

# Beyond the National Insurance Scheme

- Finding a Global Solution for Digital Nomads

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## **Table of Contents**

<b>Chapter 1. Introduction</b>	<b>3</b>
1.1 Topic and Background	3
1.2 Research questions and aim	8
1.3 Methodology	9
1.4 Structure	11
<b>Chapter 2. Setting the Context</b>	<b>12</b>
Introduction	12
2.1 Foundational Premise: The Digital Nomad	14
2.2 Entitlements at home: National Insurance Scheme ("folketrygden")	17
2.3 The needs of the Nomad	26
2.4 Model Plans Composed	28
<b>Chapter 3. Atlas of Selected Jurisdictions</b>	<b>34</b>
Introduction	34
3.1 Case Norway	38
3.2 Case Canada	48
3.3 Case Brazil	53
3.4 Case India	59
3.5 Case United States of America	66
<b>Chapter 4. Conclusion</b>	<b>76</b>
4.1 Atlas Discussed	76
4.2 Absence of Transnational Harmonization	83
<b>General Bibliography</b>	<b>88</b>
Primary Legal Sources	88
Analytical Data Reports & Databases	89
Online Articles	90
Academic Bibliography	92

## **Chapter 1. Introduction**

### **1.1 Topic and Background**

The aim of this research is to investigate the difficulties faced by the Digital Nomad when they leave Norway for more than a year. In this thesis, A Digital Nomad is an individual who uses technology to work and earn a living while traveling or living in various locations, usually as a freelancer or entrepreneur. As the Digital Nomad is a citizen of Norway, the primary concern is that they lose their rights under the National Insurance Scheme, requiring them to seek alternative options for a global social safety net. To help Nomads in finding a substitute solution, this thesis will investigate five different legal systems, identifying any limitations and comparing the laws governing the creation and sale of insurance and pension products within those jurisdictions. How can a Digital Nomad access a global safety net?

This thesis examines the current trends in the global private insurance industry through an insider's perspective. In recent years, cross-border travel has become more common due to globalization, and a new class of highly mobile individuals has emerged. These individuals, referred to as Digital Nomads (also called Nomads) in this research, tend to stay abroad for more than one calendar year. For the purpose of this thesis, the study is limited to Nomads from Norway, which has a strong national insurance system called the National Insurance Scheme (henceforth the Scheme). Ideally, Nomads would be able to benefit from their entitlement to the Scheme when they relocate outside of Norway, such as utilizing their right to universal healthcare when injured abroad. However, traditional legal norms state that national insurance schemes do not travel with people leaving their countries of residence.

As will be shown later in the thesis, the Norwegian Scheme is primarily funded through income taxes on the working population, including Nomads. This active participation in financing the national Scheme establishes their active membership and legal entitlement to the publicly-provided benefits under the Scheme, such as various pension accumulation plans and universal medical and hospital coverage.

However, the Scheme has limited application for Nomads, as membership ceases to apply when one spends more than 12 months outside Norway. This results in a practical legal challenge for this group, as they become socially insecure while abroad. For example, they would no longer have access to their national scheme in case of injury in a different country, or the ability to start accumulating pension benefits back home when receiving job offers abroad from a foreign employer. Furthermore, many Nomads are not aware that their membership in the Scheme has ended after 12 months abroad.

To address this challenge, Nomads often turn to private insurers, specifically to their national private insurers that have their head office in Norway and have established subsidiaries abroad. Being able to bring their locally obtained private insurance is important, as obtaining new coverage in each country will cause an issue for the Nomad.

In recent years, international private insurers have created comprehensive private insurance plans that can, to some extent, substitute the National Scheme for Nomads abroad. These insurance plans are tailored to meet the specific needs of Nomads, which differ from other target groups due to their unique legal circumstances. This creates an economic and legal phenomenon, where private insurers can act as intermediaries for Nomads' social security while abroad.

However, as globalization continues to increase, some Nomads may find that foreign jurisdictions have limitations for their private insurance sectors, particularly for foreign insurers. For example, many legal systems require foreign insurers to be admitted before they can offer policies, requiring them to legally establish a subsidiary in that jurisdiction. This can limit the insurer's operations within the legal system and the plans they can offer.

Despite any implications for insurers, Nomads are the ones most affected by legal issues. Private insurance law typically addresses legal entities, not individuals like Nomads, which reduces them to clients in insurance transactions. This means that the legal challenge faced by Nomads is directly dependent on the insurer's successful admission to a legal system. Otherwise, Nomads

risk falling into a legal gap, created by the lack of both their National Scheme and potentially available private coverage when abroad.

Therefore, this research focuses on the topic of private insurance as a substitute for national insurance for citizens abroad. The current academic discourse does not provide sufficient information on this issue and there have been few private inquiries into it.

To address this gap, this research examines five legal systems: Norwegian, Canadian, Indian, Brazilian, and American. This examination aims to explore the regulations of the private insurance sector across these jurisdictions.

Particular attention is given to regulations that may either alleviate or exacerbate the challenges faced by Nomads, both directly through laws addressing them and indirectly through laws addressing private insurers. This research aims to test the practical legal challenges faced by Nomads in the selected jurisdictions and whether private insurance plans can provide a solution or not.

This analysis seeks to highlight the broader concern of the lack of transnational harmonization in this area of law. Some may question the relevance of this observation to the practical challenges faced by Nomads.

However, this absence exacerbates the legal obstacles that private insurers must overcome to assist Nomads abroad. Notably, the lack of harmonization is a shared challenge for both private insurers and Nomads, as both parties could benefit from a more unified approach. This highlights the unique relationship between Nomads and private international insurers.

Analyzing the discrepancies in regulations may also have wider implications. Recent global developments have highlighted the interconnected nature of the economy and legal system in today's world.



## The Story

The purpose of this thesis is to narrate the story of the Digital Nomad and the unique challenges they face in this new lifestyle. The narrative begins with a Nomad leaving their home country, Norway, known for its comprehensive National Insurance Scheme that guarantees financial security for citizens in the event of illness, injury, and other life circumstances. The Scheme provides peace of mind for Norwegians, ensuring that they are protected in all aspects of life.

The Nomad, accustomed to the comfort and security provided by Norway, does not initially consider the implications of leaving their home country. As Chapter 2 illustrates, the Nomad may lose access to the National Insurance Scheme and fail to accumulate enough points for a sufficient pension in the future. This realization forces the Nomad to consider the benefits and rights provided by the Norwegian Scheme and which they wish to maintain. Chapter 2 concludes with a proposed model insurance plan that addresses these concerns.

In Chapter 3, the Nomad's journey takes them to four diverse countries, where they encounter varying options for social safety nets. They explore the possibility of becoming part of the local social safety net, as well as alternative methods of obtaining financial security. It is determined that while abroad, the Nomad cannot access the Norwegian Scheme, leading them to consider purchasing a private international plan that aligns with the requirements of the model insurance plan proposed in Chapter 2. However, as the chapter illustrates, obtaining such a plan is not a straightforward process. Financial products are subject to specific rules, unlike a suitcase that can be easily transported across borders. Each country the Nomad visits has its own laws and regulations regarding social safety nets, making it difficult for the Nomad to secure the same level of protection they are used to in Norway. This is often due to protecting the local market or ensuring citizens have access to products that meet certain standards. Nonetheless, the Nomad faces challenges in finding a suitable social safety net while traveling.

This challenge has been identified by many states already, and there is a regional solution for this, namely the European Health Insurance Card (EHIC) which applies to all states in the EU/EEA. Unfortunately it stops there, and due to the vast differences in laws and social safety



net between countries, it is highly unlikely that this type of agreement will be created between all countries in the world. It is more likely that the solution for the Nomad will come from a private initiative.

So why can't the Nomad simply get a locally provided plan when they are in each country? That is a question about risks for the insurance company. A country like Norway can spread the risk of the national insurance plan across all citizens of the country. They obtain taxes from the working population, and the coverage is provided for those who need it. For a private insurer it's different. They will need to calculate the risk based on paying customers. Therefore, the Nomad will find that most health insurance plans and pension plans will have requirements for a minimum commitment (e.g. minimum 12 months), and exclusions that could be an issue (e.g. no coverage for pre-existing conditions). The Nomad might not be there long enough for that to make sense, and they might need coverage for things that are excluded from the plan. Chapter 3 will therefore explore what requirements are found in each country for the private insurance company from Norway to be able to continue covering the Nomad as they travel to each country.

## **1.2 Research questions and aim**

Research question: How can a Digital Nomad access a global safety net?

Research sub-questions:

- (i) What is the situation for the Digital Nomad leaving Norway?
- (ii) What needs does the Digital Nomad have if they can't access the Scheme?
- (iii) Are there legal obstacles, directly or indirectly, in the selected jurisdictions which would hinder the Nomad in obtaining replacement coverage for the Scheme?

### **1.3 Methodology**

The present research is a qualitative study in the field of law. In order to gain a comprehensive understanding of the subject, various legal and non-legal sources were used in the research process. Firstly, primary sources such as legislation, court cases, and government documents were consulted in order to gain a thorough understanding of the legal framework surrounding the topic. These sources provided the foundation for the research and helped to identify key issues and potential areas for further inquiry.

In addition to primary sources, secondary sources such as legal scholarship, academic journals, and books were also consulted. These sources helped to deepen the understanding of the topic by providing a broader perspective and historical context. Furthermore, non-legal sources such as news articles and reports from non-governmental organizations were also consulted. These sources helped to provide a more comprehensive understanding of the topic by highlighting the social and political context in which the legal issues were being considered. In terms of data collection, the research primarily relied on a qualitative methodology, in which data were collected through document analysis.

It should be noted that as the topic of this research was not previously covered by any other researcher, a significant amount of effort was put in searching and reviewing literature, which made the research process both challenging and rewarding.

As the author of this thesis, I would like to highlight that I have a unique advantage due to insider knowledge from the industry. The information I've gathered through my professional experience and connections within the industry, has greatly enhanced the depth and relevance of the research presented in this thesis. It has allowed me to provide valuable insights and analysis that would not have been possible through publicly available information alone. Of course, it also comes with some challenges, which will affect the perspective of this research. It should be emphasized that the research was conducted with the highest standards of objectivity and impartiality. Every effort was made to ensure that the conclusions reached were based on the evidence gathered, rather than any preconceived notions or biases. I assure that the information

was obtained ethically, and that any potential conflicts of interest have been disclosed to ensure the integrity of the research. It is the hope that this thesis will be a valuable resource to others in the industry as well as the academic sphere, therefore all sources used in this research are available in English for ease of reference and understanding.

It is important to note that certain topics have fallen outside the scope of this thesis due to the limitations of this study. While the topics may be interesting and relevant to the research, they have had to be excluded in order to focus on the main objectives of the study. Making decisions on what is within the scope of the thesis and what is not is never easy, as the topic of study can often be endless. However, it is necessary to prioritize and focus on the most important aspects in order to effectively conduct the research and present the findings.

In conclusion, the methodology employed in this research was designed to gain a comprehensive understanding of the topic by consulting a wide range of legal and non-legal sources and by using qualitative research methods. The research process was challenging due to the lack of previous research on the topic, but ultimately rewarding as it helped to shed new light on the subject. The data was collected primarily through document analysis, and the research relied on the authors professional experience and connections within the industry. Certain topics were excluded due to limitations on time in order to focus on the main objectives of the study.

## 1.4 Structure

This section presents a brief structural overview of the whole paper.

Chapter 1 serves as an overview of this research. It briefly covers the background of the research and provides an understanding of current developments in law and globalization. The chapter also defines the main research goal and presents the sub-questions that guided the study. Lastly, it concludes by detailing the methodology and structure used in analyzing the research material.

Chapter 2 delves into the key concepts and laws related to the research. It begins by defining the central subject of the paper - Digital Nomads - and providing background information on their characteristics. The chapter then examines the National Insurance Scheme and identifies the main legal problem faced by Nomads, which is their inability to access the Scheme once they have been abroad for 12 months. The chapter concludes by identifying the essential needs of Nomads when their access to the scheme is no longer available and explores potential solutions from the private insurance sector that are gaining popularity among Nomads.

Chapter 3 examines five different jurisdictions in relation to the main research question of whether private insurance companies from Norway can substitute for the benefits provided by the National Insurance Scheme for Nomads when access to the scheme is unavailable. The jurisdictions, with the exception of Norway, are evaluated in terms of this question. Norway is examined separately to determine if and how private insurers can operate there and potentially outsource in the other jurisdictions examined in relation to the main research question.

Finally, Chapter 4 concludes the paper by offering a brief comparison of the jurisdictions examined and noting the diversity among them. It also highlights the lack of transnational harmonization as a major issue for Nomads, private insurers, and the global economy as a whole.

## **Chapter 2. Setting the Context**

### **Introduction**

The following chapter explores the background and context of this study. It defines key terms and concepts used throughout the research. The chapter starts by introducing the central idea of the paper, the Digital Nomads, and describing the characteristics that define this group, including work-related and lifestyle mobility. These elements are explained in depth to provide a clear understanding of the Nomad population and the difficulties they encounter in accessing social security benefits.

Section 2.1 introduces the core concept of Nomads and the main issue addressed in this paper, which is their difficulty in accessing social security benefits under the Scheme when abroad for more than 12 months.

Section 2.2 examines the Norwegian laws and regulations related to the issue. The focus is on identifying the criteria for membership in the Scheme and the nature of specific benefits, such as national pension insurance and national health insurance. The goal is to establish the legal challenges faced by Nomads in accessing these benefits under the Scheme. Additionally, it will be shown that the issue has already been addressed at a regional level.

After examining the details of the Scheme in Section 2.2, Section 2.3 focuses on understanding the specific needs of Nomads in terms of private insurance. These needs mirror the benefits offered by the national Scheme, as Nomads typically seek private insurance options that closely resemble their national coverage.

Lastly, Section 2.4 defines the specific types of private insurance plans desired by Nomads. These plans include private pension accumulation and healthcare benefits, which are intended to replace the benefits provided by the national Scheme when Nomads are abroad. The insurance

plans will include key features that meet the needs of Nomads as identified in the previous section.

In summary, Section 2.4 presents the final key concept of the chapter and sets the stage for the next stage of the research. This next phase will involve applying the concepts discussed in this chapter to specific jurisdictions, to evaluate whether the model insurance plans are able to substitute the Scheme in relevant areas.

## 2.1 Foundational Premise: The Digital Nomad

The conceptual framework of this research draws on existing scholarship on social and legal trends, and provides a brief overview of the foundational premise of the study: the Digital Nomad. This section aims to define the term and establish its significance for the remainder of the research. The definition will have certain practical delimitations in order to simplify the premise for the use in this research.

A Digital Nomad is a person who leverages technology to earn a living while traveling or living in different locations. They typically work remotely, often as freelancers or entrepreneurs, and use digital tools to stay connected with clients and colleagues. Digital Nomads are often interested in exploring new places, cultures, and ways of life, and may prioritize flexibility and autonomy in their careers. Another characteristic of the lifestyle of a Digital Nomad is that their stay in one place or country is temporary, while their stay abroad tends to last for more than one calendar year.

