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Regulatory Regimes and Multinational Insurers before 1914

At the end of the twentieth century, the global diffusion of one important financial service, insurance, was encouraged by deregulation, but it also encountered difficulties where deregulation remained incomplete and where there were many nonregulatory barriers to entry. International insurance was already well developed before 1914. The growth in the global insurance trade, however, occurred against a background of increasing national regulation and fiscal burdens in many countries, making international business affordable only for the largest companies with the deepest reserves. This paper offers some preliminary estimates of the extent of the international insurance trade during the half-century before the First World War, and assesses the impact of national regulatory regimes and nonregulatory factors on the development of this business. The analysis is placed within the framework of modern theories of regulation and multinational enterprise.

The modern insurance industry is a global multi-trillion dollar business.¹ Surprisingly, however, comparative international insurance history remains in its infancy.² We seek to advance this history by

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Earlier versions of this paper were presented at the Business History Conference in Lowell, at seminars at the University of Southern Mississippi and Queen's University Belfast, and at the Association of Business Historians Conference, London. Our thanks go to the participants for their comments, as well to three anonymous referees. Robin Pearson also wishes to thank the Nuffield Foundation (award number SOC/181/1876) and the U.K. Economic and Social Research Council (award number R000234859) for their support of some of the research presented here, and also Lucy Ponting for her invaluable research assistance.

¹Worldwide insurance premiums amounted to US\$3.4 trillion across 145 countries in 2005. Swiss Re, "World Insurance in 2005," *Sigma*, no. 5 (2006).

²Studies of international insurance have been hitherto largely confined to histories of individual companies or national markets. Exceptions include Mira Wilkins, *The Emergence of*

Business History Review 82 (Spring 2008): 59–86. © 2008 by The President and Fellows of Harvard College.

examining the impact of regulatory regimes on the international diffusion of property insurance before 1914. Our focus is principally on fire and marine insurance, as other forms of nonlife insurance, such as automobile and liability, remained underdeveloped in this period. Because the historical trajectory of life insurance, and some of its regulatory history, differs from that of property insurance, it deserves a separate study.³

The paper proceeds in three parts. First, we present an outline of the growth of international property insurance during the half-century before the First World War, using new data on several dozen national and colonial insurance markets compiled from a few existing studies and an array of contemporary sources, notably trade journals and official publications. The numbers are fragmentary, reflecting the paucity of long-run time series for insurance before 1914 and the unevenness of financial reporting requirements in this period. Nonetheless, the data cover North America, most of the important European markets, and Japan, together representing a wide variety of political regimes and regulatory systems. Second, we identify multinational forms of property insurance in this period and discuss firms' motives for adopting different organizational methods when entering foreign markets. Third, we survey the regulatory regimes for insurance that emerged in this period. In passing, we draw on modern regulatory and multinational theory for insights that help explain some of the patterns that emerge from our analysis. In our conclusion, we point to possible links between multinational forms of insurance and regulatory regimes and assess the impact of those links on the growth of international insurance before 1914.

Cross-Border Trade in Insurance before 1914

At this stage of research, we cannot reconstruct precisely the global diffusion of insurance, but we do have some idea of the major phases and

Multinational Enterprise: American Business Abroad from the Colonial Era to 1914 (Cambridge, Mass., 1970); Robin Pearson, "The Development of Reinsurance Markets in Europe during the Nineteenth Century," *Journal of European Economic History* 24, no. 3 (1995): 557-71; Peter Borscheid, "Vertrauensgewinn und Vertrauensverlust: Das Auslandsgeschäft der deutschen Versicherungswirtschaft 1870-1945," *Vierteljahrsschrift für Sozial und Wirtschaftsgeschichte* 88, no. 4 (2001): 311-45; Kai Umbach, "Die Position deutscher Transportversicherer auf dem Weltmarkt 1880-1914," *Vierteljahrsschrift für Sozial und Wirtschaftsgeschichte* 94, no. 4 (2006): 413-37. See also several of the contributions to Peter Borscheid and Robin Pearson, eds., *Internationalisation and Globalisation of the Insurance Industry in the Nineteenth and Twentieth Centuries* (Marburg, 2007).

³Mira Wilkins has shown the way with her analysis of U.S. life-insurance companies abroad before 1914, but there is much more to be done. Wilkins, *Emergence of Multinational Enterprise*, 65. See her comments in "Multinational Enterprise in Insurance: An Historical Overview," in *Internationalisation and Globalisation of the Insurance Industry*, eds. Borscheid and Pearson, 4-26.

patterns of growth. Marine insurance had been international in nature since its origins in Mediterranean lands during the fourteenth century. It expanded greatly with the growth of the Baltic, Asian, and Atlantic trades between the sixteenth and the eighteenth centuries. By the mid-nineteenth century, marine insurance was dominated by a few large British insurance companies, by Lloyds of London, and by brokers operating out of ports such as Hamburg and Bremen.⁴ Inland-freight and river-transport insurance in continental Europe, however, rapidly became the preserve of European companies. Swiss companies, for instance, made inroads into Italian and Austrian transport insurance, while their German counterparts were numerous in the Netherlands, Austria, Italy, southeastern Europe, Turkey, and Scandinavia, although large numbers did not always equate to a large aggregate market share for foreign firms.⁵

By contrast, fire insurance was first sold overseas between 1780 and 1820 by a few British offices, led by the Phoenix of London. By 1815, the Phoenix had made forty-two agency appointments in Europe, North America, the West Indies, Buenos Aires, and the Cape. During the following decade, overseas insurance, which was generally very profitable, accounted for half of the company's premiums.⁶ A second phase of diffusion commenced in the mid-1820s, when bilateral treaties began to be struck between several German, French, Belgian, Russian, and British companies to reinsure property in the United Kingdom and Europe.⁷ From its early centers in Europe, North America, and the West Indies, fire insurance spread to British India, China, and the Malay Peninsula during the 1830s and 1840s, largely through the agencies of British insurers, though local companies were also set up by colonial merchants in Bombay and Canton.⁸ After 1850 it became truly global, diffusing to Australia, Africa, Asia, Latin America, and the Middle East, and reaching those parts of Europe hitherto largely untouched, such as Spain, the Balkans, and Eastern Europe. This third phase of growth, commencing in the early 1850s and ending with the 1873 financial crisis in Europe, was marked by the rise of powerful new Liverpool-based insurance exporters, such as the Royal and the Liverpool & London, which used the

⁴Robin Pearson, "Finance, Insurance," in *History of World Trade since 1450*, 2 vols., ed. John J. McCusker (Farmington Hills, Mich., 2006), vol.1: 290-91.

⁵There were, for example, eleven German transport insurers in Sweden in 1893, fourteen in Austria in 1913, seventeen in Italy in 1912, nineteen in Denmark, and ten in Finland in 1903. In all these countries, native offices accounted for two-thirds or more of premiums by the decade before the First World War. Umbach, "Deutscher Transportversicherer."

⁶Clive Trebilcock, *Phoenix Assurance*, 2 vols. (Cambridge, U.K., 1985, 1998), vol.1: 248-67.

⁷Pearson, "Development of Reinsurance Markets."

⁸P. G. M. Dickson, *The Sun Insurance Office, 1760-1960* (Oxford, 1960), 192.

mercantile connections of their founders to extend underwriting to the Pacific coast of North America and to India and the Far East. Insurers quickly followed Commodore Perry's gunships into Japan. There were thirty-seven foreign companies operating there by 1870, including British, Chinese, and Dutch firms, only nine years after the first had arrived and nine years before Japan's first native insurance office was established.⁹ The postbellum period in the United States also witnessed increasing numbers of British, German, and French fire insurers, especially after the failure of American companies in the wake of the giant conflagrations in Chicago (1871) and Boston (1872). In the older centers of underwriting in Europe, fire insurance became fiercely competitive, aided in part by a boom in the foundation of specialist reinsurance companies. By 1863, for instance, there were seventy-five fire-insurance agents operating in Hamburg and fifty in Copenhagen.¹⁰

In countries where they were not excluded by law, the numbers of foreign insurers generally rose during the late nineteenth century, but entry to markets continued to be cyclical. There were at least three further peaks before the First World War: in the early 1880s, the late 1890s, and from 1910 to 1913. Table 1 reconstructs the numbers of foreign insurance companies entering four countries in each decade, compared with the total number of stock companies operating there.¹¹

Two of these countries were net importers with few native offices (Spain and Norway); one was a net importer with a large number of native offices, almost none of which exported (the United States); and one was a net exporter with some powerful domestic firms that harbored overseas ambitions (Sweden). The numbers entering Sweden, Norway, and the United States rose during the 1850s, and they grew in Spain during the 1870s. In the Scandinavian countries, foreign entry peaked during the 1860s, while in Spain and the United States there was little or no entry during the periods of civil war in the 1860s. There were further peaks of entrants to the United States in 1872, 1876, and 1881, each higher than the one before. The upswing of the early 1880s was also experienced by Sweden and Norway. There were thirty foreign fire in-

⁹The Sumitomo Marine & Fire Insurance Co., *The First Century, 1893-1993* (privately printed, 1993), 12.

