurance product is parametric or traditional. The IDA applies to insurance intermediaries, ancillary insurance intermediaries, and insurance undertakings when they distribute insurance products. In addition, the Swedish legislator has in certain respects imposed stricter requirements than the IDD (so-called gold plating), including more stringent knowledge and competence requirements, professional indemnity insurance requirements, and a duty to advise consumers against unsuitable products.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Non-insurance intermediaries may participate in the distribution of parametric insurance products, subject to certain conditions. Under the IDA, ancillary insurance intermediaries (i.e., persons who distribute insurance on a complementary basis alongside their main professional activity) may distribute insurance products without full intermediary authorisation, provided that they are registered and meet certain conditions.

Managing general agents ("MGAs") have been expanding their presence in Swedem, and may distribute insurance products under authority delegated by an authorised insurer, provided that the distribution complies with the IDA. As insurance distributors, MGAs operating in Sweden must obtain authorisation from the SFSA or the competent regulatory authority in the relevant EU/EEA Member State before commencing their distribution activities.

Technology providers and online platforms that merely provide technical infrastructure without engaging in insurance distribution activities (as defined in the IDA) may operate without authorisation. However, if a platform's activities amount to advising on, proposing, or carrying out work preparatory to the conclusion of insurance contracts, or to assisting in the administration or performance of insurance contracts, it would need to be authorised or registered as an insurance intermediary. Embedded insurance distributors would similarly need to assess whether their activities constitute insurance distribution under the IDA.

EUROPE

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Several consumer protection requirements apply to insurance products generally. None of them, however, is specific to parametric insurance products. Under the IDA, insurance distributors must, for example, provide pre-contractual information and conduct a demands-and-needs assessment. The product governance requirements under the IDA and the Commission Delegated Regulation (EU) 2017/2358 require insurance manufacturers to identify a target market and ensure that the product is designed to meet the needs of that target market. The Swedish gold-plated duty to advise against (Sw. *avrådandeskyldighet*) requires distributors to advise consumers against purchasing insurance that cannot be considered appropriate having regard to the consumer's needs, financial circumstances, or other relevant circumstances. The Consumer Contracts Act (Sw. *lag (1994:1512) om avtalsvillkor i konsumentförhållanden*) provides additional protection against unfair contract terms in consumer relationships.

Where parametric insurance is distributed to consumers at a distance (e.g. online or by telephone), the Distance Contracts Act (Sw. *lag (2005:59) om distansavtal och avtal utanför affärslokaler*) imposes additional pre-contractual information requirements and a 14-day right of withdrawal (30 days for life insurance). Notably, the right of withdrawal does not apply to insurance contracts with an agreed term of one month or less, which may be relevant for short-duration or single-event parametric covers.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

Yes. Swedish law makes a clear distinction between commercial policyholders and consumers. The ICA is mandatory for the benefit of the policyholder and the insured in consumer insurance, but is largely non-mandatory in commercial insurance, allowing the parties significantly greater contractual freedom. This is directly relevant to parametric insurance, as it means that commercial parties may freely agree on parametric triggers, payout mechanisms, and deviations from the indemnity principle, while such arrangements in consumer insurance must comply with the mandatory protective provisions of the ICA. Similarly, the IDA's gold-plated duty to advise against (Sw. *avrådandeskyldighet*) applies specifically to consumers. The IDA also exempts large risks and reinsurance from certain requirements, consistent with the IDD. In practice, parametric insurance is likely to prove significantly more straightforward to implement in commercial and reinsurance contexts than in consumer markets.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Several legal, regulatory and practical challenges affect parametric insurance in Sweden. A primary obstacle is the absence of regulatory guidance or case law on parametric insurance, which

may create legal uncertainty for product developers, distributors and policyholders alike. In addition, the existing regulatory framework does not address issues that are unique to parametric products, such as the governance of trigger mechanisms, the reliability and accuracy of third-party data, and the management of basis risk. The relevance of these challenges is reinforced by the SFSA's February 2026 report on home insurance and climate change, which identifies a long-term risk that traditional indemnity-based natural-damage cover may become limited or significantly more expensive in high-risk areas, and notes the need for greater risk differentiation and incentive-based solutions – conditions under which parametric structures may become increasingly relevant as a complement to traditional cover.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Yes. A key issue in a Swedish context is basis risk, which underlies most of the other concerns raised. Basis risk, the risk that the parametric trigger does not accurately reflect the policyholder's actual loss raises fundamental questions under both insurance contract law and consumer protection law. This concern is reinforced by the insurer's pre-contractual disclosure obligations under the ICA, including the obligation to clearly draw attention to important limitations of the insurance cover.

Basis risk also drives the related concerns about trigger wording and transparency. Triggers must be drafted with precision, since Swedish courts apply general principles of contract interpretation and any ambiguity in the trigger condition is likely to be resolved against the insurer in a dispute. Equally, the insurer should communicate clearly, both at the point of sale and in connection with claims, how the trigger operates and why a payout has or has not been made, so that the policyholder's expectations can reasonably be aligned with the product design. This is particularly important where parametric cover is offered alongside, or as a substitute for, traditional indemnity insurance.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

To our knowledge, no reported judicial decisions, regulatory actions, or publicly known disputes in Sweden have specifically involved parametric insurance or reinsurance contracts.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

Although there are no reported decisions concerning parametric insurane, two areas stand out as the most likely sources of dispute in Sweden. The first concerns the threshold and the interpretation of the relevant parameter, together with the related evidentiary issues. Since parametric cover responds to a defined index or measurement rather than to an assessed loss, disagreements may arise as to whether the agreed threshold has actually been crossed, particularly

where the wording is ambiguous, or where the underlying data are contested or yield borderline values. Disputes of this kind would be resolved in accordance with general principles of contractual interpretation under Swedish law.

The second area concerns mis-selling and shortcomings in pre-contractual information. Parametric structures remain fairly unfamiliar to many Swedish policyholders, and it is to be expected that complaints will be made on the basis that the insurer or the intermediary did not properly explain how the product works, what basis risk involves, or in what circumstances a payout will or will not be made. Complaints of this kind would be measured against the information duties set out in the ICA and, so far as distribution is concerned, in the IDA.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The legal and regulatory environment for parametric insurance is best described as uncertain but not restrictive. There is no prohibition on parametric insurance, and the existing regulatory framework, particularly the IBA and the IDA, provides a functional basis for offering such products. The SFSA is neither explicitly supportive of nor opposed to parametric insurance; rather, parametric products have not yet attracted specific regulatory attention. The SFSA's February 2026 report on home insurance against natural damages, however, indicates a growing supervisory interest in climate-related insurance issues and in incentive-based solutions (including reference to the EIOPA concept of "impact underwriting"), which may in time create a more receptive supervisory environment for parametric mechanisms.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

A key step in supporting the development of parametric insurance in Sweden would be guidance from the SFSA on how parametric products fit within the existing framework, and in particular how they relate to the product governance rules and the dividing line between insurance and financial instruments. A clear supervisory position on these points would likely reduce the legal uncertainty that may otherwise hold insurers back from offering parametric cover. In addition, the SFSA's February 2026 report on home insurance and climate change highlights an emerging interest in insurance solutions that create direct incentives for policyholders to take risk-reducing measures (so-called "impact underwriting"). Although the report does not explicitly address parametric insurance, parametric structures may be a natural fit in this context and an area where further supervisory clarification would support market development, particularly with a view to closing potential protection gaps in high-risk areas identified by the SFSA.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

EUROPE

Sweden's legal and regulatory framework for insurance is well developed, comprehensive, and aligned with EU standards. While this framework does not specifically contemplate parametric insurance, it is sufficiently flexible to accommodate parametric products without substantial legislative change.

EUROPE

United Kingdom

By
Wynne Lawrence, Nigel Brook and Phillip Sturley

Clyde & Co.

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

There is no statutory or regulatory definition of parametric insurance in the UK. Just like any other insurance product, parametric insurance is measured against the UK common law definition of a 'contract of insurance'.[1]

Whilst not a strict statutory or regulatory definition, The Law Commissions, as part of their review into insurance contract law in the UK, describe parametric insurance as products which "*provide for a fixed sum to be paid on the occurrence of the event without the policyholder having to demonstrate the extent of its own loss*".[2]

In the UK, a parametric product will be treated as insurance only if its terms satisfy the common-law test for a contract of insurance. Depending on its structure, however, a parametric

[1] MacGillivray on Insurance Law 16th Ed. 1-001 – "A useful working definition is that given by Channell J in Prudential Insurance Company v Commissioners of Inland Revenue [1904] 2 K.B. 658, according to which a contract of insurance is one whereby one party (the insurer) promises in return for a money consideration (the premium) to pay to the other party (the insured) a sum of money, or to provide him with a corresponding benefit upon the occurrence of one or more specified events."
[2] Para 1.1 Law Commission and Scottish Law Commission Joint review of insurance contract law (insurable interest and parametric policies) April 2016.

contract could instead be characterised as a derivative[3]—for example, where the counterparty lacks insurable interest or the trigger can be met without the counterparty suffering even a nominal loss.

Parametric insurance is utilised across a wide range of market segments in the UK, including:

- Commercial flooding: For example 'FloodFlash', an MGA offering parametric commercial flood insurance in the UK. The product relies on flood-depth sensors and pre-agreed triggers.[4]

- Agriculture: For example, 'Stable', a Lloyd's MGA, relies on data from the UK Department for Environment, Food and Rural Affairs (DEFRA) and the Agriculture and Horticulture Development Board (AHDB) to insure farms and buyers against milk price volatility.[5]

- Hospitality/leisure: For example, the broker WTW worked with Swiss Re to launch a parametric product in October 2025, which triggers when a Red Weather Warning is issued by the UK Met Office or Ireland's Met Éireann. The trigger for coverage is not the weather occurrence or its resulting damages, but the weather warning itself.[6]

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

[3] Para 1.2 Law Commission and Scottish Law Commission Joint review of insurance contract law (insurable interest and parametric policies) April 2016
[4] FloodFlash
[5] pdf-lloydsparametric-case-studies-v3-Part2.pdf
[6] WTW parametric policy based on weather forecasts is market first - WTW UK

EUROPE

Parametric insurance falls within the usual insurance regulatory framework in the UK. Under the Financial Services and Markets Act 2000, as supplemented by the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, effecting or carrying out a contract of insurance as principal is a regulated activity. Insurers are regulated by the Financial Conduct Authority and, where applicable, the Prudential Regulation Authority.

Insurers are required to document their governance and approval process for insurance products and make this available to the FCA on request.[7] Parametric insurance is subject to this process and does not have its own dedicated process.

The key steps of the product approval process are as follows:

- Firm permissions: the insurer/intermediary must have the correct FCA/PRA permissions for insurance business or insurance distribution.
- Perimeter analysis: the firm should confirm the arrangement is a contract of insurance, rather than another product such as a derivative, guarantee, or service contract.
- Product governance: the manufacturer must identify the target market, test customer outcomes, assess fair value before internal approval can be granted.
- Records: records of the entire process must be retained.

There is no routine prior FCA/PRA filing or approval of parametric policy wordings, parametric triggers, rating/pricing methodology or supporting actuarial materials. However, these materials should usually be included in the firm's internal product approval file. For example:

- Wordings and exclusions should be assessed for clarity, scope of cover and customer value;
- Triggers should be assessed for transparency, reliability, basis risk and customer understanding;
- Pricing should be assessed as part of the FCA fair value review; and
- Actuarial support may be relevant to pricing, reserving, capital and prudential supervision, but not as a product-by-product approval filing.[8]

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

[7] FCA Handbook - PROD 4.2 Manufacture of insurance products & FCA Handbook - PROD 1.4 Application of PROD 4

[8] FCA handbook PROD 4.2

EUROPE

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

To be treated as insurance, a parametric product requires an insurable interest and an exposure to loss. Otherwise, the product will be viewed as a derivative. In an advice prepared for the International Swaps and Derivatives Association (ISDA) in 1997 and widely recognised by the insurance and derivatives market, English barrister Robin Potts KC advised that derivatives were not contracts of insurance, in part because there is no requirement of insurable interest.[9] Rule 9.1 of the Solvency II Firms: Conditions Governing Business Instrument (Restriction of Business)[10] mandates that an insurer must limit its operations strictly to the business of insurance and operations directly arising from it, and so cannot issue derivatives.

Prudential Insurance Co v Inland Revenue Commissioners[11] confirmed that a policyholder must hold an insurable interest at inception of the contract. If the policy is one of indemnity, the insurer should ask for evidence that the claiming policyholder incurred a loss. One way the parties might seek to address this under a parametric policy would be to formally agree before inception that if the specified event occurs, the loss will be pre-valued at an agreed sum. A "Discretionary Proof of Loss" or "Declaration of Detriment" clause notes that, while the insurer will automatically process the claim based purely on third-party data (e.g., weather station readings), the insurer can require the policyholder to sign a statement confirming they suffered some operational or financial detriment due to the event. [12].

The FCA product governance process, discussed above, does not itself insist on compliance with the indemnity principle or proof of loss elements, but it requires the firm to assess and document the trigger design, potential basis risk, target market, customer understanding and fair value.

[9] edcreditderivatives.pdf – (known as the Potts opinion)
[10] PRA Rulebook: Solvency II Firms: Conditions Governing Business Instrument 2015
[11] Prudential Insurance Company v Commissioners of Inland Revenue [1904] 2 K.B. 658
[12] *Clyde & Co – Parametric Insurance: Closing the protections gap (2018)*

EUROPE

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

Trigger data and calculation methodology is not subject to specific legal, regulatory or evidentiary rules.

There are no specific regulatory, licensing, governance, or conduct requirements applicable to calculation agents or the calculation agent function in the UK, nor as regards independence, conflicts of interest, transparency or access to data beyond more general existing regulation regarding insurance intermediaries and data protection, for example.

Relevant controls in these areas will be governed by the terms of the parametric insurance contract itself as well as the FCA's product governance / product approval process discussed above.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

EUROPE

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

The FCA's PERG (perimeter guidance manual) confirms that insurance distribution is relevant to brokers, advisers, insurers and other persons involved in the sale and administration of contracts of insurance, even where those activities are secondary to their main business.[13]

The ability for non-insurance intermediaries to participate in insurance products is set out in the FCA handbook and includes FCA-authorised intermediaries, an appointed representative or an outsourced technology platform. PERG 5 confirms that persons involved in the sale or administration of insurance, even as a secondary activity, may fall within insurance distribution regulation. [14]

The FCA's Insurance Conduct of Business Sourcebook for general insurance and protection insurance sales (ICOBS) applies to insurance distributors, and is particularly relevant for brokers, including when distributing parametric insurance.[15] Key ICOBS obligations which will be particularly relevant to parametric insurance include accurate demands and needs assessments and fair claims/payout handling.

For consumer parametric insurance contracts, the Consumer Rights Act 2015 will apply, rendering any unfair terms (as defined) non-binding. The FCA also has powers to challenge unfair terms in financial services consumer contracts.[16] ICOBS, PROD, Consumer Duty, unfair terms rules and the Financial Ombudsman protections are likely to apply in full to consumer parametric products. Unfair terms in parametric insurance products are likely to be centred around the definition of trigger or data sources, as well as broad exclusions which could equally be found in other types of insurance contracts.

A growing number of 'Insurtech' companies specialising in parametric insurance products are operating in the UK. For example, Blink Parametric, a parametric software provider, provides "*customisable white-label software solutions enabling companies to embed parametric insurance products into their brand's propositions, delivering real-time digital assistance to consumers in their time of need*".[17] Skyline Partners is another parametric Insurtech and specialist MGA that helps design and operate parametric insurance products. A 2020 graduate of the Lloyd's Lab, Skyline Partners acts "*as structuring and calculation agent [and] supports parametric product development*

[13] FCA Handbook - PERG 5 Guidance on insurance distribution activities
[14] FCA Handbook - PERG 5 Guidance on insurance distribution activities
[15] Insurance Conduct of Business Sourcebook (ICOBS) | FCA
[16] Unfair contract terms | FCA
[17] Blink Parametric

and execution on behalf of clients, with trigger parameters monitored using its proprietary INSDEX platform".[18]

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Key legal and regulatory challenges for parametric insurance in the UK:

- Regulatory uncertainty: Parametric insurance does not have its own product category or specialised regulation. Instead, it falls under the general FCA/PRA regulatory frameworks. Parametric products may be novel, not specifically addressed by statute, and relatively untested in case law.[19]

- Problems with definition: Depending on the product design and counterparties, parametric products have the potential to be defined as either insurance or a derivative. This has regulatory, legal, tax and enforceability implications. It is therefore necessary to ensure that the product is properly characterised and understood either as insurance or as a derivative/financial instrument.[20]

- Insurable interest: To be classed as an insurance product, the insured under a parametric contract must have an insurable interest, which is not usually a problem in contracts concerning property owners for example, but is arguably more debatable for governments, NGOs, group entities or parties seeking cover for indirect economic impacts.[21]

- Basis risk / valuation issues: Parametric cover pays out a fixed pre-agreed amount on the satisfaction of a trigger, irrespective of the value of the actual loss sustained rather than by measuring actual loss. The insured may suffer loss but receive no payout or receive a payout without equivalent loss (i.e. negative / positive basis risk). This needs to be clearly explained at placement, especially for less sophisticated and consumer policyholders, in view of regulatory principles in the UK including the requirement under ICOBS for "treating customers fairly".

[18] Skyline Partners
[19] Parametric Insurance: closing the protection gap - Legal considerations : Clyde & Co
[20] Jonathan-Hopkins-final.pdf (BILA)
[21] Parametric Insurance: closing the protection gap - Legal considerations : Clyde & Co

EUROPE

- Trigger wording and data reliability: The policy must define the trigger with precision to avoid ambiguity and uncertainty.

- Modelling accuracy: Poor calibration of pricing / payout amounts can increase basis risk and lead to products that do not respond as policyholders expect.

- Transparency, communication and expectations: Because parametric insurance is a relatively new insurance product and is specialised, explanation of the product should clearly define the nature of the insurance, particularly trigger events and particularly in any consumer context. Claims communication should be prompt, explain the data used, and clearly state why a trigger has, or has not, been met. Clear wording and pre-contract explanation are essential to avoid disputes and mis-selling risk.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

Litigation or disputes concerning parametric insurance are rare. We are not currently aware of any reported decisions in the UK concerning disputes in this area.

We consider that foreseeable sources of dispute or regulatory scrutiny include the following, which are also discussed above:

- Trigger interpretation;
- Basis risk;
- Model/data integrity;
- Insurable interest;
- Proof of loss / extent of loss;
- Classification as insurance vs derivative and tax / regulatory issues related thereto; and
- Inadequate buyer understanding / communications, particularly in a consumer context.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

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The legal and regulatory environment for parametric insurance is still evolving and remains uncertain. There is at this time no dedicated legal or regulatory regime for parametric products, which creates potential uncertainty around issues such as whether a product should be properly characterised as insurance or a derivative and how the insurable interest requirement applies. As discussed above, the Law Commissions have specifically noted that parametric products may be structured either as insurance or derivatives, and that they raise questions around insurable interest, anticipated loss and whether the policyholder has suffered loss when payment is made.

Recent FCA work to simplify insurance rules and support growth in commercial insurance suggests a broader direction of travel towards proportionate regulation and innovation[22]. The lack of specific regulation addressing parametric products does not appear to have hampered the development of such products in this jurisdiction, nor has led to specific regulatory concerns. The current regulatory regime therefore appears flexible and proportionate in this area and there does not at the moment seem to be much, if any, demand for reform.

The parametric insurance market has seen rapid growth in recent years[23]. This is in part due to the innovation in Insurtech which has improved areas such as pricing and pay-out calculations and forecast capacities. Blockchain / smart contract technologies have also assisted with policy pay out times and have reduced transaction costs.[24] This is reflected in the emergence of specialist firms such as Blink, Floodflash, and Skyline Partners referred to above, and the growth of parametric specialist teams at established UK-headquartered (re)insurers. The UK-based Insurance Development Forum - a public-private partnership dedicated to optimising and extending the use of insurance and risk management capabilities to build greater resilience and protection for vulnerable countries - supports the development of parametric solutions at a sovereign and sub-sovereign level.[25]

Notwithstanding the above, some reforms or clarifications that have been suggested over recent years include:

- FCA/PRA clarification as to when parametric products are to be treated as insurance rather than derivatives.
- Clarification of insurable interest and indemnity issues: UK law still treats insurable interest as an important feature of insurance, and HMRC guidance notes that a person generally needs to suffer financial loss or have a recognised legal/equitable interest in the subject

[22] PS25/21: Simplifying the insurance rules | FCA
[23] By 2028 the parametric market is expected to reach US $21.4 billion, rising at a market growth of 9.6% CAGR during the forecast period - Global Parametric Insurance Market 2022–2028," Research and Markets, 30 January 2023, 3
[24] Global Insurance Market and Change 2023, Chapter 6, Wynne Lawrence, Nigel Brook – pg 153
[25] Parametric Insurance Case Studies - Insurance Development Forum

matter.[26] In this regard, in their 2016 examination of the subject, the Law Commissions noted: "*We are not proposing to define insurable interest, but we propose a non exhaustive list to confirm that a policyholder has an insurable interest at the time of the insured event if the insured: (1) has a right in the property which is the subject matter of the insurance or a right arising out of a contract in respect of it; (2) has possession or custody of the insured subject matter; (3) or suffers an economic loss on the occurrence of an insured event, arising in the ordinary course of things."* The Law Commissions have been working on a sub-project on Insurable Interest and published a draft Bill on Insurable Interest in 2016, but there has been no further material progress on the project as far as we are aware. The Law Commissions website notes: *"Although most consultees agreed with the overall direction of our proposals, concerns were expressed over some of the details, and in particular their interaction with current market practice. It was also clear from those responses that there was little demand for reform in the area of non-life insurance."*[27]

- Clarifications regarding modelling and data: accurate pricing and modelling is essential to minimise basis risk. The International Association of Insurance Supervisors (IAIS) has identified index design, data quality and basis risk as central regulatory and product-design issues for parametric insurance.[28]

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

The UK position is commercially promising and at the moment does not appear to be unduly hampered by the lack of legal and regulatory clarity. UK common and statutory insurance law, as well as the regulatory environment in this area appear to generally provide sufficient architectures for commercial expansion and protection of consumers, two key cornerstones of insurance regulation.

Key challenges in advancing parametric insurance include:

- Basis risk: Improving the alignment between modelled losses and payouts through better data, refined modelling, and hybrid designs combining parametric and traditional cover are essential to build confidence.
- Design and communication: Well-drafted, transparent contracts and supporting materials are critical. Parametric policies can reduce complexity and transaction costs, but both the trigger, expected payout and any dispute resolution mechanisms must be clearly explained to customers and particularly to consumers.

[26] GIM1050 - Legal basis of insurance: insurable interest - HMRC internal manual - GOV.UK
[27] Insurance Contract Law: Insurable Interest – Law Commission
[28] FSI-IAIS-Insights-on-parametric-insurance.pdf

EUROPE

- Regulation: Greater consistency across jurisdictions and clearer distinctions from financial instruments (e.g. derivatives) would strengthen oversight and certainty for financial services firms.
- Education: Stakeholders must understand both the benefits and limitations of parametric products. Ongoing communication will help realise their full value.

Trust underpins all these factors. The market for parametric insurance has grown due to its speed, certainty, and simplicity, supported by technology. However, there are also issues of data security and reliability. Overall, parametric insurance can complement or replace traditional cover at competitive cost, offering efficient, precise protection without loss adjustment, and enabling improved risk management, particularly for emerging risks such as climate change.[29]

[29] Global Insurance Market and Change 2023, Chapter 6, Wynne Lawrence, Nigel Brook – pg 155/156

NORTH AMERICA

MEXICO

By

Yves Hayaux Du-Tilly and Luciano Perez/ Juan Pablo Sainz

Nader Hayaux Goebel / Global Parametrics

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Mexico has no statutory or regulatory definition of parametric insurance.