Nomadism, which originated in the 1980s, has gained popularity in recent years due to the effects of globalization and the advancement of mobile technology. These developments have enabled individuals to make significant changes to their lifestyle quickly, and the Nomadic lifestyle has been embraced by many traveling professionals.<sup>1</sup> According to Hannonen, Nomadism lies in the convergence of two components, namely work-related mobility and lifestyle mobility. Work-related mobility stands for the freedom to perform one's professional duties while abroad. Whereas, lifestyle mobility expressed through prolonged stays abroad for non-business purposes. That could include tourism, retirement, or even temporary residence abroad.

The Digital Nomad trend has led to a new way of working, where individuals are able to conduct their business and employment remotely, without the need to be physically present in a traditional office setting. This trend is made possible by advances in technology, such as

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<sup>1</sup> Hannonen, O. (2021). In Search of Digital Nomad: Defining the Phenomenon. *Information Technology and Tourism* 10.



high-speed internet, cloud computing, and mobile devices, which have made it possible for people to work from anywhere in the world, as long as they have access to these tools.

Digital Nomads often travel to different locations while working, taking advantage of the ability to work remotely to explore new places, cultures, and experiences. The lifestyle allows for a more flexible schedule and freedom from the traditional 9-to-5 workday. This trend has led to a growing number of people who are able to work remotely, either as freelancers or as employees of companies that allow for remote work. As a result, we are seeing more people able to work and live anywhere in the world.

The concept of remote work, also known as telecommuting or working from home, has been around for several decades. However, it has become increasingly popular in recent years, as advances in technology have made it easier for employees to work remotely and stay connected with their colleagues and clients. The COVID-19 pandemic has further accelerated the trend, as many companies have been forced to adopt remote work policies to keep their employees safe and to maintain business continuity. As a result, there has been a high demand from employees for more flexible working arrangements and the ability to work from home. Many companies have responded by offering more remote work options and by investing in the necessary technology to support remote work. Additionally, many companies are shifting to a hybrid model where some of their employees continue working remotely while others come to the office.

LinkedIn, a professional networking platform, recently released statistics that indicate an increasing demand for remote work among job seekers<sup>2</sup>. According to the data, while remote jobs constitute less than 20% of all jobs listed on the platform, they receive over 50% of all job applications. This suggests that there is a growing trend among job seekers towards seeking out remote work opportunities.

This trend could in turn potentially lead to an increase in the number of Digital Nomads. Remote work allows for greater flexibility and independence, and many people are attracted to the idea of

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<sup>2</sup>"Remote Jobs Attract the Majority of Applications for the First Time," LinkedIn Talent Blog, accessed January 11, 2023, <https://www.linkedin.com/business/talent/blog/talent-acquisition/remote-jobs-attract-majority-applications-first-time>

being able to work from anywhere in the world. If employers respond to this demand by offering more remote work options, it could lead to a shift in the traditional work environment and make it more common for people to work remotely.

In addition to the potential benefits for individual workers, the increasing demand for remote jobs could also have significant implications for businesses and the economy. Companies that are able to offer remote work options may be able to attract a more diverse and talented pool of job applicants, as they will not be limited to hiring only people who are able to relocate to a specific location. This could in turn lead to a higher demand for financial products that fit the specific needs of Digital Nomads and remote workers.

To provide a clear focus, this thesis uses a Norwegian Digital Nomad as a reference point. In this context, a Digital Nomad is someone who was born and raised in Norway, and thus holds certain rights as a citizen in Norway. Additionally, it is assumed that the Nomad has spent more than 12 months outside of Norway, which is when the main issues related to social security arise, as will be discussed in the following section. The next section explores the social security net provided by the Digital Nomad's home country.

## 2.2 Entitlements at home: National Insurance Scheme ("*folketrygden*")

Working remotely can present some unique challenges when it comes to taxes and social security. Even if the Digital Nomad is a Norwegian working for a Norwegian company, they may not have access to the social security net provided by Norway.

First, it is important to understand that if an individual is permanently working remotely abroad, their membership in the national insurance scheme will expire when they leave Norway.<sup>3</sup> This applies regardless of citizenship and who they are paid by. However, if an individual has a close connection to Norway and/or the Norwegian labor market, they may be eligible to apply for voluntary membership in the national insurance scheme.

It's also worth noting that even if an individual's membership in the national insurance scheme has expired, they may still be required to pay taxes to Norway. The rules surrounding tax liability in Norway can be complex and fall outside the scope of this thesis, but generally, if an individual takes up permanent residence abroad and does not stay in Norway for more than 61 days in the tax year, they may be considered tax residentially emigrated from Norway.<sup>4</sup> However, the Nomad might struggle to provide the required evidence, as they will likely not fulfill the requirements of permanent residence in another country.

In conclusion, even if an individual is not a member of the national insurance scheme, they may still be required to pay contributions to Norway. This is because the rules surrounding social security contributions are separate from those of tax liability. Therefore, it is important to understand that even if an individual is not eligible for social security benefits in Norway, they may still be required to pay into the system.

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<sup>3</sup> "Hjemmekontor i et land Norge ikke har trygdeavtale med," NAV, accessed January 13, 2023, <https://www.nav.no/no/person/flere-tema/arbeid-og-opphold-i-utlandet/hjemmekontor-og-medlemskap-i-folketrygden/hjemmekontor-i-et-land-norge-ikke-har-trygdeavtale-med-kap>.

<sup>4</sup> "Flyttet til eller fra Norge," Skatteetaten, accessed January 13, 2023, <https://www.skatteetaten.no/person/skatt/hjelp-til-riktig-skatt/utland/flyttet-til-eller-fra-Norge/>

This section provides a brief overview of the Norwegian National Insurance Scheme (Nor. “folketrygden”; the Scheme) and examines two sets of benefits under that system: national pension insurance and national health insurance. The legal framework governing the Scheme is outlined, including the membership criteria. The nature of national pension insurance and national health insurance is also explored.

It is important to understand this information as it demonstrates the legal context that Digital Nomads are in, outlining their entitlements under the Scheme and the main challenge they face: losing these entitlements when leaving their country of residence for a continuous period of time. The national legislation also provides valuable information on how the benefits are calculated under the Scheme, highlighting that the loss of entitlement to these benefits is unjustified as most of them are financed on an income tax basis, which Digital Nomads contribute to.

### The scheme’s organization

The general organization of the Scheme is mainly regulated by the National Insurance Act (henceforth the Act or the NIA). The Act provides for the main purpose of the Scheme: to provide financial security by securing one’s income and compensating for special expenses in certain circumstances, such as unemployment, illness and injury, disability, old age, and death, pregnancy and childbirth.

The Act also recognizes special groups, such as employees, freelancers, and self-employed persons, who are covered by the Scheme. Paragraph 1.8 reads that an employee is somebody who performs a service for a remuneration; A freelancer is a person who works outside of service for a remuneration; without being self-employed; While a self-employed person is the one who at their own expense runs a business, which provides for a net income. A Digital Nomad can be any one of these groups, but their status after they've left Norway is not considered.

The Act also allows for some non-Norwegian citizens legally residing in Norway or abroad, as well as Norwegian citizens residing abroad, to qualify for benefits under it, but with certain conditions applied. These groups, however, differ from Digital Nomads as they are often working on behalf of the state abroad. As such, the Act does not explicitly recognize Digital Nomads.

In conclusion, the National Insurance Act does not address Digital Nomads exceptionally. As it does with the above groups. Yet, the membership criteria to the Scheme has to be examined first before making a claim that Digital Nomads lose access to it abroad.

### Scheme's Membership

Chapter 2 of the Act provides the rules for membership in the Scheme. Under Paragraph 2.1, persons legally residing in Norway are compulsorily members of the Scheme<sup>5</sup>. To be considered a resident, one must stay in Norway for at least 12 months, and a person intending to stay for that long is considered a Norwegian resident as soon as they enter the country. However, this only applies to those with legal residence in Norway, meaning that they comply with the conditions of their stay.

Compulsory membership also applies to Norwegian citizens going abroad. Paragraph 2.5 outlines criteria that must be met for a Norwegian citizen to be considered a compulsory member under the Act while abroad. For instance, one is a member when they are a Norwegian citizen in the service of the Norwegian State or a Norwegian citizen studying abroad on a loan or scholarship from the State's Loan Fund for Education<sup>6</sup>. However, none of these criteria are necessarily relevant to Digital Nomads, who usually relocate without formal assistance from the state.

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<sup>5</sup> Ibid. Para. 2.1

<sup>6</sup> Ibid. Para. 2.5

The Act also allows for voluntary membership for persons residing in Norway. Paragraph 2.7 states that those who are not compulsory members of the Scheme but reside in Norway may be eligible for voluntary membership. However, this type of membership is not usually available to the Digital Nomad<sup>7</sup>.

Section 2.14 sets the conditions for the termination of compulsory membership, which takes place when one takes up continuous residence abroad for at least 12 months. This condition only applies to compulsory membership as defined in Section 2.1, which applies to Norwegian citizens. The rest of Section 2.14 applies to other types of membership termination, such as voluntary membership.

Digital Nomads conform to the membership requirements set in Chapter 2 of the Act. Legal Norwegian residence is a requirement for the Scheme's membership, and Digital Nomads are residents within the meaning of Chapter 2 NIA by virtue of being citizens of Norway, thereby qualifying for compulsory membership when inside the country. However, the brief overview of the Scheme's membership criteria has also outlined an important issue, namely the Scheme's compulsory membership termination. The legislation does provide for some exceptional cases when one can retain their membership while abroad, but these do not apply to Digital Nomads. In most cases, membership ceases to apply once Digital Nomads take up continuous residence abroad for at least 12 months, which they usually pursue.

Therefore, this section establishes that the Scheme's compulsory membership ceases to apply when one leaves the Norwegian legal system for a continuous period of time. This leaves Digital Nomads to rely on their own resources when abroad and they continuously face this practical challenge. To fully understand the severity of the problem, it is important to review the accumulation of benefits under the Scheme. Such a review demonstrates the disadvantages of losing one's compulsory membership, as it pauses the accumulation of Digital Nomad's pension under the Scheme and bars them from benefiting from universal healthcare.

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<sup>7</sup> Ibid. Para. 2.7

## National Pension Benefit

The Norwegian national pension system comprises two different kinds of benefits. They are *flat-based* (Nor. “*Grunnpensjon*”) benefit and *earning-based* benefit (Nor. “*Alderspensjon*”). The flat-based benefit is universal, awarded regardless of a person's income, but does take into account the applicant's status with the national insurance system<sup>8</sup>. For instance, the flat-based pension is conditional on being a member of the Norwegian social security system for a certain number of years<sup>9</sup>.

According to Paragraph 3.2, those who have been a member of the social security system for five years are eligible to receive the minimum amount from the flat-based pension. To receive the full amount, one must be a member of the social security system for at least 40 years. The full amount of the flat-based pension is calculated from the base amount defined for that specific fiscal year<sup>10</sup>, which is determined by the King and adjusted annually according to wage growth<sup>11</sup>.

The flat-based benefit was designed to provide income security for the economically active population and eliminate the need for private insurance schemes.<sup>12</sup> However, it seems that the base pension is not sufficient to meet the demands of a globalized world.

The Nomad will easily meet the requirement of five years under the pension scheme, allowing them to collect their minimal pension unit entitlement upon retirement. However, there can be

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<sup>8</sup> Bay, A. H. and Pedersen, A. W. (2004). National Pension Systems and Mass Opinion: A case study of confidence, satisfaction and political attitudes in Norway. *International Journal of Social Welfare* 13(2), p. 115

<sup>9</sup> Ministry of Labor and Social Inclusion. 1997 National Insurance Act (*Lov No. 19 av 1997 om folketrygd*), Para. 3.2

<sup>10</sup> Ibid.

<sup>11</sup> Ibid. Para. 1.4

<sup>12</sup> Bay, A. H. and Pedersen, A. W. (2004). National Pension Systems and Mass Opinion: A case study of confidence, satisfaction and political attitudes in Norway. *International Journal of Social Welfare* 13(2), p.117

issues with accumulation, as time spent abroad may surpass time spent in the scheme's legal system, potentially limiting their basic pension amount. The earning-based benefits were added to the pension insurance in 1967 and were considered experimental until recently. A major reform in 2011 was implemented due to increasing life expectancy and a decreasing younger population, which finances the pension plans for the retired population.<sup>13</sup> The reform aimed to create a more actuarial and flexible system, linking retirees' former incomes and pension entitlement, resulting in personalized earning-based pensions.<sup>14</sup> However, this reform also presents challenges for Nomads, as their continuous membership in the scheme, a requirement for earning-based benefits, can become unstable when relocating abroad for prolonged periods.

### National Healthcare Benefit

The Norwegian healthcare system is a comprehensive, state-funded system that provides coverage for all residents of Norway. The system is organized by four regional health authorities, which are responsible for ensuring access to necessary healthcare services such as primary care, hospital care, mental health care, and prescription drugs. The funding for this system comes mainly from income taxes on the economically active population. According to a report by Marketline, the government plays a central role in healthcare provision, accounting for 83.8% of the sector's value, while private service providers account for the remaining 16.2%.<sup>15</sup>

The provision of national healthcare, similar to pensions benefits, is regulated by the National Insurance Act and the 1999 Patient Rights Act<sup>16</sup>. Despite its centralized structure, the

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<sup>13</sup> Fredriksen, D. and Stolen, N. M. (2014) Gender aspects of the Norwegian Pension System. In Dekkers, G., Keegan, M. and O'Donoghue, C. (eds), *New Pathways in Microsimulation*. Ashgate, England and USA, pp. 95

<sup>14</sup> Ibid.

<sup>15</sup> Marketline. (March 2021). Marketline Industry Profile: Healthcare providers in Norway. 0177-2701, pp. 12

<sup>16</sup> Tikkanen, R. Osborn, R. Mossialos, E. Djordjevic, A. and Wharton, G. A. (2020) International Health Care System Profiles: Norway. Retrieved from The Commonwealth Fund



implementation of healthcare is delegated to the county and municipal levels of government, a process that mainly occurred during the 1970s and 1980s. At this time, both the counties and municipalities were responsible for a significant portion of healthcare expenditures.<sup>17</sup>

The Norwegian healthcare system is well-regarded for its generous coverage, as it is mostly state-funded and universal in nature. This makes it one of the most attractive public healthcare systems in Europe. However, individuals may still incur some expenses such as when seeking consultation with a specialist outside of a public hospital, needing certain prescription drugs, or as a co-pay for consultations. Otherwise, the expenses are covered by the municipality, the regional health authority, and the National Insurance Scheme.<sup>18</sup>

Despite these minor expenses, the Norwegian national healthcare system is ranked among the top in the world.<sup>19</sup> For individuals who are regularly taxed for this benefit, having access to it while abroad would be convenient and fair. However, Nomads lose their entitlement to state-provided healthcare when abroad for more than 12 months, as their compulsory membership in the scheme no longer applies.

The National Insurance Act does not address the possibility of accessing public healthcare while abroad. This study concludes that the Act does not provide any solutions for individuals who are unable to access their accumulated earnings-based pension or use medical facilities through their national healthcare when traveling outside of their home country.