¹⁰Trebilcock, *Phoenix Assurance*, vol.1: 315-16.

¹¹Mutuals are excluded from this table in order to compare like with like. Almost all foreign entrants were stock companies. In some countries, the number of tiny mutual offices was very large. There were 1,012 "parish" mutual fire-insurance associations in Sweden in 1910, for instance.

¹²*Spectator* (May 1871): 417; *Insurance Times* (hereafter *IT*) (Oct. 1883): 608; *Rundschau der Versicherungen* (hereafter *RdV*) 13 (1863): 36-38; *Vereinsblatt für Deutsches Versicherungswesen* (hereafter *VDV*) 2 (1874); Bengt Bergander, *Försäkringsväsendet i Sverige, 1814-1914* (Lund, 1967).

Table 1
Entry by Foreign Insurance Companies into
Four National Markets^a

Year	Spain		Sweden		Norway		U.S.A.	
	Foreign ^b	Total ^c	Foreign	Total	Foreign	Total	Foreign	Total
Before 1830	—	2	2	—	1	—	3	—
1830-39	2	5	—	—	6	—	1	—
1840-49	1	12	4	4	3	—	—	94
1850-59	2	30	15	16	11	—	8	253
1860-69	2	24	26	28	17	—	7	450
1870-79	6	32	13	15	13	—	39	759
1880-89	2	35	17	22	18	—	38	817
1890-99	14	59	21	35	11	19	—	—
1900-09	20	102	23	34	—	—	—	—
1910-15	24	184	26	37	—	—	—	—

Sources: Rosales and Quiza, "Los Seguros en España, tables 1, 2; Bergander, *Försäkringsväsendet*, 125-27; Hägg, *Institutional Analysis*, table 7; Insurance Inspectorate, *Private Insurance in Sweden, How it has Developed and How It Is being Supervised* (Stockholm, 1954), 71-73; Færden, *Forsikringsvesenets*, 323; U.S. Bureau of the Census, *Insurance Report* (Washington, D.C., 1890), table 1, 74-77, supplemented by data from Cornelius Walford, *Insurance Cyclopedia*, vols. 1-5 (London, 1871-78); Donald Armstrong, "A History of the Property Insurance Business in the United States prior to 1890" (Ph.D. diss., New York University, 1971), tables 7 and 8, pp. 72-74.

^aThe data for Spain cover all branches; those for Sweden, Norway, and the U.S. cover property (fire, marine, and inland) insurance only.

^bForeign = cumulative gross numbers entering in each period. They are *not* net of withdrawals.

^cTotal = total number of foreign and domestic stock companies at end of the given period.

surers in Sweden in 1862, but seventy-nine by 1884.¹² In Spain, by contrast, there were still only nine foreign offices in 1880, but by 1898, the number had reached twenty-four.¹³

Tables 2 and 3 present the foreign share of insurance premiums in these four countries, plus eight others, between the 1870s and the First World War.¹⁴ Both tables display data for twenty-one different markets in twelve countries, representing fire, marine, nonlife, or all branches of insurance, as the sources allow. Table 2 divides these markets based on

¹³ Esperanza Frax Rosales and Jesús Matilla Quiza, "Los Seguros en España: 1830-1934," *Revista de Historia Económica* 14, no. 1 (1996): 183-203.

¹⁴ The data on marine insurance must be treated with particular caution. In the age of telegraphy, marine insurance appears to have been highly price elastic, and risks could be relatively easily insured in London by shipowners and merchants where local agents could not offer a competitive premium. Such insurance policies would not appear in national statistics. Umbach, "Deutscher Transportversicherer," 429.

Table 2
Foreign Company Share of National Insurance Markets^a

Low Import Penetration (<30%)

Austria-Hungary (Fire) 1%–4% 1868–1912
Germany (Fire) 10% 1903–09; (*All Branches*) 14% 1902–13
Japan (Fire) 14% in 1905, 27% in 1910; (*Marine*) 16% in 1907, 3% in 1910, 7% in 1913
Norway (Marine) 9% in 1868–69, 11% in 1875–76, 18% in 1914
Sweden (Fire) 3%–4% in 1887–1914; (*Marine*) 8%, 1890–05, 11% in 1900, 5% in 1910
Switzerland (Fire) 28%, 1886–87, 14%–15% 1891–97

High Import Penetration (>30%)

Canada (Fire) 66% in 1878, 69% in 1881, 76% in 1882; (*Nonlife*) 51% in 1904
Finland (Fire) 42% 1895–98; (*Transport*) 54% in 1895
Italy (Marine) 40%–51% 1887–97, 33% in 1912
Netherlands (Fire) 50% in 1910
Norway (Nonlife) 23% 1868–69, 31% 1875–76, 35% 1881–86, 38% in 1891, 41% in 1896, 45% in 1901–06
Spain (Fire) 37% in 1910; (*All Branches*) 40% 1909–14, 63% 1914–15
Switzerland (All Branches) 43% in 1886, 37% in 1904, 33% in 1912

Sources: AJ 1–35 (1880–1914); W. Rohrbach, ed., *Versicherungsgeschichte Österreichs* (Vienna, 1988), 423; IT (1883): 285, 608; U.S. Bureau of Manufactures, *Insurance in Foreign Countries*; Gesellschaft fuer Feuer-versicherungsgeschichtliche Forschung e.v., *Das Deutsche Feuer-versicherungswesen* (Hanover, 1913), vol. 2, table. 13, p. 590; T. C. Kölmel, *Das Auslandsgeschäft deutscher Versicherungsunternehmen in den USA* (Frankfurt/Main, 2000), 132–33; Umbach, "Deutscher Transportversicherer," 41, 429, 433n127; B. P. A. Gales and K. Sluyterman, "Outward Bound: The Rise of Dutch Multinationals," in *The Rise of Multinationals in Continental Europe*, eds. Geoffrey Jones and Harm G. Schröter (Aldershot, 1993), 65–98; Færden, *Forsikringsvesenets*, 324–25; A. J. Cook, "Insurance in Spain," *PM*, 25 Oct. 1913; Rosales and Quiza, "Los Seguros en España," 183–203; Hägg, *Institutional Analysis*, tables 23, 24; K. Englund, *Försäkrings och fusioner. Skandia, Skåne, Svea, Thule, Öresund, 1855–1980* (Stockholm, 1982), 43–44; *Statistical Yearbook for Sweden* (Stockholm, 1914); Borscheid, "Vertrauensgewinn und Vertrauensverlust," figs. 5, 6.

^aAnnual averages are given where data cover more than one year. Figures are percentages of premiums earned, gross of reinsurance, except Sweden (1887, 1903, 1913 only) and Japan (marine), which are percentages of sum insured. Swedish figures for 1890, 1895, 1900, 1905, and 1910 are net premiums for Swedish firms, gross premiums for foreign firms.

their records of low and high import penetration; the dividing line for foreign market share is set at 30 percent.¹⁵

¹⁵Only three of the twenty-one markets moved across this threshold, namely, nonlife insurance in Norway, where the premium share of foreign companies increased from 23 percent in 1868 to 31 percent in 1875; and fire and marine insurance in the United States, as shown in Table 3, where foreign market share rose above the 30 percent mark between 1872 and 1915, sometimes more than once.

Table 3
Foreign Company Share of U.S. Insurance Markets

Year	<i>Marine and Inland</i>		<i>Fire and Marine^a</i>	
	<i>\$m insured</i>	<i>% of \$ insured^b</i>	<i>\$m premiums</i>	<i>% of premiums</i>
1872			44	25
1875	1,283	8	50	22
1880	1,907	12	46	35
1885	1,833	18	—	—
1890	2,637	44	—	—
1891	—	—	149	27
1895	2,780	58	161	29
1900	5,226	63	182	31
1905	5,690	45	273	24
1910	12,596	59	352	24
1915	21,527	51	434	29

Sources: Calculated from *Spectator*, 21 Aug. 1919; *ICM* 11 (1881): 118; *The Insurance Yearbook* (New York, 1896–1916); *IT* (1893): 184.

^aThe first three rows relate to fire insurance only.