Within industry practice, the Mexican market understands that parametric insurance is an insurance product in which the insurance company has the obligation to pay a fixed and agreed amount as indemnity in case of an occurrence, consisting in pre-specified measurable parameter reaching or exceeding a defined threshold, without a requirement for the insured to prove the actual amount of damages suffered.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Parametric insurance is deemed insurance under Mexican law and regulated as an insurance contract (contrato de seguro). As a general rule, insurance contracts may only be issued in Mexico by duly licensed insurance companies incorporated under Mexican law.

Article 1 of the Insurance Contract Law (Ley Sobre el Contrato de Seguro) ("LCS") defines an insurance contract as one by which the insurer undertakes, in exchange for a premium, to indemnify the insured against damage caused by a fortuitous event, or to pay an amount of money upon the occurrence of the risks covered under the contract.

As a general rule, the Insurance and Surety Companies Law (Ley de Instituciones de Seguros y de Fianzas) ("LISF") regulates life insurance (vida), accidents and health insurance (accidentes y enfermedades), and property and casualty insurance (daños). A parametric product covering climate or catastrophic property risks would be deemed property and casualty insurance, and in the case of parametric agricultural products, these would be specifically regulated under the agricultural insurance line of business.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

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Parametric insurance has developed across the following segments in Mexico, each with a different degree of regulatory and operational maturity.

Agricultural index insurance is the most institutionally established segment. According to the Food and Agriculture Organization of the United Nations, the Natural Disaster Response Component (Componente de Atención a Desastres Naturales) ("CADENA"), administered by the Ministry of Agriculture and Rural Development (Secretaría de Agricultura y Desarrollo Rural) ("SADER", previously known as SAGARPA), operated index-based agricultural insurance for smallholder farmers from the early 2000s until its phase-out around 2020. Federal and state governments co-financed premiums for parametric policies triggered on precipitation, frost, drought, and related indices, derived from data published by the National Water Commission (Comisión Nacional del Agua) ("CONAGUA") and the National Meteorological Service (Servicio Meteorológico Nacional) ("SMN"). Agroasemex, S.A. ("Agroasemex"), the state-owned agricultural insurer and reinsurer, acted as technical counterparty to the institutions that Agroasemex had operations with and ceded risk to international reinsurers. Although CADENA is no longer active, its products had architectures approved by the National Insurance and Surety Commission (Comisión Nacional de Seguros y Fianzas) (“CNSF”) and represent historically the parametric segment with the longest operational track record in Mexico.

Since 2009, Mexico has collaborated with the Caribbean Catastrophe Risk Insurance Facility SPC ("CCRIF") not as an insured member, but as a donor and strategic partner, supporting the facility’s capacity to provide parametric earthquake and tropical cyclone coverage to member governments.

A parametric insurance policy arranged in 2019 for the government of the State of Quintana Roo is widely reported in industry and academic sources as the world's first parametric policy designed to finance the protection and restoration of a coral reef ecosystem. The policy was subsequently triggered by Hurricane Delta in October 2020 and again by Hurricane Beryl in July 2024, resulting in successful payouts for both events.

The Federal Government of Mexico, through the Ministry of Finance and Public Credit (Secretaría de Hacienda y Crédito Público) (“SHCP”) and the Insurance, Pensions, and Social Security Unit (Unidad de Seguros, Pensiones y Seguridad Social) (“USPSS”), outlines the procurement of the “Property Damage Insurance Occasioned by Natural Phenomena (Disaster Insurance)” with a validity spanning from 5 June 2026 to 5 May 2027. Under this framework, Item 2 (Partida 2) of the Technical Annex for the Procurement of Property Damage Insurance Occasioned by Natural Phenomena (Disaster Insurance) (Anexo Técnico para la Contratación del Servicio de “Seguro de Daños Ocasionados por Fenómenos Naturales (Seguro para Catástrofes)”) formally establishes the Parametric Coverages (Coberturas Paramétricas) designed to protect assets and infrastructure across the road, educational, health, hydraulic, housing, urban road, and archaeological, artistic, and historical monuments sectors. The territorial scope varies by risk: earthquake and flood coverages apply nationwide; hurricane coverage spans all coastal zones of the Atlantic and Pacific oceans; and volcanic eruption coverage is strictly limited to the Popocatépetl, Colima (Volcán de Fuego), Chichón, and Tacaná volcanoes.

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The Disaster Insurance serves as a risk transfer instrument oriented toward medium-frequency and medium-to-high severity events, positioned structurally underneath the government's catastrophe bonds. To trigger payouts, the program mandates specific classes of parametric models per risk. Class 1 model (based on physical parameters of the phenomena) is required for volcanic eruptions, whereas Class 2 (intensity models) and Class 3 (modelled losses) are required for earthquakes, hurricanes, and floods. The expected activation return periods are set at 6 years for earthquakes, 25 years for volcanic eruptions, and 5 years for both hurricanes and floods.

Finally, the financial structure of the instrument establishes a Maximum Limit of Liability (LMR) in the aggregate of the policy's validity of either 8,000,000,000.00 or 10,000,000,000.00 Mexican Pesos (MXN), depending on the results of the market research. As a core technical feature, these parametric covers will operate cleanly, meaning they are completely free of deductibles, co-insurance, franchises, or any other form of risk participation by the SHCP through the USPSS.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Yes. Parametric insurance is permitted in Mexico.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Parametric insurance products are regulated as insurance in Mexico under the general property and casualty regulatory framework, that requires registering the insurance products, filing technical notes, policy wording, and complying with applicable solvency, capital, and reserve standards.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Yes. Pursuant to applicable law in Mexico, parametric insurance products must be registered and filed with the CNSF before placing them in the market. The registration process is regulated by the LISF in Articles 200 to 208 and in the Sole Insurance and Surety Circular (Circular Única de Seguros y Fianzas) ("CUSF") Title 4.

As a general rule, insurance products, including parametric insurance products must be registered with the CNSF by filing (i) a technical note, which is the actuarial and statistical document underpinning the product; and (ii) the wording of the general conditions of the insurance product and, if applicable, wording of special conditions and endorsements. The technical note must contain the statistical bases supporting the risk assessment, the methodology for premium calculation, the technical bases for reserve calculation, the maximum net retention, and a description of the product structure. In the case of parametric insurance products, the technical note must also contain

information describing the trigger mechanism, the index or data source, the payment calculation methodology, and the expected frequency and severity distributions supporting the pricing of the product.

CNSF reviews the technical note and policy wording for actuarial soundness, legal compliance, and consistency with applicable LISF and CUSF requirements.

Upon filing the technical note with the CNSF, the insurer may market the product. Any amendments to the technical note, wording, including the trigger mechanism, data source, or payment methodology requires filing an amended technical note with the CNSF. As an exception, there is a simplified proceeding to notify minor changes to the wording with the CNSF.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Yes. Pursuant to applicable law in Mexico, the wordings, pricing methodologies and supporting actuarial materials of parametric insurance products must be registered, and filed with the CNSF before placing them in the market. The registration process is regulated by the LISF in Articles 200 to 208 and in the CUSF Title 4.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

The validity of parametric insurance contracts is supported by Article 1 of the LCS that provides that insurance companies and the insured may agree in the amount of the indemnity and to the specific terms and conditions of the parametric insurance contract, where the parties agreed that the insurance company will pay a fixed amount in case of the occurrence of the risk.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Yes, insurable interest requirements apply to parametric insurance products in Mexico, and the insured must have an economic interest that the insured risk does not occur.

The insurable interest must be satisfied or assessed on a case-by-case, basis, and in the case of parametric insurance, it will depend on the risk covered and the specific insured contracting the insurance coverage.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

No, upon satisfaction of the agreed trigger, the insurance company is under the obligation to pay the indemnity agreed in the parametric insurance.

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In practice, the insured's formal notification or claim is based on the calculation report issued by the independent calculation agent. While this submission is not strictly required to activate the insurer's payout obligation, which takes effect automatically upon the triggering of the predefined contractual parameters, it remains essential for tracking regulatory deadlines and ensuring legal compliance.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Under a properly structured, purely para metric insurance contract in Mexico, trigger satisfaction is sufficient for payment, and traditional loss adjustment processes are strictly excluded. However, because local regulations lack complete clarity, (re)insurers occasionally require the (re)insured to submit a generic damage declaration or a preliminary loss estimate. Furthermore, while pure parametric covers avoid formal adjustment entirely, certain hybrid policies in the Mexican market do incorporate expedited damage verification or loss assessment processes.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

No specific regulatory, licensing, governance, or conduct regime applies to calculation agents under Mexican law. Furthermore, their specialized functions are generally understood to fall outside the scope of the strict outsourcing and third-party service requirements (Contratación de Servicios con Terceros) established by the CUSF.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

No, there are no legal or regulatory requirements on the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

No, there are no legal, regulatory or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms in Mexico.

5. Distribution and Intermediaries

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Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

Yes. The intermediation of insurance products, including parametric insurance, is restricted to insurance brokers licensed by the CNSF.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

As an exception to the general rule that only permits insurance brokers to conduct intermediation activities, Article 102 of the LISF permit that non-regulated service providers distribute non-negotiable insurance products, including, if applicable parametric insurance, subject to the terms and conditions of applicable regulation under CUSF.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

While general requirements for unfair terms apply to parametric insurance in the same manner as any other insurance policy, the CNSF takes into account that it is a parametric insurance policy during the approval process. Consequently, the CNSF ensures that elements such as the payout table, the data source, and the calculation methodology are clear to the insured.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

No, all insurance products are subject to the LCS and to consumer protection regulation.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

In terms of legislation, regulation, and contract enforcement, there are no particular challenges in this jurisdiction. Instead, the greatest challenge lies in the education of the Mexican market, encompassing both the insurance sector itself and the general population, regarding parametric products.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

A particular issue that deserves attention is that the insurance sector is unfamiliar with the function of the calculation agent, which is generally merely operational. Consequently, it is usually

difficult for the insurance company and the calculation agent to reach an agreement regarding the calculation services contract.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

To the best of our knowledge, there are no precedents of judicial decision involving parametric insurance.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

In Mexico, several common themes and foreseeable sources of dispute have been encountered. First, there is a lack of clarity regarding the specific data utilised, such as distinguishing between “Public Advisory” versus “Best Tracks” reports from the National Hurricane Centre for hurricanes. Second, when a foreign data source is selected, disputes arise when it is not clearly specified that data from local sources, such as information from the National Seismological Service (Servicio Sismológico Nacional) for earthquakes, will not be applicable. Third, Spanish translation of parametric contracts that were originally drafted in English are generally inconsistent and unclear. Lastley, another source of dispute is agreeing on decimal conversions when the original unit of measurement is not used, such as when wind speed is preferred to be measured in km/h in Mexico although it is originally reported in knots.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The legal and regulatory environment in Mexico for parametric insurance is favourable, as it is a product widely recognised, distributed and widely used to cover catastrophic risks in Mexico.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

CENTRAL AMERICA

COSTA RICA

By

Neftali Garro

BLP Legal

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it. A./ Yes. There is interpretative guidance issued by the Legal División of the Insurance Superintendent in the form of Legal Opinion PJD-SGS-004-2019.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category? A./ Parametric insurance is classified as "insurance".

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)? A./ Currently there is one parametric insurance product registered for coffee crops (agriculture).

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction? A./ Yes.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance? A./ Although parametric products are not expressly regulated by law, interpretative guidance issued by the Legal Division of the Insurance Superintendent has clarified that it is a valid form of insurance not impeded by the indemnity rule, which, although regulated as a "principle" in the Insurance Law (Law No. 8956 of 2011), is more a "rule" that does not necessarily apply to all forms of insurance.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process. A./ Yes. Under Costa Rican law and administrative regulations, insurance products (policy form and rates) must be filed with the Insurance Superintendent before they can be sold. The process involves filing the policy documents and rates through an online platform with the Superintendent for review of compliance with minimum requirements in the law and administrative regulations, including certain mandatory wordings, policy structure, and premium sufficiency.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review? A./ Yes. Although the law sets forth a "file

and use" system, in practice it operates as a prior approval since the product registration code is issued only once the Superintendent approves the wording and rates.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss? A./ No. In accordance with legal guidance issued by the Insurance Superintendent, the indemnity rule admits many exceptions and, therefore, is not a principle that must be met by all forms of insurance.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed? A./ Under the legal guidance issued by the Insurance Superintendent and in line with International Association of Insurance Supervisors (IAIS) guidance, the requirement of insurable interest is met at the outset if the insured has the reasonable expectation of loss equal to or greater than the expected payout under the policy.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger? R./ No. This aspect is subject to the provisions of the insurance contract.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment? A./ There is no requirement to show actual damage or loss. The agreed parameter is sufficient.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements? A./ No, this aspect is not specifically regulated.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data? A./ No, there are no specific rules on this point. General consumer and insured protection rules apply.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms? A./ No.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations? A./ Costa Rican law requires a licensed intermediary (agents, brokers), unless the product is designed and registered as "self-issuing insurance" (*seguro autoexpedible*). These products must be simple and easy to understand and meet certain characteristics, including maximum policy wording length, few coverages, etc. *Seguros autoexpedibles* can be distributed by anyone and not only through agents/brokers.

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May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis? A./ Yes, provided that the product qualifies as and is registered as a *seguro autoexpedible.*

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products? A./ Currently there are no specific rules applicable to parametric insurance. Such insurance must meet all general insurance product requirements in those areas.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds? A./ No differences exist in this regard in connection with parametric insurance.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction? A./ There is a lack of specific statutory and administrative regulations applicable to parametric insurance. However, this is not necessarily a challenge in that the existing framework does not impede the development of the product. Lack of development may owe to lack of interest on the part of the local market and perhaps commercial challenges in the way intermediaries or distributors are traditionally compensated for their work.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention? A./ While the market may benefit from regulations on these topics, in our view the lack of regulation on these issues is not an impediment to the development of parametric products.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction. A./ We are not aware of any such litigation or disputes to date.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns? A./ None of which we are aware.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why? A./ In our view, the regulatory environment is

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favourable considering that the Insurance Superintendent went out of its way to issue regulatory guidance that clears the way for parametric products to be developed and registered.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction? A./ The legal guidance issued by the Insurance Superintendent suggests the need to issue insurance consumer rules specific to parametric products; however, this has not yet materialized. A broader insurance market conduct regulation is currently being considered and is expected to be adopted this year. Although not specific to parametric insurance, one of its key goals is to ensure fair treatment of consumers at all stages of the insurance cycle, including specifically product design and development. This would have an impact on all forms of insurance, including parametrict coverage.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

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EL SALVADOR

By

Luis Vega

BLP Legal

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it. There is no express statutory or regulatory definition of "parametric insurance" under Salvadorian insurance legislation and we are not aware of any formal definition issued by the Superintendencia del Sistema Financieros ("SSF") (i.e. the regulator) as supervisory guidance. In practice, products with parametric features are generally treated as insurance products and assessed under the general rules applicable to insurance policies and product filings.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category? Most likely as (direct) insurance, because (i) it would be offered by an authorised insurer and (ii) it is typically documented as an insurance policy and filed/registered with the SSF under the product filing rules applicable to insurance plans.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)? Yes. In practice, parametric-type covers have been used mainly in the agricultural sector (productive agricultural activity), including through group insurance placements. To the extent these are offered by licensed insurers, they are treated as insurance products subject to the ordinary SSF filing/registration framework for insurance plans (rather than a separate "parametric" regime).

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction? Yes, in the sense that the Insurance Companies Law does not expressly prohibit policies using objective parameters or indices as a benefit trigger. Because there is no dedicated "parametric insurance" regulations, permissibility is assessed by analogy to the general applicable framework for insurance contracts and insurance supervision: if the product is underwritten by a duly authorised insurer and filed/registered with the SSF as an insurance plan, it is generally treated as permissible insurance business.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance? Parametric insurance products are not expressly regulated as a separate product type under Salvadorian law. We are not aware, as of this date, of formal public consultations

or enacted legislative proposals specifically introducing a parametric-insurance regime; accordingly, the market relies on the Insurance Companies Law, the Commercias Code and the SSF's ordinary product filing/registration practice applied by analogy.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process. Yes. Parametric-type insurance products have been filed/registered in El Salvador. Article 47 of the Insurance Companies Law requires insurers to submit to the SSF, before use, the texts of insurance plans and their technical bases, as well as any amendments, for registration. "Insurance plans" include applications, general conditions, annexes, and other related documents. In practice, parametric features (e.g., index/threshold triggers and payout tables) are included in the filed policy wording and technical documentation and reviewed within the same registration process.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review? Yes. By virtue of the insurance-plan filing/registration requirement established in Article 47 of the Insurance Companies Law, policy wordings (including trigger definitions and payout structures) and the corresponding technical bases must be submitted to the SSF before being used. Accordingly, triggers and pricing/actuarial support are, in practice, within the scope of supervisory review through that filing/registration process, even though there is no parametric-specific review protocol.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss? In the absence of an express parametric-insurance regime under Salvadorian law, parametric structures are analysed by analogy to the distinction between indemnity insurance and benefit (sum-insured) covers, within general insurance and contract principles. Where the cover is characterized as indemnity, traditional indemnity principles may apply, including limits against overcompensation. Conversely, where the policy is structured as a benefit payable upon the occurrence of an objective parameter, the agreed amount may become payable upon satisfaction of the trigger without proof of actual loss, provided that an insurable interest exists and subject to general enforceability limits (including legality and public order) and regulatory review of policy wording.

In all cases, the analysis will depend on the specific terms and conditions of the policy as accepted by the insured; however, such terms remain subject to applicable legal principles, including insurable interest and regulatory oversight by the SSF.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed? Yes. Although there is no statutory regime for parametric insurance, such products ae generally analysed within the existing insurance framework (including the Insurance Companies Law); accordingly, insurable interest requirements apply by analogy. In practice, the requirement is satisfied by demonstrating that the policyholder or the insured has a lawful economic interest in the insured exposure (e.g., ownership, leasehold, creditor interest, business interruption exposure, or other legitimate stake) as reflected in the underwriting information. The assessment may vary by line of business, with property/agricultural covers typically

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linked to assets or production, and personal or benefit-type covers linked to the person or designated beneficiary. Notwithstanding the use of objective triggers, the arrangement must not constitute a wager and should evidence a genuine economic exposure.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger? El Salvador does not have an express parametric-insurance regime. Whether proof of loss is required depends on the policy terms. If the policy is structured as a parametric (agreed benefit) cover, payment is typically due upon verification of the agreed trigger and compliance with procedural conditions, without proof of actual loss or causation. If the policy is indemnity-type (or can be characterized as such), the insured may be required to demonstrate actual damage and its quantum. In all cases, the arrangement must satisfy insurable-interest requirements.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment? Refer to answer above.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements? El Salvador does not have a parametric-specific regime that licenses or regulates a "calculation agent" as such. Any applicable requirements arise indirectly from general insurance regulation (i.e. the Insurance Companies Law), including insurer governance, and from supervisory review/filing of policy wording and technical bases with the SSF. Where the calculation function is delegated, the insurer remains ultimately responsible and should implement appropriate oversight, contractual controls, and audit rights.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data? El Salvador does not have parametric-specific legal or regulatory requirements governing the independence of a calculation agent, conflicts of interest, transparency of methodology, or access to underlying data. However, by analogy, general insurance and contract law principles—particularly good faith—apply, and supervisory expectations are implemented through review of policy wording and supporting documentation by the SSF. In practice, this means that the trigger, calculation methodology, and data sources should be clearly described, and the insurer should ensure adequate governance and management of conflicts of interest, especially where the calculation function is delegated.

The insurer remains ultimately responsible for the operation of the product and compliance with applicable regulatory standards.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms? El Salvador does not have specific legal or regulatory rules governing the use of third-party indices, weather or satellite data, catastrophe models, or automated trigger mechanisms in parametric insurance. Their use is therefore addressed through: (i) contractual drafting, which should clearly define the trigger, data sources, and calculation methodology; and (ii) general evidentiary rules, under which the

agreed data source and supporting technical evidence will be used to prove satisfaction of the trigger in case of dispute.

In practice, supervisory expectations –implemented through review of policy wording and supporting documentation by the SSF– require that the data sources and methodology be objective, reliable, and clearly described. The insurer remains ultimately responsible for the operation of the product, even where third-party data or automated mechanisms are used.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations? Yes, subject to clarification. In El Salvador, parametric insurance products are treated as insurance, and their distribution is therefore subject to the general insurance framework. Persons or entities that broker, place, or distribute insurance on behalf of others must be authorised/registered with the SSF and comply with applicable conduct obligations. However, distribution is not limited to intermediaries, as licensed insurers may also sell products directly, as well as companies that are registered as "Mass insurance marketers. The same licensing and conduct expectations apply regardless of whether the product is indemnity-based or parametric. The regulatory analysis depends on the nature of the activity performed, and parties engaging in solicitation or placement functions may require authorisation.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis? Yes, subject to role-based limits. In El Salvador, non-insurance entities (e.g., online platforms, technology providers, or other service providers) may participate in the distribution or administration of parametric insurance products as vendors to a licensed insurer or intermediary, provided they do not perform regulated intermediation activities. If such entities engage in solicitation, marketing, advice, placement, or binding of insurance, they would generally be considered to be performing insurance intermediation and must be authorised/registered with the SSF.

In all cases, the licensed insurer remains ultimately responsible for compliance, and appropriate outsourcing, governance, and disclosure arrangements should be in place.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products? El Salvador does not have a parametric-specific consumer protection regime. However, general insurance framework (i.e. the Insurance Companies Law) and consumer protection principles apply, including requirements relating to clarity of terms, and fair treatment of policyholders, as reflected in policy wording approved by the SSF. These principles are particularly relevant to parametric insurance, given the potential for basis risk. In practice, this implies a need for clear disclosure of the trigger, data sources, and methodology, as well as explicit explanation that payment depends on the agreed parameter and may not correspond to actual loss.

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In addition, standard-form policy terms are subject to interpretation and fairness principles, and unclear or misleading provisions may be challenged. While there is no formal suitability or product governance regime specific to parametric insurance, insurers and intermediaries are expected to avoid mis-selling and ensure that products are presented in a clear, accurate, and non-misleading manner.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds? There is no parametric-specific distinction under Salvadorian law. The same general insurance framework (i.e. the Insurance Companies Law) applies for both consumer and commercial segments. However, in practice, consumer-facing products are subject to stricter scrutiny under contract law and consumer protection principles, particularly regarding good faith, clarity and fairness of standard-form terms. By contrast, commercial or sophisticated insureds are more likely to negotiate policy wordings, and more room is given to freedom of contract and agreed risk allocation.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction? The main challenge is the absence of express parametric-insurance regulation in El Salvador, which means key issues are handled by analogy under the general insurance and contract law framework (and the SSF's ordinary product filing practice). This can create uncertainty around (i) how strictly indemnity/proof-of-loss concepts apply, (ii) drafting and explaining triggers to manage policyholder expectations and basis risk, and (iii) evidencing trigger satisfaction where third-party data sources are used.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention? Yes. Although El Salvador does not have a parametric-specific regulatory regime, several issues require particular attention under general insurance and contract principles, including basis risk, clarity of trigger wording, and transparency of terms. In practice, these aspects are critical to ensure clear allocation of risk, avoid mis-selling, and support enforceability, particularly given the potential mismatch between payout and actual loss.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction. We are not aware of any publicly reported Salvadorian case law, regulatory actions, or notable published precedents specifically addressing parametric insurance/reinsurance as such.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns? In practice, foreseeable disputes would primarily relate to interpretation and application of the policy wording (including trigger definitions, measurement methodology, and data source selection), as well as policyholder communications (expectations/basis risk).