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<<https://www.commonwealthfund.org/international-health-policy-center/countries/norway>>

accessed 28 January 2022

<sup>17</sup> Van den Noord, P. Hagen, T. and Iversen, T. (1998). The Norwegian Health Care System: Economics Department Working Papers No. 198. Organization for Economic Cooperation and Development (OECD). ECO/WKP(98)11, p. 7

<sup>18</sup> Norwegian Ministry of Labor and Social Affairs (NMLSA). (January 2017). The Norwegian Social Insurance Scheme. Retrieved from Government of Norway

<[https://www.regjeringen.no/contentassets/03b0e088c8f44a8793ed0c0781556b11/a-0008-e\\_the-norwegian-social-insurance-scheme\\_web-samlet.pdf](https://www.regjeringen.no/contentassets/03b0e088c8f44a8793ed0c0781556b11/a-0008-e_the-norwegian-social-insurance-scheme_web-samlet.pdf)> accessed 28 January 2022.

<sup>19</sup> Ibid.

Resorting to a private insurer may provide a solution to the challenges faced by Nomads in accessing healthcare and pensions while abroad. Contemporary trends have shown that the private insurance market is becoming increasingly popular, as confirmed by Bay's and Pedersen's research. Their survey data revealed a shift in preference towards private sector options for social security, even in countries with functioning welfare states.<sup>20</sup>

This trend is supported by other scholars in the field, who have identified issues with national healthcare systems such as staff shortages and difficulties balancing cost-efficiency and accessibility.<sup>21</sup> With the potential for increased expenditure, more and more individuals are turning to the private sector for healthcare.<sup>22</sup>

This research aims to determine if a private insurer can serve as a reliable alternative for Nomads who are abroad for more than 12 months. The potential issues highlighted by academic research demonstrate that the increasing dependence on private insurers is a likely trend, and it is important to consider their potential as a solution to the challenges faced by Nomads.<sup>23</sup>

In conclusion, the National Insurance Scheme (folketrygden) provides important financial security for citizens in Norway, but it can present challenges for Digital Nomads who may not have access to these benefits while working remotely abroad. It is important to understand that membership in the scheme expires when an individual leaves Norway, but there may still be tax

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<sup>20</sup> Van den Noord, P. Hagen, T. and Iversen, T. (1998). The Norwegian Health Care System: Economics Department Working Papers No. 198. Organization for Economic Cooperation and Development (OECD). ECO/WKP(98)11, p. 5

<sup>21</sup> Marketline. (March, 2021). Marketline Industry Profile: Healthcare providers in Norway. 0177-2701, p. 7

<sup>22</sup> Marketline. (March, 2021). Marketline Industry Profile: Healthcare providers in Norway. 0177-2701, p. 7

<sup>23</sup> Bay, A. H. and Pedersen, A. W. (2004). National Pension Systems and Mass Opinion: A case study of confidence, satisfaction and political attitudes in Norway. *International Journal of Social Welfare* 13(2), p. 114

liabilities. This chapter provided an overview of the legal framework governing the scheme and examined the nature of national pension and health insurance benefits.

It's important to note that before moving on to the next chapter, the issue of Nomads losing their entitlements when they go abroad does not apply to the EU/EEA area. Within the EU/EEA area, Nomads have the same rights as they would have at home. This illustrates two important points: first, this issue has been recognized by the states, and secondly, a solution has been found at the regional level.

The EU/EEA area has implemented the EU Regulation on the coordination of social security systems, also known as the Regulation 883/2004. This regulation ensures that individuals who move within the EU/EEA area can continue to receive the social security benefits to which they are entitled under the laws of their home country. This means that Nomads who are citizens of an EU/EEA country and move to another EU/EEA country can continue to receive the benefits they are entitled to under the laws of their home country, even after they have been abroad for more than a year. This is a significant advantage for Nomads as it helps them to maintain continuity in their social security coverage, which is an essential need for them.

The Norwegian healthcare system is funded through taxes and provides comprehensive coverage for residents of Norway. The system is organized by the four regional health authorities, which are responsible for ensuring that the population has access to necessary healthcare services. These services include primary care, hospital care, mental health care, and prescription drugs.

One way that the Norwegian healthcare system interfaces with the rest of Europe is through the European Health Insurance Card (EHIC). The EHIC is a card that European Union citizens and some non-EU citizens can obtain in order to receive healthcare services while traveling within the EU. The EHIC allows individuals to receive care in any EU country, as well as Iceland, Liechtenstein, Norway, and Switzerland, that is medically necessary due to either illness or an accident. The care provided through the EHIC is intended to be equivalent to what a person would receive if they were a resident of the country where they are receiving care.

In Norway, the EHIC can be used to receive care from public healthcare providers, such as hospitals and doctors' offices. If an individual with an EHIC requires medical treatment while in Norway, they should present their EHIC to the healthcare provider, and the costs of the treatment will be covered by the individual's home country. However, the card may not cover some of the costs of private hospitals and out-patient specialists.

It's also worth noting that, Norway being a part of the European Economic Area (EEA) but not the EU, it is not bound by the same EU healthcare provisions. Therefore, some slight variations can be observed, yet these variations should not present major issues to travelers.

The next chapter will discuss what an ideal product needs to include in order to replace the national insurance scheme for Digital Nomads and address the challenges they face in terms of financial security and benefits.

### **2.3 The needs of the Nomad**

Digital Nomads need to find alternative solutions for the types of financial products and services that people who stay in one country get through the Scheme. To replace the benefits provided by Folketrygden, Digital Nomads may need to consider several different types of financial products. This thesis has chosen to focus on two specific financial products, health insurance and pension.

To understand the needs of Digital Nomads in this context, it is necessary to first define what they need when they fall out of traditional schemes. These needs are derived from the practical issues that arise from their transnational lifestyle, as well as any unique demands that may be specific to their situation.

Nomads have specific requirements for private pension plans, such as the ability to have a single unified account that allows for flexibility and transnational consolidation of contributions. They also desire flexibility in resolving scenarios that could preclude access to a unified account.

An account that allows for flexibility across borders could be beneficial for Nomads. This could include merging interest earned in one country with newly accumulated contributions in another legal system, or combining contributions from multiple jurisdictions. Nomads may also require flexibility from private pension and health insurance plans when relocating to multiple countries for extended stays. This could include the ability to accumulate pension in different currencies, and resolving any issues that may prevent access to a unified account.

In terms of private health insurance, Nomads require a long-term duration and universal coverage. The plan must also include coverage for pre-existing conditions, as well as both medically necessary treatment and elective treatment.

Furthermore, it's important to the Nomads that they're able to bring the insurance plan with them to whatever country they choose to go to next. If they are forced to get new health insurance in the new country, they could potentially be excluded for coverage of any medical condition that they have incurred in the time they've been on the first insurance plan. This is one of the key points for why it's necessary to explore if the same insurance provider can be set up in different jurisdictions without an issue. It is also one of the big points as to how private health insurance differs from a national insurance scheme. In a country like Norway where all citizens are covered, the government is able to spread the risk across the whole country.

A national insurance scheme, like "Folketrygden", is a government-run program that provides certain benefits to all citizens or legal residents of the country. The Scheme is funded through taxes and is intended to provide a basic level of security for all citizens.

On the other hand, private health insurance is provided by private companies and is typically purchased by individuals or offered as a benefit by employers. Private health insurance plans can vary widely in terms of the benefits they provide and the cost of the premium. They may offer more extensive coverage than a national insurance scheme, but they also usually require payment of a monthly premium.

## 2.4 Model Plans Composed

Private insurers play a role in addressing the practical legal challenges faced by Nomads. One key aspect to consider is the availability of insurance plans that meet the needs outlined in Section 2.3. Nomads typically seek two types of insurance plans when moving abroad: Global Pension Plans and International Health Insurance Plans.

The two insurance plans, Global Pension Plans and International Health Insurance Plans, are the most in-demand among Nomads as they serve as private alternatives to earning-based pensions and national healthcare. To determine the essential components of these plans, this section examined popular insurance policies that cater to the mobility of Nomads in the global insurance market.

The examination of popular insurance policies and the description of the Scheme outlined in Section 2.2 will be used to create the Model Insurance Plans. The goal of this exercise is to provide a detailed description of the ideal healthcare and pension plan for Nomads to ensure their security. These model plans will serve as a reference in Chapter 3 when the potential restrictions of five different jurisdictions are analyzed.

### Model Pension Plan

A private pension plan is a retirement savings plan that is offered by a private actor, as opposed to a government-provided plan. The term "insurance" is used because a pension plan is intended to provide a source of income during retirement, which is similar to how an insurance policy provides financial protection against specific risks. Just like an insurance policy, a pension plan is designed to provide a steady stream of income to an individual after they retire.

The company that provides a private pension plan is typically referred to as a pension plan administrator or pension plan sponsor. These companies can be financial institutions like banks or insurance companies, or they can be employer-sponsored plans. In any case, the administrator

of a pension plan is responsible for managing the plan's assets, paying out benefits to plan participants, and complying with legal and regulatory requirements.

Private pension plans are a relatively recent development in the insurance industry. One challenge for insurers is dealing with the issue of double contributions, as many countries, such as Norway, have mandatory contributions to public pension schemes. Despite this, the market for private pension plans is growing, particularly among individuals who are living or working internationally, such as Nomads.<sup>24</sup>

The demand for private pension plans among Nomads is understandable as they are often characterized by long-term mobility. During this time, their participation in the national insurance scheme and their entitlement to earning-based pensions under the scheme can become conditional or minimized. As a result, many Nomads see private coverage from private insurers as a solution to ensure they have adequate retirement savings.

Different insurers offer a variety of pension plans, some of which are limited to coverage within a single jurisdiction, while others have expanded to the global and regional markets. This research highlights the connection between the demand for private pension plans among citizens, particularly Nomads, and the private sector's ability to develop products that meet that demand. Some insurers have developed plans that are suitable for citizens who are living or working internationally, while others have not.

Private insurers have the potential to address the practical challenge created by the national insurance scheme for Nomads. Some may argue that this relationship between Nomads and the private sector is driven by capitalism, and that Nomads are simply a specific target market for insurers. However, this research aims to find a practical solution to the legal challenge faced by Nomads in terms of ensuring their retirement savings.

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<sup>24</sup> Poortvliet, W. G. and Laine, T.P. (1994). A Global Trend: Privatization and Reform of Social Security Pension Plans. *The Geneva papers on Risk and Insurance* 19(72), pp. 257 - 258

It is important to examine various pension plans on the global market to understand their features and how they may meet the needs of Nomads. The goal is not to find one specific plan that is a perfect fit, but rather to investigate whether the products offered by private actors today can serve as a substitute for the national insurance scheme offered by Norway, while also providing coverage for Nomads as they move across borders. This research can provide an insight on the options available for Nomads and how they can plan for their retirement savings.

Zurich Insurance Group (Zurich) is a global insurer that offers a specialized plan for internationally mobile employees, which is designed to cater to the specific needs of those who relocate internationally on a long-term basis.<sup>25</sup> Although this plan does not replicate the Norwegian old-age pension exactly, it does incorporate elements that are important for Nomads.

Zurich's International Pension Plan is a low-cost pension savings scheme that includes a defined contribution insurance contract administered by Zurich. The contract can only be signed by a sponsoring employer or an independent third-party trustee, such as an insurance agent or broker. The beneficiaries of this plan have access to their pension savings in a unified account, which addresses the issue of Nomads having multiple pension accounts in different countries.<sup>26</sup> Additionally, the plan enables Nomads to avoid dealing with multiple jurisdictions and potential limitations. The plan also offers practical flexibility by insuring Nomads against currency fluctuations across different jurisdictions, which supplements the unified account feature.

Overall, the Zurich International Pension Plan provides the potential security that Nomads need in case they lose their membership of the Norwegian Scheme. However, these products are not offered to the individual, but rather to employers who wish to provide a pension plan to their employees. That is of course of interest to many digital nomads, but it's rather inconvenient, and does not replicate what is offered by the Scheme. It will bind the Nomad to that employer, and if they are self-employed it is not accessible at all.

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<sup>25</sup> Smith School of Enterprise and the Environment at University of Oxford (Zurich Insurance Company, October 2017)

<sup>26</sup> Zurich, *Flexible Retirement benefits for Globally Mobile Employees*, p. 3 Retrieved from <[zurichinternational.com/international-employee-benefits](http://zurichinternational.com/international-employee-benefits)>



## International Health Insurance Plan

Health plans are more popular than pension plans because they address a more practical issue: physical integrity and health. Therefore, there is a wider variety of privately provided health plans available. This section briefly examines a plan offered by Allianz Insurance Group (Allianz) as an example of the types of plans available. Allianz was selected for its practical accessibility, but there are many similar offers on the market today. The purpose of this examination is to create an overview of the needed features of the model health plan so it can function as a starting point for the next part of this thesis. It is not the aim to consider whether this specific plan can fit the needs of the Nomad.

When choosing a health insurance plan, digital nomads should consider their specific needs and circumstances. For example, those who plan to spend significant time living or working abroad may need an international health insurance plan that offers comprehensive coverage in multiple countries. Meanwhile, those who will primarily be traveling may find a travel insurance plan more suitable. It is important for them to assess their expected travel itinerary, duration and nature of stay, and other factors that might affect their choice of insurance. It is also important to note that traditional health insurance plans may not provide adequate coverage for individuals who are frequently on the move or are working and living abroad.

Allianz's international health insurance plans are designed for individuals who are relocating abroad for more than one year. This potentially meets one of the essential needs of Nomads, as the Norwegian legislation revokes the Scheme membership after one year for those who go abroad, unless they fall under the special circumstances defined earlier. Therefore, coverage periods longer than one year are an integral component of a model Health Plan that would meet the needs of Nomads.<sup>27</sup>

The Group's health insurance plans replicate some of the features of the Norwegian National Scheme by providing universal coverage to their clients. Specifically, their plans provide for

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<sup>27</sup>Retrieved from <<https://www.allianzcare.com/en/personal-international-health-insurance.html>>

multiple risk coverage, which includes general practitioner's consultation, emergency hospitalization and treatment, and post-treatment recovery. This ensures that the clients have access to a wide range of medical services in case of any unexpected health issues. This is similar to the coverage provided by the Norwegian National Scheme and could be a good option for Nomads who want to maintain a similar level of coverage after leaving Norway.<sup>28</sup>

While Allianz's international health insurance plans replicate some features of the Norwegian National Scheme, it is important to note that it is missing two key features offered by the Scheme. These features include coverage for pre-existing conditions and coverage for preventative and elective care. Additionally, the plan includes several exclusions not found in the Scheme, such as an exclusion for pandemics and certain medical conditions like HIV. These exclusions are typical for private health insurance plans as the private insurer must calculate the risk for the individual and the overall plan. On the other hand, state-provided coverage operates differently.

Regardless of where the plans originate, they may face barriers in entering foreign jurisdictions. For example, some legal systems may require insurers to establish a subsidiary in the country in order to offer their plans there, while others may impose additional limitations such as restrictions on the sale of plans in the post-establishment stage. These limitations may take different forms such as unrestricted power of supervisory bodies in some jurisdictions or regulations on the appearance of insurance contracts in others.

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<sup>28</sup> Ibid.



## **Chapter 3. Atlas of Selected Jurisdictions**

### **Introduction**

The previous chapter presented the foundational concepts for the current research topic, including the definition of Digital Nomads, an overview of their issues and needs, and the legal challenge at the heart of the study.