^bStock and mutual companies, plus Lloyds from 1903.

From the 1870s and 1880s in Austria-Hungary, Switzerland, Sweden, in Norwegian marine insurance, and in Germany and Japan during the 1900s, foreign insurers achieved only a modest presence. In some places, they were virtually absent. There were no foreign companies at all in Russia before 1868, and hardly any in Austria before the liberal legislation of 1873. An imperial decree of 1871 allowed foreign direct fire insurers into Russia and Russian Poland, but most chose to continue to underwrite reinsurance only.¹⁶ By contrast, in the Netherlands, Canada, Finland, Spain, and in the markets for Norwegian fire insurance and Swiss transport insurance, levels of foreign penetration were high. Developing economies lacking local firms or state monopolies necessarily had to find all their insurance with foreign firms, as was the case in Romania before 1872, Japan before 1879, and Turkey and Egypt before 1897. As late as 1905, Greece, much of Central America and the West Indies, and smaller Asian countries, such as Siam, had no native insurance companies at all.¹⁷

¹⁶Trebilcock, *Phoenix Assurance*, vol.2: 142. According to the U.S. consul in Moscow in 1905, foreign insurance companies could operate under a charter, but few did. A few more operated illegally. U.S. Bureau of Manufactures, *Insurance in Foreign Countries*, Special Consular Report 38 (Washington, D.C., 1905).

¹⁷*Ibid.*

Increasing foreign entry did not always lead to a decline in market share for native firms. Countries with powerful local companies, such as Sweden, could accommodate growing numbers of foreign insurers without any concomitant loss of business, as a comparison of Tables 1 and 2 demonstrates. For the same reason, foreign market share fell in Switzerland during the three decades before the First World War. Foreign insurers also made only limited inroads into markets with a strong tradition of mutual insurance, such as Germany and France, particularly in specialist branches, such as hail or livestock insurance.

Table 3 suggests that the foreign share of the world's largest property insurance market, the United States, rose during the 1870s and the late 1890s, both decades when total premium volume was growing only slowly or shrinking. When the U.S. market grew quickly in the 1900s, the share held by foreign insurers fell. As total premium volume grew again between 1910 and 1915, however, foreign market share also rose rapidly. Here too, therefore, import penetration was cyclical, but its relation to the development of the total U.S. market remains unclear, as it does for other countries.¹⁸ Overall, the growth in the amount insured by foreign companies in the United States was impressive. Between 1899 and 1914, while U.S. GDP grew by 57 percent in real terms and long-term foreign direct investment in the United States grew by 123 percent, fire and marine insurance premiums earned by foreign companies grew even faster, from \$51 million to \$121 million, or by 137 percent.¹⁹

A detailed analysis of the cycles of international insurance growth during the half-century before 1914 is beyond the scope of this paper, but it is worth noting that the connection with foreign investment is not obvious. Consider the figures for Britain, by far the world's biggest exporter of insurance. British companies were flooding into the United States after the Chicago and Boston fires just as Britain's net foreign investment was falling, and the same was true of the insurers' rush into the United States during the mid-1890s, when there was an investment boom back home. In the latter case, some British (and German) companies sought to take advantage of the weak position of many smaller American firms following the recession of 1893, while they were also enticed by rival companies' reports of profits on U.S. business in earlier periods.²⁰ In other words, in each upswing of foreign entry, there may have been period- or event-specific factors helping to explain the trend.

¹⁸This question is explored for the United States in a forthcoming book by Robin Pearson, *Insuring America: Multinational Insurers in the United States, 1850-1920*.

¹⁹Angus Maddison, *Dynamic Forces in Capitalist Development* (Oxford, 1991), 210; Wilkins, *History of Foreign Investment in the United States*, 159.

²⁰Robin Pearson, "British and European Insurance Enterprise in American Markets, 1850-1914," *Business and Economic History* 26 (Winter 1997): 438-51.

Nevertheless, the general patterns of British commerce were reflected in the distribution of overseas insurance sold by major exporters, such as the Phoenix, notably the relative decline of trade and investment in Europe between 1865 and 1914, and the rise in the importance of the United States, India, China, and the Dominions.²¹

One remarkable feature of nineteenth-century insurance was the range of nations involved in exporting it. By 1870 companies from the United Kingdom, Germany, France, the Netherlands, Belgium, Austria-Hungary, China, Canada, and Switzerland sold fire or marine insurance in foreign markets. During the following two decades, insurers from New Zealand, Sweden, Norway, Denmark, Ireland, Singapore, Japan, Australia, and the United States joined this list. At present, it is difficult to explain such diversity, given how little we know about the insurance industries of many of the smaller insuring nations. Driving the international diffusion of property insurance, however, were those companies from Britain and Europe whose business was highly dependent upon foreign income. The largest, the Liverpool, London & Globe, earned 86 percent of its total premiums abroad in 1906.²² However, companies in other countries depended heavily on exports as well. For example, between the 1880s and the 1900s, up to 70 percent of the total premiums earned by the major Swedish insurers came from abroad.²³

In sum, although the data are fragmentary, they are sufficient to point to three conclusions about the global diffusion of property insurance: first, that it was cyclical in nature; second, that different markets were riding on different cycles, so that diffusion was not even or simultaneous across countries; third, that levels of import penetration in different countries could fall as well as rise during this period. Thus, the growth of international insurance was not a linear phenomenon. We can also distinguish between the trajectories of marine and fire insurance. The former had always exported its services far and wide, even as the chief locus of marine underwriting moved from the Mediterranean ports to northwestern Europe between the fifteenth and nineteenth centuries. By contrast, the business of exporting fire insurance commenced in the late eighteenth century from one source—London. By the middle of the nineteenth century, however, fire-insurance exports too had begun to flow from multiple sources, involving companies from over a

²¹Michael Edelstein, "Foreign Investment and Accumulation, 1860–1914," in *The Economic History of Britain since 1700*, 2nd ed., vol. 2, eds. Roderick Floud and Donald N. McCloskey (Cambridge, U.K., 1994), 173–96; Trebilcock, *Phoenix Assurance*, vol. 1: table 5.6; vol. 2: table 2.3.

²²Trebilcock, *Phoenix Assurance*, vols. 1 and 2; and Pearson, "Reinsurance Markets."

²³Mikael Lönnborg, *Internationalisering av svenska försäkringsbolag: Drivkrafter, organisering och utveckling, 1855–1913*, Uppsala Studies in Economic History no. 46 (Uppsala, 1999), 158.

dozen different countries. In the following section, we examine the institutional vehicles adopted by insurance companies when exporting across borders and discuss some of the motives behind their choices.

Institutional Forms of Multinational Enterprise in Insurance

Like multinationals in other sectors, insurance companies adopted several different institutional means to enter foreign markets. (See Table 4.) Even without considering the impact of regulatory barriers and different market conditions, the range of institutional choice itself may, at least in part, explain the nonlinear nature of the diffusion process. Several forms of multinational activity allowed insurers to hedge their bets before committing themselves to foreign markets, which made it easier for them to withdraw when things went wrong.

The most basic form of export was underwriting abroad without establishing any formal presence there. British companies attracted many proposals to insure foreign property, both from their fellow countrymen and from other nationals approaching them directly. Some operated a "home-foreign" department for such business, whose accounts were kept separate from those of foreign agencies.²⁴ Our impression, however, from a detailed reading of the insurance press, is that most exporters were moved at some point to employ agents abroad. In the United States, these were often general agents, independent firms that sold insurance and held powers of attorney on behalf of a number of insurers. American general agents usually confined operations to their home states, but the most successful became huge regional concerns, underwriting millions of dollars of property and employing hundreds of staff and agents.²⁵ They charged heavily for their services, but the best also delivered excellent results.

Insurance companies sometimes preferred to combine the use of agents with alternative entry options. An unknown quantity of insurance in the United States, for example, was purchased and sold through brokers, though companies frequently complained about the costs involved. Another form of foreign entry was the joint venture between offices, usually, but not always, of the same nationality. In Austria, for instance, the Imperial of London and the North British of Edinburgh shared business equally until 1875.²⁶ In various countries membership

²⁴Trebilcock, *Phoenix Assurance*, vol. 1: 234-36.

²⁵One example was the agency of John C. Paige of Boston. By 1880, Paige had two British, two French, and four American fire offices as clients, and had built up "one of the largest and most thriving insurance agencies in the East." *IT* 13 (Dec. 1880): 700.

²⁶*RdV* 27 (1877): 37-43.