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8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why? The Salvadorian framework is uncertain but evolving, since it is flexible enough to accommodate parametric insurance, but lacks specific regulation, meaning that legal certainty depends widely on careful drafting, clear disclosure and alignment with the SSF's expectations.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction? Yes. Regulatory clarification (e.g., specific regulations issued by the competent authorities such as the Banco Central de Reserva (i.e. Board of Directors) and/or supervisory criteria from the SSF) expressly addressing parametric triggers, disclosure of basis risk, treatment of proof-of-loss/indemnity concepts, and minimum documentation for data sources/calculation methodology would most usefully support market development.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform. N/A

CENTRAL AMERICA

GUATEMALA

By

Jose Choriego

BLP Legal

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it. There is no express statutory or regulatory definition of "parametric insurance" under Guatemalan insurance legislation –including Decree 25-2010 of the Congress of the Republic of Guatemala, *Ley de la Actividad Aseguradora* (the "Insurance Activity Law")– and we are not aware of any formal definition issued by the *Superintendencia de Bancos* ("SIB") (i.e. the regulator) as supervisory guidance. In practice, products with parametric features are generally treated as insurance products and assessed under the general rules applicable to insurance policies and product filings.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category? Most likely as (direct) insurance, because (i) it would be offered by an authorised insurer and (ii) it is typically documented as an insurance policy and filed/registered with the SIB under the product filing rules applicable to insurance plans.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)? Yes. In practice, parametric-type covers have been used mainly in the agricultural sector (productive agricultural activity), including through group insurance placements. To the extent these are offered by licensed insurers, they are treated as insurance products subject to the ordinary SIB filing/registration framework for insurance plans (rather than a separate "parametric" regime).

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction? Yes, in the sense that the Insurance Activity Law does not expressly prohibit policies using objective parameters or indices as a benefit trigger. Because there is no dedicated "parametric insurance" regulations, permissibility is assessed by analogy to the general applicable framework for insurance contracts and insurance supervision: if the product is underwritten by a duly authorised insurer and filed/registered with the SIB as an insurance plan, it is generally treated as permissible insurance business.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance? Parametric insurance products are not expressly regulated as a separate

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product type under Guatemalan law. We are not aware, as of this date, of formal public consultations or enacted legislative proposals specifically introducing a parametric-insurance regime; accordingly, the market relies on the Insurance Activity Law and the SIB's ordinary product filing/registration practice applied by analogy.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process. Yes. Parametric-type insurance products have been filed/registered in Guatemala. Article 36 of the Insurance Activity Law requires insurers to submit to the SIB, before use, the texts of insurance plans and their technical bases, as well as any amendments, for registration. "Insurance plans" include applications, general conditions, annexes, and other related documents. In practice, parametric features (e.g., index/threshold triggers and payout tables) are included in the filed policy wording and technical documentation and reviewed within the same registration process.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review? Yes. By virtue of the insurance-plan filing/registration requirement established in Article 36 of the Insurance Activity Law, policy wordings (including trigger definitions and payout structures) and the corresponding technical bases must be submitted to the SIB before being used. Accordingly, triggers and pricing/actuarial support are, in practice, within the scope of supervisory review through that filing/registration process, even though there is no parametric-specific review protocol.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss? In the absence of an express parametric-insurance regime under Guatemalan law, parametric structures are analysed by analogy to the distinction between indemnity insurance and benefit (sum-insured) covers, within general insurance and contract principles. Where the cover is characterized as indemnity, traditional indemnity principles may apply, including limits against overcompensation. Conversely, where the policy is structured as a benefit payable upon the occurrence of an objective parameter, the agreed amount may become payable upon satisfaction of the trigger without proof of actual loss, provided that an insurable interest exists and subject to general enforceability limits (including legality and public order) and regulatory review of policy wording.

In all cases, the analysis will depend on the specific terms and conditions of the policy as accepted by the insured; however, such terms remain subject to applicable legal principles, including insurable interest and regulatory oversight by the SIB.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed? Yes. Although there is no statutory regime for parametric insurance, such products ae generally analysed within the existing insurance framework (including the Insurance Activity Law); accordingly, insurable interest requirements apply by analogy. In practice, the requirement is satisfied by demonstrating that the policyholder or the insured has a lawful economic interest in the insured exposure (e.g., ownership, leasehold, creditor interest, business interruption exposure, or other legitimate stake) as reflected in the underwriting

information. The assessment may vary by line of business, with property/agricultural covers typically linked to assets or production, and personal or benefit-type covers linked to the person or designated beneficiary. Notwithstanding the use of objective triggers, the arrangement must not constitute a wager and should evidence a genuine economic exposure.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger? Guatemala does not have an express parametric-insurance regime. Whether proof of loss is required depends on the policy terms. If the policy is structured as a parametric (agreed benefit) cover, payment is typically due upon verification of the agreed trigger and compliance with procedural conditions, without proof of actual loss or causation. If the policy is indemnity-type (or can be characterized as such), the insured may be required to demonstrate actual damage and its quantum. In all cases, the arrangement must satisfy insurable-interest requirements.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment? Refer to answer above.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements? Guatemala does not have a parametric-specific regime that licenses or regulates a “calculation agent” as such. Any applicable requirements arise indirectly from general insurance regulation (i.e. the Insurance Activity Law), including insurer governance, and from supervisory review/filing of policy wording and technical bases with the SIB. Where the calculation function is delegated, the insurer remains ultimately responsible and should implement appropriate oversight, contractual controls, and audit rights.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data? Guatemala does not have parametric-specific legal or regulatory requirements governing the independence of a calculation agent, conflicts of interest, transparency of methodology, or access to underlying data. However, by analogy, general insurance and contract law principles—particularly good faith—apply, and supervisory expectations are implemented through review of policy wording and supporting documentation by the SIB. In practice, this means that the trigger, calculation methodology, and data sources should be clearly described, and the insurer should ensure adequate governance and management of conflicts of interest, especially where the calculation function is delegated.

The insurer remains ultimately responsible for the operation of the product and compliance with applicable regulatory standards.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms? Guatemala does not have specific legal or regulatory rules governing the use of third-party indices, weather or satellite data, catastrophe models, or automated trigger mechanisms in parametric insurance. Their

use is therefore addressed through: (i) contractual drafting, which should clearly define the trigger, data sources, and calculation methodology; and (ii) general evidentiary rules, under which the agreed data source and supporting technical evidence will be used to prove satisfaction of the trigger in case of dispute.

In practice, supervisory expectations –implemented through review of policy wording and supporting documentation by the SIB– require that the data sources and methodology be objective, reliable, and clearly described. The insurer remains ultimately responsible for the operation of the product, even where third-party data or automated mechanisms are used.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations? Yes, subject to clarification. In Guatemala, parametric insurance products are treated as insurance, and their distribution is therefore subject to the general insurance framework. Persons or entities that broker, place, or distribute insurance on behalf of others must be authorised/registered with the SIB and comply with applicable conduct obligations. However, distribution is not limited to intermediaries, as licensed insurers may also sell products directly. The same licensing and conduct expectations apply regardless of whether the product is indemnity-based or parametric. The regulatory analysis depends on the nature of the activity performed, and parties engaging in solicitation or placement functions may require authorisation.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis? Yes, subject to role-based limits. In Guatemala, non-insurance entities (e.g., online platforms, technology providers, or other service providers) may participate in the distribution or administration of parametric insurance products as vendors to a licensed insurer or intermediary, provided they do not perform regulated intermediation activities. If such entities engage in solicitation, marketing, advice, placement, or binding of insurance, they would generally be considered to be performing insurance intermediation and must be authorised/registered with the SIB.

In all cases, the licensed insurer remains ultimately responsible for compliance, and appropriate outsourcing, governance, and disclosure arrangements should be in place.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products? Guatemala does not have a parametric-specific consumer protection regime. However, general insurance framework (i.e. the Insurance Activity Law) and consumer protection principles apply, including requirements relating to clarity of terms, and fair treatment of policyholders, as reflected in policy wording approved by the SIB. These principles are particularly relevant to parametric insurance, given the potential for basis risk. In practice, this implies a need for clear disclosure of the trigger, data sources, and methodology, as well as explicit explanation that payment depends on the agreed parameter and may not correspond to actual loss.

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In addition, standard-form policy terms are subject to interpretation and fairness principles, and unclear or misleading provisions may be challenged. While there is no formal suitability or product governance regime specific to parametric insurance, insurers and intermediaries are expected to avoid mis-selling and ensure that products are presented in a clear, accurate, and non-misleading manner.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds? There is no parametric-specific distinction under Guatemalan law. The same general insurance framework (i.e. the Insurance Activity Law) applies for both consumer and commercial segments. However, in practice, consumer-facing products are subject to stricter scrutiny under contract law and consumer protection principles, particularly regarding good faith, clarity and fairness of standard-form terms. By contrast, commercial or sophisticated insureds are more likely to negotiate policy wordings, and more room is given to freedom of contract and agreed risk allocation.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction? The main challenge is the absence of express parametric-insurance regulation in Guatemala, which means key issues are handled by analogy under the general insurance and contract law framework (and the SIB's ordinary product filing practice). This can create uncertainty around (i) how strictly indemnity/proof-of-loss concepts apply, (ii) drafting and explaining triggers to manage policyholder expectations and basis risk, and (iii) evidencing trigger satisfaction where third-party data sources are used.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention? Yes. Although Guatemala does not have a parametric-specific regulatory regime, several issues require particular attention under general insurance and contract principles, including basis risk, clarity of trigger wording, and transparency of terms. In practice, these aspects are critical to ensure clear allocation of risk, avoid mis-selling, and support enforceability, particularly given the potential mismatch between payout and actual loss.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction. We are not aware of any publicly reported Guatemalan case law, regulatory actions, or notable published precedents specifically addressing parametric insurance/reinsurance as such.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns? In practice, foreseeable disputes would primarily relate to interpretation and application of the policy wording (including trigger definitions, measurement methodology, and data source selection), as well as policyholder communications (expectations/basis risk).

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8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why? The Guatemalan framework is uncertain but evolving, since it is flexible enough to accommodate parametric insurance, but lacks specific regulation, meaning that legal certainty depends widely on careful drafting, clear disclosure and alignment with the SIB's expectations.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction? Yes. Regulatory clarification (e.g., specific regulations issued by the competent authorities such as the *Junta Monetaria* (i.e. Monetary Board) and/or supervisory criteria from the SIB) expressly addressing parametric triggers, disclosure of basis risk, treatment of proof-of-loss/indemnity concepts, and minimum documentation for data sources/calculation methodology would most usefully support market development.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

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HONDURAS

By

Ali Ordonez

BLP Legal

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it. In Honduras, there is no legal provision regarding a definition of parametric insurance.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category? In Honduras, parametric insurance would most likely be classified as an insurance product. Even though there is no specific legal definition, it fits within the general concept of insurance involving payment of a premium and a payout when a claim occurs.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)? Parametric insurance is not yet widely developed as a standalone regulated product in Honduras, but it is mainly discussed and used in a limited number of risk-related segments, particularly those exposed to natural and weather-related volatility.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction? Yes, parametric insurance is permitted in Honduras, although it is not specifically regulated or defined as a separate category in the applicable framework.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance? No, parametric insurance is not expressly regulated under a specific legal or regulatory framework in Honduras. There is no public information available regarding a legislative proposal to introduce specific regulations or guidance for parametric insurance.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process. No, parametric insurance products are not filed before the regulator based on the absence of regulation (there is no legal obligation to do so).

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Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review? No, parametric insurance products are not filed before the regulator based on the absence of regulation (there is no legal obligation to do so).

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss? No, the validity of a parametric insurance contract does not depend on compliance with traditional indemnity principles or on proof of actual economic loss. In Honduras, insurance contracts are typically based on indemnity but on the other hand, parametric insurances are structured on a predefined and measurable event.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed? Insurable interest requirements remain applicable in Honduras and are satisfied as long as the insured can demonstrate a legitimate economic relationship to the risk being parameterized, rather than a need to prove actual damage at the time of loss.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger? No, in Honduras, there is no general requirement to provide a traditional proof of loss or detailed claim substantiation for parametric insurance beyond verification that the agreed trigger event has occurred.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment? Under the parametric insurance concept as applied in Honduras, payment is detached from actual loss assessment and is based solely on the objective satisfaction of the agreed parameter, not on proof or resulting damage.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements? No, there is no legal or regulatory requirement expressly addressing the calculation agent function. It is a contractual function defined by the parties in the policy.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data? No, there is no legal or regulatory requirement expressly addressing the independence of calculation agent, management of conflicts of interest, transparency of methodology or access to underlying data. It is a contractual function defined by the parties in the policy.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms? No, there is no legal, regulatory o evidentiary rules governing the use of third-party indexes weather data, satellite data, catastrophe models or automated trigger mechanisms.

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5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations? Yes, the distribution of parametric insurance products is generally subject to the same rules that apply to the traditional insurance distribution.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis? Non-insurance intermediaries (such as online platforms, technology providers, embedded distributors or similar service providers) may participate in the distribution or administration of parametric insurance products only in a limited and indirect capacity.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products? Yes. Even though there is no specific regulatory framework dedicated to parametric insurance, general insurance consumer protection rules apply.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds? Honduran law does not formally differentiate insureds by sophistication.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction? The main challenges related to the offering, distribution and enforcement of parametric insurance in Honduras are primarily practical and interpretative rather than driven by a dedicated regulatory framework.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention? Yes, these are all real issued that deserve attention in Honduras. The main concern is basis risk, meaning the payout trigger (like rainfall, wind speed or earthquake data) may not match the actual losses people experience, so some policyholders can suffer real damage but receive little or no payout. Trigger wording could be critical if it not very clear and precise, it can create confusion or disputes about when a payout is due. Transparency matters because clients need to fully understand how the product works. Data reliability is another key issue, since payouts depend on weather stations, satellite data or seismic models. Claims communication must be fast and simple and policyholder expectations can be a challenge because people often expect compensation based on actual damage, not on abstract thresholds.

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7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction. No, there is no public information available related to any litigation, regulatory action, notable disputes, complaints or judicial precedents involving parametric insurance.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns? There are no known parametric insurance court cases in Honduras, but disputes could still arise in practice. The most likely issued would be how triggers are interpreted, whether the underlying data or models are accurate, and whether the payout really reflects actual losses (basis risk).

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why? Due to the absence of specific regulatory framework, the parametric insurance sector in Honduras could be described as evolving and uncertain than fully established.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction? The most useful reforms would focus on making parametric insurance more precise, trusted and easier to apply in practice.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform. N/A

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NICARAGUA

By

Federico Barrios

BLP Legal

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

R.- Nicaragua does not have a statutory, regulatory, or market-understood definition of parametric insurance. The term "seguro paramétrico" does not appear in Ley No. 733, Ley General de Seguros, Reaseguros y Fianzas (2010), the principal insurance statute, nor in any regulation (norma) issued by the Superintendencia de Bancos y de Otras Instituciones Financieras (SIBOIF), nor in the secondary claims-handling norm (Resolución CD-SIBOIF-1250-1-MAY28-2021).

The closest statutory anchor is the definition of "contrato de seguro" in Article 3 of Ley 733, which describes a commercial contract by which an insurer, in exchange for a premium, undertakes either (a) to indemnify losses or damages arising from "acontecimientos probabilísticos, fortuitos o de fuerza mayor" (probabilistic, fortuitous, or force-majeure events), or (b) to pay a sum according to the duration or events of the life of one or more persons. The first limb of "indemnify losses" is plainly directed at traditional indemnity insurance. The second limb recognises that an insurer may pay a sum upon the occurrence of specified events, a formulation structurally compatible with parametric logic, although it was drafted with life and personal-accident insurance in mind. No judicial decision, SIBOIF guideline, or doctrinal commentary in Nicaragua has yet interpreted this provision as either accommodating or excluding parametric triggers.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

R.- In the absence of a dedicated classification, parametric insurance would most likely be treated as a species of insurance contract (contrato de seguro) under Ley 733, rather than as a financial derivative, contingent contract, or stand-alone financial product.

Article 3 of Ley 733 defines the insurance contract broadly, and Article 8 provides that matters not expressly addressed by Ley 733, SIBOIF norms, or the Ley de la Superintendencia are governed by "legislación común" (i.e., the Commercial Code and the Civil Code). The Commercial Code (Código de Comercio de 1914, Art. 558 et seq.) contains its own insurance provisions, which are also framed around the indemnification concept but do not expressly prohibit event-triggered payouts.

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The most probable classification, in practice, would be insurance, particularly if the product is issued by a SIBOIF-authorised insurer within an authorised branch (ramo), is denominated as a policy (póliza), and references an insurable interest.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

R.- Parametric insurance is currently used at the sovereign level in Nicaragua, through the Caribbean Catastrophe Risk Insurance Facility (CCRIF SPC). The Government of Nicaragua holds CCRIF parametric policies covering tropical cyclones, earthquakes, and excess rainfall. Since joining, Nicaragua has received multiple parametric payouts: approximately US$500,000 following an earthquake in June 2016; US$1.1 million following Tropical Cyclone Otto in November 2016; and US$10.7 million following Tropical Cyclone Eta in November 2020, with total payments exceeding US$30 million after the combined impacts of Hurricanes Eta and Iota in the same season. These payouts are triggered by the intensity of the natural-hazard event (wind speed, seismic intensity, rainfall volume) against a pre-agreed model, without any requirement to demonstrate actual government losses.

In the domestic retail and commercial insurance market, parametric products are not widely offered. Agricultural insurance is available through the state insurer INISER (Instituto Nicaragüense de Seguros y Reaseguros), which offers a multi-crop agricultural policy (Seguro Agrícola) covering "pérdidas y daños directos causados en los cultivos por fenómenos climatológicos, biológicos, geológicos y accidentales." This is a traditional indemnity product that requires proof of direct crop losses and damages, not a parametric trigger. No publicly available policy wording from any Nicaraguan insurer (INISER, LAFISE, ASSA, MAPFRE, or Seguros América) evidences a retail or commercial parametric product, however INISER claims to have parametric insurance experiences since as early as 2008. This experience is mostly on satellite and/or pilot testing and the revenue from policies issued from 2021 to 2023 was under U$100,000.00

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

R.- There is no express prohibition of parametric insurance in Nicaragua. The Ley 733 does not restrict the types of insured events to those that can be verified by a traditional loss-adjustment process, nor does it require that every payout correspond to a quantified actual loss. By this reading, a parametric product issued by a SIBOIF-authorised insurer, within an authorised branch, and structured as a póliza de seguro, would not be unlawful.

However, "permitted" overstates the position. Parametric insurance exists in a regulatory gap, it is neither expressly authorised nor expressly prohibited. Ley 733 was designed for the indemnity paradigm: the statutory definition of the insurance contract centres on "indemnizar … pérdidas o daños" (Art. 3), the claims-handling norm (Resolución CD-SIBOIF-1250-1-MAY28-2021) frames indemnification for material damages by reference to the cost to restore the insured property

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to its prior condition (Art. 9), and the product-approval framework does not contemplate a category for index-based or event-triggered products. In practice, this means a domestic insurer wishing to offer a parametric product would need to obtain SIBOIF approval.

At the sovereign level, parametric insurance is de facto accepted: the Government of Nicaragua has purchased and received payouts under CCRIF parametric policies since 2015, and these transactions have not been questioned by the SIBOIF or the Contraloría General de la República.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

R.- Parametric insurance products are not expressly regulated in Nicaragua. Ley 733 and SIBOIF norms make no specific reference to index-based, parametric, or trigger-based insurance products. There are no dedicated rules for their authorisation, product design, reserving, or distribution.

As of May 2026, we are not aware of any published legislative proposal, SIBOIF consultation paper, or regulatory initiative specifically addressing parametric insurance. The Consejo Directivo of the SIBOIF, which has the power under Article 81 of Ley 733 to issue general-scope regulations on claims-handling, policy terms, and other matters, has not exercised that power to create a parametric-specific framework.

That said, the broader Central American conversation is moving. Nicaragua's participation in CCRIF, World Bank feasibility studies on index-based agricultural insurance for the Corredor Seco, and CEPREDENAC's engagement with CCRIF all signal awareness at the policy level. The gap is between policy awareness and formal domestic regulation.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

R.- No parametric insurance product is known to have been registered, filed, or approved by the SIBOIF for domestic sale. The SIBOIF's publicly available registers and published resolutions do not reference any parametric product or index-based policy. We do not have access to INISER´s policies agricultural insurance to validate whether they are actual parametrical insurance, or regular insurance policies with specific conditions, triggering the insurance once an specific event is met.

The product-approval process under Ley 733 requires that insurers operate within the specific branches (ramos) authorised by the SIBOIF (Art. 13). New policy forms and tariffs must be submitted to the SIBOIF, and for new insurers or new branches, prior approval is required. A parametric product might be submitted under an existing agricultural or property branch, but the SIBOIF has not indicated how it would assess a product that does not conform to the traditional indemnity framework.

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Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

R.- Under the general framework, yes. Ley 733 and the earlier Decreto No. 1727 require that policy forms (formatos de pólizas) and tariffs be submitted to the SIBOIF, and for insurers commencing operations or introducing a new branch of insurance, prior SIBOIF approval is required. Subsequent amendments to approved policy forms and tariffs also require prior authorisation. Actuarial reserves must be calculated in accordance with norms issued by the SIBOIF Consejo Directivo, and insurers must maintain appointed actuaries.

These requirements would apply to a parametric insurance product if it were introduced as a domestic policy.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

R.- The statutory definition of the insurance contract in Article 3 of Ley 733 employs the verb "indemnizar" (to indemnify) in its first limb, and the SIBOIF claims-handling norm (Resolución CD-SIBOIF-1250-1-MAY28-2021, Art. 9) expressly ties material-damage indemnification to "el costo para resarcir el daño del bien asegurado" (the cost to restore the insured property). These provisions reflect a classical indemnity orientation and the insurer's obligation is to make good the policyholder's proved loss, not to pay a predetermined sum upon occurrence of an external parameter.

However, neither Ley 733 nor any SIBOIF regulation states that every insurance contract must satisfy the indemnity principle. The second limb of Article 3 contemplates payment of "una suma según la duración o los acontecimientos de la vida," which is a valued or agreed-sum model rather than an indemnity model. Nicaraguan law thus already recognises insurance obligations that are not measured by actual loss.

A well-drafted parametric policy that links the trigger to a genuine exposure (e.g., a farmer's crop risk correlated with rainfall deficiency) and that is issued by a SIBOIF-authorised insurer within an authorised ramo would have the strongest argument for validity. A policy with no discernible connection to any economic exposure of the policyholder would face recharacterisation risk under the general prohibition of aleatory or wagering contracts in the Civil Code.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

R.- Insurable interest is not defined in Ley 733 itself, but is an implicit requirement derived from the statutory definition of the insurance contract (which contemplates indemnification of "pérdidas o daños" suffered by the insured) and from the general provisions of the Commercial Code (Art. 558 et seq.). The Nicaraguan doctrine, following Latin American civil-law tradition, treats

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insurable interest as a precondition for the validity of the contract, without it, the contract risks being treated as a wager (apuesta), which lacks legal enforceability.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

R.- Under the SIBOIF claims-handling norm (Resolución CD-SIBOIF-1250-1-MAY28-2021), the standard claims process requires the insured to provide an "aviso de siniestro" (notice of loss) and to substantiate the claim in accordance with the general, particular, and special conditions of the policy. Article 9 of that norm specifically addresses material damage claims and ties indemnification to the cost of restoring the insured property—a proof-of-loss framework designed for traditional indemnity insurance.