This challenge is demonstrated by the fact that Digital Nomads are unable to access the benefits of the Scheme while traveling abroad, due to limitations set by national laws that restrict benefits for those who stay abroad for more than 12 months. This chapter will explore the difficulties that Digital Nomads face in obtaining other coverage abroad to replace the security they've left behind. As will be shown for each country, some legal systems have strict criteria for accessing public benefits, while others may lack such frameworks altogether.

As a result, Digital Nomads often turn to the private sector for insurance coverage. One question that arises when considering the difficulties faced by Digital Nomads in obtaining insurance coverage is why they can't simply obtain a locally provided plan while in each country.

However, it appears that domestic private sectors may not fully meet their needs. One explanation for this is that it poses risks for the local insurance company. In a state-funded scheme, the state can spread the risk across all citizens by obtaining taxes from the working population and providing coverage for those who need it. Private insurers on the other hand, have to calculate risk based on paying customers. As a result, most health insurance plans and pension plans will have requirements for a minimum commitment, such as a minimum of 12 months, and exclusions that may be an issue for Digital Nomads, such as no coverage for pre-existing conditions. These requirements and exclusions may not make sense for Digital Nomads, who may not be in a country long enough to meet the minimum commitment and may need coverage for things that are excluded from the plan.

In addition, as will be shown in this chapter, some local markets may not provide coverage that aligns closely with the benefits offered by their national scheme, while others may not have a developed private insurance market. Therefore, Digital Nomads tend to rely on international insurers. Choosing an international insurer from Norway is logical as they may better understand their expectations.

In light of these considerations, this chapter will explore the requirements found in each country for a foreign insurance company to be able to continue covering Digital Nomads as they travel to each country. This will help to understand the challenge that Digital Nomads face in obtaining coverage, and to identify potential solutions for addressing these difficulties.

The Norwegian Scheme, which covers a wide range of healthcare risks and has a generous earning-based pension accumulation system, serves as a model for the insurance needs of Nomads. In addition, private insurance plans that exist today were evaluated to create a model plan that closely mimics the standard of the Norwegian Scheme, providing a solution for Nomads' practical challenges through private international insurance.

However, there are several procedural challenges that can prevent Nomads from accessing Norwegian insurance when they are abroad. These obstacles can take the form of national laws that restrict the distribution of private insurance plans or even prevent insurers from entering certain markets. To understand this phenomenon, this chapter will examine five different legal systems. These systems were chosen for their popularity among Nomads, in addition to representing five very different jurisdictions with a very different history. All of them are known in the industry as being complex markets to enter into for a foreign insurer, due to their regulation.

In the following sub-chapters, the thesis will examine five different countries: Norway, Canada, India, Brazil, and the United States of America.

First, it will investigate the availability of a social safety net in each country, whether in the form of a national insurance scheme similar to the one offered in Norway or local private insurance

options. This will provide a basis for understanding the current insurance landscape and the potential for foreign or international insurers to enter the market, as well as establishing whether there are decent options for the Nomad available.

Next, the regulations regarding the establishment of private insurers in each country will be examined, with a focus on foreign or international insurers. This will include any requirements or restrictions that may affect the ability of a Norwegian insurer to establish a presence in each country.

Finally, the regulations regarding the subsequent sale of insurance plans within each country will be looked at, as well as any other regulations that may affect the sale of the model insurance plan. This will include any restrictions on the types of insurance that can be sold, as well as any specific requirements for insurance companies operating in the country. Overall, this analysis will provide an understanding of the legal and regulatory landscape for private insurance in each country, and what it means for Norwegian insurers looking to expand abroad in order to cover the Digital Nomad.

The choice to examine the regulations regarding the establishment and sale of private insurance in different countries was a natural outcome of the research. The main objective is to determine if incorporation in the given jurisdiction is necessary in order to offer the model insurance plans, with the aim of making them available to Nomads relocating to that jurisdiction. In general, it is common that establishing a presence in a country is essential to offer long-term non-life insurance plans. However, this research takes into account the possibility of exceptional scenarios where this may not be required.

Furthermore, this research examines binding provisions that may affect Nomads directly or indirectly through the Norwegian insurer established in that jurisdiction. It specifically looks at any provisions that could limit the model insurance plans, particularly in their core components identified in Section 2.4. These provisions typically include limitations on the sale of insurance plans, for example, some may require insurers to have specific features in their plans while others may not. These limitations and omissions must be analyzed, as they have dual

applicability. They apply directly to the insurer and also indirectly to Nomads relocating to those jurisdictions. The relevance of these provisions to the research is due to their impact on Nomads relocating to different jurisdictions.

Hence, the cases included in this Chapter are examined through the interconnection of a private international insurer and Nomads. Specifically, this Chapter aims at testing the main research question: if private insurers can relieve the practical legal challenge faced by Nomads. To recall, the challenge lies in the cessation of their compulsory membership under the Norwegian law which happens due to the Nomads' prolonged stay abroad.

This chapter explores whether insurance plans on demand by Nomads can solve the issue identified in public Norwegian legislation. The examination of each individual jurisdiction's laws is needed to determine if they limit private insurers in providing the desired insurance plans. This chapter aims to map out each case, but some cases may appear incomplete due to the lack of available documents online. The research used several different approaches to obtain the necessary sources for each case, but for some countries, like Brazil and India, it was difficult to obtain all the needed documents. Despite yielding negative results, these cases were still included in this chapter for their unique economic and legal structure.

The structure of this chapter is as follows: first, it discusses the regulation of the private sector in Norway, specifically focusing on the ability for private insurers to incorporate in Norway and outsource to other jurisdictions. Then, it examines international cases, including Canada, India, Brazil, and the United States of America. Each case has a unique structure due to the political, historical, or economic contexts. For example, Canada's political climate differs from India's as it is a federalist state while India is a centralized republic. Similarly, the economic climates in other cases also produce different outcomes in law. Some countries may have laws that are more open to foreign investment, while others are more protective. Despite these differences, each case discusses their laws against the two types discussed at the beginning of the chapter, specifically laws concerning the establishment of insurers and the sale of their policies.

### 3.1 Case Norway

The case of Norway is an essential component of this research as it sets the foundation for understanding how private insurers can serve the Digital Nomad market. Norway, a country known for its generous National Insurance Scheme, provides an interesting case study as it allows for a private entity to be legally established there. This is important for our research as it allows for private insurers to outsource to other jurisdictions in order to serve the needs of Nomads. Additionally, the Norwegian case provides valuable insight as it incorporates a unique governance system that comprises both supranational and national levels. In this section, we will examine the regulations and laws surrounding the establishment of private insurers in Norway, and how they may impact the ability to serve the Digital Nomad market abroad.

Considering the regulation of the private sector in Norway serves three main goals: first, it allows us to understand if a private entity can legally be established in Norway, given the generous nature of its National Scheme, in order to outsource to other jurisdictions after Nomads. Secondly, it confirms the scenario when Nomads resort to their national market to find an international insurance plan similar to the Scheme. Lastly, the Norwegian case provides valuable insight as it incorporates a unique governance system that comprises both supranational and national levels.

The regulation of private insurance entities in Norway can be organized under a two-tier system. The first tier is based on Norway's membership in the European Economic Area (EEA), while the second tier is the domestic body of law. This case will examine each tier separately, providing an in-depth understanding of how the supranational and domestic laws impact the establishment and operation of private insurance entities in Norway.

#### Economic European Area

Norway's membership in the EEA is reflected in the Norwegian national laws. This section will examine the influence of the supranational instrument on the national legal system and how it



positively affects both the private sector and Nomads. Membership in the EEA does not only bring about responsibilities but also provides significant benefits to private persons, whether they are legal or natural entities, in each member-state.

To recollect, Norway is a party member to The European Economic Area, the EEA formed in 1994. The founding treaty to the EEA is 1994 Agreement on the European Economic Area (*henceforth the Agreement*). The Area consists of all 27 European Union member States, Norway, Iceland, Lichtenstein, and Switzerland.<sup>29</sup> For the purposes of the Agreement, the contracting parties are called the “EFTA” States; which stands for the European Free Trade Association States.<sup>30</sup>

It is important to note that the articles of the EEA Agreement bind the member-states, not private entities such as private insurers.<sup>31</sup> Therefore, the Agreement's articles are addressed to the Norwegian state as a sovereign actor that belongs to the supranational association area. As a member, Norway commits to implement the Agreement within its national legislation, which harmonizes the Norwegian national legal system with other EFTA states in the respective areas of law. This has two implications for private insurers and Nomads.

First, Norway's membership in the EEA provides freedom of establishment across the entire territory of the EEA, giving the opportunity to insurers established in Norway to outsource to another EFTA State and be treated equally to domestic insurers in the destination country.<sup>32</sup> This leads to the second implication, which is that Nomads' relocation within the EEA becomes more secure as the EEA allows for relatively easy expansion of insurers within the area, as long as that expansion is within the EEA.

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<sup>29</sup> European Commission. European Economic Area. Retrived from [https://ec.europa.eu/competition-policy/international/legislation/european-economic-area\\_en](https://ec.europa.eu/competition-policy/international/legislation/european-economic-area_en) accessed 25 February 2022

<sup>30</sup> Agreement on European Economic Association [1994], OJ/L 1, Article 2

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

Secondly, the EEA Agreement allows for a scenario where, once established in Norway, insurers can offer their coverage across the entire EEA while remaining in their state of establishment. This is possible because the insurance plans can qualify as goods under the Agreement, which are free to move and be offered across the EFTA, as long as the offering entity has been established in at least one of the states, including Norway.<sup>33</sup>

As mentioned before, the EEA law must be implemented in the Norwegian legal system through national legislation. Generally, EFTA member states take their commitments seriously, but even the most diligent ones can make mistakes.

Recently, the Norwegian Labour and Administration agency (NAV) was involved in a scandal for wrongfully convicting those who took their welfare benefits to another EFTA state. The scandal involved a national legislation which was active simultaneously to Norway's ratification and implementation of the EEA Agreement. The legislation prohibited the exportation of certain national benefits abroad, regardless if the exportation was within EFTA or not. It remained active until the late 2010s, which saw it staying legally binding for almost 26 years.<sup>34</sup>

This scandal highlights the ongoing practice of the primacy of national law by states, despite their binding memberships in international or supranational organizations. Despite the extensive benefits offered to Norwegians by the EEA Agreement, national laws can still limit the exercise of these benefits, even if such limitations are caused by an executive mistake.

Supranational commitments must take precedence over national ones, as they address multiple sovereign states. This makes states liable before their supranational organization. The recent issue with NAV can provide a more nuanced perspective on the benefits and potential challenges

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<sup>33</sup> Ibid.

<sup>34</sup> Berglund, N. (2020). NAV Scandal Leaves No One Accountable. Retrieved from <https://www.newsinenglish.no/2020/08/19/nav-scandal-leaves-no-one-accountable/> accessed March 2022

of Norway's membership in the EEA for private insurers and Nomads. While being established in the EEA provides many opportunities, there may be conflicts between the two tiers of law. Therefore, it is important to read the EEA Agreement in conjunction with national legislation to avoid any legal misunderstandings.

The EU has issued several laws and regulations that affect insurance and pension plan providers in EU and EEA countries.

One of the most important laws is the EU Insurance Distribution Directive (IDD), which came into force in 2018. The IDD is designed to enhance consumer protection and improve the functioning of the insurance distribution market by introducing specific rules on product oversight and governance, conduct of business and distribution channels. It applies to all insurance distribution, including intermediaries, tied agents, and direct sales, and also applies to insurance-based investment products.

Another significant law is the EU Insurance Mediation Directive (IMD), which has been in effect since 2005. This directive sets out rules for intermediaries who sell insurance products and services, including requirements for professional qualifications, conduct of business rules, and disclosure of information to customers.

Solvency II Directive, which came into force in 2016 is a third law relevant to the distribution of insurance and pension plans. Solvency II sets out a harmonized EU framework for the supervision of insurance and reinsurance companies, including the calculation of capital requirements, risk management, and reporting. This directive applies to all insurance and reinsurance companies operating within the EU, including those that are headquartered outside the EU but operate within the EU, and also includes specific provisions for group supervision.

In addition to the above mentioned, the EU has also issued legislation that indirectly affects the sale of insurance and pension plans, such as the General Data Protection Regulation (GDPR) which came into effect in 2018. The GDPR applies to the processing of personal data by insurance and pension plan providers, including data collected during the sale of insurance and

pension plans, and sets out specific requirements for obtaining consent and providing transparency in relation to data processing.

Lastly, the EU has implemented laws to protect the rights of policyholders, such as the EU Gender Directive which prohibits discrimination on the grounds of sex in insurance and pension products.

In order to ensure consistency and stability in the EU insurance market, these laws and regulations are implemented and enforced by the European Insurance and Occupational Pensions Authority (EIOPA) and the national supervisory authorities. It is also possible for consumers to complain to the EU in relation to consumer rights, if they believe that their rights have been violated by a company operating in the EU or EEA<sup>35</sup>.

### Domestic regulations

The Norwegian private regulatory body of law comprises three acts: the Act on Financial Undertakings and Financial Groups Act (Nor. Finansforetaksloven; henceforth the Undertakings Act), the Insurance Business Act (Nor. Forsikringsvirksomhetsloven; the Business Act), and the Insurance Contracts Act (Nor. Forsikringsavtaleloven; the Contracts Act)). These acts collectively govern the establishment and operation of private insurance entities in Norway.

The Undertakings Act is designed to contribute to the financial stability of Norway by ensuring that private actors, or financial undertakings, are properly supervised.<sup>36</sup> It applies to various actors and activities of the private sector, including domestic private actors that are established or

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<sup>35</sup> Directorate-General for Communication. n.d. “Resolve your consumer complaint.” Language selection | European Commission. Accessed January 10, 2023. [https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint\\_en](https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint_en)

<sup>36</sup> 2015 Undertakings and Financial Groups Act (*Lov No. 17 av 2015 om Finansforetak og Finanskonsern*), No. 3 (163), Section 1.1

intend to establish in Norway, as well as foreign private actors intending to establish in Norway.<sup>37</sup> This means that it applies to any private entity incorporated or intending to be incorporated in Norway.

The Undertakings Act also includes a provision that extends its application to the insurance sector specifically. It states that undertakings also include insurance and private pension companies.<sup>38</sup> This makes the Undertakings Act directly applicable to private insurers specializing in Pension Plans or Health Plans, which are the primary products of interest to Nomads in this research.

In order to establish in Norway, insurers must satisfy two requirements under the Undertakings Act. The first requirement is that any insurance activity must be conducted by insurance undertakings and pension funds only, and private firms from other industries cannot engage in such activity. The second requirement is that those insurers can only conduct certain activities that fall within specific business categories when engaging in that insurance activity.<sup>39</sup>

Interestingly, the Undertakings Act broadly categorizes the life insurance activity to include not only life insurance but also non-life insurance activity, such as accident and health insurance and other personal insurance outside of life insurance, such as private pensions. Therefore, legally, insurers must engage in an overarching life insurance activity if they want to operate in Norway. However, this should not pose any issues in marketing Health and Pension Plans that are in demand by Nomads, as it ultimately covers the area of interest for them too.<sup>40</sup>

The conditions outlined above align with the principles codified in the EEA, making the supranational law indirectly binding on the insurer. As per the Agreement, an entity established and operating in one EFTA state is allowed to do the same in any other state within the area. The

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<sup>37</sup> Ibid. Section 1.2

<sup>38</sup> Ibid. Section 1.3

<sup>39</sup> Ibid.