Table 4
Institutional Forms of Multinational Enterprise in Insurance

1. Unmediated or mediated exporting of direct insurance with no overseas base
Via home-foreign business
Via nonresident general agents
 2. Direct insurance via local agencies or branches
 3. Direct insurance via brokers or general agents
 4. Direct insurance via joint ventures, including coalitions
 5. Acquisition of a local office
 6. Establishment of local subsidiaries
 7. Reinsurance via reinsurance brokers
 8. Reinsurance
Via treaties (a regular reinsurance of risks between companies)
Facultative (ad hoc or "one-off" reinsurance arrangements)
-

in insurance tariff unions—associations of companies that regulated premium rates and disseminated knowledge of risks and best underwriting practice among their members—also afforded newcomers some protection through lower information costs and uniform prices and policy conditions. Many tariff organizations, such as those formed in Australia in the 1890s, operated in "weakly collusive" markets and coexisted with a generally manageable level of nontariff competition from both foreign and local offices.²⁷

In the 1880s, the largest British firms began to establish subsidiaries in the United States that were usually registered as American companies in New York. This strategy was also occasionally adopted in Europe.²⁸ Native offices were also purchased, for instance in the United States by British, and occasionally German, insurers. There were several factors behind these strategies. Establishing subsidiaries from scratch, or purchasing an indigenous office and then letting it continue to operate under its own name, were devices usually motivated, at least in part, by fear of troublesome state legislation.²⁹ A purchase could be a way of

²⁷Monica Keneley, "The Origins of Formal Collusion in Australian Fire Insurance, 1870–1920," *Australian Economic History Review* 42, no. 1 (2002): 54–76. The same is true of Britain beginning in the 1860s. Oliver M. Westall, "Marketing Strategy and the Competitive Structure of British General Insurance, 1720–1980," *Business History* 36, no. 2 (1994): 20–46.

²⁸For example, La Foncière of Paris established an offshoot, La Fondiaria, in Florence in 1878. *Assecuranz Jahrbuch* (hereafter *AJ*) 1 (1880): 269–70.

²⁹Dickson, *Sun Insurance Office*, 226–30; Pearson, "British and European Insurance Enterprise," 438–51.

entering a new market or expanding in an existing one. Sometimes it was a means of squeezing out local rivals. When the London & Lancashire, for instance, bought the Capital City Fire (Alabama) in 1899, it removed the last significant native fire office in the state.³⁰

Reinsurance offered another means of obtaining foreign business. International fire reinsurance emerged in Europe during the 1820s in the form of bilateral quota agreements between British, German, French, and Belgian companies to take each other's risks.³¹ The first, or "direct," insurance company, dealing directly with the policyholders, would insure a range of properties in a given category in its homeland, say Lancashire cotton warehouses. It would then turn over, "cede" or "reinsure," a fixed proportion of the sums insured on these risks, say 10 percent, according to the quota agreed, to the second insurance company, the "reinsurer," in return for a premium paid by the reinsurer to the direct insurer. In this second transaction, the reinsurer had no direct contact with the original policyholders. Under these early bilateral treaties, the flow of risks also took place in the opposite direction, so that, in fact, both parties were direct insurers and reinsurers for each other. In this way, for example, a range of industrial properties in England was reinsured by the Imperial Fire Office in the early 1840s with the Compagnie Royal de Paris, while the French office in return reinsured what proved to be even more hazardous risks—dockside warehouses at Havre, sugar refineries and textile mills at Lille, Rouen, Lyons, and elsewhere—with Imperial. The first specialist reinsurers appeared first in Germany, in the 1840s, and then in Belgium, Switzerland, Austria-Hungary, and Scandinavia during the 1850s and 1860s. Most of these companies were the offspring of direct insurers faced with shortages of reinsurance capacity at home and keen to avoid ceding large portions of domestic business to rivals. Some, such as the Swiss Re of Zurich, quickly constructed a large international business for themselves.³² State restrictions on direct underwriting by foreign companies, like those imposed in Prussia and Russia, also encouraged the use of reinsurance. By 1871, 54 percent of the sums insured by native Russian stock companies were reinsured, mostly with foreign insurers.³³ Some of this growing volume of reinsurance was sold by a new type of specialist international reinsurance broker that emerged during the 1870s.³⁴ In America, European

³⁰ *Post Magazine* (hereafter *PM*), 6 June 1899.

³¹ Pearson, "Reinsurance Markets."

³² Robin Pearson, "The Birth Pains of a Global Reinsurer: Swiss Re of Zurich, 1864–79," *Financial History Review* 8, no. 1 (2001): 27–47.

³³ *RdV* 22 (1872): 276–77; *RdV* 26 (1876): 181–82.

³⁴ There were twenty-five foreign reinsurance bureaus in Paris alone by 1878. *RdV* 28 (1878): 51–52.

firms dominated the business. In the decades before the First World War, several of them piggybacked on British direct insurers that had established themselves in America much earlier. The Skandia of Sweden, for instance, entered New York in 1900 as a reinsurer for the Royal of Liverpool, while the Swiss Re went there in 1910 "under the chaperonage" of the Phoenix of London.³⁵

Thus, not only were the institutional forms of multinational enterprise in insurance highly diverse, but also several forms were used simultaneously by one company as a means of spreading the risk of an uncertain foreign venture. As noted above, collaboration between insurers from different countries when entering a foreign market was not unusual. This desire to minimize risk was the common motive behind all institutional choices made by multinational insurers.

For the same reason, some insurers conformed to the Nordic chain model of multinational enterprise. This model postulates that internationalization results from the acquisition of market-specific knowledge.³⁶ Experience gained from operating in a particular market enables a company to increase its commitment there. Multinational firms go through a sequential expansion process or "establishment chain." Restrained by "psychic distance" and uncertainty, firms at the beginning of foreign ventures will limit investment and stay relatively close to their domestic market.³⁷ After gaining international experience, they will then gradually invest further away, and on an increasing scale, from the domestic market. The presence of cultural affinities between markets may help explain why the bulk of the early foreign business of Scandinavian and Spanish firms was done in neighboring countries.³⁸ In Norway, for instance, two Swedish companies, the Skandia and the Svea, accounted

³⁵Skandia Corporate Archive, Styrelseprotokoll, 3 Apr. 1900; Swiss Re Corporate Archive, Swiss Re., Protokolle der Verwaltungsratssitzungen, 14 July 1910.

³⁶Edith T. Penrose, *The Theory of the Growth of the Firm* (Oxford, 1959); Yair Aharoni, *The Foreign Investment Decision Process* (Boston, 1966); Richard M. Cyert and James G. March, *A Behavioral Theory of the Firm* (Englewood Cliffs, N.J., 1963); Stephen H. Hymer, *The International Operations of National Firms: A Study of Direct Foreign Investments* (Cambridge, Mass., 1976).

³⁷Jan Johanson and Jan-Erik Vahlne, "The Internationalization Process of the Firm: A Model of Knowledge Development and Increasing Foreign Market Commitments," *Journal of International Business Studies* 8, no. 1 (1977): 23–32; Mats Forsgren, "Some Critical Notes on Learning in the Uppsala Internationalization Process Model," working paper, no.2 (Uppsala, 2002); Ingmar Björkman and Mats Forsgren, "Nordic International Business Research: A Review of its Development," *International Studies of Management and Organization* 30, no. 1 (2000): 6–25.

³⁸Spain's first multinational insurer, La Union y El Fénix Español, founded in 1864, commenced direct underwriting abroad in Portugal in 1868. José Luis García-Ruiz and Leonardo Caruana, "The Internationalisation of the Business of Insurance in Spain, 1939–2005," in *Internationalisation and Globalisation of the Insurance Industry*, eds. Borscheid and Pearson, 66–83.

for over half of the premiums earned by foreign companies in 1868. The political union between Sweden and Norway (1814–1905) obviously played a role, but probably more important was the fact that Norwegian investors held up to one-quarter of the share capital of these Swedish companies.³⁹ Even where insurers operated at great distances, national connections mattered. In the 1890s, German insurers were emboldened to venture across the Atlantic by the availability of reinsurance from reputable German firms, such as the Munich Re. This made them “independent from foreigners and enabl[ed] them to master every risk,” as one contemporary enthusiastically put it.⁴⁰ Psychic distance also did not equate to geographic distance where ethnic ties connected overseas settlements of merchants with insurers in their home countries. The first fire and marine insurance companies established by Chinese investors, for instance, initially targeted Chinese communities in Singapore, the Philippines, and California for their overseas operations.⁴¹

Imitation could also induce entry. Brief spells of high profits for those who had already crossed the Atlantic, especially in the mid-1870s and mid-1880s, encouraged others. The British insurance press criticized a “follow-my-leader” mentality among British offices in this respect.⁴² Many companies, however, carefully scrutinized the transatlantic performance of others before coming to a decision.⁴³ Beginning in the 1880s, German insurers were attracted to America by the experience of their own pioneers, such as the Magdeburg, as well as by the search for higher premium yields in the face of falling profits on European business.⁴⁴ Exogenous shocks also had an impact on levels of entry. After the great fires in Chicago and Boston in 1871–72, British companies’ reputation for streamlining claims adjustments secured them an increased flow of business, and also encouraged newcomers to sign up, although such effects were not always long lasting.⁴⁵

Competitive conditions, including high expense ratios and monitoring problems, helped determine changes in the institutional vehicles chosen by foreign insurers. Although an insurance company might ini-

³⁹Karl Færden, *Forsikringsvesenets historie i Norge, 1814–1914* (Oslo, 1967), 324–25.