Parametric insurance, by design, eliminates the need for traditional proof of loss. The claim is established by verification that the agreed trigger parameter (e.g., a specified rainfall threshold measured at a designated station, or a seismic event exceeding a given magnitude) has been met. No SIBOIF regulation expressly addresses whether or how the standard proof-of-loss requirements apply when the policy mechanism is parametric. If a parametric policy were issued by a SIBOIF-authorised insurer, the most practical approach would be to specify in the policy conditions (condiciones generales and particulares) that the sole claim substantiation requirement is third-party verification of trigger satisfaction, thereby contractually displacing the traditional loss-documentation process. Whether SIBOIF would accept such a deviation from the standard claims framework in the course of policy-wording review has not been publicly tested.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

R.- Under current Nicaraguan law, this question has no authoritative answer. The statutory and regulatory framework assumes a causation link between the insured event and actual loss. The claims norm references "materialización del riesgo" (materialisation of the risk) as the trigger for the insurer's obligation, and indemnification is measured by the cost of restoration. This implies that the insured must show both that the event occurred and that it caused compensable loss.

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4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

R.- No. Nicaraguan law does not recognise or regulate the "calculation agent" function as such. There is no licensing, registration, governance, or specific conduct regime applicable to entities that determine whether a parametric trigger has been met. Ley 733 and SIBOIF regulations address only the traditional claims chain: the insured reports a siniestro (Article 3, Ley 733), the insurer evaluates and adjusts the claim through licensed ajustadores or liquidadores de reclamos, and the insurer accepts or rejects the claim within the timeframes set by the claims-handling norm (Resolución CD-SIBOIF-1250-1-MAY28-2021). None of these provisions contemplate a third-party calculation agent verifying an index or model output.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

R.- There are no specific legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data in the parametric insurance context. The general principles of good faith (buena fe) applicable to insurance contracts under Nicaraguan law (drawn from the Commercial Code and Civil Code) would likely require that a trigger-determination process be transparent and not manifestly arbitrary, but there is no specific norm or supervisory guidance on point.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

R.- There are no specific legal, regulatory, or evidentiary rules governing the use of third-party indexes, or so in the context of insurance in Nicaragua. Neither Ley 733 nor SIBOIF norms address the admissibility or reliability standards for such data sources.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

R.- Yes. Distribution of all insurance products in Nicaragua—including any parametric product, were it to be offered domestically—is subject to licensing and registration requirements under Ley 733 and SIBOIF regulations. Three categories of intermediaries are recognised:

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May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

R.- There is no express framework for embedded-insurance distributors, managing general agents, or other non-regulated service providers to participate in distribution. Any entity that solicits, negotiates, or places insurance without SIBOIF authorisation risks engaging in unauthorised insurance activity. In practice, the Nicaraguan market remains intermediated primarily through traditional brokers and agents; technology-driven distribution channels for insurance (including parametric products) have not yet emerged in any material way.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

R.- Ley 733 contains several consumer-protection provisions of general application that would extend to parametric products:

- Cláusulas lesivas (Art. 3): policy clauses that prohibit or impede the exercise of a right conferred on the insured by Ley 733 are void and of no effect. A parametric policy clause that, for instance, purported to waive the insured's right to challenge the calculation agent's determination could be tested under this provision.
- Policy registration and review: under SIBOIF norms derived from the prior general law (Decreto 1727) and continuing practice, policy wordings and tariffs for new lines of insurance require prior SIBOIF approval before market launch. This process would provide an ex ante supervisory check on parametric product design, including trigger definitions and payout structures.
- Claims-handling obligations: the SIBOIF claims norm (Resolución CD-SIBOIF-1250-1-MAY28-2021) establishes maximum timelines for claim acceptance or rejection and requires the insurer to communicate its decision to the insured. While the norm's substantive provisions (e.g., Article 9 on material-damage indemnification tied to restoration cost) assume an indemnity model, the procedural obligations such as notice, timelines, right of complaint to SIBOIF, would apply equally to parametric payouts.
-The general consumer-protection law (Ley No. 842, Ley de Protección de los Derechos de las Personas Consumidoras y Usuarias) provides baseline protections against misleading practices and abusive clauses, but does not contain insurance-specific provisions.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

R.- Ley 733 does not draw a formal distinction between commercial and consumer policyholders, nor between sophisticated and non-sophisticated insureds, for purposes of product regulation or distribution.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

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R.- The principal challenges are structural rather than prohibitive. First, there is the definitional gap: Ley 733 defines the insurance contract in indemnity-oriented language ("indemnizar … de las pérdidas o daños"), and the absence of any express statutory or regulatory recognition of parametric insurance creates legal uncertainty about whether a contract that pays a predetermined sum upon the occurrence of a measurable event, without proof of actual loss, qualifies as a valid insurance policy.

An insurer issuing such a product faces the risk that a court or the regulator could recharacterise it as an unregulated derivative or wager, potentially rendering the contract unenforceable or exposing the insurer to sanctions for operating outside its authorised branches.

Second, the branch (ramo) system under Article 13 of Ley 733 requires SIBOIF authorisation specifying the branches an insurer may operate. There is no "parametric" branch. An insurer would need to fit a parametric product within an existing authorised branch, most naturally agricultural insurance, catastrophe property, or miscellaneous, and obtain SIBOIF's acceptance that the product falls within the scope of that branch.

The regulator's prior-approval authority over policy wordings and tariffs (under the claims norm and general supervisory powers) means that any novel product structure would almost certainly require informal pre-clearance with SIBOIF, for which there is no published guidance or precedent.

Third, the claims-handling norm (CD-SIBOIF-1250-1-MAY28-2021) is drafted entirely around the traditional indemnity claims process: notice of loss, claims adjustment, assessment of material damages based on the cost to restore the insured property to its prior condition. A parametric product that pays upon trigger verification, without loss adjustment, sits outside this procedural framework and could generate supervisory friction.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

R.- Yes. Basis risk is the most significant conceptual challenge. In a market where insurance is understood exclusively as indemnification of actual loss, policyholders and particularly smallholder farmers or municipalities, may not understand that a parametric payout can be zero despite real losses (if the trigger threshold is not met) or may exceed actual losses (if the event exceeds the threshold but localised damage is low).

Nicaragua has limited experience with financial literacy in insurance generally, and parametric products compound this challenge. Trigger wording and data reliability are closely linked concerns.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

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R.- There are no reported judicial decisions, published regulatory actions, formal complaints, or arbitral awards in Nicaragua involving parametric insurance or reinsurance contracts.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

R.- The foreseeable sources of dispute, were parametric insurance to be introduced domestically, include:

(a) Trigger interpretation: Disputes over whether the parametric threshold was in fact met, particularly where the policyholder suffered real losses but the trigger metric (e.g., rainfall at a specific station, wind speed at a designated point) fell marginally below the activation level. In a jurisdiction with no parametric precedent, courts would likely be sympathetic to policyholders invoking the pro-insured interpretation doctrine (applicable under general Nicaraguan contract law and reinforced by Ley 733's prohibition on cláusulas lesivas).

(b) Recharacterisation risk: A policyholder or regulator challenging a parametric contract as not being a valid insurance contract, but rather an unregulated wager or derivative, particularly if the payout substantially exceeds the insured's actual losses. The absence of a statutory safe harbour for parametric insurance makes this a live risk.

(c) Data integrity: Challenges to the accuracy, completeness, or manipulation of the data underlying the trigger determination, e.g., claims that weather station readings were inaccurate or that the calculation agent's model was flawed. Nicaragua's limited meteorological infrastructure magnifies this risk.

(d) Mis-selling and basis risk disputes: Claims by policyholders (particularly smallholder farmers or microinsurance consumers) that they were not adequately informed about basis risk, i.e., that the product could fail to pay despite their suffering real losses. Given low levels of insurance literacy in rural Nicaragua, intermediary conduct and disclosure obligations would be central.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

R.- The environment is best described as uncertain rather than restrictive. Nicaraguan law neither expressly permits nor prohibits parametric insurance. The statutory definition of the insurance contract in Article 3 of Ley 733 is broad enough to be read as accommodating parametric structures, particularly the second limb, which contemplates payment of a sum based on the occurrence of specified events, but this reading has not been tested before a court or endorsed by SIBOIF.

The general insurance regulatory framework (Ley 733, SIBOIF norms, Commercial Code) was designed for traditional indemnity products and contains no provisions tailored to the distinctive features of parametric insurance: event-triggered payouts, independence of loss proof, calculation-agent governance, or basis risk disclosure. At the same time, the sovereign experience with CCRIF

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demonstrates that the Nicaraguan state is comfortable with parametric mechanisms and has benefited significantly from them. This creates a favourable political and institutional precedent, even though it has not yet translated into a domestic regulatory framework.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

R.- The following reforms or clarifications would most usefully support the development of parametric insurance in Nicaragua:

(a) SIBOIF interpretive guidance or norma: The most impactful single measure would be an interpretive circular or a formal norma from the Consejo Directivo of SIBOIF confirming that parametric insurance products fall within the definition of contrato de seguro under Ley 733, specifying the branch or branches under which they may be offered, and setting out product-approval requirements. This would not require a legislative amendment and could be achieved under SIBOIF's existing norm-making authority.

(b) Amendments to the claims-handling norm: The claims norm (CD-SIBOIF-1250-1-MAY28-2021) should be updated to include a parametric-specific claims pathway, acknowledging that trigger verification replaces traditional loss adjustment, and establishing the insurer's affirmative notification obligation upon trigger activation.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

R.- N/A.

SOUTH AMERICA

ARGENTINA

By

Pablo Cereijido and Martín Zapiola Guerrico

Zapiola Guerrico Abogados

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Argentine law does not have a general statutory definition of parametric insurance. However, specific regulations governing agricultural insurance recognise and regulate certain forms of "index-based insurance". In particular, Joint Resolution No. 39,149/2015 and No. 157/2015 (the "Joint Resolution"), issued jointly by the Superintendency of Insurance (Superintendencia de Seguros de la Nación, the "SSN") and the Secretariat of Agriculture, Livestock and Fisheries (Secretaría de Agricultura, Ganadería y Pesca, the "SAGyP"), establish the procedure for approving agricultural index-based insurance plans. Within the framework of the Joint Resolution, the SAGyP defines "index insurance" in Annex I of SAGyP Resolution No. 339/2015 as those coverages in which the indemnity is based on the value of an index.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

There is no specific classification of parametric insurance under Argentine law. It would most likely be characterised as a type of insurance under the broad terms of article 1 of the Insurance Law No. 17,418 (the "IL"): "*There is an insurance contract when the insurer undertakes, in exchange for a premium or contribution, to indemnify a loss or to fulfil the agreed obligation if the contemplated event occurs".*

The SSN treats index-based insurance products as insurance, subject to its supervisory jurisdiction. This is evidenced by the Joint Resolution, by SSN Resolution No. 39,507 (which regulates rainfall deficit index coverage for maize crops) and by the fact that the General Insurance Activity Regulation (Reglamento General de la Actividad Aseguradora, the "RGAA") enacted by SSN Resolution No. 38,708/2014 (as amended) establishes specific regulation regarding how index-based insurance plans must be approved by the insurance regulator before they are commercialised.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

At the time of this report (May 2026), the only segment with an express regulatory framework and identifiable commercial activity for these products is the agricultural sector.

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2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Yes, subject to different authorisation regimes as further explained in Question 6.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

There are currently no legislative bills with active parliamentary status specifically regulating parametric insurance. Notwithstanding, there are legislative initiatives of a declaratory nature (Bill No. 0391-D-2026) aimed at promoting a future comprehensive reform of the Argentine insurance framework, which could eventually include some reference to parametric insurance.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

In general, insurers may commercialise insurance products for most insurance lines once they file their contractual and technical conditions to the SSN under the so-called "Plan Deposit System" (Sistema de Depósito de Planes), provided these conditions follow certain guidelines set forth by the SSN. Once plans are filed under this system, no express authorisation by the SSN is needed. This expedited and automatic authorisation system does not extend to parametric insurance, which is subject to the authorisation of the SSN under the following three different categories:

(i) Agricultural products with standard general conditions pre-established by the SSN (the "Standard-form agricultural index product"): The SSN approved, through Resolution No. 39,507/2015, general and special conditions of uniform application to all insurers, for rainfall deficit index coverage for maize crops in the Departments of Paraná (province of Entre Ríos), Castellanos and La Capital (province of Santa Fe). Insurers wishing to market this product must: (a) have issued hail policies within the preceding twelve months; (b) notify the SSN at least thirty days in advance; and (c) submit specific documentation including board minutes, a technical note, a policy front page identifying the key parameters (planting date, measurement period, activation threshold, exit index, meteorological stations), and a "Sworn Declaration of Insurable Interest" form stating planting date, hectares and geolocation of the insured plot. The approved special conditions and minimum tariffs remain valid for two years and may be renewed following review of the relevant technical feasibility study.

(ii) Other index-based agricultural insurance products (the "Custom agricultural index products"): These must follow the authorisation procedure established by the Joint Resolution, which requires the submission of a technical feasibility study demonstrating statistical correlation between the index and production losses. This must be followed by a Validation Certificate to be issued by the SAGyP with the assistance of the

Agricultural Risk Coordination Office (Oficina de Coordinación de Riesgo Agropecuario, the "ORA"), before the SSN authorises the commercialisation of the plan.

(iii) Non-agricultural parametric insurance products ("General parametric products"): Subject to the analysis and prior authorisation by the SSN under article 23.3 of the RGAA, which requires the submission of certain technical and contractual documentation, and legal and actuarial opinions signed by professionals registered with the SSN.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

For Standard-form agricultural index products, the technical and methodological framework is regulated by the SSN in a general and uniform manner. They are based on accumulated rainfall measured at a designated meteorological station, with coverage triggered automatically when levels fall below predefined thresholds (activation threshold and full payment threshold), with proportional indemnities for intermediate values.

For Custom agricultural index products, insurers must submit to the SSN, among other things, a technical feasibility study specifying the type of index, its geographic area of influence, the type of production and the critical periods, the relationship between the proposed index(es) and production losses, and the existence of correlation between the index and the risk of loss. Once the SSN has analysed the contractual and technical conditions, the file is referred to the SAGyP for issuance of a Validation Certificate, following a preliminary assessment by the ORA. The ORA may request additional information and/or studies, conduct specialised consultations and/or request technical assistance from other competent authorities.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

The IL does not apply the indemnity principle (i.e., that the indemnity payable to the insured may never exceed the loss actually suffered) uniformly across all insurance lines. On the contrary, the IL establishes that: "There is an insurance contract when the insurer undertakes, in exchange for a premium or contribution, to indemnify a loss or to fulfil the agreed obligation if the contemplated event occurs" (article 1).

In this regard, the law applies different solutions depending on whether the contract is property (Chapter II of the IL) or personal insurance (Chapter III of the IL). The indemnity principle applies to property insurance by virtue of article 61 of the IL (with the nuances discussed below), whereas in personal insurance the parties may freely agree on the benefit to be paid by the insurer upon the occurrence of the insured event.

Although article 61 provides that: "The insurer undertakes to indemnify, in accordance with the contract, the pecuniary loss caused by the loss event …", which appears to indicate that the loss actually suffered by the insured is the absolute limit of the indemnity payable by the insurer, the IL

nonetheless recognises several mechanisms through which the amount payable may be contractually predetermined. Some of these include:

- Article 61 allows the parties to agree on coverage for loss of profits (loss of future earnings) arising from the occurrence of an insured event. The indemnity for loss of profits is typically calculated by reference to the profits earned by the insured during a defined period prior to the loss, using that historical data to estimate projected lost profits. Such an estimate is clearly based on the parties' agreement, and it may occur that the insured actually suffers a lesser loss — or no loss at all — without this affecting the right to receive the agreed amount.

- The IL also allows the parties to agree that the insurer shall pay a pre-*agreed value* (article 63), which may ultimately exceed the actual loss suffered by the insured. Likewise, for livestock insurance the IL establishes that the indemnity is determined based on the value of the animal pre-agreed in the policy (article 107).

Legal scholars have noted that the function of the indemnity principle is to prevent the insured from obtaining undue enrichment as a result of a loss, which would encourage loss-inducing behaviour (moral hazard) contrary to the social function and technical principles of insurance[1].

Based on the foregoing, it may be reasonably argued that parametric insurance should not necessarily be regarded as incompatible with the indemnity principle provided there is a reasonable relationship between the agreed benefit and the expected loss when a typically harmful event exceeds a defined threshold, as measured through objective indices provided by an independent third party.

It may be argued that a properly implemented parametric insurance model is compatible with the underlying rationale of the indemnity principle: (i) it prevents any expectation of undue enrichment by the insured, since the insured does not know in advance what loss will be suffered; and (ii) it does not create a moral hazard because the insured event always results from exogenous and systemic factors beyond the insured's control.

In this regard, the Joint Resolution preserves this "reasonable relationship" as follows:

- Its article 3 provides that: "The filing of the insurance plans […] must include a technical feasibility study specifying at a minimum the type of index, its geographic area of influence, the type of production and the critical periods. Furthermore, the relationship between the proposed index(es) and production losses must be substantiated, verifying the existence of a correlation between the index and the risk of loss".

- Additionally, the SAGyP Resolution 339/2015 [2] setting out the requirements for technical feasibility studies provides that they must include a: "Theoretical and empirical modelling that supports the correlations between the proposed index(es) and the impact on production levels in the relevant activity".

[1] The law expressly provides for the nullity of the contract "if it was entered into with the intent to unjustly enrich oneself through the excess insured amount" (article 62, second paragraph).

[2] Resolution No. 339/2015 of the Secretariat of Agriculture, Livestock and Fisheries (SAGyP).

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In Standard-form agricultural index products, the regulator expressly adopted this approach. Article 9 of their General Conditions provides that, once it is verified that the rainfall recorded during the measurement period is equal to or below the activation threshold, the loss shall be deemed to have occurred without any requirement for the insured to file a notice of loss. Payment must be made within fifteen days from notification of the occurrence of the loss to the insured, with an overall maximum of thirty days from the end of the measurement period. This regulatory solution suggests that the SSN has, in practice, accepted that reaching the agreed parameter is sufficient to trigger payment obligations by insurers in agricultural parametric insurance.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Insurable interest is required under Argentine law for all insurance contracts, including parametric insurance. Article 2 of the IL *provides that the insurance contract may cover* "any kind of risk, provided that an insurable interest exists".

Specifically for property insurance, article 60 further defines such interest as: "a legitimate economic interest in the non-occurrence of the loss." This formulation appears particularly well suited to parametric insurance: what is required is that the insured has a genuine economic interest in the non-occurrence of the trigger event — whether rainfall deficit, earthquake, or extreme temperature.

In the case of agricultural parametric insurance, which is the only type where specific regulations currently exist, the requirement of insurable interest is verified as follows:

At a product level, the Joint Resolution (article 3) requires the technical feasibility study to demonstrate the existence of statistical correlation between the index and the risk of production loss. The SAGyP Resolution No. 339/2015 expressly uses the term "insurable interest" as a standalone legal category in its Annex I, requiring the identification of the insured agricultural activity, its critical periods of risk exposure, and the characteristics of the production at risk.

At a geographic level, the Validation Certificate defines the area of influence of the index, and the Special Conditions of the approved policy (SSN Resolution No. 39,507/2015, article 2) restrict coverage exclusively to the declared hectares located within the Departments covered by the index. Outside that validated area, the product (as approved) is not available, and a separate index validation would be required to support correlation and product design with respect to that particular index, since the validated statistical correlation does not apply to such locations.

At an individual level, the General Conditions of the policy ("article 3 – Insurable Interest") require the insured to submit an affidavit confirming the actual planting of the specific insured crop, including the number of hectares planted and the geo-referenced location of the plot. The sum insured may not exceed 70% of the estimated value of the production per hectare at the time of harvest (Annex III), thereby ensuring a reasonable relationship between the agreed benefit and the exposed economic interest, preventing the undue enrichment prohibited by articles 62 and 65 of the IL.

Accordingly, the existing framework appears capable of satisfying the requirements of articles 2 and 60 of the IL, since the insured has a verifiable economic interest in the non-occurrence of the triggering event established before the loss.

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For sectors outside agriculture, the same standard would apply by operation of articles 2 and 60 of the IL.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

As noted at the end of the answer to question 8, the General Conditions established by the SSN for Standard-form agricultural index products do not require proof of actual damage to the insured risk, and the insurer must pay the agreed benefit to the insured once the triggering event is verified, without the need for any claims submission. The same applies to other plans approved by the SSN to date.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

No, such demonstration is not required from the insured. Under the currently approved agricultural models, verification of the contractual parameter is sufficient to trigger payment, without any requirement to demonstrate actual loss adjustment or causal quantification of damage.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

For Standard-form agricultural index products, the rainfall index must be based on data from meteorological stations authorised by the ORA.

For other agricultural insurance products, the intervention of the SAGyP and the ORA forms part of the approval process, the latter being entitled to request additional information and/or studies, conduct specialised consultations and/or request technical assistance from other competent authorities, before the Validation Certificate is issued.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

For Standard-form agricultural index products, no specific independence requirements or dedicated regulatory framework are established for the calculation agent; rather, the index must be determined on the basis of data obtained from meteorological stations authorised by the ORA.

For other agricultural insurance products, the Joint Resolution requires that the SAGyP identify the competent authorities to provide the information necessary for the efficient operation and transparency of index-based insurance. Within this framework, SAGyP Resolution No. 339/2015 establishes that, where data sources accredited by official agencies are not used, the technical feasibility study must specify the methodology for data estimation and collection.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

Please refer to the response to question 13 above.

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5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

The applicable regulations do not establish any differential regime for the distribution of parametric insurance. Insurers may sell directly (without an intermediary) through their own channels (e.g., telephone, website, apps, in-person), through insurance brokers (productores asesores de seguros) regulated by Law No. 22,400, and through insurance agents (agentes institorios) under article 54 of the IL and SSN Resolution No. 38,052.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

The Argentine insurance intermediation regime is based on a closed licensing model: any activity constituting insurance intermediation requires SSN authorisation.

To act as an intermediary in the distribution of this type of insurance, one must be licensed as either an insurance broker (productor asesor de seguros) or as an insurance agent (agente institorio), both of which require authorisation from the SSN. The applicable regulations do not establish any specific or distinct requirements for the participation of intermediaries in the distribution of parametric insurance.

Other entities (e.g., platforms or fintechs) may also participate in the distribution, provided they obtain authorisation as insurance brokers or insurance agents, or they may have an ancillary role in the intermediation process to the extent they provide services to licensed insurance brokers or agents. They may also provide services to insurers enabling them to offer parametric insurance products directly.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

No specific additional disclosure or consumer protection requirements are established for parametric insurance. The general rules of Consumer Protection Law No. 24,240, the consumer protection provisions of the Civil and Commercial Code (articles 1092–1122), and the general regulations issued by the SSN —particularly article 25 of the RGAA, concerning the minimum content of insurance policies— apply.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

With the exception of the large risks regime set forth in article 23.5 of the RGAA (which relaxes certain regulatory requirements and allows greater contractual flexibility for insurance products negotiated with sophisticated insureds and high-value, more complex risks), insurance products are regulated in a broadly uniform manner, without distinctions between those aimed at consumers and those of a purely commercial nature.

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Consumer protection is primarily governed by Consumer Protection Law No. 24,240 and the Civil and Commercial Code (articles 1092–1122).

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

A. Legal challenges

The main legal challenge lies in the potential tension between the structure of parametric insurance and article 61 of the IL, which provides that the insurer is obliged to indemnify the loss caused by the insured event. As discussed in the response to question 8, this tension should not necessarily render properly structured parametric insurance invalid. However, the absence of an express statutory provision resolving the issue creates legal uncertainty for market participants and policyholders, particularly outside the agricultural sector.