<sup>40</sup> Ibid. Section 2.6

Undertakings Act sets equal requirements for establishment in Norway for both domestic and foreign insurers, thereby adhering to the principles of the EEA.

This aspect also has implications for insurers and Nomads in terms of business expansion. For example, if a domestic insurer is incorporated in Norway, they can also expand to any other EFTA state on equal conditions, due to the harmonizing nature of the EEA. This could potentially allow insurers to outsource to other states if they decide to follow Nomads.

The Business Act is another national legislative instrument that is directly applicable to the establishment process in Norway. It applies to insurers that conform to the conditions set by the Undertakings Act<sup>41</sup>, and expands upon those conditions.

As with the Undertakings Act, the Business Act specifies that non-life insurance activity includes accident and health and other private insurance, such as private pensions. Additionally, it prohibits insurers from offering plans that contravene national criminal law, thereby setting the first legal limitation on the sale of insurance plans by the private sector.<sup>42</sup> However, this limitation does not encroach on any of the components forming the model insurance plans and in fact, it secures Nomads against engaging in fraudulently inclined insurance policies or contracts.

Prohibition on insurance plans that contradict national criminal law is not the only limitation on the sale of insurance in Norway. Additionally, insurers must also exhibit an adequate degree of transparency towards the market. Specifically, the Business Act obliges insurers to make their tariffs easily accessible to the buyer. This includes displaying any appropriate discounts or offers circulated by the policyholder, a comprehensive breakdown of the risks insured, and the extent of coverage to be provided. In deciding on the remuneration for the insurance policy, insurers must be guided by the principle of proportionality, meaning that the remuneration should be

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<sup>41</sup> 2005 Insurance Business Act (*Lov No. 44 av 2005 om Forsikringsvirksomhet*), No. 7 (164), Section 1.1

<sup>42</sup> *Ibid.* Section 7.1

proportional to the insured risk and to the compensation provided in return. Insurers also cannot discriminate in favor of certain risks, client groups, or combinations thereof.<sup>43</sup>

The Business Act also provides several guarantees for Nomads in case they decide to purchase insurance plans from the domestic market. It is client-centric, following the continental civil legal tradition, and aims to provide as much legal protection as possible to the smaller party in insurance transactions. Consumer protection is strong in the EEA, which makes Norway stand out compared to other cases in this chapter.

Additionally, the Insurance Contracts Act provides Nomads with certain rights and protections when purchasing insurance plans in Norway. For example, it ensures that policyholders are provided with clear and accurate information about the insurance coverage, and that insurers are transparent about any terms and conditions in the contract. Specifically, Section 10.3 reads that the act cannot be interpreted to the policyholder's disadvantage. It also includes provisions for policyholders to cancel or change their coverage, and for disputes to be resolved in a fair and timely manner. Overall, the Insurance Contracts Act is designed to protect the rights and interests of policyholders in Norway, including Nomads, and to promote fair and transparent insurance practices in the country.

Next, the Contract Act also provides for a cooling-off period.<sup>44</sup> During which the policyholder can cancel their insurance contract without any financial penalty. This gives Nomads the opportunity to review the contract and ensure that it meets their needs and expectations before committing to it. Overall, the Contract Act further secures Nomads' position as a consumer in the Norwegian insurance market, by providing them with legal protections and guarantees during the contract formation process.

Finally, according to the Contracts Act, insurance companies are required to give policyholders a written insurance certificate when a contract is established between the insurer and the policyholder. This certificate confirms the validity of the insurance transaction and also places a

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<sup>43</sup> Ibid. Section 7.5

<sup>44</sup> Section 11.1

responsibility on insurers to keep policyholders informed about the terms of the contract during the active insurance period.<sup>45</sup> This includes details about the policy, the amount of coverage, and any additional charges that may be incurred. While this may seem like a basic requirement, it is particularly beneficial for Nomads, as they are able to stay informed about their coverage while traveling abroad.

In conclusion, the Norwegian private regulatory body of law is composed of three acts - the Act on Financial Undertakings And Financial Groups Act, the Insurance Business Act, and the Insurance Contracts Act. These acts aim to contribute to the financial stability of Norway and ensure that private actors, including insurance and pension companies, are supervised and regulated. They also provide guarantees and protections for consumers, including Nomads, during the insurance transaction process, such as the requirement for transparency and the prohibition of plans that contravene national criminal law. These laws also comply with the principles established by the European Economic Area, which allows for freedom of establishment for insurance companies within the area.

### Concluding Remarks

Before deciding to establish operations in Norway, insurance companies must take into account the provisions outlined in the Contracts Act. This law is a unique aspect of Norwegian jurisdiction and shows the country's focus on consumer protection and moderate private market attitudes, as opposed to other countries discussed in Section 3.5. This is not surprising, as Norway generally has a more balanced economy compared to other developing or polarized countries, which is reflected in its national laws.

Overall, Norwegian private law appears to have a centralized structure with no strict regulations for the establishment or sale of insurance by insurers. It does not impose any strict requirements on the establishment of insurers therein. Or, on their subsequent sale of the model insurance plans.

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<sup>45</sup> Section 11.2



The main challenge for insurers looking to establish themselves in Norway may not be legislation, but rather the small size of the domestic private insurance market, which accounts for only 16% of the total market capitalization. Additionally, the generosity and universality of the government-provided social security scheme may discourage private companies from entering the market. However, the Norwegian legal system serves as a base for insurers' headquarters, which are primarily focused on the global market and outsourcing to other countries.

On the other hand, there are also positive implications to establishing in Norway. Firstly, it provides insurers with access to outsourcing opportunities across the EFTA market. This can offset some of the downsides discussed earlier. However, it's important to be cautious when relying on EFTA principles alone, as the NAV scandal demonstrated that even states with good implementation records can neglect certain aspects of the agreement, resulting in wrongful convictions for legal acts.

However, Nomads benefit greatly from Norwegian model insurance plans due to the extensive consumer rights protection provided by the Norwegian legal system. This is one of the reasons why Nomads return to their domestic private markets, even when abroad, as Norwegian insurers tend to implement these standards globally, wherever legally possible.

## 3.2 Case Canada

In this chapter, we will delve into the complex and nuanced regulations surrounding private insurance in Canada. Specifically, we will examine the two-tier codification system that governs insurance firms in the country, with a focus on Ontario's provincial laws. We will also explore the impact of these regulations on Nomads who are constantly on the move and may not qualify for domestic social security or private insurance plans. Through examining the Ontario Health Insurance Act and Ontario Pension Benefits Act, as well as the federal Insurance Companies Act, Financial Institutions Act, and Canada Health Act, we will gain a better understanding of the limitations and challenges faced by Nomads in accessing private insurance in Canada. Additionally, we will discuss the role of international private insurers in providing coverage for Nomads and the potential limitations they may face.

In Canada, international and foreign insurance companies are subject to federal and provincial laws and regulations that govern the insurance industry. These laws and regulations are designed to protect consumers and ensure that insurance companies operate in a manner that is fair and transparent.

At the federal level, international and foreign insurance companies are regulated by the Office of the Superintendent of Financial Institutions (OSFI). OSFI is responsible for the supervision and regulation of federally-regulated financial institutions, including insurance companies. OSFI sets standards for financial stability, prudential management, and consumer protection. The federal level is represented by the 1992 Insurance Companies Act (henceforth referred to as the Insurance Act), the Financial Institutions Act (Fin-In Act), and the Canada Health Act (Federal Health Act).

In addition to federal regulations, international and foreign insurance companies are also subject to provincial laws and regulations. Each province has its own insurance regulator, such as the Financial Services Commission of Ontario (FSCO) or the Autorité des marchés financiers (AMF) in Quebec. These regulators are responsible for the supervision and regulation of insurance companies operating within their respective provinces.

In this section, we will focus on the laws and regulations specific to Ontario, which are to be read in conjunction with the federal laws. The Ontario Health Insurance Act (Ontario Health Act) serves as the main provincial instrument for regulating healthcare provision in the province, while the Ontario Pension Benefits Act (Ontario Pension Act) is responsible for regulating private pension plans.

To operate in Canada, international and foreign insurance companies must obtain a license from the appropriate provincial regulator. This process typically involves setting up an entity, submitting an application and providing financial and operational information to the regulator. The regulator will then assess the company's financial stability, compliance with Canadian laws and regulations, and its overall suitability to operate in Canada. It might sound simple enough, but this process could take more than a year, and will require financial means.

In addition to obtaining a license, international and foreign insurance companies must also comply with Canadian laws and regulations related to consumer protection, privacy, and data security. This includes laws such as the Personal Information Protection and Electronic Documents Act (PIPEDA) and the Insurance Companies Act.

Before assessing regulation of private insurance, it is important to consider whether Nomads could benefit from domestic social security or the domestic private insurance market. Generally, the Canadian welfare state is similar to the Norwegian scheme and features universal healthcare and generous public pension plans. However, these benefits are limited to certain groups of residents and will not be accessible to newcomers upon their arrival.

To qualify for provincial healthcare and pension accumulation plans, Nomads must first reside in the province for a certain period of time.<sup>46</sup> As a result, Nomads may have to rely on the domestic

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<sup>46</sup> Ontario Provincial Government. “Apply for OHIP and get a health card”. Retrived from <https://www.ontario.ca/page/apply-ohip-and-get-health-card> accessed April 2022; Government of Canada. “Old Age Security: Do You Qualify?” Retrieved from <https://www.canada.ca/en/services/benefits/publicpensions/cpp/old-age-security/eligibility.html> > accessed April 2022

private market for insurance. However, the Canadian domestic market is limited and private insurers in Ontario may be discouraged from doing business due to provincial laws that prohibit transactions between beneficiaries of Ontario's social security and domestic private insurers. The regulation of the private market is under the jurisdiction of the provinces and therefore, the Insurance Act should be read in conjunction with the main regulatory acts of Ontario.

In Canada, universal healthcare is provided by the provinces, with the same level of coverage as in the Norwegian healthcare system. To ensure that healthcare remains within state ownership, private insurance contracts are not permitted to cover risks already covered by provincial healthcare plans. This is supported by the Health Act, which authorizes the annual transfer of funds from the federal budget to the provinces to support these plans. However, in order to receive these funds, provinces must adhere to certain principles, such as public administration and universality. Public administration requires that the plans be provided on a not-for-profit basis, and administered solely by the provincial government. Universality ensures that all residents have complete coverage for health and medical services.

To comply with these principles, Ontario and several other provinces have legislated to outright prohibit private insurance contracts in healthcare<sup>47</sup>, which has discouraged the private sector from expanding into other areas such as private pensions. Other provinces have also adopted similar policies to varying degrees, which creates a problem for Nomads in Canada. While locals are able to take advantage of the provincial public plans without needing to rely on the private sector, Nomads are not able to qualify for these plans upon their arrival in Canada, regardless of the province. And, simultaneously, they are also limited in their selection of domestic private coverage, which forces them to resort to international private actors specializing in this gap market.

Insurers based outside of Canada are permitted to sell their plans in the country. At first glance, there do not appear to be any specific limitations or requirements placed on these international insurers when operating in Canada, but their entry into the market is still conditional.

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<sup>47</sup> "The illegality of private health care in Canada," Colleen M. Flood and Tom Archibald, CMAJ. 2001 Mar 20;164(6):825-30. PMID: 11276552; PMCID: PMC80881, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC80881/>

The Insurance Act is the main federal legislation that governs the actions of private insurers in Canada. It establishes a clear requirement for private foreign insurers wishing to operate in the country. In order to offer insurance plans, they must be legally incorporated within Canada.<sup>48</sup>

The Norwegian insurer will need to be established within Canada. However, the Insurance Act does not place significant limitations on foreign insurers or the contents of their insurance plans, allowing them to enter the Canadian market by incorporating within the country. While the act does not have explicit barriers, it does impose some limitations, such as vesting the Superintendent of Financial Institutions with significant oversight powers over domestic and foreign insurers operating in Canada.

The duties of the Superintendent allow them to determine if insurers, domestic or foreign, can include a specific risk in their insurance plans. The Fin-In Act also provides extensive immunity for the Superintendent and their office, protecting them from liability for their actions or omissions and relieving them from any civil proceedings initiated by private parties, which may have negative implications for private insurers or Nomads.<sup>49</sup>

The position of Superintendent is not unique, as many jurisdictions have similar supervisory bodies or individuals with specific powers under national law. However, the level of legal protection from liability and civil proceedings offered in Canada is exceptional. This extensive protection may raise concerns about the potential for abuse of power by the supervisory body.

The only requirement for the Superintendent to maintain their immunities is to exercise their powers in good faith. However, the Fin-In Act does not provide a clear definition of what constitutes good faith, and there is no established interpretation of it by Canadian judicial institutions. As a result, private insurers may not have a sufficient means of appeal if they disagree with the Superintendent's decision, which could negatively impact Nomads' access to model insurance plans in Ontario. For example, if the Superintendent chooses to exclude certain

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<sup>48</sup> 1992 Insurance Companies Act, Paragraph 22

<sup>49</sup> 1985 The Superintendent of Financial Institutions Act, Paragraph 39.1

elements from model insurance plans, due to the undefined scope of their powers over the registration of foreign insurers.

Another negative impact on Nomads is the immunity from civil proceedings. In an ideal scenario, Nomads would be able to launch a claim in a civil court and sue the Superintendent's office for damages resulting from its decisions or actions. This would provide them with the opportunity to seek financial reimbursement as a form of remedy and establish a precedent for consumer-like protections for Nomads in Canada's capitalist market economy. However, this avenue is blocked by federal legislation.

In summary, the Canadian legal system has a decentralized approach towards private sector regulation, with multiple legislative acts in place. This complexity can make the process of incorporating a business more challenging due to the presence of multiple legal acts to consider.

Another significant issue in the Canadian legal system is the broad discretion given to the Superintendent of Insurance and their office in determining which risks can be insured and which cannot. There is no set method or precedent for making these decisions, and the legislation grants the Superintendent the ability to exercise their own discretion as long as it is done in good faith. However, the concept of good faith is not defined in either supplementary federal or provincial acts or by Canadian jurisprudence.

Compounding the issue, supplementary acts offer extensive protection to the Superintendent of Insurance from criminal or civil suits. This protection could potentially lead to an abuse of power, which may go unnoticed due to the bureaucratic nature of the Canadian government.

### 3.3 Case Brazil

Brazil is a large and complex market for foreign insurers. The market is highly competitive with a large number of local insurers already established. In addition to that, the country has a complex and overburdened public healthcare system which may make it difficult for foreign insurers to compete on price. Finally, foreign insurers may also have a lack of understanding of the local medical system and providers, which could lead to difficulties in providing adequate coverage to their clients. This chapter will delve into the regulations of the Brazilian private insurance sector and the requirements for foreign insurers wishing to provide health insurance and pension plans to Digital Nomads in Brazil.