⁴⁰*AJ* 20 (1899): 158.

⁴¹These were the Ren He and the Ji He companies, founded in 1876 and 1878, respectively. Zheng Kang, “Assurance modernes en Chine: Une continuité interrompue (1801–1949),” *Risques* 31 (July–Sept. 1997): 103–20.

⁴²*PM*, 20 Aug. 1881.

⁴³*PM*, 27 Mar. 1886, 3 Aug. 1889.

⁴⁴*AJ* 2 (1881): 367–68; *AJ* 18 (1897): 184; *AJ* 17 (1898): 145; *AJ* 20 (1899): 158; *PM*, 8 Apr. 1882. The average premium yield per \$100 insured in the United States for seventeen British and German fire offices operating there in 1878 was over twice as high as the yield from their business in the rest of the world. Calculated from *IT* (Aug. 1879): 573.

⁴⁵Mikael Lönnborg and Robin Pearson, “Multinational Insurers and Catastrophic Loss: Responses to the San Francisco Earthquake, 1906,” unpublished paper.

tially employ several different institutional forms when entering a new market, the subsequent rise or fall of a company's confidence in that market could lead to rationalization. In the early 1880s, some British firms, such as Commercial Union, dispensed with general agents in the United States and began to do all their business directly through their own local agents.⁴⁶ Intractable monitoring problems, such as deliberate concealment of information about a risk by local agents in order to increase business and their commissions, and anxiety about profits, however, could lead insurers either to abandon a market entirely, as the Japanese marine companies did in London in the late 1890s, or to replace direct underwriting by reinsurance, as occurred widely in Austria during the 1870s.⁴⁷

In sum, one can identify four principal phases in the organization of insurance exports: first, direct "home-foreign" underwriting of risks abroad, commencing in Britain in the 1780s and undergoing a relative decline from the 1850s on; second, direct underwriting through networks of commissioned agents, also dating from the 1780s; third, the use of reinsurance and cooperative agreements to underwrite in foreign markets indirectly, commencing in Europe in the 1820s; and fourth, direct investment in establishing subsidiaries and purchasing native offices, beginning in Europe and North America in the late 1870s.⁴⁸ For the most part, however, no linear sequence was involved. From the 1870s on, most of these organizational methods for exporting insurance coexisted and were often used simultaneously by companies in order to spread the risk of venturing into foreign markets.

Regulatory Regimes in Insurance

We have identified nine categories of insurance regulation in over twenty states in Europe, Asia, and the Americas during the nineteenth century. (See Table 5.) The character of the regulatory regimes in different countries was determined by the extent to which they regulated some or all of these categories, the stringency and transparency with which such regulations were applied, and the extent to which there were multiple layers of subnational regulatory and fiscal authority. In the following survey, our focus is on property insurance, particularly the

⁴⁶ *Insurance & Commercial Magazine* (hereafter *ICM*) 14 (Jan.–June 1883): 334.

⁴⁷ Nippon Life Insurance Company, *The 100-Year History of Nippon Life: Its Growth and Socio-Economic Setting, 1889–1989* (Osaka, 1991), 46, discussing the Nippon Sea and Land Insurance Company; The Tokio Marine & Fire Insurance Company, *The Tokio Marine & Fire Insurance: The First Century, 1879–1979* (Tokyo, 1980), 36–45; Trebilcock, *Phoenix Assurance*, 1: 317; 2: 141.

⁴⁸ "Home-foreign" premiums declined from 28 percent of foreign premiums earned by the Phoenix of London in 1846–50 to 8 percent in 1866–70. Trebilcock, *Phoenix Assurance*, vol.1: 190, table 5.6.

Table 5
Typology of Insurance Regulation

1. Company licensing
 2. Regulation of insurance contracts, including standard policies, property valuations, valued policy laws, coinsurance clauses
 3. Regulation of loss adjustment
 4. Licensing/monitoring of agents
 5. Taxation
 6. Deposit requirements
 7. Supervision and reporting requirements, including legislative investigations
 8. Company business, including separate lines, reinsurance, restrictions on advertising capital, proof of demand, capital requirements, insurance limits
 9. Antitrust, including rate regulation, rating bureaus
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regulation of foreign fire-insurance and reinsurance companies operating in Europe and North America.⁴⁹ Unless otherwise stated, however, the regulations and fiscal burdens examined below applied to all insurance companies, both native and foreign.

Most countries required some form of license for insurance companies to do business in their territory. In the United States, domestic as well as out-of-state and foreign companies were required to obtain state licenses with various conditions attached, which we discuss below. In Western Europe and Scandinavia, licensing requirements were minimal. Here, governments viewed liberal legislation as a means of securing competition and facilitating the lowest premiums for households and businesses. By contrast, Central and Eastern European governments commonly used licenses, often tied to onerous conditions, to restrict entry. In many German states before unification, licenses were difficult to obtain. In the two decades following the Prussian insurance law of 1837, only six non-Prussian companies were able to obtain full licenses for the whole of Prussia. When company licensing was relaxed in Prussia and other German states during the early 1860s, there was a surge of applications: one hundred sixty-four licenses were issued in Germany to out-of-state German and foreign insurers between 1862 and 1865.⁵⁰ Although regulation became more liberal, German unification did not help

⁴⁹In this paper, "foreign" only applies to insurance companies whose head office is located in another country. In federal polities, such as the United States and Germany, the term was also often applied by state authorities to companies from other states operating in their territory. Such companies are here referred to as "out of state."

⁵⁰Calculated from *Jahrbuch für das gesamte Versicherungswesen in Deutschland*, 1864-66.

to rationalize the great diversity of state regulatory regimes. The licensing laws of the regions annexed by Prussia after the war of 1866 retained their validity, and within the German empire after 1871 state licenses were still required for foreign insurance companies. This continuing state particularism in Germany lends support to the behavioral model of regulation, in which the amount of regulation is determined by the balance of power among different groups—politicians, civil servants, native companies—pursuing their own vested interests.⁵¹ On occasion, licensing wars could break out between states. For example, when Bavaria refused licenses to Baden-based insurance companies without heavy imposts, Baden retaliated by refusing permits to Bavarian insurers.⁵²

Accompanying state licensing was a range of other regulations to which underwriters and policyholders from all companies had to submit. In parts of Europe, and to a lesser extent in the United States, the processes of underwriting and loss adjustment, and the insurance contract itself, were the subject of regulators' attention as they became concerned by the increasing complexity of policy language and terms and by the rise of litigation between claimants and companies. Contracts came under the scrutiny of European licensing authorities at an early date, although the extent to which standard policy terms were enforced before 1914 is not clear.⁵³ American regulators prescribed a standard language for all policies written on certain lines of insurance, but not before much preparatory work had been done by the industry itself. The first serious attempt to develop a standard policy in the United States was made by the National Board of Fire Underwriters in 1868. Massachusetts adopted a standard form in 1873, and several states followed suit in the 1880s. In line with economist George Stigler's theory of how regulatory processes are "captured" by the subjects of regulation, it has been argued that the standard policy was designed to favor the industry itself.⁵⁴ Wisconsin's standard policy of 1895, for example, contained many conditions, and the breach of any of them invalidated the policy. As late as 1917, 28 percent of all fire-insurance policies in the state were voided for some breach of the conditions specified in the standard form.⁵⁵

⁵¹Richard A. Posner, "Theories of Economic Regulation," *Bell Journal of Economics and Management Science* 5, no. 2 (1974): 335-58; Sam Peltzman, "Toward a More General Theory of Regulation," *Journal of Law and Economics* 19, no. 2 (1976): 211-40; Kenneth J. Meier, *The Political Economy of Regulation: The Case of Insurance* (Albany, 1988).

⁵²Ludwig Arps, *Auf sicheren Pfeilern: Deutsche Versicherungswirtschaft vor 1914* (Göttingen, 1965), 37-48.