B. Regulatory challenges

The main regulatory challenge is the absence of a general framework applicable to parametric insurance outside the agricultural sector. As noted in the responses to questions 5, 6 and 7, the only sector-specific regulatory framework — Joint Resolution No. 39,149/157 (2015) and SSN Resolution No. 39,507 (2015) — is expressly limited to the agricultural sector. For other sectors, parametric insurance must be processed under the individual authorisation regime of article 23.3 of the RGAA, without any regulatory guidance on trigger design, index structuring, governance of the calculation agent, admissible data sources, or disclosure requirements regarding the underlying risk to policyholders.

Added to this is the fact that SSN Resolution No. 384/2025, upon incorporating agricultural lines into the Plan Deposit System, expressly excluded parametric insurance, which must continue to be processed under the individual authorisation procedure. This means that, even within the agricultural sector, parametric insurance products must undergo significantly longer and more costly authorisation processes. In addition, the absence of specific regulation concerning the calculation agent, its independence, methodology, liability and access to underlying data, increases uncertainty in product design for sectors outside agriculture, where the institutional infrastructure of the ORA to advise on the technical validity of an index does not exist.

C. Practical challenges

Agricultural parametric insurance has very low market penetration in Argentina. According to the SSN Agricultural and Forestry Insurance Survey for the 2022 financial year, parametric insurance accounted for 0.5% of written premiums in the segment, with only two insurers operating in this area out of a total of thirty authorised for the agricultural sector.[3] This low penetration is

[3] Data cited in KRAISELBURD, Susana, "Los seguros paramétricos. Nuevos desafíos para la industria aseguradora.", Instituto de Derecho del Seguro, No. 35, April 2024, pp. 35–48.

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attributable, among other factors, to distrust of and unfamiliarity with the index-based coverage model among agricultural producers.

The possibility that the index may be triggered without the insured having suffered a loss, or that the insured suffers a loss that the index does not detect (positive or negative basis risk), presents a significant commercial and reputational challenge. This may lead to frustrated expectations among insureds who do not fully understand the differences between parametric insurance and traditional indemnity-based coverage, constituting a potential source of conflict in the insurer-insured relationship.

Finally, the Argentine macroeconomic context — in particular, inflation and exchange rate volatility — introduces additional practical challenges in the design of long-term parametric products, particularly when the sum insured must bear a reasonable relationship to the expected production value, whose estimation in real terms is complex in an environment of unstable prices.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention? No particular issues arise in the aspects mentioned other than those already addressed in the response to question 19.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

No reported judicial precedents involving parametric insurance have been identified in Argentina.

As previously noted, this insurance model -with a specific regulatory framework authorised to date only for agricultural coverages- has low market penetration.[4] The policies currently marketed are relatively new.

In the agricultural sector in particular, parametric insurance has not generated any known litigation, presumably because the objectivity of the index reduces disputes in claims adjustments.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

In principle, potential disputes may foreseeably arise in cases of verifiable measurement errors in the indices used, or where the coverage sold was not clearly and accurately explained to the insured at the time of commercialisation.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

[4] See footnote 3.

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The regulatory environment may be characterised as formally permissive but operationally uncertain outside the agricultural sector. It may be described as being in an early stage of development.

For agricultural parametric insurance, the framework is operationally functional: there is an approved product, an established authorisation procedure, and an institutional infrastructure (ORA, SAGyP, SSN) that provides independence in data and technical validation of feasibility.

For other sectors, parametric insurance is not prohibited but must navigate the individual authorisation procedure under article 23.3 of the RGAA, without sector-specific guidelines on trigger design, index governance, data sources or underlying risk disclosure. This procedural uncertainty creates an environment that is permissive in principle but insufficiently predictable in practice to foster market development.

On the positive side, the underlying legal framework — in particular articles 1, 2 and 60 of the IL — appears sufficiently flexible to accommodate parametric structures under a systematic interpretation of the IL. The regulatory precedents established in 2015, and the treatment of parametric insurance as an insurance product subject to the SSN´s supervision — rather than as a financial instrument under a different regulator — provide a stable institutional foundation. There is no statutory prohibition or judicial precedent calling into question the validity of parametric insurance contracts in Argentina.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

It may be argued that the following measures would support the development of parametric insurance in Argentina:

Regulatory clarification: The SSN could issue a general resolution extending to non-agricultural sectors the core elements of the regulatory framework established in 2015: permitted index types and eligible sectors, minimum requirements for technical feasibility studies demonstrating correlation between the index and expected losses, governance standards for the calculation agent, data transparency obligations, and underlying risk disclosure requirements to policyholders. Such measures could likely be adopted under the SSN's existing regulatory powers under article 67 of Law No. 20,091.

Legislative reform: A targeted amendment to article 61 of the IL— in line with article 54 of Uruguay's Insurance Contract Law (Law No. 19,678/2018) — could be proposed to expressly authorise parametric indemnification in property insurance, subject to the existence of insurable interest and a demonstrable correlation between the index and the expected loss. This would reduce the current uncertainty pointed out by legal scholars, which may hinder the development of parametric products outside agriculture.

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BOLIVIA

By
Andres Moreno
Moreno Baldivieso

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Bolivian legislation does not provide an express definition of parametric insurance. Neither Law No. 1883 - Insurance Law (the "*Insurance Law*") nor the Commercial Code contain a specific conceptualization of this type of product.

Notwithstanding the absence of a formal definition, parametric insurance may be considered within the general notion of insurance under Bolivian law. In this regard, Article 1 of the Insurance Law defines insurance activity in broad terms as the assumption of third-party risks by entities duly incorporated and authorized by the Autoridad de Fiscalización y Control de Pensiones y Seguros ("*APS*").

Furthermore, Article 979 of the Commercial Code provides that, upon occurrence of the agreed event, the insurer is obliged either to indemnify the loss or to perform the agreed prestation. This wording affords sufficient contractual flexibility to structure insurance products in which payment is linked to objectively defined parameters, rather than to a traditional loss adjustment process.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Under Bolivian law, parametric insurance would most likely be classified as an insurance contract. This conclusion is grounded in Article 2 of the Insurance Law, which reserves the conduct of insurance operations to duly authorized entities, as well as in Article 979 of the Commercial Code, which conceptualizes insurance as a mechanism for risk transfer.

The fact that the insurer's obligation is conditioned upon the occurrence of a predefined index or parameter does not alter the essential elements of the contract, such as the assumption of risk, the payment of a premium, and the insurer's obligation upon the occurrence of the insured event.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

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In Bolivia, rather than the existence of a distinct and fully developed parametric insurance market, there has been a limited incorporation of parametric components within certain agricultural insurance products.

These structures are typically linked to climate-related risks, such as drought, excessive rainfall, or other environmental conditions, that may affect agricultural production, with the use of objective parameters as part of the loss assessment or trigger mechanism.

This approach is consistent with the general regulatory framework, which allows insurance companies to operate across different lines of general insurance products subject to authorization and supervision by the APS, in accordance with Article 43(d) of the Insurance Law.

Outside the agricultural sector, there is no clear evidence of a broader or more developed use of parametric structures in areas such as infrastructure, energy, or catastrophe risk within the domestic market.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Parametric insurance is legally permissible in Bolivia, notwithstanding the absence of express regulation. This conclusion is supported by the broad scope of insurance activity set out in Article 1 of the Insurance Law and by the contractual flexibility recognized in Article 979 of the Commercial Code.

In addition, Article 980 of the Commercial Code provides that any risk in which there is an insurable interest may be the subject of insurance, unless expressly prohibited by law, which is not the case for parametric insurance. Nevertheless, such products must comply with the general regulatory framework applicable to insurance activity, including authorization and prior registration before the APS.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

At present, there is no specific statutory or regulatory framework governing parametric insurance in Bolivia. Accordingly, their legal treatment is derived from general provisions, primarily those contained in the Insurance Law and the Commercial Code, as well as from the supervisory practice of the APS.

In practice, rather than the development of standalone parametric insurance products, the market has seen a limited incorporation of parametric components within certain insurance policies, most notably in the agricultural sector.

These products have been introduced through the ordinary mechanisms of product registration and approval, without the need for a distinct regulatory category.

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Furthermore, no specific legislative or regulatory initiatives aimed at expressly regulating parametric insurance have been identified to date. As such, the legal environment may be described as permissive, although it remains underdeveloped and lacks a structured framework specifically addressing parameter-based insurance mechanisms.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

As insurance products, parametric insurance policies would be subject to the general regime of registration and supervision applicable in Bolivia.

Pursuant to Article 12(f) of the Insurance Law, insurance companies are required to register before the APS any service, insurance product, or insurance plan. In this context, the commercialization of any insurance product requires its prior filing and registration with the supervisory authority, in accordance with the applicable administrative framework.

Under Administrative Resolution IS/N° 70 of 23 November 1999, the registration process is initiated through an application submitted by the insurer, including all relevant policy documentation.

The APS then requests a technical legal report assessing the legality and admissibility of the policy. Based on such report, the APS may (i) request additional information, (ii) approve the policy through an administrative resolution, or (iii) reject it.

In practice, certain agricultural insurance products incorporating parametric components have been processed under this same framework, without any differentiated treatment based on their parametric structure. However, these cases are limited and do not evidence the existence of a consolidated use of parametric mechanisms within the Bolivian market.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Bolivian law does not establish a specific approval regime applicable to parametric triggers or index-based methodologies. However, policy terms and conditions form part of the documentation subject to review within the product registration process set out in Administrative Resolution IS/N° 70 of 23 November 1999.

Although there is no express regulation governing the validation of parameters or calculation methodologies, such elements fall within the supervisory review carried out by the APS in the exercise of its functions, in accordance with Article 43(d) of the Insurance Law. Therefore, while parametric features are not subject to a standalone regulatory regime, they are indirectly reviewed as part of the overall assessment of the insurance product.

3. Core Insurance Law Concepts

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Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Under Bolivian law, the validity and enforceability of a parametric insurance contract would likely require a combination or concurrence of both elements: the occurrence of the agreed parametric trigger and the existence of damage or economic loss.

On the one hand, the parametric factor would operate as the contractual requirement that activates the insurer's obligation to pay. Article 979 of the Commercial Code provides that the insurer may undertake either to indemnify the loss or to perform the agreed prestation. This wording allows insurance structures in which the payment obligation is not necessarily subject to a traditional loss-adjustment process or to the precise quantification of the actual damage suffered by the insured.

However, since the arrangement would still qualify as an insurance product, it would also be necessary to preserve the existence of an insurable interest and a loss-related component. In that sense, even if the payment is triggered by a predefined parameter, Bolivian law would likely require that the insured event be connected to actual damage or economic loss, at least as the underlying basis of the coverage.

Therefore, the validity of a parametric insurance contract would not depend exclusively on strict proof of actual loss in the traditional indemnity sense, but neither would it be entirely detached from the existence of damage. The decisive issue would be how the policy is drafted: if the policy clearly establishes the parametric trigger, the agreed prestation, the covered risk, and the connection between the parameter and the insured's potential loss, the structure should be more defensible under Bolivian law.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Insurable interest is a requirement applicable to all types of insurance under Bolivian law. In this sense, Article 980 of the Commercial Code provides that any risk in which there is an insurable interest may be insured. This entails that the policyholder must have a legitimate economic interest in the preservation of the insured subject matter.

In the context of parametric insurance, this requirement is not altered by the mechanism used to determine the payout. For example, in agricultural insurance, the insurable interest typically arises from the economic value of the production or the investment associated with the insured activity.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Bolivian law does not specifically regulate proof of loss in the context of parametric insurance. Therefore, this matter must be assessed in light of general insurance law principles and the contractual provisions agreed by the parties.

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While Article 979 of the Commercial Code allows the insurer's obligation to be defined in terms of a pre-agreed prestation, this does not necessarily imply that proof of damage is excluded in all cases.

In practice, and particularly considering the traditionally indemnity-based nature of insurance in Bolivia, it is reasonable to conclude that the substantiation of a claim may not be limited solely to the verification of the agreed parameter. It may also require evidence that the insured has suffered a loss or impairment related to the insured risk, unless the policy clearly and expressly provides otherwise.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

In the Bolivian legal context, the verification of the agreed parameter may not fully replace the need to establish the existence of damage or its causal link to the insured event.

Although, from a theoretical standpoint, Article 979 of the Commercial Code allows the insurer's obligation to be structured around predefined prestations, legal practice and the traditional interpretation of insurance contracts tend to preserve a connection between the insured event and an actual economic loss.

In the absence of specific regulation on parametric insurance, it is therefore reasonable to consider that causation may continue to play a role, either as an implicit requirement or as an express contractual condition.

Consequently, it would be more accurate to state that the parametric trigger is unlikely to operate entirely autonomously in all cases. Its effect will ultimately depend on the clarity of the policy wording and on whether the contract has expressly conditioned the payment obligation to the existence of actual damage.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Bolivian law does not provide for any specific regulation regarding the role of a calculation agent in the context of parametric insurance. Neither the Insurance Law nor the Commercial Code establishes licensing, independence, governance, or supervisory requirements specifically applicable to a third party tasked with determining whether the agreed parameter has been met.

In this context, the calculation function should be understood as part of the contractual structure of the insurance product. Since there is no special regulatory framework for calculation agents in parametric insurance, traditional loss adjusters could, in principle, participate in this function, particularly where their technical role is compatible with the verification or assessment required under the policy.

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It should be noted, however, that loss adjusters, in general, are subject to specific regulatory provisions under Bolivian insurance regulations. Therefore, if the calculation agent is structured as, or performs functions equivalent to, a regulated loss adjuster, the applicable regulatory requirements for such activity should be observed.

From a legal standpoint, liability before the insured would remain with the insurer as the principal obligor under the policy. Accordingly, the involvement of a third party would not displace the insurer's responsibility nor alter the legal nature of the obligation assumed.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

There are no specific provisions under Bolivian law governing the independence of the calculation agent or the management of conflicts of interest in parametric insurance arrangements.

Notwithstanding the absence of express rules, insurance contracts are governed by general principles such as good faith and transparency, which are particularly relevant in this context. In addition, the Insurance Law allows the regulator to review contractual terms, thereby indirectly promoting clarity in the definition of trigger mechanisms.

Since there is no special regulatory framework for calculation agents in parametric insurance, traditional loss adjusters could, in principle, participate in this function, particularly where their technical role is compatible with the verification of the relevant parameter or the review of underlying data. However, loss adjusters, in general, are subject to specific regulatory provisions under Bolivian insurance regulations.

In particular, the Regulation on Insurance Auxiliaries provides that loss adjusters must act with absolute independence and impartiality. Therefore, if the calculation agent is structured as, or performs functions equivalent to, a regulated loss adjuster, the applicable regulatory requirements for such activity should be observed.

In practice, and as a matter of legal prudence, it is advisable that the calculation methodology, data sources, access to underlying information, independence standards, and any potential conflicts of interest be clearly disclosed in the policy documentation.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

Bolivian law does not establish specific legal, regulatory, or evidentiary rules regarding the use of third-party indexes, meteorological data, satellite data, catastrophe models, or automated trigger mechanisms in insurance contracts.

In the absence of express regulation, the validity of such elements must be assessed in light of general contractual principles and the autonomy of the parties. Pursuant to Article 979 of the

Commercial Code, the parties may define the structure of the insurer's obligation, including the use of objective parameters as a condition for payment.

However, from both an evidentiary and operational standpoint, the reliability of the data source becomes a key consideration, particularly in the event of a dispute. It is therefore advisable that policies clearly identify the data source, measurement methodology, and applicable criteria in case of inconsistencies.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

The distribution of parametric insurance products is subject to the general regime governing insurance intermediation in Bolivia.

Pursuant to Articles 3, 7, and 19 of the Insurance Law, insurance activities, including the commercialization of policies, must be carried out by duly authorized insurers or through licensed insurance brokers operating within the applicable legal framework.

The parametric nature of the product does not alter these requirements nor permit distribution outside the regulated system.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Consistent with the above, the distribution of insurance products is reserved to duly authorized insurers and licensed insurance brokers. While such entities may rely on online platforms or technological tools in a supporting capacity, non-regulated actors, such as technology providers, may not carry out activities that legally qualify as insurance intermediation or underwriting without the corresponding authorization. Their participation must therefore remain ancillary and supportive in nature.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Bolivian law does not contain specific disclosure, suitability, or product governance rules exclusively applicable to parametric insurance products. However, Law No. 1883 — Insurance Law — establishes several sector-specific rules that would be particularly relevant to this type of product. The law expressly seeks to ensure transparency, equity, legal certainty, and protection of insureds, policyholders, and beneficiaries.

In particular, insurance companies are required to register every insurance service, policy, or insurance plan with the regulator and to issue insurance policies, certificates, or cover notes that are

clear and easily legible. They are also prohibited from advertising or providing inaccurate or false information that may mislead consumers regarding the insurer, its products, or the conditions under which such products are commercialized.

Law No. 1883 also contains specific protective rules for insureds, policyholders, and beneficiaries. Clauses that limit or imply a waiver of legally recognized rights, allow the insurer to unilaterally modify the price or coverage conditions, or impose discriminatory conditions or leave the insured defenseless are deemed null. In addition, the law provides that, in case of discrepancy, ambiguity, or doubt, the scope of the insurance contract must be interpreted in the manner most favorable to the insured, policyholder, or beneficiary.

This framework is particularly relevant for parametric insurance, where the payout may be triggered by a predefined parameter and may not fully correspond to the actual loss suffered. Accordingly, the policy should clearly explain the operation of the parameter, the data source, the calculation methodology, the limitations of the coverage, and the scenarios in which a gap may arise between the actual damage and the amount paid under the policy.

Therefore, while Bolivia does not currently impose a specific parametric insurance disclosure regime, the product should be structured and documented in a way that satisfies the transparency, clarity, non-misleading information, and insured-protection standards established under Law No. 1883.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

Bolivian insurance law does not establish a differentiated treatment for parametric insurance depending on whether the policyholder is a commercial entity or an individual consumer, or whether the insured is sophisticated or non-sophisticated.

Accordingly, the same general insurance framework would apply in principle to all insureds, policyholders, and beneficiaries. This includes the requirements that insurance policies be clear and easily legible, that the information provided by insurers not be misleading, and that contractual terms be consistent with the protection standards established under Law No. 1883.

Therefore, the legal structure of the insurance contract would not change based on the sophistication or commercial nature of the insured. However, in practice, the level of explanation and documentation may need to be more detailed where the product is offered to non-sophisticated insureds, particularly given the technical nature of parametric triggers and the possibility that the payout may differ from the actual loss suffered.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

SOUTH AMERICA

The development of parametric insurance in Bolivia faces several legal, regulatory, and practical challenges, primarily from the absence of a specific regulatory framework.

This lack of specific regulation creates uncertainty in key areas such as trigger design, the scope of the indemnity principle, and the treatment of proof of loss. Additionally, aligning these products with a legal framework originally designed for traditional indemnity-based insurance may give rise to interpretative tensions, particularly in relation to the requirement of actual damage.

From a practical perspective, further challenges arise in connection with data availability and reliability, as well as the level of understanding of these products among policyholders.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Yes. These issues are particularly relevant in parametric insurance, especially given the absence of a specific regulatory framework under Bolivian law.

Basis risk is the central concern. It refers to the possibility that the agreed parameter may not accurately reflect the insured's actual loss: the parameter may be triggered with limited or no actual damage, or the insured may suffer loss without the parameter being triggered. This mismatch may create disputes if it is not clearly explained and contractually addressed.

Accordingly, the trigger wording should be precise, objective, and independently verifiable. The policy should clearly identify the parameter, threshold, geographic or operational scope, observation period, data source, and calculation method. Any ambiguity may be interpreted against the insurer or in favor of the insured.

Transparency is also essential. The insured should understand that payment depends on the occurrence of the agreed parameter and may differ from the actual economic loss suffered. This should be clearly reflected in the policy wording, commercial materials, and pre-contractual explanations.

Data reliability should also be addressed. The policy should identify the agreed data source and establish fallback rules if the data is unavailable, delayed, corrected, inconsistent, or disputed.

Finally, claims communication should be clear and documented. The insurer should explain whether the trigger was met, what data was used, how the payout was calculated, and why the payment may differ from the actual loss. Clear drafting and disclosure are therefore essential to manage policyholder expectations and reduce the risk of disputes.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

SOUTH AMERICA

To date, no significant judicial precedents have been identified in Bolivia addressing disputes specifically related to parametric insurance. This absence may be explained by the limited development of such products in the local market. Consequently, there is no established body of case law that would allow for a reliable prediction of how courts might approach these contracts.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

Notwithstanding the lack of reported cases, several foreseeable sources of dispute can be identified. These include the interpretation of the trigger, the reliability and integrity of the data used, the determination of measurement periods, methodology challenges, causation arguments, and, most notably, discrepancies between the amount paid and the actual loss suffered.

Additional disputes may arise from inadequate understanding of the product by policyholders, particularly where the policy documentation or pre-contractual disclosures do not clearly explain the nature of the parametric trigger, the possibility of basis risk, and the limits of the payout mechanism.

Claims management is also relevant. Under Bolivian insurance practice, the insurer is subject to specific timeframes to review and respond to a claim once the required information has been submitted. The insurer's silence or failure to respond within the applicable period may operate in favor of the insured. This is particularly important in parametric insurance, where the insurer's decision will often depend on the verification of objective data rather than a traditional loss adjustment process.

Similar considerations could also arise in reinsurance. To the extent that the reinsurance contract is executed or produces effects in Bolivia, Bolivian law may be relevant to the interpretation and performance of the contract. Therefore, the rules and principles applicable to claims handling, timely response, and the legal effect of silence could potentially be replicated or invoked in the reinsurance context, depending on the wording of the reinsurance agreement and the applicable law clause.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The Bolivian legal and regulatory environment may be characterized as permissive but still evolving with respect to parametric insurance.

While there are no explicit legal barriers preventing the development of such products, the absence of specific regulation introduces a degree of uncertainty, particularly in operational and interpretative matters.

In this context, market development depends on supervisory practice and on the ability of industry participants to structure products that are consistent with the existing legal framework.

SOUTH AMERICA

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

Given the absence of a specific regulatory framework, the development of parametric insurance in Bolivia would benefit from targeted regulatory guidance. This could include guidelines on trigger design, minimum disclosure standards, and criteria governing the use of data sources.

The introduction of a legal or regulatory definition of parametric insurance would also enhance legal certainty. Such measures could be implemented through administrative regulation issued by the supervisory authority, without necessarily requiring legislative reform.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

The Bolivian legal framework for parametric insurance is currently grounded in rules originally designed for traditional indemnity-based insurance, without specific provisions addressing risk transfer mechanisms based on objective parameters.

As the market evolves and supervisory criteria become more developed, it is reasonable to expect a gradual move towards greater regulatory clarity and systematization. In this context, Bolivia presents favorable conditions for the development of parametric insurance, although further regulatory and practical consolidation remains necessary.

SOUTH AMERICA

BRAZIL

By

Marcelo Mansur, Rafael Sily and Matheus Camata

Mattos Filho

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Answer: There is no statutory or regulatory definition of parametric insurance in Brazil. As for market-understood definitions, the Brazilian Private Insurance Authority (*Superintendência de Seguros Privados* – "SUSEP") made a recent institutional presentation[1], in which it defined parametric insurance as a type of insurance contract based on objectively measurable indexes or parameters, under which the insured is entitled to indemnification upon the occurrence of a specific event that meets such predefined thresholds (*i.e.*, the trigger).

Under this definition, the core distinguishing elements of parametric insurance include:

(i) index/parameter: an objectively measurable variable used to quantify the occurrence, severity, or intensity of an event, *e.g.*, agricultural yield (*e.g.,* measured in tons or sacks per hectare), rainfall levels (*e.g.,* millimetres), or temperature (*e.g.,* degrees Celsius);

(ii) trigger/threshold: a pre-established limit of the relevant index or parameter that determines the occurrence of the insured event and the insured's right to indemnification once such limit is met or exceeded; and

(iii) indemnity determination: the indemnity amount is calculated based on predefined mathematical formulas or structures, which may consider index values, deductibles or adjustment factors, maximum indemnity limits, and other contractual variables, depending on the model adopted by the insurer.

