



Thomas F. Morante

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Overview

For more than 30 years, Tom Morante has counseled clients in U.S. and foreign insurance regulatory, compliance, and transactional matters. Tom's clients rely on him to help them navigate an increasingly complex global regulatory and technology-driven environment. Tom advises insurance and reinsurance companies; captive insurers; insurance agents, brokers, and wholesalers; financial institutions; and investment funds and fund managers. His clients also include businesses operating in the United States and abroad with respect to mergers and acquisitions, joint venture transactions, capital formation, and licensing and distribution agreements.

Tom handles matters involving life and annuities, health, property and casualty and business interruption coverage, extended warranty, representations and warranties, commercial general liability, title, data privacy and cyber risk, directors and officers, surplus lines, parametric, crop, credit, and political risk insurance. In addition, companies in numerous industries have sought Tom's counsel on complex U.S. and foreign regulatory and transactional matters.

Collaborating with foreign law firms around the world, Tom also handles regulatory compliance, transactional, and enforcement matters abroad. He is fluent in Spanish and completed undergraduate studies in Colombia and Spain, and legal studies in Mexico. Insurance clients regularly ask Tom to assist in the development of offshore life insurance, annuities, and investment products in Bermuda, the Cayman Islands, and other offshore jurisdictions. He provides counsel on the foreign laws implicated in the distribution and cross-border sale of insurance products, with an emphasis on Latin America and Asia, and also advises U.S. insurers with respect to establishing operations in various foreign countries.

Tom's representative insurance matters include domestic and foreign insurance company formation and authorization, mergers and acquisitions and sale of policy portfolios, captive insurance company formation, and policy contract drafting and coverage analysis. In addition, he handles insurance agent, agency, managing general agent, and third-party administrator licensing under state insurance laws; advising on sales practices such as digital marketing and insurtech transactions, fronting and reinsurance transactions, structuring domestic and offshore private placement life insurance (PPLI) and private placement variable annuities (PPVA) as well as insurance dedicated funds; and cybersecurity and data privacy compliance.

Tom also advises insurance clients with respect to the Office of Foreign Assets Control (OFAC) regulations, the USA Patriot Act and foreign country anti-money laundering laws, the Foreign Corrupt Practices Act (FCPA), and foreign anti-corruption legislation. Further, Tom counsels clients on the financial services chapter of the USMCA, which replaced the North American Free Trade Agreement (NAFTA).

Tom leads Carlton Fields' International Insurance Regulatory team and co-chairs its Mexico Desk. He also chairs the ABA Business Law Section's International Coordinating Committee and serves as a member of the ABA UN Representatives Committee, which comprises a select few ABA members serving as representatives to the United Nations. Tom also serves on the board of advisors of Inter-American Dialogue's *Financial Services Advisor* publication.

Experience

State Insurance Regulatory

Tom has counseled clients on compliance with the insurance laws of numerous states. His clients include *Fortune* 500 and regional companies.

State-specific advice includes:

- Represented a U.S. insurance company in connection with the sale of its subsidiary insurance company in Mexico.
- Advised on the nature and availability of rep and warranty insurance coverage in light of the client's sale of business.
- Advised on the acquisition of a national insurance agency that also acts as a captive insurance company manager.
- Advised on collateral protection insurance under the insurance laws of specific states, including forced placed insurance issues in the context of residential mortgages.
- Advised on insurance issues involved in a change-of-control when the new structure includes two new subsidiaries and other mergers; also, what and how insurance subsidiary domicile laws apply.
- Advised an insured relative to the sale to a premium finance lender of life insurance policies under applicable state insurance laws.
- Analyzed insurance requirements to be accommodated in a loan agreement regarding an additional insured, loss payee and related incident to insuring the collateral pledged as security for the loan.
- Advised an efficacy insurer on language for inclusion in a policy to provide coverage for a contractor's failure to renovate a building to ensure more energy efficiency.
- Advised on a state-specific law with respect to the sale of crop insurance by a farm credit entity.
- Advised a creditor of an insurer subject to the state-initiated administrative supervision of the insurer.
- Analyzed issues for a foreign insurer client related to tax and corporate structuring for establishing a Florida insurance company under an amended Florida law affording exemption from certificate of authority requirements for a foreign insurer.
- Assisted insurance companies in connection with M&A transactions, sale of policy portfolios, securing authorization pursuant to state certificate of authority

requirements and product development approval.