⁵³Police validation of fire-insurance policies became a legal requirement in Hanover in 1828, Hesse in 1833, Prussia in 1837 (insurance on goods) and 1841 (buildings insurance), and Württemberg in 1852. The nature and scope of this validation is not known.

⁵⁴George J. Stigler, "The Theory of Regulation," *Bell Journal of Economics and Management Science* 2, no. 1 (1971): 3-21.

⁵⁵Meier, *Political Economy*, 54.

Another type of contract regulation in the United States was the valued policy law. This fixed the value of the insured property, and in the event of a total loss, that amount had to be paid out to the policyholder, regardless of the actual value of the property destroyed. The first such law was passed in Wisconsin in 1874, and by 1900 they were in force in nineteen states and territories, mostly in the South and the West.⁵⁶ Insurance companies fought these laws through the state courts, arguing that valued policies drove up loss ratios, increased moral hazard, and encouraged overinsurance and fraudulent arson.⁵⁷ On occasion, they withdrew entirely from states imposing such laws.

In Central Europe, there was considerable intervention in the process by which policies were issued. Several German states required policyholders to obtain from the police or local authorities valuation certificates for the property proposed for insurance. This conformed to a long tradition in which the insurance of property by private citizens was regarded as a public act of direct concern to neighbors. Because the private morality of "suspect" groups undertaking such public acts, such as aliens, Jews, and socialists, was not deemed trustworthy, a degree of official monitoring was required. By contrast, in liberal regimes, such as Britain and Scandinavia, the authorities left the responsibility for this type of monitoring to the tariff organizations.

Agents, as well as their companies, required a license in some American states and in parts of Europe. In Missouri, under a law of 1866, only the agents of foreign companies had to be licensed, but most states did not discriminate in this way.⁵⁸ Where agents' licenses were not required, the official publication of agents' names was sometimes adopted as an alternative to direct screening. In several German states, beginning in the 1820s and 1830s, all agency appointments were subject to police permission. In Prussia, this involved an investigation of the "reliability" and "irreproachability" of candidates proposed for agencies, their financial circumstances, any previous criminal record, and any former political affiliations (*Antecedentien*). According to one critic, it was this system of police monitoring of agency appointments, and not any intrinsically hostile attitude of the Prussian Ministry of Trade to free trade in insurance, that explained the difficulty of obtaining licenses in Prussia and the relatively slow growth of the industry there before agency licensing was abolished in 1859.⁵⁹ The behavioral model of regulation implies that having the ability to monitor agents and scrutinize claims

⁵⁶See the list in *Hayden's Annual Cyclopaedia of Insurance in the United States* (Hartford, 1906-7), 638-46.

⁵⁷*ICM* 9 (June-Nov. 1880): 248.

⁵⁸*Western Insurance Review* (hereafter *WIR*) 1 (1867-68): 310-11.

⁵⁹*RdV* 9 (1859): 45-47.

granted Prussian police a power over their local communities that they were likely to exercise and defend vigorously, even to the detriment of the public interest.⁶⁰

Most public authorities viewed insurance as a source of tax revenue from an early date. England imposed its first duty on fire-insurance policies in the 1690s. In many other countries, fiscal regimes were predominantly subnational, and in the United States, they were almost exclusively so.⁶¹ Massachusetts imposed a stamp tax on policies in 1785, and New York introduced a punitive 10 percent tax on agency premiums for out-of-state and foreign insurers in 1824.⁶² Starting in the 1850s, other American and German states and Canadian provinces introduced premium taxes, stamp duties on policies, and, in the case of Pennsylvania in 1864, a tax on dividends. In many places, there were additional local and municipal taxes. Several Belgian cities, for example, began to tax resident fire-insurance companies during the late 1870s.⁶³ Municipal charges, such as the New York levy of 1856, went toward the upkeep of city fire brigades, while state taxes went toward the maintenance of state insurance departments, or, as in the German Duchy of Hesse in 1871, they were used for other "public and communal purposes."⁶⁴ In the United States, taxation became increasingly discriminatory against foreign companies. In 1862, for example, Massachusetts imposed a 4 percent premium tax on foreign insurers, but just 1 percent on local companies. In Kansas in 1899, foreign insurers faced a 6 percent tax on their gross premiums, while local offices paid 2 percent. This took place during a period when all companies were facing an increasing fiscal burden.⁶⁵

Many governments required insurers to deposit a sum with the state treasury as a guarantee of solvency and a means of maintaining a sufficient reserve of funds to reinsure the unexpired terms of all outstanding policies and pay all outstanding losses. In the United States, compulsory deposits ranged from \$10,000 in some smaller states to \$200,000 in New York and Illinois. Authorities usually specified the securities in which deposits were to be made. In Spain, for example, under the budget law of 1893, these were government securities, bank-mortgage bonds,

⁶⁰ Alf Lüdtke, *Police and State in Prussia, 1815-1850* (Cambridge, U.K., 1989); Reinhart Koselleck, *Preußen zwischen Reform und Revolution* (Munich, 1989).

⁶¹ The U.S. exception was a federal stamp duty on all fire-insurance policies introduced in 1862.

⁶² The latter was reduced to 2 percent in the wake of the great New York City fire of 1835. State of New York, *New York Insurance Reports—Condensed Edition*, vol. 1: 1830-53 (Albany, 1873), xxiv.

⁶³ *Deutsche Versicherungs-Zeitung* 21 (1880): 603.

⁶⁴ *RdV* 22 (1872): 411.

⁶⁵ *WIR* 3 (1869-70): 382; *Rough Notes* 60 (1917): 104.

or railway bonds.⁶⁶ Over time, more deposit requirements were generally added. This made it difficult for smaller companies to invest abroad, particularly to establish branch networks, without weakening their financial position back home. Setting up overseas branches thus increasingly became an option only for the largest firms.

Some countries also imposed capital requirements on foreign companies. In a blatant attempt to disadvantage European insurers, a New York law of 1879 required that all companies operating there have a paid-up capital of 100 percent. Other U.S. states prohibited companies from advertising the value of their subscribed capital, which comprised the shares issued by a company and subscribed to by their owners, before the latter had paid for them. The regulators' argument was that the large differential between subscribed and paid-up capital of most British and European companies—the proportion of paid-up capital was commonly between 10 percent and 25 percent—amounted to a deception of American policyholders, whose native companies typically had all their subscribed-share capital fully paid up. Advertisements showing impressive amounts of subscribed capital implied that foreign companies had a solidity, which, it was claimed, they did not possess. Share-capital stipulations were also a feature of insurance regulation in Europe, but they did not become the prohibitive device that some U.S. regulators sought during the 1870s and 1880s.⁶⁷

Many states also required regular company reports. Massachusetts introduced a general reporting requirement as early as 1818. In other places, including the Netherlands after liberalization in 1880, Spain before 1893, and some American states such as Missouri before 1869, no official monitoring of insurance-company accounts was in force. In general, however, in Europe, North America, and Japan, there was a trend after 1850 toward more formal supervision of the industry. By the 1860s, several German states had standing government commissions on fire insurance. Switzerland established a federal insurance bureau in Berne in 1885. During the early 1900s, statutory insurance bureaus or offices of inspection were established in Austria, Denmark, Germany, Italy, Japan, Montenegro, Norway, Spain, Sweden, and Turkey.

In the United States, five states—New Hampshire, Vermont, New York, Massachusetts, and Rhode Island—had established permanent insurance departments by 1860. Others followed after the Civil War.

⁶⁶Rosales and Quiza, "Los Seguros en España," 198. For similar requirements in Russia, see *RdV* 22 (1872): 21; Paul J. Best, "Insurance in Imperial Russia," *Journal of European Economic History* 18, no. 1 (1989): 139–69.

⁶⁷Cf., for example, the Spanish insurance law of 1908, which required all companies seeking a license to have just 25 percent paid up on their shares: Rosales and Quiza, "Los Seguros en España," 188–89.

