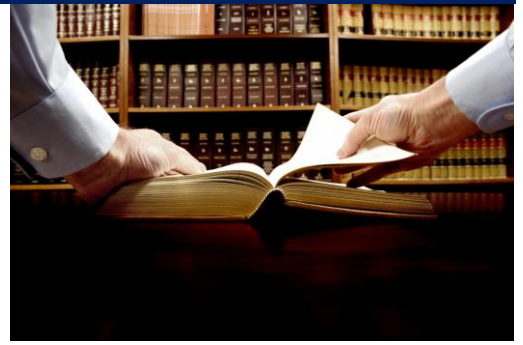


## inBrief



### Insurance claims for damage caused by the torrential rain and floods

By Chatura Randeniya, Mevan Bandara, and Ramesh Fernando

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Early last week, the UAE experienced its most severe rainfall in the past 75 years. A large number of homes and business premises across the UAE suffered damage from the effects of the rain or floods, including the many motor vehicles that were stalled or otherwise impaired.

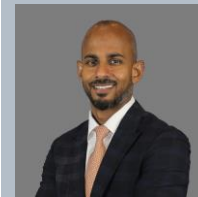
Those who are covered by home insurance policies may, depending on the terms of the policy, ordinarily expect to be compensated for the cost of repairs or replacement for certain types of damage including: (a) structural damage caused to premises and damage to the plumbing or electrical systems; and (b) damage to contents such as personal belongings, furniture, and electronic appliances. Businesses covered under property all risk and business interruption (PAR & BI) may, depending on the terms of the policy, ordinarily expect to be covered for the cost of repair or replacement of the damages as well as the loss suffered due to the interruption in business.

Careful review of the terms and conditions of a policy is essential in order to assess the extent, limits, and exclusions, applicable under the coverage of the policy.

Policyholders intending to submit a claim under a home insurance or PAR & BI policy should in the ordinary course:

- (a) gather clear and contemporaneous evidence of the damage suffered and the exact cause(s) of such damage;
- (b) take necessary measures to mitigate the damage, ideally with prior notice to the insurer providing sufficient details;
- (c) inform and obtain prior approval from the insurer if there is a necessity to repair the damage pending the submission or approval of a claim;
- (d) record and retain evidence of all costs incurred in the process of repairing the damage;
- (e) be mindful that insurers may reject claims if steps taken by policyholders result in worsening the damage; and

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Chatura's practice focuses primarily on dispute resolution. He advises and represents clients in arbitration, and has represented clients in DIAC, ADCCAC, ICC and ad hoc arbitrations. He also works with local advocates on matters before the UAE Federal courts. Chatura regularly advises clients in high value construction, and maritime and shipping disputes. He is admitted as Attorney-at-Law of the Supreme Court of Sri Lanka. He is a ranked practitioner by Chambers and Partners and Legal 500.

- (f) submit all claims to the insurer as expeditiously as possible following the claims procedure stipulated in the policy.

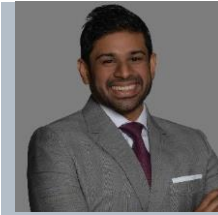
### Dispute resolution

Insurance policies will generally be governed by Federal Decree Law No. 48 of 2023 On the Regulation of Insurance Activities (the **Insurance Law**). Pursuant to Article 101 (2) of the Insurance Law, if a dispute arises relating to an insurance claim, a complaint must be submitted to the Banking and Insurance Dispute Resolution Unit (BIDRU) instituted pursuant to Article 121 of Federal Decree Law No. 14 of 2018 (the **Old Insurance Law**). BIDRU is now known as the “Sanadak”. In terms of Article 2 of the Central Bank’s Regulation on the Establishment of an Ombudsman Unit for the United Arab Emirates (the **Sanadak Regulation**), the principal mandate of “Sanadak” is “*to receive, handle, review and resolve Complaints in a thorough, timely, transparent, fair and legally sound manner.*” Submitting a complaint to “Sanadak” is now the mandatory first step in any dispute concerning an insurance policy, and is a cost-effective option for policyholders who are dissatisfied with the manner in which an insurer has responded to a claim.

Determinations made by “Sanadak” concerning insurance disputes may be appealed to the Insurance Dispute Resolution Committee (IDRC) within 30 days from the issuance of the determination. In terms of Article 101 (5) of the Insurance Law, an insurer may not appeal decisions of the IDRC if the value in dispute does not exceed AED 50,000: such decisions are deemed final and enforceable immediately upon issuance. Where the value exceeds AED 50,000, the insurer may appeal the decision before the Court of Appeal within 30 days from the date of its issuance or when the insurer became aware of it. The insured may appeal a decision of the IDRC, before the Court of Appeal, irrespective of the claim value, within 30 days from the date of issuance of the decision or when the insured became aware of it.

Lastly, it is important to be mindful that “Sanadak” will not have jurisdiction over a complaint where the insurance policy provides for an alternative forum for dispute resolution. Article 7 (6) of the Instructions Concerning the Code of Conduct and Ethics to be Observed by Insurance Companies issued by the Insurance Authority pursuant to Board Resolution No. 3 of 2010 permits non-compulsory insurance policies to incorporate arbitration clauses. Apart from this, Article 2 (2) of the Insurance Law also provides that its provisions shall not apply to companies operating in Financial Free Zones *i.e.*, the Dubai International Financial Centre and the Abu Dhabi Global Market.

Although the Sanadak mechanism came into existence quite recently, Afridi & Angell has assisted clients to make claims on this platform, which has been an efficient online service. The dispute resolution team at Afridi & Angell is well-equipped to advise on disputes arising out of insurance claims. ■



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Ramesh has considerable experience in litigation and dispute resolution, with extensive abilities in contract negotiations and large-scale disputes. Ramesh advises on and drafts legal opinions and agreements for Multi-National Corporations, non-governmental entities, and investors, when retained to advise on potential legal issues, regulatory steps, and changes to applicable legislation.

### Afridi & Angell

Founded in 1975, Afridi & Angell is a full-service UAE law firm in its fifth decade at the forefront of the legal community. From the beginning, our hallmarks have been a commitment to quality, unsurpassed knowledge of the law and the legal environment, and crafting of innovative business solutions. Licensed in the three largest Emirates of Abu Dhabi, Dubai and Sharjah as well as the Dubai International Financial Centre, our practice areas include banking and finance; corporate and commercial law; arbitration and litigation; construction; real estate; infrastructure projects; energy; project finance; maritime (wet and dry); and employment. We advise local, regional and global clients ranging in size and sophistication from start-ups, sole proprietorships, family-owned businesses, entrepreneurs and investors to some of the world's largest public and private companies, governments and quasi-government institutions. We attract and retain clients with our dedication to practical guidance focused on their business needs supported by decades of experience here in our home jurisdiction, the UAE.

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