The definition adopted by SUSEP is not binding but gives a clear indication on what SUSEP considers parametric insurance and is generally consistent with current local market practice and available products, as will be further analyzed in the following answers.

[1] This presentation was delivered by SUSEP during a technical meeting held among MERCOSUR (Southern Common Market) member states (Argentina, Brazil, Uruguay, and Paraguay) on October 14, 2025. Available at: https://sei.susep.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?9LibXMqGnN7gSpLFOOgUQFziRouBJ5VnVL5b7-UrE5Q16UKw9TZQnTldag4PB5_OHa64ekf3oH6HG9_5ejhrXhXIL89xoPqrvRH27r02xidLhRDnoy8JCHSuIJ4OO8Fc.

SOUTH AMERICA

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Answer: Parametric insurance is considered as an insurance contract in Brazil. Even though there is currently no local statutory or regulatory definition as to what constitutes a parametric insurance (as mentioned above):

(i) SUSEP has acknowledged that it is an insurance product[2];

(ii) there are currently parametric insurance products filed with SUSEP (as detailed in Item 2, below); and

(iii) certain existing insurance regulations expressly recognize the existence of parametric insurance, as a permissible type of insurance contract/coverage (as detailed in Item 2, below).

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Answer: To our knowledge, parametric insurance in Brazil is currently used primarily in agricultural insurance, although its use in other sectors (*e.g.*, energy, telecommunications, construction, hospitality, and the public sector) is not prohibited.

As per available data, in 2025 approximately 160 parametric rural insurance policies were issued, covering around 11,900 hectares and more than BRL 41 million in insured amounts[3]. However, the market share of parametric insurance remains very small compared to the overall size of the Brazilian agribusiness insurance market.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Answer: Yes. In 2020, SUSEP's Federal Attorney's Office (*Procuradoria Federal junto à SUSEP* – *"*PRGER*"*) issued an administrative legal opinion (*parecer*) stating that parametric insurance is permitted under Brazilian law (the "Opinion")[4]. Moreover, the Interministerial Management Committee for Rural Insurance (*Comitê Gestor Interministerial do Seguro Rural* – "CGSR"), linked to the Brazilian Ministry of Agriculture and Livestock ("MAPA") and composed of representatives from

[2] Which can be verified in practice, pursuant to the institutional presentation mentioned in our first answer, as well as in PRGER's legal opinion mentioned in our answer to Item 2, below.

[3] According to data provided by the Brazilian Ministry of Agriculture and Livestock, which include only parametric rural insurance policies whose premiums benefit from government subsidies.

[4] Opinion No. 00063/2020/CGAFI/PFE-SUSEPSEDE/PGF/AGU, approved by Order (*Despacho*) No. 00273/2020/PF/GABIN/PFE-SUSEP-SEDE/PGF/AGU. Available at: https://sei.susep.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?9LibXMqGnN7gSpLFOOgUQFziRouBJ5VnVL5b7-UrE5Rd_CqJhzGeID5Hy9K6kolLmIQZkxANME0N6K-cBtyzEx_SMmL3WQtTjFI3AXRLUamgK5ki_FUf-gctIJd7Xzqx.

that Ministry and other governmental bodies (including SUSEP), recognizes parametric insurance as a valid type of insurance (in this case, specifically regarding agricultural risks).

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Answer: Parametric insurance products are not expressly regulated in Brazil. Nevertheless, as insurance contracts, they are subject to the general legal and regulatory regime applicable to non-life insurance, including Law No. 15,040, of December 9, 2024 (the "Brazilian Insurance Contract Law"), and the regulations issued by SUSEP and by the Brazilian National Council of Private Insurance (*Conselho Nacional de Seguros Privados* – "CNSP").

In this context, SUSEP Circular No. 710, of December 24, 2024, which regulates the mandatory filing with SUSEP of non-life insurance operations, expressly classifies "parametric" as a type of coverage (Article 1, item III, letter "h" of Exhibit 1 to such Circular), although it does not provide a specific definition of such coverage.

To date, we have not identified any ongoing initiatives, consultations, or legislative proposals aimed at introducing a specific legal or regulatory framework for parametric insurance in Brazil.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Answer: Yes. According to SUSEP, as of October 2025, 11 insurers were offering parametric insurance in Brazil, with a total of 14 parametric insurance products filed with the regulator and authorized for commercialization. Despite the existence of specific information pertaining to certain market segments (as per our last answer to Item 1, above), there is no publicly available data indicating the total number of insurance policies issued with parametric coverage.

In Brazil, as a general rule, except for large risk insurance (as defined in CNSP Resolution No. 407, of March 29, 2021)[5], all insurance products – including their general conditions and the corresponding actuarial technical notes (*notas técnicas atuariais*) – must be filed with SUSEP prior to being offered in the market. This filing is carried out by insurers through SUSEP's electronic platform named *Registro Eletrônico de Produtos* ("REP"), governed by SUSEP Circular No. 708, of December 12, 2024. The Brazilian insurance regulatory framework generally adopts a "file and use" system, meaning that insurers may begin offering a product immediately after filing it in the REP, with no need for SUSEP's prior approval.

Notwithstanding this general rule, certain insurance products are subject to a prior approval regime. This applies to rural insurance products that benefit from federal government premium

[5] A given insurance policy can be characterized as a "large risk insurance" if it meets certain criteria, *e.g.*, (i) a maximum indemnity limit exceeding BRL 15,000,000.00, or (ii) the insured entity having, in the prior fiscal year, either *(a)* total assets exceeding BRL 27,000,000.00 or (b) gross annual revenue exceeding BRL 57,000,000.00 (pursuant to Article 2, item II, of CNSP Resolution No. 407/2021). These contracts generally are subject to freely negotiated contractual terms and conditions.

subsidies, as per Law No. 10,823, of December 19, 2003, with the objective of expanding access to rural insurance. Accordingly, insurers intending to offer parametric rural insurance products whose premiums are subsidized by the federal government[6] must obtain SUSEP's prior approval before commercialization.

Finally, at the time the policy is issued, insurers are also required to register each insurance policy with SUSEP through a system duly accredited by the regulator. For non-life insurance policies, this registration must include, among other mandatory data points, the identification of the type of coverage taken out, which must expressly indicate parametric coverage, when applicable (pursuant to Article 1, item III, letter "h", of Exhibit 1 to SUSEP Circular No. 710/2024).

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Answer: Please refer to our answer above. Insurers are required to file with SUSEP the general conditions and the actuarial technical notes (which describe, among other aspects, the pricing methodologies adopted) of each insurance product they intend to offer. Accordingly, SUSEP has full access to these documents and may review them at any time, including in cases where prior regulatory approval is not mandatory (*i.e.*, under the "file and use" regime).

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Answer: According to the positions adopted by SUSEP in the institutional presentation mentioned in Item 1, above, and by the PRGER in the Opinion, parametric insurance does not constitute, per se, a violation of the indemnity principle. As to the proof of actual economic loss, although the matter is not finally settled, the regulator has indicated that this should not be regarded as an impediment to the validity of parametric insurance contracts.

In Brazil, the indemnity principle is set forth in Articles 89 and 90 of the Brazilian Insurance Contract Law. Article 89 provides that the amounts of the guarantee and of the indemnity may not exceed the value of the insured interest, while Article 90 establishes that the indemnity may not exceed the amount of the policy limit, even if the value of the insured interest is higher.

With respect to Article 89, there are situations in which determining the exact value of the insured interest is complex. In such cases, the Brazilian insurance system allows the insured amount to be established on an estimated basis, which is consistent with the rationale of parametric

[6] In this context, it is worth noting that CGSR has established more favourable subsidy conditions for parametric insurance, with subsidy levels higher than those applicable to other rural insurance modalities. These differentiated conditions are set forth in the Triennial Rural Insurance Plan (*Plano Trienal do Seguro Rural*) for 2025-2027, approved by CGSR Resolution No. 103, of September 27, 2024.

insurance. Article 90 is likewise compatible with parametric insurance, as it recognizes the existence of scenarios where a loss may not be fully indemnified.

Finally, while, in theory, in parametric insurance, there could be a covered claim in the absence of a loss suffered by the insured, except in cases of bad faith (which may exist in any contractual relationship), this could result from a flaw in the structuring of that specific policy, being the insurer's duty to design products and choose parameters that prevent that from happening.

That said, despite potential divergences depending on the specific circumstances and policy wording and negotiation, SUSEP has indicated that this issue does not constitute an impediment to the validity of parametric insurance contracts in Brazil.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Answer: Yes. Insurable interest requirements are applicable. Article 1 of the Brazilian Insurance Contract Law defines an insurance contract as an agreement whereby the insurer, in exchange for the payment of a premium, undertakes to guarantee the legitimate interest of the insured or beneficiary against predetermined risks. The legitimate interest of the insured thus constitutes the legal cause and a functional prerequisite of the insurance contract.

Although the Brazilian Insurance Contract Law does not provide a statutory definition of "legitimate interest", prevailing legal commentators understand it as the lawful connection between the policyholder and the object of the insurance, aimed at its preservation.

In the context of parametric insurance, the requirement of a legitimate insurable interest is satisfied where the policy is taken out in relation to an object (*e.g.*, a geographic area, agricultural activity, or infrastructure) in which the insured holds a legally demonstrable economic interest, and where that object is exposed to potential losses upon the occurrence of the parameter that triggers coverage.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

Answer: Please refer to our first answer of this Item 3, above.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Answer: Please refer to our first answer of this Item 3, above.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

SOUTH AMERICA

Answer: The calculation agent function is not subject to any specific regulation under Brazilian law, and it is not mandatory that the insurance company include such agent in claims adjustment and settlement proceedings.

Nevertheless, if the insurance company directly allocates a calculation agent to determine (i) the existence of coverage for a claim (claims adjustment), and (ii) the amount of indemnification owed to the insured or the beneficiary (claims settlement), the calculation agent could be deemed to act as a claims adjuster and settler (*regulador e liquidante de sinistros*) under the Brazilian Insurance Contract Law.

In this capacity, the calculation agent would be subject to the general duties applicable to claims adjusters and settlers pursuant to Articles 78 and 80 of the Brazilian Insurance Contract Law, including the obligation to (i) promptly inform the insurer of the amounts determined, so that the insurer may proceed with the payment of the indemnification owed to the insured or beneficiary, and (ii) disclose to the interested parties, upon request, the content of its findings, except for information that is legally confidential or whose disclosure could cause harm to third parties.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

Answer: Please refer to our answer above. If the calculation agent acts as a claim adjuster and settler, its remuneration may not be based on the savings or economic benefit generated for the insurer (pursuant to Article 79, sole paragraph, of the Brazilian Insurance Contract Law).

Regarding transparency and access to data, the claim adjustment and settlement report (*relatório de regulação e liquidação do sinistro*) is considered a document of common interest of the parties (pursuant to Article 82 of the Brazilian Insurance Contract Law), and the insured must therefore be granted access to it.

In addition, if coverage is denied, in whole or in part, the insurer must provide the interested party with the documents produced or obtained during the claims regulation and settlement process that support its decision (pursuant to Article 83, *caput*, of the Brazilian Insurance Contract Law).

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

Answer: There are no specific rules governing these matters under Brazilian law. However, Article 40, paragraph 3, of SUSEP Circular No. 621, of February 12, 2021[7], which applies to all non-life insurance products, provides that whenever reference values are used to quantify indemnification, the source of such values and the date on which they were determined must be stated in the insurance policy.

[7] This regulation is currently under review by SUSEP for the purposes of aligning its provisions with the Brazilian Insurance Contract Law.

SOUTH AMERICA

Moreover, Article 81 of the Brazilian Insurance Contract Law establishes that, in the event of ambiguity regarding the criteria or formulas used to calculate the indemnification amount, the interpretation most favorable to the insured or the beneficiary must prevail.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

Answer: In Brazil, the offer of insurance products, including parametric insurance products, can be conducted either directly by the insurer or through intermediaries, a broad category that includes, but is not limited to, insurance brokers (*corretores de seguros*), insurance agents (*representantes de seguro*), and group policyholders (*estipulantes de seguros*)[8].

While there are no conduct rules specifically designed for the offer of parametric insurance products, the intermediaries involved remain fully subject to the specific conduct obligations applicable to their respective roles, as well as to the provisions applicable to intermediaries in general, as per the CNSP Resolution No. 382, of March 4, 2020, which sets forth overarching principles governing their relationships with clients, which include ethics, responsibility, transparency, honesty, and objective good faith.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Answer: Yes. Non-insurance intermediaries may participate in the distribution or administration of parametric insurance products, provided they do so in accordance with the applicable legal and regulatory rules, including CNSP Resolution No. 382/2020.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Answer: Given the inherent complexity of parametric insurance products – and their departure from traditional indemnity-based insurance – it is particularly important that insurers provide clients with clear, precise, and comprehensive information regarding the contractual terms. Special attention should be given to the disclosure of basis risk.

This enhanced disclosure obligation is supported by the Brazilian Insurance Contract Law, which establishes that any doubts, contradictions, ambiguities, or inconsistencies arising from the interpretation of documents drafted by the insurer must be resolved in favor of the insured (pursuant to Article 57 of such law).

[8] While *representantes de seguros* distribute both individual and group insurance policies, *estipulantes de seguros* distribute group insurance policies only.

SOUTH AMERICA

Moreover, Article 3, paragraph 1, item V, of CNSP Resolution No. 382/2020 requires insurers and intermediaries to offer, promote, and disclose insurance products in a clear and appropriate manner, adopting practices designed to minimize the risk of consumer misunderstanding. From a broader consumer protection perspective, Article 6, item III, of Law No. 8,078, of September 11, 1990 (the "Brazilian Consumer Protection Code") establishes the consumer's right to adequate and clear information regarding products and services.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

Answer: As a general rule, no, as far as the Brazilian Insurance Contract Law is concerned, since it does not differentiate among categories of insureds. Accordingly, its protective approach toward the insured applies to insurance contracts in general. Regarding specifically the provisions of the Brazilian Consumer Protection Code, a case-by-case assessment needs to be done, especially when insurance is taken by legal entities.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

Answer: In Brazil, the primary practical challenge affecting parametric insurance is the limited availability and quality of data and monitoring infrastructure, which increases basis risk. Parametric products depend on long, reliable historical datasets with adequate spatial and temporal resolution to enable accurate index calibration. However, climate and environmental monitoring coverage in Brazil remains uneven, particularly outside major urban centers, with fragmented historical records and insufficient density of meteorological stations. These structural data constraints complicate index design, increase calibration costs, and heighten the risk that parametric triggers may fail to correlate adequately with actual losses, thereby limiting the effectiveness and perceived reliability of such products[9].

A further challenge relates to market understanding and distribution. Parametric insurance is inherently more abstract than traditional indemnity-based insurance, which can hinder comprehension and adoption, particularly in regions with limited access to information and given the generally low level of insurance literacy among the Brazilian population[10].

From a legal and regulatory standpoint, as stated above, there is currently no specific regulatory framework expressly governing parametric insurance in Brazil. While this is not necessarily a challenge, the adoption of a carefully designed and well-drafted regulation addressing

[9] On data constraints, please refer to OZAKI, V. et al. *Seguro Paramétrico no Brasil: Oportunidades, Limites e Desafios*. Fundação Getúlio Vargas - FGV, São Paulo, SP, Brazil. Available at: https://agro.fgv.br/sites/default/files/2026-03/RELAT%C3%93RIO%20INOVA%C3%87%C3%83O%20VF.pdf. Accessed on: April 25, 2026.

[10] On access to information, please refer to OZAKI, V. et al. *Seguro Paramétrico no Brasil: Oportunidades, Limites e Desafios*. Fundação Getúlio Vargas - FGV, São Paulo, SP, Brazil. Available at: https://agro.fgv.br/sites/default/files/2026-03/RELAT%C3%93RIO%20INOVA%C3%87%C3%83O%20VF.pdf. Accessed on: April 25, 2026.

parametric insurance could contribute to greater legal certainty on the matter (for more detail on that, please refer to Item 8, below).

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Answer: Please refer to our answer above.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

Answer: We have not identified any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in Brazil.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

Answer: It is difficult to anticipate that, but, as stated above, the risk of disputes and litigation may be mitigated if insurers provide their clients with clear, precise, and comprehensive information regarding the contractual terms and conditions, and prepare well-drafted wordings.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Answer: The Brazilian legal and regulatory environment for parametric insurance is favorable, but still evolving.

As discussed, SUSEP has formally acknowledged the validity of parametric insurance and its compliance with the applicable legal framework (as detailed in Item 3, above) and certain parametric insurance products have already been filed with SUSEP.

At the same time, there is currently no specific regulatory framework governing these arrangements. On the one hand, the absence of specific regulation is conducive to market development, as it allows insurers considerable flexibility to structure parametric products tailored to the needs of different insureds, without prescriptive limitations imposed by the regulator. On the other hand, the lack of specific rules may generate legal uncertainty, particularly in relation to issues such as basis risk, the use and reliability of indexes, and the extent to which proof of actual economic loss may be required for claim payment.

These challenges are more pronounced in a jurisdiction like Brazil where insurance has traditionally been understood as a mechanism for indemnifying actual losses, and where both statute/regulation and market practice have been built around this indemnity-based model.

SOUTH AMERICA

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

Answer: Yes. If carefully made and well drafted, in a way that deals with legal uncertainty without limiting the flexibility parametric insurance requires, SUSEP could issue specific regulatory rules addressing parametric insurance. Such provisions should not be overly prescriptive or impose restrictive constraints on product terms and conditions – which could hinder market development – but rather establish high-level principles on key elements such as the selection and governance of indexes, disclosure standards, and the clear communication of basis risk.

In parallel, the training and qualification of insurance intermediaries is essential. Given the innovative and technical nature of parametric insurance, investment in the technical capacity of brokers and other intermediaries would play a critical role in ensuring appropriate product distribution and in managing insureds' expectations.

From a market development perspective, further improvements in Brazil's data infrastructure would also support the growth of parametric insurance. As detailed in Item 6, above, the lack of reliable and granular data in certain regions remains a key obstacle to the expansion of parametric solutions[11].

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

Answer: As a general observation, parametric insurance in Brazil has developed within a legal framework that was originally designed for traditional indemnity-based insurance. While SUSEP has expressly recognized the validity of parametric insurance and its compatibility with Brazilian insurance law, the absence of specific statutory or regulatory rules creates certain legal uncertainty. This uncertainty is particularly relevant in dispute scenarios involving basis risk and may be amplified by the insured-protective orientation of the Brazilian Insurance Contract Law.

At the same time, the Brazilian experience demonstrates that specific regulation is not a prerequisite for the emergence and operation of parametric insurance. Regulatory flexibility has allowed Brazilian insurers to structure and offer parametric products in a manner tailored to local needs. In this context, targeted regulatory clarification – ideally through principles-based guidance rather than prescriptive rules – would help enhance legal certainty and foster broader adoption, while also contributing to a better technical understanding of parametric insurance among insureds and intermediaries.

[11] Please refer to OZAKI, V. et al. *Seguro Paramétrico no Brasil: Oportunidades, Limites e Desafios*. Fundação Getúlio Vargas - FGV, São Paulo, SP, Brazil. Available at: https://agro.fgv.br/sites/default/files/2026-03/RELAT%C3%93RIO%20INOVA%C3%87%C3%83O%20VF.pdf. Accessed on: April 25, 2026.

SOUTH AMERICA

CHILE

By

Matias Vergara and Jorge Soto

Carey

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Yes, Chile has an express legal definition of parametric insurance in its insurance legislation. The fifth paragraph of Article 11 of Decree with Force in Law No. 251 of 1931 (the "DFL 251"), as amended by Law No. 21,521 of 2022 (the "Fintech Law"), establishes that "insurance may be agreed upon as parametric, that is, that, upon the occurrence of the risk or harmful event contemplated in the contract, the indemnity shall be paid without the insured having to justify the existence or amount of the damages, and even in the event that these do not occur." This definition is ratified by General Rule ("NCG") No. 546 of 2025 (the "NCG 546"), issued by the insurance regulator, the Commission for the Financial Market (the "CMF"), which specifies that "the insured must be actually exposed to suffering damage upon the occurrence of the loss, even if such damage ultimately does not materialize" and requires that "variables and risks must be demonstrable and clearly measurable through objective procedures".

Note on applicable framework: The Chilean legal framework for parametric insurance is composed of multiple layers: (i) *insurance companies law*: DFL No. 251 (Article 11) which provides the statutory basis; (ii) *insurance contract law*: Articles 512 and following of the Commercial Code, which regulates insurance contract; (iii) *CMF's regulation*: NCG 546, which establishes specific rules for parametric insurance products; (iv) *loss adjustment process regulation*: Supreme Decree No. 1055 of 2012 which regulates the loss adjustment process for insurance contract; (v) *suitability and disclosure duties*: Article 28 of Fintech Law, which imposes enhanced suitability requirements, professional diligence, and comprehensive disclosure obligations on insurance entities; and (vi) *technical reserves*: NCG 306 of 2011, applicable to earthquake parametric insurance reserves. No reinsurance-specific rules or general contract law provisions distinct from the above are expressly applicable to parametric insurance.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

In Chile, parametric insurance is classified as an insurance contract under DFL 251, the principal legal framework governing insurance activities. It is not treated as a purely financial product or derivative, since the regulation requires that the contract cover a "risk or harmful event" to which the insured is actually exposed. Furthermore, the law provides that the risk must be insurable in

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accordance with general rules, thereby preserving the essential link with the concept of insurable risk that characterizes traditional insurance contracts.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Yes. NCG 546 expressly limits the commercialization of parametric insurance to the following risks: (a) Fire; (b) Earthquake, tremor; (c) Tsunami, tidal wave, or seismic wave; (d) Other risks of nature, including drought, rain, frost, fog or mist, wind, hail, snow, excessive heat, volcanic eruption, landslide, excess humidity, flooding, solar radiation, avalanches, mudslides, river flow and water levels, temperature, swells, and waves; (e) Loss of profits due to a harmful event; (f) Risks arising from the transportation of luggage and movable property; (g) Risks arising from passenger transportation; (h) Interruption or fluctuation in the supply of electric energy; and (i) Interruption in the supply of water.

The above regulation clearly establishes that only parametric insurance covering these risks and using the indices or variables expressly listed may be marketed. Coverage of any other risk or index-variable requires a formal request to the CMF for evaluation and, if approved, subsequent incorporation into the regulation before commercialization.

Importantly, the DFL 251 expressly excludes certain categories of insurance from the parametric modality. Specifically, parametric insurance may not be contracted for: (i) social security insurance (*seguros previsionales*); (ii) compulsory insurance (*seguros obligatorios*); or (iii) insurance required as a condition for carrying out a specific activity. This statutory exclusion operates as a negative scope rule that further delimits the universe of risks eligible for parametric coverage, irrespective of their inclusion in the catalogue set forth by NCG 546

Note on market practice: NCG 546 entered into force on 22 August 2025. As the regulatory framework is recent, market adoption is still in its early stages.

The CMF administers a policy deposit system under which insurers must file their policy wordings for registration before they can be marketed (article 3(e) of DFL 251 and NCG No. 349 of 2013 – the "NCG 349") (the "Policy Deposit System"). This mechanism, which is not applicable to policies exempted from deposit under the second paragraph of article 3(e) of DFL 251 (i.e., marine transport and maritime/air hull insurance, and insurance where both the insured and the beneficiary are legal entities and the annual premium is equal to or exceeds 200 *Unidades de Fomento* ("UF"), an inflation-indexed unit of account in Chile), does not entail the CMF's prior approval of the policy wording but ensures regulatory oversight and transparency, as the CMF may prohibit the use of any deposited wording that fails to meet legality and clarity standards. Only policies that have been formally deposited — or that fall within the exempted categories — may be offered in the market. In this context, while the Policy Deposit System is operational and insurers may file parametric policy wordings, as of the date hereof no parametric insurance wording has been deposited with the CMF.

