

PFAS exclusions: Are your exclusions robust enough?

30 May 2025  Jeanette Flowers

Per-and polyfluoroalkyl substances (PFAS) are chemical substances which are extensively used in a wide variety of applications due to their sturdiness and the fact they do not break down easily (giving them the common name of 'forever chemicals').

PFAS have been likened to asbestos in terms their widespread use and persistence in the environment. In recent years we have seen an increase in the use of PFAS exclusions across property and casualty policies, in particular where the PFAS exposure is often seen as difficult to quantify.

Controlling exposure to PFAS in policies in France has been particularly challenging owing to the fact that the French Insurance Code expressly prohibits the use of 'all encompassing' policy exclusions. Insurers must therefore be specific about precisely what amounts to a PFAS. This is no easy feat, with The European Environmental Bureau estimating over 10,000 substances could be considered to be PFAs.

This challenge for insurers comes against the backdrop of increasing threats of legal action over the use of PFAS, with one law firm gathering 250 of the 500 signatures required to launch a class action against Arkema and Daiken, two Lyon based industrial groups situated in one of France's most important industrial hubs.

This is not an issue that is limited to France. In the US, the Environmental Protection Agency (EPA) says PFAS can damage the immune system, interfere with child development, impair fertility and increase vulnerability to obesity. They may also increase vulnerability to some cancers. The EPA lists several diseases that may be PFAS-related, including testicular cancer, liver and thyroid disorders and high cholesterol. The EPA has set regulatory limits on six types of PFAs in drinking water and specified two types of PFAs as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

This issue of PFAS is clearly not going away.

What does this mean for UK insurers?

An inquiry has been launched by the Environmental Audit Committee (EAC) considering whether enough is being done to understand fully the risks of PFAS in the UK and whether research institutions and the Environment Agency are equipped to monitor their impact. The EAC will also analyse whether the UK's approach is comparable to other jurisdictions around the world including the EU and US.

This has led to insurers and reinsurers having increasing concerns about the potential for significant losses across many different lines of business. Whilst a number of market exclusions have now been drafted to address the risk of PFAS, insurers would be advised to review existing policies which might not include a PFAS exclusion, or which might have a less comprehensive exclusion.

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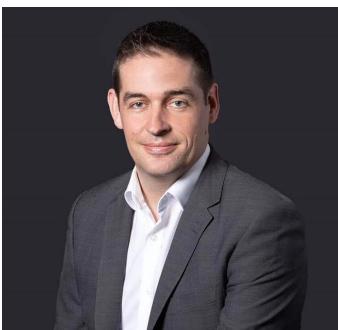


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