International and Cross Border

Tom counsels insurance companies and other financial services businesses with respect to establishing operations and addressing compliance challenges in foreign countries. He also has advised on foreign country laws implicated in the distribution and cross-border sale of offshore insurance products.

Representative Latin American transactions include:

- Researched laws implicated in offer and sale, on both an admitted and nonadmitted basis, of international health insurance policies issued by both a Latin America-based insurance company and an offshore insurance company in connection with insurance compliance considerations.
- Analyzed the laws of numerous Latin American and Asian countries in connection with issues related to transacting insurance business, solicitation and tax implications of the purchase of offshore variable and universal life insurance policies and annuities products with respect to persons resident in those countries, and developed distribution guidelines in connection therewith.
- Reviewed the U.S. Free Trade Agreements relative to the sale of offshore life and annuities products in light of cross-border provisions.
- Advised a foreign health insurance company on the laws of Latin American countries with respect to reinsurance and fronting arrangements in the context of global health insurance products to be marketed through a local authorized insurer.
- Handled enforcement actions against U.S. insurers in Argentina and Brazil in connection with transacting insurance business, solicitation, and tax implications of the purchase of offshore life policies insuring persons resident in those countries.
- Analyzed the laws of Brazil in connection with a possible regulatory enforcement action brought by a regulator regarding the sale of offshore variable life insurance policies by a foreign insurer in connection with what constitutes transacting life insurance business.
- Counseled a U.S. holding company with respect to structuring a Bermuda reinsurance company as a segregated cell company with each cell insuring separate workers compensation and related risks.
- Analyzed reinsurance laws of select foreign countries in connection with a U.S. insurer seeking to reinsure risks of local life insurance companies.
- On behalf of foreign corporations, analyzed the possible creation of a captive insurance programs in offshore jurisdictions to insure certain risks of subsidiaries.
- Advised a U.S. hedge fund and asset managers in connection with the creation of insurance-dedicated funds to be incorporated on a platform of offshore insurers in connection with the sale of variable life and annuities products.
- Advised fund managers on U.S. securities and insurance regulations governing the offer and sale of insurance-dedicated funds.

Federal Laws Affecting Insurance Clients

Federal law applies to clients' insurance issues in many ways and the regulatory environment in the United States, including compliance considerations with respect to money laundering and asset controls, poses numerous operational changes.

Representative transactions include:

- Developed compliance procedures for an insurance client in the context of the application of Export Administration Regulations and OFAC Asset Control Regulations to insurance companies, particularly in connection with reinsurance and issues related to Iran and Cuba.
- Reviewed a reinsurance agreement and use of a trust to ensure that the reinsurer deposited sufficient funds in a trust account to be maintained with a financial institution to permit the ceding insurer (as beneficiary) to access funds on deposit in order to pay claims.
- Advised an insurance-dedicated fund manager in connection with the investor control doctrine arising under federal tax laws in connection with variable insurance products.
- Analyzed the availability of insurance provided by the Overseas Private Investment Corporation (OPIC) in connection with construction and infrastructure products in various developing countries.
- Advised a U.S. insurer in connection with the updated guidelines of the International Association of Insurance Supervisors (IAIS) regarding anti-corruption and anti-money laundering activities and with respect to the activities of the U.S. Treasury's Federal Insurance Office as mandated by the Dodd-Frank Act in that context.
- Advised a global reinsurance intermediary in connection with the Iran Sanctions legislation.

Captive Insurance

Representative transactions include:

- Assisted a major U.S. national event organizer with respect to the possible creation of a captive insurer (either domestic or offshore) to accommodate their current self-insurance program, create tax savings, reduce commercial insurance costs, and review commercial policies in the context of captive feasibility.
- Assisted in developing and drafting a captive insurance law for a U.S. state.
- Advised a nutritional supplements manufacturing and distribution company on the benefits of creating a captive insurance company, including cost savings, efficiency of claims settlements, and tax advantages in the context of private wealth planning for the family-owned company.
- Assisted a real estate developer with respect to analyzing the possible creation of a captive insurance company to self-insure construction risks along with other related risks including workers' compensation.
- Assisted a timeshare developer in analyzing the insurance, tax, and securities law implications of creating a captive insurance company to be used in connection with providing credit insurance to timeshare owners in connection with a loan program and loan defaults.
- Advised a health care company with respect to the formation of a captive insurance company in the context of risk retention issues to accommodate insurance laws.
- Advised a major investment adviser in connection with its proposal to manage — on behalf of a client — the technical reserves of a captive insurer owned by the client, relative to the legal implications under insurance and securities laws of the proposed arrangement and the potential liability associated with the failure of the captive to comply with the laws.
- Advised a public company insurer with respect to its acquisition of a national

insurance agency/consultancy in connection with the insurer's captive insurance formation and management business.