2. Regulatory Status and Product Approval

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Is parametric insurance permitted in your jurisdiction?

Yes, parametric insurance is expressly permitted and regulated in Chile. As stated above, its formal legal framework was established by Fintech Law), which amended Article 11 of DFL 251. The regulatory framework is further detailed by the CMF through NCG 546 and modifications to NCG 306 regarding technical reserves

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Parametric insurance products are expressly regulated in Chile. The relevant legal basis is Article 11 of DFL 251, which empowers the CMF to regulate this modality, and CMF NCG 546, which sets the specific regulatory framework for parametric insurance.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Based on publicly available information, there is no parametric insurance policy wording currently deposited in the CMF's public Policy Deposit System. Accordingly, we cannot confirm that any parametric insurance products are currently filed with the CMF through that mechanism.

Process: In Chile, insurers generally market products using policy wordings that are filed/deposited in the CMF's Policy Deposit System. For parametric insurance, NCG 546 supplements that framework by requiring, among other matters, that parametric policy wordings be deposited under the relevant category (including the words "*Seguros paramétricos*", as applicable) and be identified as parametric, and that an actuarial report (signed by the insurer's mathematical actuary or technical manager) be submitted in addition to the report required under NCG 349.

As stated above, the Policy Deposit System is a filing (deposit) mechanism and does not constitute prior approval of the policy wording by the CMF. Nevertheless, it enables regulatory oversight and transparency, and the CMF may prohibit the use of deposited wording that does not meet applicable legality and clarity requirements.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Yes, according to the following:

Policy wordings: Under NCG 349, insurers generally must use deposited general policy conditions in the Policy Deposit System which does not involve prior approval from the CMF, but it may prohibit the use of a deposited wording if it fails to meet legality/clarity and minimum-content requirements.

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Triggers: Not approved by the CMF but they are effectively "reviewed" to the extent they are part of the filed wording under the Policy Deposit System. For parametric insurance, NCG 546 additionally requires an actuarial report (in addition to the report required by the NCG 349) including a technical feasibility study (type of index/variable, calculation method, and geographic coverage area, as applicable) and support for a causal correlation between the index/variable and the relevant risks/damages.

Pricing methodologies / actuarial support: No prior approval as a separate submission, but they are within the CMF's supervisory perimeter: the required actuarial materials (under NCG 349 and, for parametric products, NCG 546) must be kept available and may be requested/reviewed in the course of ongoing supervision

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Validity of a Chilean parametric insurance contract does not depend on indemnity principles in the sense of proving an actual, quantified economic loss. Under NCG 546, parametric insurance is defined precisely as one where the indemnity is payable without the insured having to justify the existence or amount of damages, even if the damages do not occur.

That said, the regime does preserve a "non-wagering" logic through causality/exposure: the insured must be "really exposed to suffering damage" upon occurrence of the insured event (even if the damage ultimately does not materialize), and the variables/risks must be objectively measurable and the risk must remain insurable under the general rules

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Yes. Insurable interest applies to parametric insurance in Chile. Under CMF NCG 546, a parametric policy must be structured so that the insured is actually exposed to suffering damage upon the occurrence of the insured event (i.e., it must not operate as a wager). In practice, this is supported through the actuarial report required by NCG 546, which must substantiate the causal correlation between the index/variable and the probable risks/damages.

Separately, under the Chilean Commercial Code (Article 520), the insurable interest may be present or future, but it must exist at the time of the loss.

The CMF may review this through the actuarial report required under NCG 546, which must substantiate the existence of a causal correlation between the index/variable and the probable damages.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

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Proof of loss is not required. Article 11 of DFL 251 provides that parametric insurance may be agreed, meaning that, upon the occurrence of the risk or damaging event contemplated in the contract, the indemnity shall be paid without the insured having to justify the existence or amount of the damages, even if no damages ultimately occur. Additionally, NCG 546 provides that "the request for information, the response of the insured or the lack of response shall not excuse the company from paying the loss within the period established," and that the policy must provide that payment proceeds when the risk/event reaches the agreed value for the index (or combination of indices) established in the policy.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Satisfaction of the agreed parameter is sufficient for payment. As stated in the previous answers, Chilean law expressly allows parametric insurance and provides that, upon the occurrence of the risk or damaging event contemplated in the contract, the indemnity is paid without the insured having to justify the existence or amount of the damages, even if no damages ultimately occur (DFL 251, Article 11). Consistently, NCG 546 requires that parametric policies state that "this is a parametric insurance" and that the insurer will pay the agreed indemnity without the insured having to justify the existence or amount of damages, and further provides that payment proceeds when the risk/event reaches the agreed value for the index (or combination of indices) set out in the policy.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

Yes—mainly policy disclosure and contractual-governance requirements (rather than a specific licensing regime for the calculation agent). Under NCG 546, parametric policies must identify the calculation agent and the calculation formula (where an additional calculation is needed to refine the index intensity for the insured area). The calculation agent's role is to compute an index derived from another public index, in a manner pre-defined in the policy's general terms, and the insurer remains responsible for ensuring this information is provided to the insured timely and properly. Separately, NCG 546 requires identification of the primary and alternative data providers for the index, the public information product/source (including the website), and the fallback solution if those sources are unavailable.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

NCG No. 546 does not expressly impose a standalone "independence" requirement for the calculation agent, nor a dedicated conflicts-of-interest regime for that role (e.g., licensing/registration or mandatory independence from the insurer). Instead, it mitigates discretion and potential conflicts through contractual transparency and objective, verifiable mechanics. In this

regard, NCG 546 requires the parametric policy (or its general terms) to identify the calculation agent and the calculation formula where an additional calculation is required, and to ensure the calculation is pre-defined and non-discretionary (i.e., derived from a public index using a specified methodology).

On the other hand, where the index comes from a public "agency" (or other institutional source), the insurance policy must also clearly identify the primary index information provider—a national or foreign agency that is competent in the relevant matter and of recognized prestige—and any alternative providers meeting the same standard; specify the public information product/source (including where it can be consulted); and include a fallback solution if the primary source (or the information product) is unavailable.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

NCG 546 does not adopt a technology-by-technology evidentiary standard (e.g., expressly validating satellite data or catastrophe models). Instead, it regulates third-party data/automated triggers through (i) whether the risk and associated index/variable are among those that may be marketed as parametric, and (ii) whether the trigger is objectively determinable and verifiable under the policy terms.

NCG 546 provides a closed list of permitted indices/variables (including, among others, Richter, Mercalli, PSA/PGA, Mw, rainwater levels, wind speed, and air quality metrics such as AQI/PM2.5/PM10). Any other risk or index/variable must be formally submitted to the CMF for evaluation (and incorporation into NCG 546, as applicable) before it may be marketed as parametric.

To support verifiability, the policy must disclose at least the index (or combination of indices) and the payout amount/percentage as a function of the index value, and identify the primary and alternative index information providers (competent, recognized-prestige agencies), the public information product/source (and where it can be consulted), and a fallback solution if the source/product is unavailable.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

Parametric insurance is distributed under Chile's general insurance distribution regime: it is not limited to insurance intermediaries. Insurance may be contracted directly with the insurer (including through the insurer's sales agents) or through independent insurance brokers (DFL 251).

Where distribution is carried out through brokers, they must be registered in the applicable official registry and comply with the statutory requirements and conduct duties applicable to insurance brokers (including advisory/assistance duties).

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As a parametric-specific overlay for remote commercialization (online/telephone) under NCG No. 460 of 2021, NCG 546 provides that parametric insurance will always require ratification by the insured.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Yes, they may participate, but only as service providers or distribution channels and not as insurance intermediaries unless they comply with the applicable regime.

In Chile, the distribution, marketing, and offering of insurance products is subject to the general regime: insurance may be contracted with the insurer (either directly or through the insurer's sales agents) or through insurance brokers that are subject to registration.

Accordingly, online platforms, technology providers, embedded insurance distributors, or MGAs may: (i) operate as a distribution channel, and/or (ii) provide technology and administrative support services to insurers or brokers. However, they should not perform acts of insurance intermediation (e.g., advising/placing insurance on behalf of third parties, holding themselves out as a broker/agent, etc.) unless duly authorized.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

Yes. NCG 546 introduces parametric-specific consumer-protection requirements focused on (i) enhanced disclosure and clarity of the product's nature, (ii) product design constraints to avoid confusing bundling, and (iii) suitability-style controls in commercialization, together with restrictions on misleading advertising and an express consent ("ratification") requirement for remote contracting.

The regulation requires, as an additional statement in the first article of the policy, the explicit warning: "This is parametric insurance; that is, the insurer will pay the agreed indemnity without the insured having to justify the existence or amount of the damages, even if such damages do not occur." This is intended to prevent consumers from assuming a traditional indemnity/adjustment process.

In addition, parametric insurance must be offered as a stand-alone product: parametric policies must be "single coverage" products, the indemnity is payable when the event/index reaches the agreed value, and parametric coverage may not be contracted through additional clauses (whether attached to indemnity or parametric policies).

NCG 546 also imports product governance / suitability-type obligations by requiring special attention to Article 28 of Fintech Law: entities must adopt policies, procedures and controls to avoid offering insurance products not aligned with clients' communicated needs, and must be able to

evidence that a mismatch was warned to the client prior to contracting (NCG 546, Section V; Fintech Law, Art. 28).

Finally, NCG 546 prohibits misleading or ambiguous advertising (no statements or representations that may induce error or confusion about the nature, price or characteristics of the product) and provides that, for purposes of remote contracting under NCG 460 / Article 538 bis of the Chilean Commercial Code framework, parametric insurance always requires ratification, ensuring express policyholder consent before the contract is finalized (NCG 546, Sections V and I; NCG 460).

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

NCG 546 does not distinguish consumer vs. commercial (or sophisticated vs. non-sophisticated) insureds; the key distinction is policies that must be deposited under the Policy Deposit System vs. policies that may be contracted using non-deposited wordings.

As a rule, insurers may not offer/contract with non-deposited general conditions, except in (i) Transport and Marine/Air Hull insurance; and (ii) insurance where both insured and beneficiary are legal entities and the annual premium is equal to or exceeds 200 UF, in which case the policy must be signed by both parties and include the mandatory non-deposit legend (NCG 349 and DFL 251 art. 3(e)).

If a parametric policy is contracted using a non-deposited wording under, it must still comply with NCG 546 (Sections II, III.2, III.3(a) second paragraph and III.3(c), and VI), but it may include additional risks/indices/variables beyond those listed for deposited parametric products.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

In Chile, parametric insurance faces several practical and regulatory challenges that warrant consideration.

One of the most significant practical challenges is market conduct risk. There is a risk that parametric insurance products may be inaccurately explained to prospective policyholders, or that such prospective policyholders may fail to adequately understand how the product operates at the time of contracting, as well as at the time of the occurrence of a loss event, particularly when the insured is not covered under the policy. In this context, for instance, the NCG 546 provides that Insurers are required to adopt the necessary safeguards to demonstrate to the CMF that, whenever a client chooses to purchase insurance that does not match the needs, expectations, or risks previously communicated, the client was duly warned of this fact before entering into the contract.

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Likewise, the actuarial analysis of these policies requires robust data and time series that enable loss estimations to be made with precision. Climate change poses a significant challenge for insurance companies in their risk estimation processes.

From the perspective of the insurance industry, additional challenges exist, including the correct calibration of parameters, the adequate definition of risk zones, the prevention of adverse selection, the maintenance of sound technical reserves, and the education of clients regarding the operation of these products.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Basis risk is understood as the discrepancy between the damage actually sustained and the triggering of the insurance payment, which occurs only if the index defined in the policy reaches the agreed-upon threshold. This gap constitutes one of the principal challenges of parametric insurance, as it may result in the existence of actual loss without indemnification. In this context, one of the most significant improvements introduced by the current regulatory framework is the expansion of the catalogue of authorized risks and indices, which now includes, among others, volcanic eruptions, storm surges, and interruptions to essential services, transportation, or loss of profits. Furthermore, the combination of different indices within a single policy is permitted, which contributes to a more precise product design and to a reduction of basis risk.

In addition to the foregoing, the regulatory framework has placed particular emphasis on clarity and transparency in the drafting of triggers, requiring that policies expressly state that the product constitutes parametric insurance, standardizing the use of the term "index," and prohibiting the commercialization of parametric insurance as an additional clause within other policies. These requirements are essential to prevent confusion in the claims settlement process and to protect policyholders against expectations that are inconsistent with the nature of this type of product.

Furthermore, concerns have been raised regarding the reliability of the data utilized, given that modeling risk requires robust information and sufficiently extensive time series to enable reliable actuarial estimations. In this regard, climate change poses an additional challenge for insurance companies, as it affects the validity of the historical patterns upon which such projections are constructed.

Finally, all of the foregoing is closely linked to the management of policyholder expectations and to the quality of communication at the time of contracting and at the time of the occurrence of a loss event, as there is a risk that prospective policyholders may fail to adequately understand the operation of parametric insurance, particularly when the loss sustained is not covered due to the index not having been met. In line with this, emphasis has been placed on the need for the client to clearly understand which index triggers the payment and how this mechanism differs from traditional insurance, in order to avoid confusion and to safeguard confidence in the insurance market.

7. Disputes and Litigation

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Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

No regulatory actions or judicial precedents in connection with parametric (re)insurance have been recorded yet due to the recent entry into force of the regulatory framework in 2025.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

More broadly, several areas of the parametric insurance framework remain legally untested. These include: (i) how courts will interpret the requirement of "causal correlation" between the index and probable damages in the actuarial report; and (ii) how the suitability obligations under Article 28 of Fintech Law will be applied in practice to parametric products. As no judicial decisions or regulatory enforcement actions have been reported to date, the practical application of these provisions remains uncertain.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The environment is still evolving DFL 251 and NCG 546 have eliminated uncertainty regarding the validity of these contracts, providing a definition and clear catalog of permitted risks and expedited payment rules. However, the market adoption remains in its early stages. Key areas — including the treatment of parametric reinsurance, the practical application of suitability obligations under Ley FINTEC, and the judicial interpretation of core concepts such as causal correlation and geographic delimitation — remain untested.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

In terms of recent regulatory developments, the issuance of NCG 546 has been recognized as a significant advancement that provides legal and operational certainty to a product that, until recently, lacked a regulatory framework and was largely unknown to the public. For insurance brokers, it opens the possibility of offering innovative coverage that is better tailored to the actual needs of clients.

The application of Fintech Law has been highlighted as a concrete opportunity to advance the development of these insurance products in the country, given that parametric insurance has demonstrated its capacity to provide faster and more affordable responses to high-impact events.

Industry experts have agreed that the success of this new phase will depend on the ability of the sector to design simple products that are adapted to the specific needs of the population.

With respect to future market developments, it has been identified that a combination of instruments—including traditional fire insurance, parametric insurance, and comprehensive risk management strategies—is emerging as a more complete response for the protection of assets in Chile. In this regard, the current discourse within the sector has been shifting toward financial and

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operational resilience, with a focus on understanding what coverage exists, how it operates, and what innovations may contribute to the mitigation of increasingly complex risks. For consumers and businesses, this entails strengthening the culture of insurance, obtaining information regarding alternatives that go beyond traditional policies, and evaluating solutions capable of responding with greater speed and precision in the face of rising natural hazard exposure.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

As an additional observation, various market participants have underscored the potential of parametric insurance as a tool to address growing climate uncertainty. It has been noted that parametric insurance represents a tool of significant potential in the face of scenarios of increasing climate uncertainty, and its specific application in the field of water resource management has been analyzed, highlighting its advantages in reducing vulnerability to droughts and extreme weather events.

It is relevant to consider that Latin America is a region highly exposed to extreme climate events (droughts, heavy rainfall, hurricanes, wildfires, and earthquakes), which leaves large segments of the population—particularly farmers and rural micro-entrepreneurs—beyond the reach of conventional insurance. Parametric insurance closes the insurability gap in these traditionally underserved markets.

On the other hand, the principal recognized advantage of parametric insurance is the speed of indemnity payment, which provides immediate access to liquidity following a catastrophic event. This characteristic renders parametric insurance a crucial tool for reducing protection gaps, particularly in vulnerable sectors or those that are difficult to insure through conventional methods, such as agriculture, micro-enterprises, and rural communities.

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COLOMBIA

By

Oscar Tutasaura and Juan Camilo Zuluaga

Pose Herrera y Ruiz

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Colombia has recognized parametric insurance since 2019. First, Law 1955 of 2019 set forth that agricultural insurance could take the form of parametric insurance, which means that any losses paid on that insurance could be claimed upon the occurrence of an agreed trigger. Later, in 2023 the definition of parametric insurance was broadened by Law 2294 of 2023 to other insurance business lines, allowing insurance companies to offer parametric or index-based insurance policies in which payment for a covered event becomes due upon the occurrence of one or more indices defined in the insurance contract. Per this update in local statutes, the index or indices must be correlated with the insured risk.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Parametric insurance in Colombia is defined is a modality of insurance contracts.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

Parametric insurance was first authorized for the agricultural business line, but is currently applicable to any business line, although agricultural and natural catastrophe insurance business lines are currently the ones in which this modality has seen major development.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Parametric insurance is permitted in Colombia since 2019 as a modality to provide insurance coverage by authorized insurance companies.

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If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

The current legal framework for parametric insurance includes the enactment of two laws by Congress authorizing the offering of this type of insurance modality. The first law (Law 1955 of 2019) authorized the offering for agricultural insurance, while the second law (Law 2294 of 2023) authorized the offering of parametric insurance to all business lines.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Parametric insurance products offered in Colombia must be deposited before the insurance regulator along with their technical note, after the board of directors of the insurance company has approved the deposit. The regulator, upon receipt of the proposed policy and technical note may issue comments within the following ten business days, otherwise, the product is deemed approved.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Wordings, triggers, pricing methodologies, or supporting actuarial materials are subject to a prior deposit filing, which is reviewed by the regulator. The regulator may issue requests for amending or clarifying any document.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Per an amendment to the Colombian Commerce Code effected by Law 2294 of 2023, in the case of parametric insurance, the payment for the occurrence of the insured risk will be made effective upon the realization of the index or indices defined in the insurance contract. Therefore, the indeminity principle has been caveated by local regulation.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Per an amendment to the Colombian Commerce Code effected by Law 2294 of 2023, in the case of parametric insurance, the payment for the occurrence of the insured risk will be made effective upon the realization of the index or indices defined in the insurance contract. Therefore, the indeminity principle has been caveated by local regulation.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

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Per an amendment to the Colombian Commerce Code effected by Law 2294 of 2023, in the case of parametric or index-based insurance, the occurrence of the loss and its amount will be demonstrated by the realization of the index or indices, in accordance with the model used in the design of the insurance and defined in the respective contract.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

Per an amendment to the Colombian Commerce Code effected by Law 2294 of 2023, in the case of parametric or index-based insurance, the occurrence of the loss and its amount will be demonstrated by the realization of the index or indices, winth no need to show that the event caused actual damage or loss.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

In Colombia, the calculation agent function is currently not subject to any specific regulatory, licensing, governance, or conduct requirements in parametric insurance.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

In Colombia, there are currently no legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data in parametric insurance.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

In Colombia, there are currently no legal or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

In Colombia, since parametric insurance products are treated as insurance products, they are subject to general distribution regulations that required intermediaries to be either incorporated (for brokers) or registered (for agencies and agents).

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May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

In Colombia, only insurance intermediaries may carry out authorized insurance intermediation, which entails certain activities that can only be performed by intermediaries. However, the regulations enable insurance companies to engage correspondants for promoting its services, which are not considered intermediaries. Also, online platforms can provide advertisement services for insurance companies, which is not per se considered insurance intermediation.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

In Colombia, there are no disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

In Colombia, regulations do not distinguish between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds for the purpose of the distribution of insurance products.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

*One particular challenge is that the trigger wording and contract certainty becomes sensitive in parametric insurance, given the risk of ambiguity in index definition, measurement methodology, thresholds, which can lead to coverage disputes despite "objective triggers. From a litigation perspective, c*ourts may interpret ambiguities against the insurer (contra proferentem).

Another challenge relates to data availability, reliability and governance. Parametric insurance depends entirely on third-party or sensor-based data, which poses a risk of manipulation (especially with on-site sensors), data gaps or inconsistencies and lack of standardized data providers.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

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Local consumer protection laws have a protective approach towards financial consumers and this poses a potential challenge with respect to the ambiguity in drafting the triggers for the parametric insurance. This point will be further developed below.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

From a Colombian insurance law perspective, the short answer is: there is currently no reported case law, arbitration, or regulatory enforcement specifically addressing parametric insurance contracts. However, the absence of precedent is temporary, and the sources of future disputes are already quite clear.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

The most foreseeable source of dispute regarding parametric insurances is that under Colombian lawthe occurrence of the loss and its amount are deemed proven by the index itself. This creates a shift from "damage-based" disputes to "trigger-based" disputes, including whether the index was correctly calculated, whether the threshold was met and ambiguities in geographic scope, measurement period and the data source. When the courts or arbitral tribunals begin interpreting technical trigger clauses under general contract rules, they will most likely apply contra proferentem against insurers.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

From a Colombian insurance law perspective, the legal and regulatory environment for parametric insurance is best described as evolving: it is now clearly permitted—particularly following the expansion introduced by Laws 1955 of 2019 and 2294 of 2023—but still lacks the level of regulatory detail and market maturity needed for full certainty. While the recognition of index-based triggers represents a significant step forward, important questions remain around how to apply traditional principles such as indemnity, how strong the required correlation between index and loss must be, and how the Superintendencia Financiera de Colombia will supervise product design, disclosure, and data reliability in practice. The absence of detailed secondary regulation, standardized disclosure requirements, and clear data governance frameworks creates operational and litigation risk.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

Going forward, the most useful developments would be targeted regulatory guidance from the Superintendencia Financiera de Colombia, clearer standards on correlation and data validation, and market-wide efforts to improve transparency and

SOUTH AMERICA

policyholder understanding, all of which would help transition the framework from formal authorization to practical and scalable implementation.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

SOUTH AMERICA

ECUADOR

By

Marco Solano and Juan David Polit

Aguilar Castillo Love

1. Purpose and Context

Parametric insurance was introduced in Ecuador on October, 2025, through an amendment to the chapter on the Insurance Contract in the Commercial Code. The amendment does not include a definition of parametric insurance. The amendment provides that the Financial and Monetary Policy Board will determine the elements or events that constitute insurable risk for parametric insurance purposes.

Parametric insurance most likely would be classified in Ecuador as insurance.

Ecuador has implemented its first parametric agricultural insurance (2026) focused on small producers of rice and corn, covering risks due to droughts and extreme rains.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Yes, parametric insurance is permitted in Ecuador.

If so, are parametric insurance products expressly regulated?

No, parametric insurance products are not expressly regulated.

If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

As was mentioned above, the Financial and Monetary Policy Board will determine the elements or events that constitute insurable risk for parametric insurance purposes. We are not aware, however, if this process has begun.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Ecuador has implemented its first parametric agricultural insurance (2026) focused on small producers of rice and corn, covering risks due to droughts and extreme rains.

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Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

There is no existing regulation on these issues.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

This is currently not regulated, consequently, the contract should establish the applicable principles.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

This is currently not regulated, consequently, the contract should establish the insurable interest requirements.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

This is currently not regulated, consequently, the contract should establish proof of loss or similar claim substantiation.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

In the case of parametric insurance, proof of the occurrence of the event will be carried out in accordance with the terms provided for in the contract.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

These issues are currently not regulated.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

No.