Such departments were run by commissioners or superintendents who were political appointees and were frequently criticized for their lack of expertise and their interference in company affairs. In the South and the West, they could become a vehicle of populist hostility against eastern and foreign corporations. In some states, for instance New York in the 1900s, insurance departments also fell victim to political squabbling between the superintendent, who developed a power base of his own in the legislature, and the governor, who could only recommend his dismissal to the legislature. Here, too, the behavioral model of regulation appears applicable. American and foreign companies alike complained that some state insurance departments were inefficient or corrupt. Several New York officials were brought before the courts in this period and charged for pursuing their own interests by dubious means.⁶⁸

In the United States, however, probably more than in most other countries, bureaucratic control was highly contested during this period. In particular, the constitutional independence of American courts provided a medium through which business regulation was interpreted and amended.⁶⁹ One legal manual, published in 1893, cited over seven thousand judgments, overwhelmingly made in U.S. courts, which defined the law on fire insurance. Courts deliberated over policy contracts, insurable interest, disclosure and utmost good faith, liability, the processes of underwriting and loss adjustment, licenses, and deposits. Several rulings also clarified the legal jurisdiction and the rights of parties in interstate and foreign insurance contracts.⁷⁰ There is scope for further research on this subject, but the power of judicial mediation may have helped to offset the impact of unpredictable and discriminatory regulation against foreign companies and to sustain their confidence in the American market as it moved into the Progressive Era.⁷¹

A growing volume of miscellaneous regulations in different countries also covered general insurance-company operations. The most onerous of these was the "proof of demand" (*Bedürfnis*) requirement, which bedeviled foreign insurers trying to expand in Central and Eastern Europe before the 1870s. Under the Prussian law of 1837, for example, new companies wishing to obtain licenses from the Ministry of Interior,

⁶⁸ *ICM* 14 (Jan.–June 1883): 146–47, 154.

⁶⁹ Tony A. Freyer, "Business Law and American Economic History," in *The Cambridge Economic History of the United States*, vol. 2: *The Long Nineteenth Century*, eds. Stanley L. Engerman and Robert E. Gallman (Cambridge, U.K., 2000), 435–82; Edward A. Purcell Jr., *Litigation and Inequality: Federal Diversity Jurisdiction in Industrial America, 1870–1958* (New York, 1992).

⁷⁰ George A. Clements, *Digest of Fire Insurance Decisions in the Courts of the United States, Great Britain and Canada* (New York, 1893).

⁷¹ Foreign insurers, of course, could face hostile juries as well as sympathetic judges in the United States, most notably when involved in claims litigation after the San Francisco earthquake of 1906. Lönnborg and Pearson, "Multinational Insurers and Catastrophic Loss."

or licensed companies wishing to appoint additional agents in cities, had to provide proof that there was a "demand" for their services. This proof took the form of a testimony from the local city or county administration. It does not seem to have been based on any scientific investigation of data. Indeed, critics of the regulation pointed out that many existing insurance companies in small towns employed as their agents local mayors and councilors, who therefore had a vested interest in preventing the admission of rival offices.⁷² The requirement was abolished in Prussia in 1859, but it survived in other places, such as Austria and Baden.

Some states prohibited reinsurance in unlicensed out-of-state and foreign companies. New York, Massachusetts, and Kansas passed such regulations in the 1870s, and there was a further wave of such regulation in other American states in the later 1890s and early 1900s. As new lines of insurance evolved, regulators also became increasingly determined to keep them separate. First, their evaluation of rates and company reserves depended upon the examination of distinct lines of business. Second, regulators were concerned that losses in one line should not be covered by transfers at the expense of policyholders in another. The New York law of 1879, for example, required any foreign company that sought a license to underwrite in New York, and that sold some combination of fire, transport, and life insurance in other markets, to restrict itself to just one line of business in the United States.⁷³ Few European countries had such regulations. Prussia did restrict life-assurance companies to one line in 1868, but most other countries did not.

Our account suggests that a wide spectrum of regulatory regimes emerged in insurance before 1914, ranging from liberal to monitorial and prohibitive.⁷⁴ This spectrum is illustrated in Table 6, which displays the regulatory environment for out-of-state and foreign insurers. Liberal countries were those without state supervision, or with minimal regulation and taxation. Monitorial nations had standing insurance commissions or inspection departments; they had general licensing and deposit requirements; and they imposed other types of regulation, such as policy conditions and loss-adjustment procedures. Countries whose require-

⁷² *RdV* 13 (1863): 368–72.

⁷³ *WIR* 3 (1869–70): 689–70; *RdV* 30 (1880): 358–59; *ICM* 7 (July 1879): 101. Some states were quick to follow New York's lead. In Ohio, for instance, a law came into effect in 1880 banning companies from writing both fire and life insurance. *ICM* 8 (Jan. 1880): 107.

⁷⁴ Morton Keller has described four types of business regulation, namely, American "pluralist," German "corporatist," British "contract liberal," and French "dirigiste." However, these have questionable relevance to insurance where the multiple layers of regulation in countries such as Germany and Belgium defy any such neat typologies based on political economy. Morton Keller, "The Pluralist State: American Economic Regulation in Comparative Perspective, 1900/1930," in *Regulation in Perspective: Historical Essays*, eds. Morton Keller and Thomas McCraw (Boston, 1981).

Table 6
Regulatory Regimes in Insurance before 1914

<i>Liberal</i>	<i>Monitorial</i> ^a	<i>Prohibitive</i>
Belgium	Austria (from 1873, 1905)	Austria (to 1873)
France	Brazil (1901)	Bavaria (to 1872)
Germany	Canada (from 1854)	Hanover
Hamburg	Denmark (1904)	Hesse
Bremen	Finland (1892)	Hesse-Darmstadt
Lubeck	France (1905) ^b	Netherlands (to 1880)
Frankfurt	Germany (1901)	Prussia (1837-59)
Oldenburg	Italy (1904)	Russia
Brunswick	Japan (1900)	Saxony (1828-63)
Electorate of Hesse	Montenegro (1904)	Switzerland (to 1885)
Saxon duchies	Norway (1904)	
Mecklenburg duchies	Prussia (from 1859)	
Small principalities	Spain (from 1893, 1908)	
Japan (1861-1900)	Sweden (1904)	
Netherlands (1880-1920)	Switzerland (from 1885)	
Spain (1829-93)	Turkey (1904)	
Sweden (to 1904)	U.S.A. (Massachusetts) (1855)	
United Kingdom		

^a Dates in italic = the first state supervision legislation.

^b Life insurance only.

ments were prohibitive excluded particular categories of foreign insurer for certain periods, or exercised strict bureaucratic or police controls over companies, agents, and policyholders, effectively limiting entry.

Many regimes moved back and forth along this spectrum at different times. In some midwestern American states, regulation shifted from liberal to monitorial to prohibitive as populist feeling against out-of-state insurers ran high toward the turn of the century. Most German states moved from prohibitive to liberal by the 1860s and 1870s, and then switched to monitorial regimes during the 1900s. The Netherlands changed from prohibitive to liberal after 1880, while Spain and Japan moved from liberal to monitorial after 1893 and 1900, respectively. Table 6 suggests a general convergence of regulatory regimes of the monitorial kind around the turn of the century, indicating a trend toward international standardization before 1914.⁷⁵ One can also, however, observe persistent national differences among regulatory regimes throughout the period. Much German insurance regulation, for example, concerned relations between companies, agents, and customers at the

⁷⁵ So far, we have found no evidence of formal international collaboration among insurance regulatory bodies during this period.

point of sale. There was less emphasis on regulating annual reports, deposit and capital requirements, and on taxation. This contrasts with the United States, where much state and city regulation was concerned with investor and shareholder interests and, to an extent, with extracting tax revenue.

How can these differences be explained? First, cultural and political traditions were important. *Laissez-faire* attitudes largely overrode public-welfare concerns in determining the scope of British insurance regulation. In Germany, the concept of the patriarchal state infused the highly bureaucratic policing of insurance, even after licensing controls were relaxed in the 1860s. In the United States, the strength of early *salus populi* traditions in state and community government helps explain the support for the early adoption of formal supervision. As elsewhere in the U.S. economy, the transition in insurance during the second half of the century to what historian William Novak has called a "new constitutional regulatory regime," based on the concept of due process of law and limitations on police power, was reflected in an increasing volume of litigation between companies and regulators.⁷⁶

Second, market structures also influenced national differences in regulatory systems. The ease of incorporation in the United States, the large numbers of insurance companies, and the level of competition may explain the difficulty regulators faced in dealing with the persistent problem of illegal "undergrounders." By contrast, in Central and Eastern Europe, where the number of companies was smaller, the licensing system was less porous. There, state monopolies in building insurance and compulsory insurance were factors in shaping regulatory practice. A recurrent argument in some countries concerned the need to prevent insurance premiums from flowing abroad in order to support the domestic institutions.⁷⁷ This view was not generally aired in the United States, where occasional calls for nationalization or compulsion were quickly denounced as state despotism and criticized as a species of "orientalism."⁷⁸ In parts of Europe, but not in the United States, state insurance monopolies created vested interests within the very bureaucracies that provided the regulators.