In Brazil, the right to healthcare and social security are considered fundamental socio-economic rights and are outlined in the country's 1988 Constitution. However, access to information about Brazil's social security system in languages other than Portuguese may be limited, which may cause some Digital Nomads to seek coverage from private international insurers from their home countries. Additionally, it's worth noting that national welfare programs in Brazil may not provide coverage for international individuals.

Healthcare is only universally available to citizens with a Brazilian passport<sup>50</sup>, and pension schemes are mainly designed for working public officials and other passport holders<sup>51</sup>. Expats may be able to qualify for the public pension, but it may not meet the expectations of Digital Nomads. As a result, when in Brazil, Digital Nomads may turn to the private international sector, specifically to Norwegian insurers operating in the country, for insurance coverage. This is why it's important to understand the regulations of the Brazilian private insurance sector, in order to determine if private insurance plans can be offered to Digital Nomads who are staying in Brazil for more than 12 months.

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<sup>50</sup> AXCO. (2022). *Brazil Country Report*. Section: Healthcare Legislation - Legislative Overview Retrieved from <<https://www.axcoinfo.com>> accessed March 2022

<sup>51</sup> Ibid. Section: Pension Legislation - Legislative Overview

Foreign insurers that wish to sell health insurance and pension plans in Brazil need to consider several factors in order to navigate the country's complex regulatory environment. Firstly, they need to comply with the regulations set by the National Insurance Council (SUSEP) which is the main regulatory body for the insurance industry in Brazil. This includes obtaining a license from SUSEP to operate in the country. Secondly, foreign insurers need to comply with regulations set by the Brazilian Central Bank (BCB) which oversees the foreign exchange market.

Brazilian private sector regulation consists of four legal acts. They are Decree Law No. 73 (Port. *Decreto Lei 73; Law 73*), and its procedural rules codified in Decree No. 60.459; Law No. 10.406 (Port. *Codigo Civil; Brazilian Civil Code*), and Complementary Law 109/2001. Law 73 provides for substantive law. While the other three instruments clarify its procedures. This section is only focused on the substantial law.

Law 73 is a crucial aspect of the regulations for the private insurance sector in Brazil. It grants the federal government the primary legislative authority over the domestic insurance market, making Brazil a de facto one-tier legal system in which the federal government is the sole legislator. This is in contrast to other countries like Canada, where both federal and provincial governments can pass legislation regarding the private insurance sector.

The main goal of Law 73 is to promote growth in the domestic market and to limit capital flight abroad by regulating foreign commerce in Brazil<sup>52</sup>. As a result, it requires every insurer that wishes to operate in Brazil to become licensed under it, which includes setting up a local entity<sup>53</sup>. This means that foreign insurers must go through a licensing process in order to offer insurance coverage to Digital Nomads in Brazil. The licensing process will be evaluated against the model insurance plans as defined in Section 2.3 of this paper.

To establish operations in Brazil, insurers must submit their request to the National Private Insurance Council (CNSP). The request will be reviewed by CNSP and then forwarded to the Minister of Industry and Commerce office, which is the main regulatory body that makes a

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<sup>52</sup> 1966 Decree Law No. 73. Article 5

<sup>53</sup> Ibid. Article 73



decision on whether or not to grant the insurer's request. The decision is typically communicated through an administrative ruling instrument. Once the insurer receives the administrative ruling, they must take it to the Superintendency of Private Insurance (SUSEP) office and demonstrate compliance with any specific recommendations outlined in the ruling. The incorporation process.<sup>54</sup>

The process of incorporating in Brazil may seem bureaucratic, especially when compared to other countries. However, the incorporation process does not impose any explicit restrictions on the model insurance plans that insurers can offer. Initially, it appears that there are no limitations on insurers incorporating and offering the model insurance plans to Digital Nomads in Brazil. However, Law 73 shares a similar issue as the Canadian supervisory authority, in that the main regulatory body in charge of the licensing process has an indefinite scope of powers. Therefore, insurers may experience varying degrees of limitations imposed by the Minister's office, with some experiencing none, while others may be subject to stricter limitations, and some may even face direct restrictions that impact key components of the model insurance plans that are important to Digital Nomads.

In the case of Pension Plans, the regulatory body might recommend establishing a separate account for retirement funds specifically from Brazilian income, which would separate Digital Nomads' other accounts from their Brazilian account. This would disregard their need for a unified account that could cover different employment periods, different currencies, and legal systems. Similarly, in the case of Health Plans, the regulatory body may prohibit certain risks from being included in the coverage. Some of the risks that are limited by the ruling may be integral to the Digital Nomads' well-being, or they might be included under a Norwegian scheme but excluded by the regulatory body's ruling. Whatever the case may be, this can potentially deteriorate the universality of the model private plan, and downplays the Digital Nomads' essential need for universality in their Health Plans.

There are also some limitations on the sale of plans that apply after the incorporation process has been completed. Some may consider them irrelevant as they do not limit the core features of the

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<sup>54</sup> Ibid. Article 74

model plans. However, these limitations have unique implications for Digital Nomads that are worth exploring. For example, insurers incorporated in Brazil must comply with the terms of their incorporation as prescribed by governing bodies, which legally binds them to their terms of incorporation for the duration of their operations in Brazil. This means that insurers would have to go through a new incorporation process if they want to engage in a different insurance class. For Digital Nomads, this implies some protection of their consumer rights before, during, and after insurance transactions in Brazil.

The legal systems in the Americas differ from the European ones, where they follow common law approaches in the consumer protection field as opposed to continental civil law tradition. This means that consumer protection guarantees for individuals engaging in economic transactions are minimal. This is why it's important to highlight clauses that recognize some degree of consumer protection for Brazil, as it's different from the Norwegian and European situation.

Tying insurers to the terms of their incorporation provides Digital Nomads with legal certainty, which is particularly important in legal systems that have traditionally not placed a strong emphasis on consumer protection. By engaging with an insurer, Digital Nomads can expect consistent conditions of business on insurance transactions with that insurer. Law 73 supports this by requiring insurers to comply with additional requirements for legal certainty, such as displaying their liability limit on respective insurance plans and the risks covered by those plans.<sup>55</sup> While these protections may not be extensive, they do satisfy basic customary practices for consumer protection in the Americas. Some may argue that consumer protection is not relevant to the main focus of this examination. However, it is an important concern for private entities operating abroad, particularly in developing economies. A lack of consumer protection can deter private insurers from expanding to a given legal system for ethical reasons and may also discourage Digital Nomads from seeking continuous relocation to Brazil, if the protections offered in Brazil do not match those of Norway or other legal systems.

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<sup>55</sup> Ibid. Article 83

Lastly, Law 73 has a section that is specific to the private health insurance sector in Brazil, which deals with the relationship between the insurer and client after the purchase of an insurance plan. Upon initial examination, it does not limit the model plans as outlined in Section 2.3, but rather confirms certain elements of them.

For example, that section states that private health insurance coverage can only be provided for medical and hospital assistance.<sup>56</sup> While this is a general requirement, it sets universal boundaries on what private health insurance can cover. However, these boundaries are set in a negative manner, as there is no concrete definition provided under Brazilian law. This allows private insurers to offer extensive coverage options as long as they relate to medical and hospital assistance, leaving room for a broad interpretation.

The law also requires insurers to comply with additional requirements for legal certainty, such as displaying their liability limit on respective insurance plans and the risks covered by those plans. This is to ensure that clients have clear information about the coverage provided and their rights as consumers.

The law also limits the insurer's coverage to one specific activity, which is the provision of cash payments to the client or to the entity providing medical/hospital assistance to the client. This condition may seem trivial to the case of Digital Nomads, but it may have a significant impact on their expectations of the Health Plans available in Brazil. For example, the Norwegian National Insurance Scheme is built on the principle of universal coverage, which also includes post-treatment care. This type of care may involve informal arrangements that can fill in the gaps in the Scheme, such as post-treatment care for a bed-ridden patient recovering at home that may come from an informal sector rather than from specialized nursing staff. These arrangements require a certain level of flexibility, which is possible within one legal system where the provision and reimbursement for healthcare is managed by the same government.

In the case of Digital Nomads in Brazil, the functions that are usually performed by one public actor are split between the public and private sectors. The public sector is embodied by state-managed hospitals and public regulatory bodies that supervise the transfer of

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<sup>56</sup> Ibid. Article 129

reimbursements, while the private sector is responsible for providing reimbursements. Therefore, the logistics of this case do not allow for informal arrangements as discussed above, which may negatively affect Digital Nomads' interest in Brazil since their perception of universality is based on their home-state's Scheme.

In conclusion, navigating the regulatory environment in Brazil for foreign insurers wishing to provide health insurance and pension plans to Digital Nomads can be complex. Insurers need to comply with regulations set by the National Insurance Council (SUSEP) and the Brazilian Central Bank (BCB) in order to operate in the country. Law 73 plays a crucial role in the regulation of the private insurance sector in Brazil, granting the federal government primary legislative authority and promoting growth in the domestic market. The incorporation process may seem bureaucratic, but it does not impose explicit restrictions on the model insurance plans. However, the unrestricted power of the regulatory body may result in varying degrees of limitations for foreign insurers, potentially affecting the availability of model plans for Digital Nomads in Brazil.

### 3.4 Case India

India's insurance market has traditionally been highly regulated, with strict rules in place that make it difficult for foreign insurers to enter and compete in the market. One of the main reasons for this is that the Indian government has traditionally been protective of its domestic insurance industry, and has placed limits on foreign ownership of insurance companies. For example, until recently, foreign companies were only allowed to own a maximum of 49% of an Indian insurance company, which limited their ability to fully enter and compete in the market.<sup>57</sup>

Additionally, Indian regulations have traditionally been designed to protect the interests of policyholders, which has further limited the ability of foreign insurers to enter the market. For example, Indian regulations require insurers to maintain high solvency margins, which are designed to ensure that insurers have enough capital to meet their obligations to policyholders. However, these regulations can also make it difficult for foreign insurers to compete, as they may not be used to such strict regulatory requirements.

Looking at the regulatory requirements for foreign insurers in India is interesting for a number of reasons. Firstly, India is one of the fastest-growing insurance markets in the world, with a rapidly expanding middle class and increasing awareness of the importance of insurance coverage. As such, it represents a huge opportunity for foreign insurers looking to enter new markets and expand their customer base.

Secondly, the regulatory environment for foreign insurers in India is unique and complex. As previously stated, the Indian government has historically been protective of its domestic insurance industry and has placed limits on foreign ownership of insurance companies. This can make it difficult for foreign insurers to fully enter and compete in the market. By understanding the specific regulatory requirements for foreign insurers in India, companies can better navigate these challenges and position themselves for success in the market.

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<sup>57</sup> "The regulatory and supervisory environment for insurance in India," International Association of Insurance Supervisors, accessed August 10, 2022, <https://www.iaisweb.org/publications/the-regulatory-and-supervisory-environment-for-insurance-in-india/>

Thirdly, the regulatory requirements in India are expected to evolve with the times. As the Indian insurance market continues to grow and evolve, the regulatory environment will likely adapt and change as well.

India's welfare state organization is intricate and, similar to many other Commonwealth nations, its social security system is overseen by a decentralized system of laws. The primary focus of the national social security legislation is on the working population, which constitutes a small percentage of the overall population. Historically, only 10% of the population has been formally employed, with the remaining 90% working in informal industries. Despite efforts by the central government to address this imbalance, no significant changes have been implemented thus far.<sup>58</sup>

The healthcare sector in India is highly decentralized, with responsibilities divided between the central government and the country's administrative units. The provision of primary care falls under the jurisdiction of the provincial governments, while the central government is responsible for the overall legal regulation of the sector.<sup>59</sup>

Currently, there is no single overarching law that could unify the decentralized legislation system in India. Given the large number of administrative units (28 states and 8 union territories<sup>60</sup>) and the various languages spoken (over 120 languages)<sup>61</sup>, the system appears even more decentralized<sup>62</sup>. This is one of the reasons why Nomads tend to rely on international insurers.

The private insurance sector in India is regulated by two acts passed by the central government: the 1938 Insurance Act (referred to as the Insurance Act) and the Insurance Regulatory and Development Authority Act (Regulatory Authority Act). While this research also considered

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<sup>58</sup> AXCO. (2022). India Country Report. Section: Social Security Legislation - Legislative Overview. Retrieved from <<https://www.axcoinfo.com>> accessed March 2022

<sup>59</sup> Ibid. Section: Healthcare Legislation - Legislative Overview

<sup>60</sup> Ibid. Section: Administrative Structure

<sup>61</sup> Commonly accepted number in business reports; the number is much bigger in reality

<sup>62</sup> Ibid. Section: Primary Languages

local laws in India's provinces, they were not included in this section due to practical reasons. After working with native speakers, it was determined that these laws were irrelevant, disorganized, and difficult for non-native speakers to access. Therefore, this section focuses solely on the laws passed by the central government. India has a unique perspective on private insurance regulation compared to other cases discussed in this chapter, and so some historical context is provided to help understand the country's legislation.

Initially, India's legislation had a restrictive stance on the involvement of private foreign and domestic actors in the insurance sector. The original version of the 1938 Insurance Act placed strict limits on the privatization of public social services. Section 2C of the original version prohibited any private legal person from conducting insurance business in India. It stated that no person could start or continue to operate as an insurance business in India after the enactment of the Insurance Act. Existing businesses had up to a year to comply with the regulations of the Act. However, there were exceptions to this rule, such as for public companies or legal societies established under other legislation.<sup>63</sup>

This attitude underwent a shift in 1999 with the adoption of the Regulatory Authority Act, which relaxed some of the limitations on domestic private entities, but excluded foreign insurers from this legislative liberalization. Section 41 of the Regulatory Authority Act stated that no insurer other than domestic (i.e. Indian) insurers can be established under both the Insurance Act and the Regulatory Authority Act, thereby keeping the market closed to foreign private insurers. However, shortly after this, the Indian legislation underwent a significant change in its approach towards foreign private entities. In 2015, the central government introduced an amendment to the original Insurance Act, known as the Foreign Insurance Companies Amendment Rules (the Amendment), that allowed foreign insurers to hold a small share in domestic Indian companies.<sup>64</sup>

Subsequent amendments to the Insurance Act have further opened up the Indian insurance market to foreign expansion. In 2016, the federal government raised the initial limit on foreign

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<sup>63</sup> 1938 Insurance Act, Section 2C

<sup>64</sup> Ministry of Finance. (2015). Notification in The Gazette Of India: Extraordinary. Part II - Sec 3(i)

private entities' shareholdings in domestic private entities to 49 percent.<sup>65</sup> The amendment in 2019 completely removed the cap on foreign investment, thereby technically allowing foreign insurers to fully incorporate in India<sup>66</sup>.

While these amendments have significantly increased the access of foreign private entities to the Indian insurance market, they have not eliminated all limitations. Even today, foreign private entities still need to comply with the conditions set out in both the Insurance Act and the Regulatory Authority Act, which are applicable to them in the same way as they are to domestic actors. These conditions may include meeting certain financial requirements, obtaining licenses and permits, and adhering to specific regulations related to governance, risk management, and consumer protection. Additionally, foreign private entities may face additional challenges such as navigating the complex bureaucratic procedures and navigating cultural and language barriers.