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Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

No.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

There are no specific rules regarding the distribution of parametric insurance products. According to Ecuadorian law only licensed insurance intermediaries may offer insurance products.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

In our opinion, based on the general rule of Ecuadorian insurance laws, non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers may not participate in the distribution or administration of parametric insurance products.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

No.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

NA

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

The main legal challenge is the absence of regulations on parametric insurance in Ecuador.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

No.

7. Disputes and Litigation

SOUTH AMERICA

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

Since parametric insurance is new in Ecuador, there are no litigation, regulatory action, notable disputes, complaints, or judicial precedents.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

NA

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

Since the regulations for parametric insurance have not been issued, the regulatory environment is uncertain at this moment.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

The issuance of regulations for parametric insurance by the Financial and Monetary Policy Board will support the development of parametric insurance in Ecuador.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

SOUTH AMERICA

PARAGUAY

By

Belen Codas & Carlos Codas

Ferrere Abogados

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

FERRERE: Currently, Paraguay does not have a statutory, regulatory, or market-recognized definition of "parametric insurance." Likewise, there is no specific regulation issued by the Superintendence of Insurance governing this type of product.

Nevertheless, this type of coverage would be analysed under the general provisions applicable to insurance contracts set forth in Law No. 827/96 on Insurance and the Paraguayan Civil Code.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

FERRERE: From a legal perspective, parametric insurance would most likely be classified as an insurance contract and, specifically, as property insurance, considering that this type of coverage does not fall within the category of personal insurance.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

FERRERE: The use and discussion of parametric insurance in Paraguay remains limited and primarily theoretical. Nevertheless, this type of product could be of potential interest in sectors such as agriculture, climate-related risks, weather events, and natural catastrophes.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

FERRERE: Parametric insurance would not be permitted under the current Paraguayan legal framework. This is because, in the absence of specific regulation applicable to this type of product, it must be analysed under the general rules governing property insurance pursuant to Law No. 827/96 on Insurance and the Paraguayan Civil Code.

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Under Paraguayan law, property insurance follows an indemnity-based structure, which requires the existence and quantification of the actual loss suffered by the insured. Therefore, the principal legal challenge for the implementation of parametric insurance in Paraguay does not arise from the use of objective parameters or automatic trigger mechanisms, but rather from the absence of a specific quantification of the patrimonial damage suffered.

Accordingly, a product providing payment solely upon the occurrence of a pre-agreed parameter, without requiring evidence and quantification of the actual economic loss suffered, could be considered incompatible with the principles applicable to property insurance under Paraguayan law.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

FERRERE: Parametric insurance products are not expressly regulated in Paraguay. Likewise, we are not aware of any legislative initiatives, regulatory consultations, or supervisory proposals specifically aimed at introducing a dedicated framework for parametric insurance or similar products.

A new insurance legislative reform project is currently under analysis in Paraguay. However, such proposal does not specifically address parametric insurance or other products with similar characteristics.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

FERRERE: not applicable

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

FERRERE: not applicable

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

FERRERE: not applicable

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

FERRERE: not applicable

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Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

FERRERE: not applicable

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

FERRERE: not applicable

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

FERRERE: not applicable

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

FERRERE: not applicable

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

FERRERE: not applicable

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

FERRERE: not applicable

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

FERRERE: not applicable

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

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FERRERE: not applicable

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

FERRERE: not applicable

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

FERRERE: not applicable

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

FERRERE: not applicable

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

FERRERE: not applicable

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

FERRERE: not applicable

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

FERRERE: not applicable

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

FERRERE: not applicable

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9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

FERRERE: Under the current Paraguayan legal framework, the principal obstacle to parametric insurance is not the parametrization of the risk itself, but rather the indemnity-based structure applicable to property insurance, which requires proof and quantification of the actual patrimonial damage suffered by the insured.

Accordingly, a standalone product providing payment solely upon the occurrence of a predefined parameter, without the need to demonstrate and quantify the actual economic loss suffered, would not be compatible with the principles currently governing property insurance in Paraguay.

SOUTH AMERICA

URUGUAY

By

Geraldine Ifran

Ferrere Abogados

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

The term is generally understood in the market to refer to insurance products in which the parties agree that the insurer's obligation to pay benefits is triggered in favor of the insured or the beneficiaries upon the occurrence of certain objectively defined parameters or conditions related to the damage, without requiring the insured to demonstrate actual loss or material damage. If the relevant event exceeds the threshold set forth in the policy, the insurer shall pay the insured or the beneficiary the benefit specified therein.

Although Uruguayan legislation governing insurance contracts (Law No. 19,678 of November 8, 2011, hereinafter the "Insurance Law") does not provide a specific definition of parametric insurance, it recognizes this modality and, when regulating property damage insurance, specifically identifies several of the distinguishing features of parametric insurance.

Indeed, Article 54 of the Insurance Law provides that a property damage insurance contract obliges the insurer to indemnify, in the manner and within the limits established in the policy, the loss actually suffered by the insured as a result of the insured event, or, *in the case of parametric insurance, the loss estimated on the basis of indicators that are closely correlated with the damage*.

Furthermore, Article 58 of the Insurance Law establishes that the insured or beneficiary must, in all cases, bear the burden of proving both the occurrence of the insured event and the amount of the loss or damage for which indemnification is sought from the insurer, *except in the case of parametric insurance, where the exceeding of the threshold set for the relevant indicator in the policy automatically triggers the indemnity payment*.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

It qualifies as an insurance contract.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

SOUTH AMERICA

In Uruguay parametric insurance is primarily used in the agricultural sector. Its application is typically linked to weather-related risks, particularly excessive rainfall, or drought.

2. Regulatory Status and Product Approval

Is parametric insurance permitted in your jurisdiction?

Yes.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Yes. As noted above, the Insurance Law regulates certain characteristic and distinguishing features of parametric insurance.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

The state-owned insurer Banco de Seguros del Estado and certain private insurers have been offering parametric insurance products for several years.

The process that enables the commercialization of this type of insurance is the same as that required for any other type of insurance product.

Uruguay does not require prior regulatory approval of insurance policy wordings; rather, it follows a prior notification regime under which the policy terms and conditions and the technical note must be submitted to the insurance regulator, the Superintendency of Financial Services of the Central Bank of Uruguay (the "Regulator") (Article 21 of Decree No. 354/94, dated August 29, 1994). Upon notification of the product, the insurer must submit the policy wording, the technical note, and a statement from the insurer indicating that the product has been reviewed by the head of the actuarial function, together with a legal opinion issued by counsel confirming that the contents of the policy fully comply with the applicable legal and regulatory framework (Article 16 of the Compilation of Insurance and Reinsurance Regulations of the Central Bank of Uruguay).

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

As noted above, prior to the commercialization of an insurance product, the insurer must submit the policy terms and conditions and the technical note to the Regulator. The process in Uruguay is one of prior notification rather than approval, and the insurer is authorized to market the product once such notification has been made to the Regulator. Notwithstanding the foregoing, the Regulator has the authority to make inquiries or issue observations on the submission, which the insurer must consider and engage with the Regulator in respect thereof.

3. Core Insurance Law Concepts

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Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

No. While the general principle in property and casualty insurance is that the policyholder or beneficiary bears the burden of proving both the occurrence of the loss or damage and the amount thereof for which indemnification is sought, the Insurance Law provides that this does not apply in the case of parametric insurance, where exceeding the threshold of the indicator set forth in the policy automatically determines the indemnity (Article 58).

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Yes, as is generally the case with other types of insurance, both at the time the insurance contract is entered into and at the time of the loss, there must be an insurable interest, understood as the interest that the insured has in ensuring that the insured property with which they maintain a lawful economic relationship is not affected by a specific risk (Article 5 of the Insurance Law).

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

No, the mere satisfaction of the parameter or threshold set forth in the policy determines indemnity (Article 58 of the Insurance Law).

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

No, the mere satisfaction of the parameter or threshold set forth in the policy determines indemnity (Article 58 of the Insurance Law).

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

No.

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

No.

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

SOUTH AMERICA

No.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

No, once the product has been notified to the Regulator, it may be marketed by the insurer either directly through its own sales force or through intermediaries.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

It should be noted that in Uruguay there is no specific regulation regarding insurance intermediaries. Those who carry out this activity are subject to the general legal framework applicable to companies. No registration, license, or authorization from the Regulator is required to engage in the intermediation of insurance products. Accordingly, our answer to the question is affirmative.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

No.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

In Uruguay no significant legal or regulatory barriers to parametric insurance have been identified. These products are admissible under the existing Uruguayan insurance framework. However, practical challenges do arise, particularly in relation to data reliability. Parametric insurance remains relatively limited, mainly concentrated in the agricultural sector, and its broader development depends on the availability of suitable underlying indices. In some cases, certain parameters are not supported by sufficiently reliable or consistently available data, and satellite-based or remote sensing indicators may involve a degree of measurement uncertainty, which can limit the expansion of parametric solutions to other types of risks and parameters.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Data reliability remains a key concern, as the availability and quality of the data used to construct the relevant indices may be limited or uneven. As a result, the range of parametric

insurance products offered in Uruguay remains limited, since only a reduced number of parameters are measured with sufficient frequency and reliability, typically related to rainfall and drought conditions.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

To the best of our knowledge, there is no significant litigation, regulatory action, or judicial precedent in Uruguay specifically addressing parametric insurance contracts. This is likely due to the relatively limited development and market distribution of these products. That said, it is true that some isolated disputes have arisen in relation to parametric insurance claims, generally where insured parties have sought indemnification despite the contractual trigger not being met. In such cases, Courts have upheld the parametric nature of these products, emphasising the coverage is strictly contingent on the agreed index being triggered, regardless of the actual loss suffered.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

N/A.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

In our opinion, it is favorable, as the validity of parametric insurance, as well as its key features, are recognized by law, providing a sufficient basis for its operation.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

No specific reforms or regulatory initiatives exclusively aimed at parametric insurance have been identified in Uruguay. However, there have been important institutional and market developments led by the Ministry of Livestock, Agriculture and Fisheries, particularly through pilot programs focused on promoting the uptake of agricultural insurance through subsidies, implemented in coordination with the state-owned insurer. These initiatives are not specifically targeted at parametric insurance, but parametric insurers have been included within them, such as index-based drought insurance for soybean crops and index-based excess rainfall insurance for horticulture. These programs were implemented several years ago, and the level of subsidies has been periodically adjusted over time. This has contributed to a gradual increase in the use of parametric insurance products in the agricultural sector.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

OCEANIA

AUSTRALIA

By

Robin Bowley

University of Technology Sydney

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

Australia does not have an official definition of parametric insurance.

Instead, it is commonly understood within the market as insurance which pays out an agreed amount if an event happens, rather than requiring the insured to prove loss.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

In Australia most forms of insurance are classified as 'financial products' under the Corporations Act 2001 (Cth).

The exceptions to this general rule include forms of insurance that are subject to other legislation (including for example marine insurance, workers compensation and compulsory third-party motor insurance).

So parametric insurance would be classed as a financial product.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

As Australia is prone to experiencing a range of weather-related events including bushfires, droughts, storms and (in northern Australia) cyclones, parametric insurance has been offered for several years – particularly for Australia's agricultural sector.

Parametric insurance is offered in the Australian market for:

- weather events (rainfall, wind, earthquake intensity),
- agriculture and business interruption "top-up" cover, and
- natural disasters.

2. Regulatory Status and Product Approval

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Is parametric insurance permitted in your jurisdiction?

Yes.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance?

Australia does not have specific regulations that apply expressly to parametric insurance.

More generally, all forms of insurance (with the exception of those to which separate legislation applies – see the first response above) are subject to two forms of regulation:

- Prudential regulation by the Australian Prudential Regulation Authority (APRA); and
- Conduct, disclosure and consumer protection regulation by the Australian Securities and Investments Commission (ASIC).

Parametric insurance would be subject to both of these forms of regulation.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

Whilst there are currently no regulations that apply specifically to parametric insurance for registration, filing, approval or review in Australia, ASIC has powers to review the offerings of financial products across the areas it regulates.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

No.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

This would depend on the wording of the applicable insurance contract.

However the most common practice would be that the insurer would agree to pay the insured

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

Under the Insurance Contracts Act 1984 (Cth) (which would apply to parametric forms of insurance), an insurable interest is not required

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

The usual trigger for a parametric policy to respond would be the occurrence of a pre-agreed event (for example a specified level of rainfall or the occurrence of a specified extreme weather event)

OCEANIA

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

This would depend on the terms of the applicable insurance contract

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

No

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

No

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

No. The main source of weather data in Australia is the government-run Bureau of Meteorology.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

There are no rules that apply specifically to the distribution of parametric insurance in Australia. Intermediaries such as insurance brokers are subject to conduct and disclosure obligations under the Corporations Act 2001.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

There are no rules that apply specifically to the distribution or administration of parametric insurance products in Australia.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

See the response below.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

The Insurance Contracts Act 1984 (Cth) regulates the contractual relationship between the insurer and the insured throughout the policy life cycle of an insurance contract (including those

relating to pre-contractual disclosure and the handling of claims), with specific provisions applying to consumer insurance contracts. ASIC has powers to enforce compliance with certain provisions of this statute.

The Corporations Act 2001 (Cth) includes a range of disclosure requirements in relation to the offering of financial products (including most forms of insurance), as well as licensing requirements for insurers and intermediaries. It also includes financial product design and distribution obligations and provides ASIC with powers to intervene to ban the distribution of financial products where there are concerns of significant consumer detriment.

The Australian Securities and Investments Commission Act 2001 (Cth) contains several consumer protection provisions. This includes an unfair contract terms regime, which has applied to insurance contracts since 5 April 2021.

These provisions could encompass regulatory disputes concerning parametric forms of insurance.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

There are no current legal or regulatory challenges for the offering and distribution of parametric insurance products in Australia.

At a practical level, challenges that might occur could relate to misunderstandings by insureds as to the quantum of potential entitlements following a claim under a parametric insurance policy, and the criteria for how this would be determined.

As parametric insurance products develop in Australia, the clarity of policy wordings and other product documentation is likely to be an issue that regulators such as ASIC may focus on.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Not as yet.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

To date there has not yet been any litigation or decisions by the Australian Financial Complaints Authority (which is the designated body for resolving disputes between financial firms and consumers and eligible small businesses) in relation to parametric insurance.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

As Australia is a very large country, with large amounts of its inland land areas (which may be used for agricultural purposes such as cattle and/or sheep breeding) being either arid or semi-

arid, a challenge may be pinpointing which weather satellites and/or radars to rely upon when quantifying the occurrence of extreme weather events which may give rise to a claim on a parametric insurance policy, and whether this engaged the appropriate triggers for the policy to respond.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

The legal and regulatory environment in Australia is favourable to the offering of parametric insurance.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

Not as yet, but it would be advisable for regulators such as ASIC to be aware of the characteristics of parametric insurance and both the benefits and potential challenges with this form of insurance.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.

OCEANIA

NEW ZEALAND

By

Jonathan Scragg

Duncan Cotterill

1. Purpose and Context

Does your jurisdiction have a statutory, regulatory, or market-understood definition of parametric insurance? If so, please provide it.

New Zealand does not have an official definition of parametric insurance, but it is commonly understood as insurance which pays out an agreed amount if an event happens, rather than requiring the insured to prove loss.

How would parametric insurance most likely be classified in your jurisdiction: insurance, a contingent contract, a financial product, a derivative-like product, or another category?

Parametric insurance is classified as a type of insurance in New Zealand. It fits within that definition because it involves:

- the transfer of risk,
- payment of a premium, and
- a conditional obligation to pay on the occurrence of a defined uncertain event — even though payment is not linked to proof of actual loss.

Are there particular market segments in which parametric insurance is currently used or discussed in your jurisdiction (for example, agriculture, natural catastrophe, weather, infrastructure, energy, or reinsurance)?

New Zealand experiences a wide range of natural hazards, from earthquakes and volcanoes to erosion, landslides, and extreme weather events. Parametric insurance arose in New Zealand as a solution to these types of events, particularly as a result of the Christchurch Earthquakes of 2010 and 2011.

Parametric insurance is offered in the New Zealand market for:

- weather events (rainfall, wind, earthquake intensity),
- agriculture and business interruption “top-up” cover, and
- natural disasters.

2. Regulatory Status and Product Approval

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Is parametric insurance permitted in your jurisdiction?

Parametric insurance is permitted in New Zealand.

If so, are parametric insurance products expressly regulated? If not, are there ongoing initiatives, consultations, or legislative proposals to introduce specific regulations or guidance for parametric insurance.

Parametric insurance is not subject to any specific regulations beyond the standard insurance regulations, nor are there any proposals to introduce any specific regulation. All insurance products, including parametric insurance, must comply with usual contract law provisions and New Zealand's Fair Trading Act 1986, which prohibits unfair contract terms and misleading and deceptive conduct.

Are any parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator? If yes, please describe the applicable process.

There are no parametric insurance products currently registered, filed, approved, or otherwise reviewed by the regulator – this is not a process that is used in New Zealand.

Are policy wordings, triggers, pricing methodologies, or supporting actuarial materials subject to prior approval, filing, or supervisory review?

Specific policy wordings, triggers, pricing methodologies, or supporting actuarial materials are not subjected to any approval or review process in New Zealand.

3. Core Insurance Law Concepts

Does the validity of a parametric insurance contract depend on compliance with indemnity principles or proof of actual economic loss?

Each insurer's parametric insurance contract can differ, but generally there is no requirement for an insured to prove any actual economic loss, or that they have any loss to be indemnified. The usual arrangement is that the insurer will pay the insured on the happening of a specified event, without any other information required.

Are insurable interest requirements applicable to parametric insurance in your jurisdiction? If so, how are they satisfied or assessed?

New Zealand's insurance law does not require an insured to have an insurable interest in the subject matter of the insurance. An insurable interest is therefore also not required for parametric insurance.

Is a proof of loss or similar claim substantiation required for parametric insurance in your jurisdiction? If yes, what must be demonstrated beyond satisfaction of the agreed trigger?

There is no need to prove loss, or to substantiate a claim in any other way, for a claim to be made under parametric insurance – all that is required is that the triggering event has occurred.

Is the insured required to show that the triggering event caused actual damage or loss, or is satisfaction of the agreed parameter sufficient for payment?

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The insured is not required to show that the triggering event caused any actual damage or loss. The agreed sum is immediately payable by the insurer once the triggering event occurs.

4. Trigger Data and Calculation Methodology

Is the calculation agent function subject to any specific regulatory, licensing, governance, or conduct requirements?

No

Are there legal or regulatory requirements regarding the independence of the calculation agent, management of conflicts of interest, transparency of methodology, or access to underlying data?

No

Are there any legal, regulatory, or evidentiary rules governing the use of third-party indexes, weather data, satellite data, catastrophe models, or automated trigger mechanisms?

No. Parametric insurance in New Zealand primarily arises through natural hazard events (earthquakes and volcanic eruptions) or extreme weather events. The data monitoring these events is generally obtained through New Zealand Government agencies, and is available to everyone and trusted to be accurate.

5. Distribution and Intermediaries

Is distribution of parametric insurance products limited to insurance intermediaries or otherwise subject to licensing, registration, or conduct obligations?

Insurers and insureds in a direct relationship may enter into a parametric insurance agreement. However parametric insurance is uncommon in New Zealand, and it is unlikely that it would arise without the involvement of an insurance intermediary.

Any person, whether an insurance intermediary or otherwise, who provides financial advice relating to insurance policies must be licenced to provide that advice.

May non-insurance intermediaries, such as online platforms, technology providers, embedded insurance distributors, managing general agents, or other non-regulated service providers participate in the distribution or administration of parametric insurance products? If so, on what basis?

Everyone who provides financial advice relating to any insurance policies, including parametric insurance, must be licensed to provide that advice. This applies to businesses and individuals, and includes those who provide information online platforms, etc. If they are licensed, they may be involved in any type of insurance policy, including parametric insurance.

Are there any disclosure, suitability, product governance, unfair terms, or other consumer protection requirements particularly relevant to parametric insurance products?

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There are no consumer protection requirements that apply to parametric insurance products that do not also apply to traditional insurance products. The Fair Trading Act 1986 prohibits unfair contract terms, but this is limited to ancillary terms in a contract. Terms that define the main subject matter of the contract or set the amount payable (which would include the detail of the triggering event, the amount of insurance to be paid out if the event occurs, and the premium to be paid) cannot be declared to be unfair contract terms.

Does the applicable position differ between commercial policyholders and consumers, or between sophisticated and non-sophisticated insureds?

The unfair contract provisions are more onerous against an insurer when the insured is either a consumer, or the policy is considered a "small trade contract". A policy is a small trade contract if the consideration (in this case, the premium payable) is less than $250,000 per year. (However, note that from no later than 15 November 2027 this will be amended so that it will only apply to policies where the annual premium is less than $20,000).

However, it is important to note that parametric insurance is still an emerging option in New Zealand, and has not yet reached the mainstream. It is unlikely that consumers or businesses who have "small trade contracts" would be entering into a parametric insurance policy.

6. Legal and Regulatory Challenges

What are the main legal, regulatory, or practical challenges associated with the offering, distribution, or enforcement of parametric insurance products in your jurisdiction?

There are no legal or regulatory challenges to parametric insurance. The main practical challenge is a resistance to change. Most New Zealanders accept the importance of insurance, and have an expectation that their insurance would operate to put them back in the same position that they were previously in. It requires a significant change in mindset to acknowledge that the insurance could simply return an agreed amount, without proof of loss or damage. It would also require a higher level of pre-assessment of the amount that the insured would require, post-event.

Are there particular issues relating to basis risk, trigger wording, transparency, data reliability, claims communication, or policyholder expectations that deserve attention?

Any insurer offering parametric insurers should ensure that the policyholder is clear about:

- the triggering event for a claim (specifically that if there is no trigger for the event then no payment will be made, even if damage occurred – for example, from an earthquake with a magnitude just below the trigger level), and
- the payment amount for the claim (specifically that it is a pre-agreed amount, with no latitude for change if the actual loss or damage was higher).

Any lack of clarity about those matters could lead to an argument that the insurer engaged in misleading or deceptive conduct, and that the policy should either be void, or varied.

7. Disputes and Litigation

Please identify any litigation, regulatory action, notable disputes, complaints, or judicial precedents involving parametric insurance or reinsurance contracts in your jurisdiction.

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There has not been any litigation or disputes leading to judicial precedents about parametric insurance in New Zealand.

If no reported decisions exist, are there common themes or foreseeable sources of dispute, such as trigger interpretation, methodology challenges, causation arguments, mis-selling, or data integrity concerns?

There are no disputes or litigation, but it is likely that potential dispute areas will be:

- misunderstanding of trigger conditions,
- events that cause loss but don't meet trigger, and
- adequacy of pre-contract disclosure.

8. Outlook

Is the legal and regulatory environment in your jurisdiction favourable, restrictive, uncertain, or evolving for parametric insurance, and why?

We consider that the legal and regulatory environment in New Zealand is favourable for the development of parametric insurance. The regulatory environment is generally permissive, allowing parties to determine for themselves what bargain they are willing to enter into.

New Zealand applies a conservative prudential capital regime, requiring licensed insurers to be prepared for a 1 in 1,000 year catastrophe. This can make innovative catastrophe linked products harder to scale domestically compared with some overseas markets. However, this prudential constraint and does not single out parametric insurance.

Are there any reforms, market developments, or regulatory clarifications that would most usefully support the development of parametric insurance in your jurisdiction?

New Zealand has a product-neutral, innovation-tolerant insurance framework. Regulators do not support the development of one type of insurance over another. One area that could be refined is the prudential requirements, as parametric insurers will be certain of their actual exposure for any given event before it occurs, whereas traditional insurers will only be certain of their exposure once all claims are made after an event.

9. Optional concluding note by contributor

Please feel free to include any additional observations that may assist the comparative analysis, including references, market practice, doctrinal tensions, or recommendations for future clarification or reform.