Thus, the operation of regulatory regimes in insurance lends support to the behavioral model of regulation advanced by economists Sam Peltzman, Richard Posner, and others. The problems for private insur-

⁷⁶William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill, 1996).

⁷⁷Argued by regulators, for example, in the Swiss cantons. Martin Körner, *Banken und Versicherungen im Kanton Luzern vom ausgehenden Ancien Régime bis zum ersten Weltkrieg* (Lucerne, 1987), 157.

⁷⁸*Spectator* 12 (1874): 146-47.

ance companies in Central and Eastern Europe, especially those from outside the state, caused by the interlocking interests of civil servants and state insurance organizations, were exacerbated by the frequent arbitrariness of regulatory practice. This capriciousness contrasted sharply with the seemingly more transparent, certainly more public, licensing system in the United States. Prussian regulators were career civil servants or local magistrates from the gentry or from aristocratic backgrounds. Early U.S. insurance commissioners came from mercantile or professional backgrounds and were generally sympathetic to the needs of private industry. Their business leanings caused them to be more willing than their colleagues in Germany, Austria-Hungary, or Russia to compromise with companies in disputes over licensing. Another factor that contributed to national differences may have been the more intense press scrutiny of regulators in the United States, compared to Europe. The monopoly position of public societies in building insurance, the presence as officers of public societies of the same state officials who regulated their private competitors, and the resistance among civil servants to any attempts to reduce their regulatory powers combined to make many European regulatory regimes substantively different from their U.S. counterparts, even though many of the objects and methods of regulation were the same.

Conclusion

What of the impact of regulation on international insurance? It is true that, generic regulations notwithstanding, not all foreign insurers were treated alike within a jurisdiction, and not all responded to regulations in the same manner.⁷⁹ There is some indication that more onerous deposit requirements made it harder for smaller companies to expand abroad toward the end of the nineteenth century. It does not seem, however, that there was ever any "race to the bottom," in which foreign insurers searched for markets with no prudential regulations. Some of the evidence we have presented suggests that insurance companies regarded regulation as a credible commitment and that legislation made the conduct of foreign business less uncertain. First, prudent regulations to an extent protected companies from new entrants. Second, placing itself under supervision helped legitimize a company and enhance public confidence in its operations. From this point of view, it was more

⁷⁹Wilkins has demonstrated this in the case of U.S. life insurers in Germany before 1914, where New York Life, thanks to the diplomatic talents of its vice president, coped with hostile regulators more effectively than the other American offices. Wilkins, *Emergence of Multinational Enterprise*, 103-7.

important to expand in markets with sustainable growth and a stable institutional environment than merely to engage in a hunt for unregulated markets.

The international convergence of regulation may have facilitated cross-border trade, especially for larger companies underwriting around the globe.⁸⁰ The managers of Sun Insurance of London, for example, constantly drew on their experience of operating in many different markets when advising their overseas agents and forming responses to changing competitive and legal regimes.⁸¹ On the other hand, our data indicate that similar regulatory regimes had a differential effect on the internationalization of insurance before 1914, suggesting that there was no straightforward relation between regulation and growth. Comparing Tables 2 and 3 with Table 6, we find that liberal and monitorial regimes coexisted with both high and low degrees of import penetration. Foreign companies enjoyed high levels of market share in Spain under both liberal and monitorial regulation before and after 1893, while their share of the highly competitive market in liberal Sweden remained low. Fire-insurance imports were low in monitorial Japan, Germany, and Switzerland, but high in monitorial Canada, Finland, and Turkey. Under the extensive state supervisory system in the United States, levels of import penetration fluctuated above and below the 30 percent mark between the 1870s and the First World War. In Germany, a market split between stock and mutual insurers, powerful state monopoly institutions, and highly bureaucratic regulatory practices made life difficult for foreign companies. In the United States, despite increasing levels of discrimination, regulation, or its interpretation by an independent judiciary, was mostly beneficial for foreign fire insurers. State supervision seems to have improved consumer confidence in the industry, as did educational efforts to raise awareness of hazards and promote fire prevention. Only under prohibitory regimes was there a clear association with low levels of direct underwriting by foreign firms. In Russia, for example, foreign companies focused mainly on reinsurance, capturing over half of that market after 1870.

We cannot yet answer one key question: whether or how regulatory regimes were factored into risk assessment and premium rates.⁸² Any convergence of regimes may have been manifested in rate convergence

⁸⁰Peter Borscheid, "Systemwettbewerb, Institutionenexport und Homogenisierung: Der Internationalisierungsprozess der Versicherungswirtschaft im 19. Jahrhundert," *Zeitschrift für Unternehmensgeschichte* 51, no. 1 (2006): 26–53.

⁸¹Robin Pearson, "Las compañías extranjeras en España, 1800–1939," in *Empresas y Mercado del Seguro en la España Contemporánea*, eds. Jerònia Pons Pons and Maria Angeles Pons Brias (forthcoming).

⁸²We wish to thank Janette Rutterford for raising this point with us.

across markets, but we have almost no evidence on this at present.⁸³ Premiums, of course, were determined by a wide range of variables, including technological change, changes in risk composition, a firm's capacity for portfolio diversification across different markets, and administrative and marketing costs, as well as the costs associated with regulatory regimes. The effect on premium rates of any convergence in regulation may have been either reinforced or offset by other variables.

Our analysis also indicates that nonregulatory factors helped to determine levels of cross-border trade in insurance. These include the diverse choice of institutional forms for multinational enterprise that may have offset regulatory disincentives to entry; the follow-the-leader effect; exogenous shocks, such as great fires, which increased the demand for risk spreading; bilateral affinities, including close cultural and sometimes political ties between markets; competitive conditions; and the opportunity costs of entering new and distant markets. In general, international insurance was driven by a search for stable markets and the need to sustain an incremental growth of business. By contrast, there is little evidence that insurance companies explicitly followed their clients abroad before 1914. This seems to have been largely a phenomenon of the period after the Second World War.⁸⁴

There is evidence from Scandinavia, Spain, Switzerland, and China that insurers chose a chain process of internationalization. For some companies, it was clearly important to acquire prior knowledge of more distant markets, through reinsurance, by contacting general agents, or through ethnic connections with local settlements of merchants, before venturing further from their home markets. The choice of different forms for international insurance was influenced not only by the need to comply with regulatory requirements, but also by considerations of costs, efficiency, monitoring, and psychic distance.

Since the early nineteenth century, insurance has been characterized by international arrangements to diversify risks and benefit from different business cycles. Insurance has attracted a lot of attention from

⁸³There is only limited evidence of premium rate regulation through most of the period we cover. In Austria, the power to examine policy conditions and premium rates was extended in 1860 to provincial commissioners appointed by the Ministry of the Interior, but how far they amended rates is unknown. In Russia, the premium rates of the state-chartered fire-insurance companies were fixed by their charters. In the United States, despite the extension of antitrust regulation to fire insurance—sixteen states had enacted so-called anti-compact laws by 1907—no state directly regulated premium rates before Kansas did so in 1909. The Kansas law was contested through the courts, until it was finally upheld by the Supreme Court in 1914. Anticomcompact laws counted from *Hayden's Annual Cyclopaedia of Insurance in the United States, 1906-7* (Hartford, 1907), 28-45.

⁸⁴Mikael Lönnborg, "Svenska försäkringsbolag tidiga internationalisering," *Nordisk Försäkringstidskrift* no. 4 (2000): 312-36; and "Skandiakoncernens internationella verksamhet 1887-1995," *Nordisk Försäkringstidskrift* no. 3 (2002): 1-20.

domestic legislators, whose goals have included upholding the solvency of firms and securing public confidence in a product that has a major impact on the economy. Other factors shaping regulation include consumer lobbying, the self-interest of politicians and regulators, the unevenness of enforcement in some places, protection for native companies, and maximizing state revenues. This paper represents an initial exploration of the effect of this regulation on the diffusion of insurance around the world before 1914. This effect was highly differentiated by market, and by method chosen for international underwriting, such as, for example, whether this was done directly by agency or indirectly by reinsurance. We can, however, draw two general conclusions that speak to current debates about the impact of deregulation on the globalization of insurance.⁸⁵ First, each category of regulatory system before 1914, under different circumstances and in different markets, could enhance the internationalization of this financial service—outright deregulation was not necessary to achieve this result. Even prohibitory regimes could stimulate internationalization by creating an increased demand for reinsurance. Second, the rate of internationalization could decline in some places, under different regulatory regimes, even while the insurance industry itself was growing rapidly.

⁸⁵Swiss Re, "Emerging Markets: The Insurance Industry in the Face of Globalisation," *Sigma* no. 4 (2000).

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