The historical overview presented above illustrates the current economic climate in India, which is distinct from the other cases studied. In the past, the Indian central government took a protective stance towards its domestic market and did not permit either domestic or foreign private entities to insure any social benefits.

Today, the situation is vastly different, with Indian legislation actively encouraging private investment in the market, including foreign investment. This suggests that there has been a shift in the economic climate within the country, specifically towards opening domestic markets to foreign investment, which may indicate a developing domestic market that could be potentially profitable for foreign firms.

Another trend that this shift in India's economic climate may signify is the growing popularity of developing markets among Western investors, both individuals and private firms. Western expats are showing increasing interest in Asian regions, with many Nomads choosing to relocate, whether for family or retirement, to Eastern and South-Eastern countries. Furthermore, private firms are increasingly outsourcing to these countries to provide private insurance plans for these

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<sup>65</sup> Ibid. 2016

<sup>66</sup> Ibid. 2019



expats that may match the benefits of their home country. This trend highlights the growing significance of these developing markets for Western investors as well as the increasing demand for private insurance solutions in these regions.

The observations made above may help to explain the relatively straightforward process for establishing private insurers in India. To incorporate in India, an entity must obtain a certificate of registration from the relevant authority. The legislation also allows for the simultaneous submission of licensing applications for multiple types of insurance, making it possible to incorporate an insurer offering both pension and health plans in a single application.<sup>67</sup>

A further review of the Insurance Act did not reveal any limitations that could impact the essential features of the model plans. However, it is also necessary to review the Regulatory Authority Act to understand which authority issues the certificates of registration and if that authority may place any limitations on the model plan that are crucial for Nomads.

The Regulatory Authority Act establishes the national regulatory body responsible for overseeing India's insurance sector, the Insurance Regulatory and Development Authority (IRDA). The IRDA's powers are derived from the Insurance Act of 1938 and the Insurance Regulatory and Development Authority Act of 1999. It outlines the authority's powers in relation to both domestic and foreign insurers operating in the national insurance market. While the act does not grant the body direct control over model plans, it does provide the authority with broad discretion, which can be used to indirectly influence those plans.

The regulatory body is responsible for ensuring the orderly growth of the insurance and reinsurance industry in India. This includes issuing certificates of registration for insurers and their policies, as well as creating, renewing, modifying, or canceling their registration in India. Additionally, the regulatory body has the power to issue binding rulings on the conduct of general insurers once their registration has been finalized.

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<sup>67</sup> Section 3 IA

Upon initial examination, the Regulatory Authority Act does not appear to impose any restrictions on insurers or model insurance plans. However, it is possible that the act may lead to situations that indirectly limit these entities. For example, the regulatory body may exceed its legally mandated powers, similar to the regulatory scenario in Canada. This similarity is not surprising as India and Canada are both part of the British Commonwealth and have decentralized legal systems, where each sector is regulated by an entity with a broad range of powers.

The common law heritage may be one reason why the Indian regulatory body has such broad powers, similar to its counterpart in Canada. However, India's developing economy creates a unique environment in which the implications of these broad powers may differ from those observed in Canada.

Critics may argue that a broad scope of authority can be dangerous regardless of the jurisdiction in which it is established. In the case of India, this criticism may be amplified by the country's cultural perspective, which may be evaluated differently from the European legal tradition.

Eastern cultures are transitioning from their traditional legal systems to more universal ones, such as European legal traditions. While these legal principles may be adopted in theory, they are often influenced by cultural principles and norms in practice. This is a common occurrence in developing countries, including Russia and China. What Western individuals or entities may see as discrepancies may simply be a process of Eastern cultures adapting to and interpreting predominantly Western legal principles.

Despite cultural contexts, the process of adapting to legal principles in Eastern cultures can have negative impacts on private insurers and Nomads. For example, Western private insurers may be treated differently - positively or negatively - compared to domestic insurers. This possibility creates uncertainty for insurers and Nomads operating in India as it does not provide the legal certainty necessary to ensure the protection of key elements in the desired insurance plan.

In conclusion, India's insurance market is highly regulated with strict rules that make it difficult for foreign insurers to enter and compete in the market. The Indian government has traditionally been protective of its domestic insurance industry and has placed limits on foreign ownership of insurance companies. Additionally, regulations are in place to protect the interests of policyholders, which has further limited the ability of foreign insurers to enter the market. However, India represents a huge opportunity for foreign insurers looking to enter new markets and expand their customer base. As the Indian insurance market continues to grow and evolve, the regulatory environment will likely adapt and change as well.

### 3.5 Case United States of America

The United States (US) insurance market is one of the largest and most developed in the world and it's a complex system that varies by state. Healthcare in the US has always been a topic of a wide debate. Unlike Norway, Canada, and Brazil, the US does not provide for a universal healthcare system that provides medical and hospital coverage for all citizens. Instead, the federal government's healthcare coverage is limited to elderly and disability benefits only. The responsibility for legislating and administering other areas of healthcare falls to individual states, but these state-run systems often receive minimal public funding. This results in a patchwork system that varies from state to state and can be difficult for individuals to navigate.

Thus, Nomads will not be able to benefit from public healthcare in the US to the same extent as in Norway. Given they can qualify for that healthcare in the first place. Second, American pension accumulation through the employer may be cumbersome for Nomads. As that scenario sees them obtaining a second account. Potentially splitting their American accumulated pension from the Norwegian. That naturally pushes Nomads to resort to private international insurance outsourcing from Norway.

Americans have a long history of being responsible for their own healthcare and retirement planning, due in part to the limited social security provided by the government and the high cost of healthcare. This has led to a population that is generally more educated about insurance than others. Americans have had to be proactive in understanding their insurance options and how to navigate the complex healthcare system. They have had to learn about different types of insurance plans and how to find coverage that fits their needs and budget. Additionally, many Americans have had to learn about retirement savings plans and how to plan for their future financial needs. Consumers have to choose from a variety of plans that have different benefits, costs, and networks.

For a foreign insurance company looking to provide health insurance and pension plans to individuals in the US, it is important to understand the regulatory environment in the specific state where the company plans to operate. In this case, we will focus on the regulations in the

state of New York. The insurance market in New York is regulated by the New York State Department of Financial Services (NYDFS) and is governed by state and federal laws.

It is important to note that the Affordable Care Act (ACA) also known as Obamacare, has a major impact on the health insurance market in the US. The ACA is a federal law that was enacted in 2010 to reform the US healthcare system<sup>68</sup>. One of the main goals of the ACA is to increase the number of Americans who have health insurance coverage. To achieve this goal, the ACA implemented several key provisions that have had a significant impact on the insurance market. One of the most notable provisions was the individual mandate, which required all individuals to have health insurance coverage or pay a penalty. This was later removed in 2019.

One of the impacts the ACA has had on the US insurance market has been the health insurance marketplaces, where individuals can purchase coverage. These marketplaces provide a platform for individuals to compare and purchase health insurance plans and also provide subsidies to help make coverage more affordable. In New York, the exchange is known as NY State of Health.

The ACA established several requirements for insurers that have had a significant impact on the insurance market in the United States. One of the major requirements is the prohibition on denying coverage based on pre-existing conditions. Prior to the ACA, insurers could deny coverage or charge higher premiums to individuals with pre-existing medical conditions, which made it difficult for these individuals to obtain health insurance.<sup>69</sup> With the ACA, insurers are no longer allowed to discriminate against individuals based on their health status, making it easier for individuals with pre-existing conditions to obtain coverage. This would be of great benefit to the Digital Nomad, but it might make insurers hesitant to establish themselves in the US as they are unable to deny risks they would otherwise.

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<sup>68</sup> U.S. Centers for Medicare & Medicaid Services. n.d. “Affordable Care Act (ACA) - Glossary.” HealthCare.gov. Accessed January 15, 2023.

<https://www.healthcare.gov/glossary/affordable-care-act/>

<sup>69</sup> AXCO. (2022) United States of America Country Report. Sections: Social Security - Legislative Overview, *and* Pensions Legislations - Legislative Overview retrieved from <<https://www.axcoinfo.com>> accessed March 2022

Another important requirement of the ACA is that all plans offered through the marketplaces, also known as health insurance exchanges, must cover certain essential health benefits. These benefits include things like preventive care, hospitalization, prescription drugs, and mental health services, among others. This requirement ensures that individuals who purchase coverage through the marketplaces have access to a minimum level of coverage, regardless of the plan they choose.

For insurers, these requirements mean that they must accept all individuals, regardless of their health status and they must offer plans that cover a specific set of benefits. This may increase the cost of coverage for some individuals, especially those who are healthier, but it also helps to ensure that individuals with pre-existing conditions and those who need certain essential benefits are able to obtain coverage. For a foreign insurance company looking to provide health insurance in the US, it is important to understand and comply with the requirements of the ACA, such as participating in the marketplaces, offering plans that comply with the essential health benefits, and following the rules on pricing and risk pooling.

For individuals, these requirements make it easier to obtain coverage, regardless of their health status. They also make it easier to compare plans and make an informed decision about the coverage that best meets their needs. Additionally, the coverage for certain essential health benefits, ensure that individuals have access to the care they need, regardless of the plan they choose. However, it also means that the price of the products offered is usually higher, the range of products offered are less which could lead to poorer products.

As one of the largest economies on the East Coast of the United States<sup>70</sup>, New York state is a popular destination for foreigners from around the world. Due to the shared border, it provides for a rather interesting comparison with Ontario, Canada (see Case Canada).

In order for a foreign insurance company to cover a Digital Nomad in New York, the company will need to take several steps to comply with the regulations in the state. First, the company will need to obtain a license from the New York State Department of Financial Services (NYDFS) to

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<sup>70</sup> Ibid.

sell insurance in the state. This will involve meeting certain requirements set forth by the NYDFS, such as meeting solvency requirements and filing regular financial reports.

Additionally, the company will need to be authorized by the US Department of Treasury, Office of Foreign Assets Control (OFAC) to conduct business in the United States. The company will also need to participate in the National Association of Insurance Commissioners (NAIC) International Insurer Department (IID) which also needs to be compliant with regulations of the US insurance market. To do business in the state, the company will also require a valid certification of authority from the state of New York.

Furthermore, the company will need to comply with the ACA and any state-specific laws regarding health insurance in New York. This includes getting the coverage authorized by New York State for selling, which includes product offerings, pricing, underwriting and claims management. Lastly, the company will need to appoint a local agent and/or representative in New York State, responsible for conducting business on the company's behalf.

The New York Insurance Law (henceforth referred to as the Insurance Law) is the main regulatory instrument in the state of New York for insurance companies. The Insurance Law is made up of 28 chapters and is a part of a broader collection of the state's Consolidated Laws. According to the Insurance Law, insurers are required to incorporate in order to offer the model plans as defined in Section 2.3 of the law. This means that foreign insurance companies must go through the process of incorporating in New York before they can offer insurance products to residents in the state. The Insurance Law sets out the rules and regulations that insurance companies must comply with in order to operate in New York.

It is worth noting that New York is unique in that it is the first legal system in this research that imposes punitive damages on unlicensed insurers by law.<sup>71</sup> This means that foreign insurance companies operating in New York without a proper license may face significant penalties. While this may not have a direct impact on Digital Nomads, it is important for foreign insurance companies to be aware of this provision and ensure that they are fully licensed and compliant

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<sup>71</sup> New York Consolidated Laws. Insurance Law (ISC). Chapter 28, Article 11, Paragraph 1102

with the regulations in New York. The imposition of punitive damages suggests that New York may have a protective attitude towards its domestic insurance sector, particularly when it comes to foreign insurers. This is something that foreign insurance companies should keep in mind when operating in New York, and should be prepared to demonstrate compliance with the state's regulations to avoid any penalties.

In New York, the main authority responsible for licensing insurance companies is the Superintendent of Financial Services. Unlike in other common law jurisdictions, the Superintendent's powers are restricted by the provisions of the Insurance Law. For example, when assessing an insurer's application, the Superintendent must adhere to the regulations set out in the Insurance Law and cannot deviate from them. Additionally, the Superintendent cannot simply refuse to grant a license to an insurer. Such a decision can only be made if the Superintendent can demonstrate that the insurer lacks good faith and the insurer must be given the opportunity to respond to any concerns raised by the Superintendent before a final decision is made. This means that foreign insurance companies operating in New York must demonstrate compliance with the state's regulations and good faith in their operations to be granted a license and operate in the state.

Compared to other jurisdictions, the Superintendent in New York has limited powers and cannot deviate from the regulations set out in the Insurance Law. Additionally, the Superintendent cannot refuse to grant a license to an insurer without a concrete reason and must provide the insurer with the opportunity to respond to any concerns. This means that the state cannot simply refuse to grant a license based on the coverage conditions offered by the insurer. This can be seen as a positive aspect for Norwegian insurers and Digital Nomads as it ensures that they are not unfairly denied access to the market.

The Insurance Law in New York has an additional licensing condition that is worth noting. The law prohibits the licensing of any foreign or domestic insurer that is under the control of a foreign government. However, the definition of "control" is not clearly defined in the Insurance Law or in other related laws. This lack of clarity can be problematic, as it opens the possibility for a broad interpretation of what constitutes control. For instance, different activities such as



monetary support, regular exchange of public data, or not-for-profit project management with another sovereign government could be seen as constituting control. This lack of definition can make it difficult for foreign insurance companies to understand if they meet the licensing requirements in New York, and also can make it hard for the foreign insurance companies to determine if they are operating within the law.

The lack of definition of "control" in the Insurance Law can have significant implications for both foreign insurance companies and Digital Nomads. The legal uncertainty around this term may give the Superintendent of Financial Services grounds to refuse certain licensing applications without clear evidence. This could result in Digital Nomads being unable to obtain the desired insurance coverage in New York. This aspect of the Superintendent's powers highlights the need for a more detailed and clearer definition of "control" in the law. While the Insurance Law requires the Superintendent to provide evidence and hear the insurer's position before refusing a license, the lack of definition of "control" creates legal gaps that could be used to discretionarily deny a license, which could result in the unavailability of certain insurance plans in the state.

Overall, the lack of definition of "control" in the Insurance Law of New York suggests a protective attitude towards the domestic market and capital. While this may be understandable in cases of strong foreign political control, it can also have negative effects on the development of the domestic market. A law that is excessively protective can deter foreign insurance companies from considering outsourcing to New York. This can also lead to a lack of availability of the desired insurance plans for Digital Nomads, which could discourage them from considering New York as a destination for job opportunities or relocation. This highlights the importance of a clear and well-defined definition of "control" in the law, to ensure a balance between protecting the domestic market and encouraging foreign investment and availability of insurance plans for Digital Nomads.

Further reading of the Insurance Law supports the above observation regarding foreign private insurers. For instance, the duration of issued license is significantly different for domestic and foreign insurers. Once they receive their license, domestic insurers can keep it indefinitely

without any obligations to renew it. However, foreign insurance companies have to renew their license annually.<sup>72</sup> If they fail to do so, their license will expire one year after its issuance. This annual renewal requirement can have significant implications for foreign insurance companies, such as additional expenses and the investment of time and resources in the renewal process. This could make foreign insurance companies hesitant to outsource to New York.