- Advised a foreign manufacturing company in connection with the formation of a captive insurance subsidiary in select offshore jurisdictions.
- Advised a major global transportation company relative to the sale of its captive insurer and related subsidiaries in the context of change-of-control implications under state insurance laws advised a real estate brokerage firm in connection with the formation of a captive insurer (micro) to accommodate select insurance risks and discussion feasibility studies, costs, IRS compliance considerations, and related matters.

All Insights

05.05.2021	Mexico Imposes Digital Services Tax on Online Activities
04.09.2021	Non-Fungible Tokens (NFTs) as Art Loan Collateral <i>Business Law Today</i>
03.04.2021	Virginia Is for...Privacy? The Virginia Consumer Data Protection Act: What You Need to Know
03.03.2021	COVID-19 Economic Stimulus Programs: Different Countries, Similar Programs <i>Business Law Today</i>
01.07.2021	Recent Tax Shelter Disclosure Requirements in Mexico and Argentina <i>Business Law Today</i>
12.15.2020	A New Era for Insurtech in Latin America
11.17.2020	Challenges and Opportunities for Captive Insurance in Mexico <i>Captive International</i>
09.24.2020	Insurtech Regulatory Developments in Latin America <i>Business Law Today</i>
04.28.2020	Will a Public-Private Hospital Deal Help Ailing Mexicans? <i>Latin America Advisor</i>
04.02.2020	Insurance Implications of COVID-19 in Mexico <i>Business Law Today</i>
06.11.2019	Q&A: Mexico's Insurance Sector <i>Financial Services Advisor</i>
01.20.2019	Will North American Insurance Thrive Under the USMCA? <i>Financial Services Advisor</i>

12.12.2018	What Can Brazilian Banks Expect Under Bolsonaro? <i>Financial Services Advisor</i>
05.11.2018	Can Argentina's Macri Prevent an Economic Crisis? <i>Latin America Advisor</i>
04.15.2018	Captive Insurance Deskbook for the Business Lawyer <i>American Bar Association</i>
11.02.2017	Takeaways From The Tax Court's First Micro-Captive Insurance Ruling <i>Taxnet Pro</i>
06.27.2017	Will Argentina's Banking Sector See Higher Profits? <i>Latin America Advisor</i>
01.23.2015	What Will Be the Impact of Relaxed U.S.-Cuba Restrictions? <i>Financial Services Advisor</i>
06.18.2014	The Troubled Asset Relief Program <i>Corporate Compliance Answer Book</i>
04.02.2014	How Much Does Cybercrime Threaten Latin American Companies? <i>Financial Services Advisor</i>
03.18.2014	Economic Sanctions in Iran: Coping With the Changing Landscape <i>Ethisphere Magazine</i>
01.08.2014	Would a Banking Reform Measure Boost Mexico's Economy? <i>Financial Services Advisor</i>
All News	
04.09.2021	Carlton Fields' Tom Morante Authors Business Law Today Article on NFTs in the Art World
02.26.2021	COVID-19 Economic Stimulus Programs: Different Countries, Similar Approaches
09.24.2020	Insurtech Regulatory Developments in Latin America
09.11.2020	Carlton Fields' Thomas F. Morante and Yani R. Contreras Featured in Captive Insurance Times

Recognition

- AV Rated by Martindale-Hubbell
- *The Best Lawyers in America*, Insurance Law, International Trade and Finance Law, Tax Law (2005–2022)
- Business Law Section Chair's Award, American Bar Association (2016)
- *Chambers USA* (2011–2012)
- Florida Super Lawyers, *Super Lawyers Magazine* (2006–2021)
- Founders Award, Washington College of Law (2019)
- Distinguished Alumni, Washington College of Law Business Law Society (2013)

