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Insurers to Waive Right to Dismiss Claims in Malaysia Airlines Crash Private Insurance Claims Could Total Tens of Millions of Dollars

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A growing number of insurance companies are promising to waive their right to dismiss claims on the private insurance policies of passengers and crew of Malaysia Airlines 3786.KU +2.13% Flight 17 if the aircraft's crash is deemed to be due to an act of war.

With a potential cost of tens of millions of dollars, the gesture may be an expensive move for an industry already suffering a bad year for aviation claims.

One day after the plane was shot down over eastern Ukraine on July 17, the Dutch association for private insurance companies said its members would waive any exclusion for acts of terrorism or war. The lobby agency explained the clause exists to protect clients from the risk of excessive war damages, which wouldn't apply in this case.

The Malaysian association of life insurance companies followed suit a week later, also saying its member companies won't require death certificates and will speed up claims payments.

General insurance companies in Malaysia however stated on July 30 that their travel and personal accident policies don't cover acts of war and haven't yet collectively announced an intention to waive the clause. Malaysia's general insurance association declined to comment.

Malaysian passengers and crew on board Flight 17 have taken up 95 life insurance policies with payouts that could total around 13.7 million Malaysian ringgit (US\$4.3 million), according to the life insurance association in Kuala Lumpur.

The Dutch association said it won't provide such numbers out of respect for the privacy of next-of-kin. An industry specialist estimated the sums covered by Dutch policies could be around 20 million euros (\$26.8 million).

The Netherlands and Malaysia lost the most citizens in the disaster, with 196 Dutch nationals among the 298 passengers and crew on board, and 43 Malaysian nationals.

The aircraft's loss coincides with a series of attacks on airports this year and follows the disappearance of another Malaysia Airlines plane in March, all of which has led to worries that aircraft insurance rates may rise.

Among insurers who have decided to waive the clause is the Malaysian branch of AIA. "The company on an exceptional basis has decided to waive all special restrictions or exclusions for death due to terrorism, war, or warlike situations," AIA Bhd. Chief Executive Bill Lisle told The Wall Street Journal.

Allianz Global Corporate & Specialty has also decided to waive its act of war clause for health, travel, personal accident and life policies bought by those on board Flight 17 in Malaysia, Germany, Belgium, the Netherlands and Luxembourg.

Axa Affin General Insurance Bhd. said it wouldn't comment on policy liability for its "very few" policyholders on Flight 17. Prudential PRU +0.52% declined to comment about whether it would waive the act of war clause.

AIG said it is too early to comment on the specifics of the crash, and Zurich Insurance ZURN.VX -0.80% didn't immediately respond to requests for comment.

Allianz SE, ALV.XE -0.24% which is also the lead reinsurer of the doomed flight, is likely to face a much higher bill from its reinsurance contract with Malaysia Airlines. Under the Montreal Convention, which spells out rules on international air travel, a carrier is automatically liable for up to \$170,000 per passenger, or some \$50 million for all 283 passengers. However, much higher claims can be made if the relatives of victims can make the case the airline could have prevented the accident.

"The airline has the burden of proof to establish that it is free from fault. If it is not free from fault, then it pays 100% of whatever the provable damages are," said Steven Marks, a partner at aviation litigation firm Podhurst Orseck. "I don't see any chance that the airline is going to get any type of protection under Montreal because they will never be able to establish freedom from fault," he said.

The crash hasn't yet been officially recognized as an act of war. Aviation lawyers agree that while the investigation will be a challenge because of the crash-site's location in a war-torn region, the case is more simplistic from an insurance perspective than for Malaysia Airlines Flight 370, which went missing in March and hasn't yet been found.

—Archie van Riemsdijk in the Netherlands contributed to this article.