Professional & Community Involvement

- American Bar Association
 - United Nations Representatives Committee
 - Representative, United Nations Department of Global Communication
 - Business Law Section
 - Chair, Business Law Now Board — "In The Know" and "Business Law Basics" Webinars
 - ABA United Nations Representatives Committee (UNR)
 - Chair, Publications Subcommittee and Former Chair - International Coordinating Committee
 - Contributing Editor, *Business Law Today: Insurance Law*
 - Editorial Board, *The Business Lawyer*
 - Marketing Board and Liaison to the Membership Board
 - Content Board, as Chair of Business Law Now Board
 - Chair, Membership and Planning Subcommittee, Career and Practice Development Committee
 - Rule of Law Working Group
 - Administrative Committees: Content, Diversity and Inclusion, Programs
 - Substantive Committees: Cyberspace Law; Captive Insurance; Corporate Governance; Federal Regulation of Securities; International Business Law; Legal Analytics
- District of Columbia Bar
 - International Law Community
- The Florida Bar
 - International Law Section

- Business Law Section
- Virginia State Bar
 - International Practice Section
- Inter-American Dialogue
 - Board of Advisors, *Latin American Financial Services Advisor*
- American University Washington College of Law
 - Dean's Advisory Council
- Hispanic Bar Association of the District of Columbia

Speaking Engagements

- "International Suite Talks," American University Washington College of Law (November 11, 2020)
- "The Pandemic of 2020 - Current and Future Legal Implications and the Impact on Life, Work, and Family," Inaugural WCL-NOW Event Series Launch, American University Washington College of Law (October 22, 2020)
- "The New NAFTA: What Does It Mean and What Are the Implications for Cross-Border Transactions?," ABA Business Law Section Spring Meeting, Vancouver, BC (March 28–30, 2019)
- "Captive Insurance for the Middle Market," Oxford Risk Management Group (September 25, 2018)
- "Managing Key Risks in International Business," American Bar Association (November 28, 2017)
- "The New Paradigms: An Introduction to Legal Informatics for the Business Lawyer," ABA Business Law Section Annual Meeting (September 9, 2016)
- "Global Expansion of Insurance Products," 14th Annual Private Placement Life Insurance and Variable Annuities Forum (May 17–18, 2016)
- "The Long Arm of the Law: The Extra-Terrestrial Reach of U.S. Anti-Corruption Legislation," Thomson Reuters (April 21, 2016)
- "Planning with Micro-Captives After the 2015 PATH Act," Crump Life Insurance (March 21, 2016)
- "Iran Sanctions Update," Thomson Reuters (March 2, 2016)
- "Doing Business in Sanctions 'No Man's' Land," Thomson Reuters (October 8, 2015)
- "Russian Sanctions Trade War: Global Sanctions Against Russia Lead to Russian Retaliatory Sanctions," Thomson Reuters (October 15, 2014)
- "Structuring Hard-Asset IDFs – MLPs, Real Estate, and Private Equity Funds; Implementing Private Placement Solutions Outside the U.S.," 12th Annual Private Placement Life Insurance and Variable Annuities Forum (June 3–4, 2014)
- "Latest International Insurance Regulatory Developments," Private Placement Life Insurance and Annuities (May 20, 2014)
- "Avoiding Corporate Data Disasters: Establishing Compliance Procedures to

Credentials

EDUCATION

- Georgetown University Law Center (LL.M.)
- American University Washington College of Law (J.D., 1977)
- Union College (B.A., magna cum laude)
 - Phi Beta Kappa

BAR ADMISSIONS

- District of Columbia
- Florida
- Virginia

LANGUAGES

- Spanish

Background

- Partner, Kaufman Dolowich & Voluck LLP, Ft. Lauderdale, FL
 - Chair, Insurance Regulatory & Transactional Practice Group
- Partner, Holland & Knight LLP, Washington, D.C.
 - Co-Chair, Insurance Industry Team
- Partner, Jordan Burt LLP, Washington, D.C.

Areas of Focus

PRACTICES

- Blockchain and Digital Currency
- Business Transactions
- Captive Insurance
- Cyber Insurance Coverage Disputes
- Financial Services Regulatory
- Hospitality
- International

INDUSTRIES

- Life, Annuity, and Retirement Solutions
- Property and Casualty Insurance
- Securities & Investment Companies

- International: Asia
- International: Brazil
- International: Cuba
- International: Europe
- International: Latin America
- International: Mexico
- International Insurance Regulatory
- International Tax
- Life, Annuity, and Retirement Litigation
- Mergers and Acquisitions
- Property & Casualty Insurance
- Reinsurance
- Representations and Warranty Insurance