Interestingly, the problem cannot be avoided by setting up in a different state in the US. According to Insurance Law, insurers from the other 49 states are considered foreign or alien, leading to further insight on the subject.

The labeling of insurers from other American states as foreign by New York's law not only makes it protective, but also outdated. This is a common occurrence on the East Coast of the US, as these colonies were the first to arrive in modern-day America. Some may view this as insignificant, but insurers may find it confusing to work with obsolete legislation that has been amended by contemporary case law in one part of the state but not in others. This happens frequently on the East Coast. For some, this confusion may be a sufficient reason to reconsider outsourcing to New York, which would result in a potential decrease in the supply of model plans for Nomads.

The Insurance Law in New York not only places obstacles for foreign insurers but also outright prohibits them from engaging in business that is allowed for domestic insurers. This condition can be interpreted in two ways: either foreign firms are seen as being of the same or lesser status to domestic insurers, or the law is trying to limit the chances of legal mistakes by foreign insurers, such as assuming that New York law works the same way as the laws of their home country.

The first interpretation can be seen as discriminatory towards foreign entities, as legal customs typically do not allow foreign entities to go beyond what is allowed for domestic ones.<sup>73</sup> The second interpretation is more logical, as it reaffirms the primacy of New York law in comparison

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<sup>72</sup> Ibid. Paragraph 1103

<sup>73</sup> Ibid. Paragraph 1106 (c)

to the laws of the foreign insurer's home country. However, given the previously discussed nature of the Insurance Law, it seems more likely that the first scenario is the case here. This may lead insurers to reconsider outsourcing to New York, which would result in a decrease in the pool of choices for Nomads in terms of model plans.

Lastly, the Insurance Law in New York sets certain conditions for the appearance of insurance contracts in the state. However, it does not limit the model insurance plans for Nomads. In fact, it provides certain guarantees for them. For example, insurers must have their contracts and policies written in clear language that is easy to understand for the average client. The law also sets additional conditions for the proper composition of insurance contracts.<sup>74</sup> These conditions do not directly limit the model plans as to their integral elements (as outlined in Section 2.3), but there is a risk of indirect limitation arising from these conditions.

The contractual appearances might seem secondary to some, but they are essential in binding the insurance transaction. Deviating from or neglecting the minimal requirements could call into question the legitimacy of the insurer's activity in New York and potentially jeopardize their ability to operate within the state.

As for pension plans, the Employee Retirement Income Security Act (ERISA) governs private pension and benefits plans. A foreign insurance company that wishes to provide an international pension plan to an individual in New York must comply with a number of legal requirements, including obtaining a license from the New York State Department of Financial Services, registering the plan with the NYDFS, meeting solvency requirements, complying with New York's insurance laws and regulations related to consumer protection, advertising and claims handling, complying with the Employee Retirement Income Security Act (ERISA), complying with tax laws and regulations of New York and the United States, and if applicable, comply with the Foreign Account Tax Compliance Act (FATCA). There is nothing relating to pension that changes the observations made on insurance in general.

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<sup>74</sup> Ibid. Paragraph 3101 (c)

In summary, while New York state can be an attractive destination for nomads and foreign insurers to relocate to, it also presents certain challenges in terms of establishing and operating in the state. The state's insurance law does not impose direct limitations on insurers' plans, but rather indirectly through the requirement for a license to operate and adherence to state-set standards for solvency, financial reporting, and consumer protection. Despite these challenges, New York offers a large and diverse market with a robust regulatory framework in place.

Repeated evidence suggests that New York has an overprotective attitude towards its domestic market, as it imposes additional licensing and operational requirements for foreign insurers. Interestingly, the state's insurance law also considers insurers from other states within the U.S. to be foreign, which may indicate that certain aspects of the legislation may be out of date. This perception of protectionism may discourage insurers from expanding to New York due to the potential for significant temporal and financial investment.

In addition, the Insurance Law leaves some important aspects of it legally uncertain, which may result in negative consequences for both insurers and nomads. Historically, New York's jurisprudence is based on codified law and its subsequent interpretation, which is typical in states that follow a common law tradition. While judicial interpretation can be helpful when codified provisions are ambiguous, in this case, it can potentially limit the sale of model plans or result in a complete denial of licensing for an insurer. Given the protective nature of the legislation, this risk becomes even more likely.

Lastly, the United States insurance market is one of the largest and most developed in the world, but it can be difficult for individuals to navigate due to the patchwork system that varies by state. Unlike other countries, the US does not have a universal healthcare system, and the responsibility for healthcare falls on individual states. The ACA has had a major impact on the health insurance market in the US, which includes the individual mandate, and the health insurance marketplaces. For foreign insurance companies looking to provide health insurance and pension plans to individuals in the US, it is important to understand the regulatory environment in the specific state where the company plans to operate.



## **Chapter 4. Conclusion**

In chapter 4, the research concludes by analyzing the cases discussed in chapter 3 by comparing them to each other. This exercise aims to demonstrate the contrasting features of each case and serves two main goals. First, it aims at answering the main research question in regards to each case for the conclusion. Second, it highlights a larger issue that affects both Nomads and private insurers, which is the lack of transnational harmonization in a highly globalized environment.

The conclusion of this research sees this absence as a catalyst for international initiatives that could potentially close legal gaps experienced by Nomads. This discussion aims to reflect on the relevance of this research in today's interconnected global environment and contribute to future academic discourse on globalization and international cooperation.

### **4.1 Atlas Discussed**

The selected jurisdictions in this research provide a contrasting view. They were mainly reviewed for their limitations on the establishment of foreign insurers and on the subsequent sale of model insurance plans to Nomads. Although, none of the cases have provided for direct limitations on establishment and subsequent sale, none of them could provide a definitive answer to the research question of whether private insurers could substitute the benefits derived from the Scheme for Nomads when they are abroad.

In general, each jurisdiction has laws and regulations that could potentially limit the actions of private insurance companies. For example, in Canada, the OSFI has a wide range of powers to supervise and regulate the insurance industry. While the legislation does not explicitly grant the OSFI the power to interfere with the establishment of insurance companies or the content of their insurance plans, the language used in the legislation is quite general, leaving room for interpretation. This lack of legal clarity may create uncertainty for insurers operating in Canada.

In some jurisdictions, the lack of legal clarity in regards to the powers of regulatory bodies could be resolved by introducing a codified amendment to the relevant laws. For example, this approach may be possible in countries that follow the civil legal tradition, such as some of the EFTA states. However, in Canada, which follows the common law tradition, the approach is different. The common law system allows for interpretations of the law by regulatory bodies with authority to be considered binding. This means that the OSFI can exercise its powers in accordance with its own interpretation of the legislation, which may not necessarily align with the interpretation of the insurance industry.

As a result, there is always a potential for the OSFI to limit the actions of insurers in regards to key components of their insurance plans. This is because the OSFI derives its powers from its interpretation of the federal legislation, which may not align with the interpretation of the insurance industry. Additionally, the lack of legal clarity in the legislation makes it difficult to predict the decisions of the OSFI, which can make the regulatory process and licensing procedure appear arbitrary to insurers operating in Canada.

The same considerations regarding regulatory powers and legal clarity also apply to India and Brazil. In both countries, the main regulatory bodies have wide-ranging powers and the laws and regulations that govern the insurance industry are similarly open to interpretation.

In India, the IRDA is responsible for regulating the insurance sector. Similar to Canada, the Indian legal system is based on the common law tradition and the IRDA's decisions are binding on the insurance industry. Similarly, in Brazil the CNSP's powers are derived from the Brazilian Insurance Code and the CNSP's decisions are binding on the insurance industry.

However, it's worth noting that despite the similarities in regulatory powers and legal tradition, the licensing authority procedure and the overall regulatory framework for the insurance industry in India and Brazil differ significantly.

India is at a different stage of economic development compared to Canada, and has recently opened its market to foreign private insurance companies. This is in line with the contemporary global trend of insurance companies seeking opportunities in developing regions. Developing economies, such as India, are also interested in attracting foreign investment and expertise to their domestic insurance markets.

Providing more legal clarity to the scope of the regulatory body's power in India, specifically the IRDA, could give foreign insurance companies added security and confidence in entering the Indian market. This could help attract more foreign investment and expertise to the Indian insurance industry, and enhance the diversity and quality of insurance products offered to the Indian consumers. Furthermore, the legal certainty could also benefit the Indian market by attracting more international insurance companies, which could increase competition and lower the cost of insurance.

Another factor that makes India contrast with Canada is its culture. Canada's social and legal tradition is predominantly Anglo-Saxon, while India's foundation is derived from domestic, non-Western historical processes. This is reflected in India's unique governmental structure, which is defined as a centralized republic, with 28 states and 8 union territories, hosting 427 languages and cultures. This cultural diversity is a decisive factor in making the Indian jurisdiction different from Canada, and shapes the way laws and regulations are implemented and enforced in the country.

Brazil has a unique blend of civil and common law legal traditions due to its history as a Portuguese colony<sup>75</sup>. This has led to a unique set of challenges in terms of regulatory authority, with the authorities having unrestricted powers. This is different from the regulatory systems in

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<sup>75</sup> Fonseca, J. (2006). A Brief History of Brazil. The New York Times. Retrieved from [https://archive.nytimes.com/www.nytimes.com/fodors/top/features/travel/destinations/centralandsouthamerica/brazil/riodejaneiro/fdrs\\_feat\\_129\\_9.html?n=Top%252FFeatures%252FTravel%252FDestinations%252FCentral+and+South+America%252FBrazil%252FRio+de+Janeiro#>](https://archive.nytimes.com/www.nytimes.com/fodors/top/features/travel/destinations/centralandsouthamerica/brazil/riodejaneiro/fdrs_feat_129_9.html?n=Top%252FFeatures%252FTravel%252FDestinations%252FCentral+and+South+America%252FBrazil%252FRio+de+Janeiro#>)

accessed April 2022



Canada and India, and adds an additional layer of complexity to the issue of regulatory authority in Brazil.

It is true that each case has its own unique features, however, they share one major similarity that could potentially restrict both foreign insurers and Nomads. Insurers may be limited in their market access in these jurisdictions, and Nomads that are informed of this may experience a decrease in the selection pool of plans as a ripple effect of that limitation. Some may argue that legislation should be read independently of cultural or economic contexts, but this research argues that it is precisely these contexts that make each legal system different from one another. Therefore, it is important to consider these cultural and economic factors when analyzing the impact of regulatory authorities on foreign insurers and Nomads in these jurisdictions.

When comparing the insurer's home jurisdiction of Norway to the previous cases discussed, one can observe that the Norwegian body of law regulating private insurers is well-organized. This is not surprising as Norway builds on the continental civil tradition and the law is duly codified, leaving no room for margins of appreciation. This provides for a clearcut regulation on the establishment of private insurers in Norway, which is different from the regulatory systems in Canada, India and Brazil, which have more discretion and room for interpretation in their laws. This makes the regulation of private insurers in Norway more predictable and consistent compared to the previous cases discussed.

Another factor that makes the Norwegian legal system unique is its membership in the European Free Trade Association (EFTA). Norway is the only legal system among the cases discussed that is a part of a larger supranational jurisdiction spanning across all EFTA states. The EFTA itself is an ambitious attempt by the European community to harmonize the laws of culturally diverse jurisdictions in specific areas, such as the free movement and establishment of private insurers across the EFTA and the freedom to offer insurance plans on territories thereof. This membership in the EFTA brings an additional layer of complexity and compliance for private insurers in Norway, as they have to comply with both domestic and EFTA regulations.

To recap, the emergence of EFTA was a necessary stage in post-World War 2 Europe, as the governments realized that the unification of diverse cultures under one harmonized framework could de-escalate future military conflicts. This has held true until today, however, despite the seemingly successful system, some governments still find themselves misapplying its principles. One example is the previously discussed NAV scandal in Norway, where the Norwegian government was found to have contradicted the EFTA's harmonization principles. This implies certain challenges for private insurers in Norway and the EFTA, which may need to be further discussed and addressed.

It is important to also review the American jurisdiction, specifically New York, which is a financial center and one of the most prosperous places in the US. New York's regulatory environment and legal system for private insurers would provide an interesting contrast to the previously discussed cases of Norway, Canada, India, and Brazil, as the United States has a different history, culture, and political system. Comparing the regulatory environment and legal system for private insurers in New York to these other jurisdictions would provide a more comprehensive understanding of the challenges and opportunities for private insurers and Nomads operating in different parts of the world.

The New Yorkian case, like the previous cases, demonstrates a set of its own unique features. One of the most interesting observations is the overall attitude of the law in New York, which appears to be protective. This is interesting for two reasons. First, the US promotes liberal economic values within and outside its federal boundaries, which include the freedom of the market with minimal government intervention. Second, the rise of the social justice movement in the US has led to democratic uprisings advocating for equality in the majority of its economic sectors. This may lead to a more protectionist attitude towards regulation in certain industries, including the insurance sector. It would be interesting to see how this attitude towards regulation affects the establishment and operation of private insurers in New York compared to the previously discussed cases.

Despite the protective attitude of the law in New York, the legal reality is different. New York is one of the biggest liberal-democratic centers in the Americas, yet it provides for a more restrictive legal framework for private insurers. Unlike the Canadian, Indian, and Brazilian instances where regulatory authorities have unrestricted powers, the powers of regulatory authorities in New York are adequately defined. For example, they cannot simply refuse the licensing of insurers, they can only do so after proving that there is a sufficient criminal reason for such a refusal. Additionally, the insurer's position needs to be heard before any binding decision on their application is issued, providing a level of protection for the insurer's rights. Overall, the regulatory environment in New York is more restrictive than the other countries discussed, providing a different set of challenges and opportunities for private insurers and Nomads.

The restrictive legal framework in New York for private insurers is primarily due to discriminatory conditions towards foreign insurers, embodied by strict licensing procedural rules. This means that foreign insurers will likely spend more time, financial, and human resources to comply with licensing requirements than insurers based in the state. This can call into question the expansion of foreign insurers to New York, particularly for those coming from European legal systems that have some degree of harmonization under EFTA. Even though the harmonization is more theoretical than applied, as demonstrated by the NAV scandal, it still creates an additional layer of complexity for foreign insurers to comply with both domestic and supranational regulations.

Interestingly, as noted before, the discriminatory policy towards foreign insurers in New York may stem from the state's historical context. The Insurance Law in New York considers other American insurers coming from other US states as foreign as well. Therefore, when the law refers to foreign insurers, it also includes those coming from states such as Massachusetts or Tennessee. This could be indicative of an obsolete law that needs to be updated to reflect the current reality of the US insurance market. This could lead to challenges and confusion for insurers operating in different states and could be seen as a barrier to competition.

The North Eastern and Southern states in the US, which were among the earliest British and French colonies on the continent, still have some clauses from the past in their legal systems. This is further complicated by the lack of judicial interpretation of these clauses as they have not been challenged in the state courts. Therefore, one can still encounter such clauses across different American states' legal systems, particularly in the older colonies like New York, which has a unique history and legal system.<sup>76</sup> This can lead to confusion and challenges for private insurers operating in different states, as they may have to comply with different regulations and laws.

Overall, the cases selected for this research do not explicitly preclude foreign insurers from establishing in the jurisdictions discussed, and they do not provide for any explicit limitations that may affect the model plans as to their essential components. Therefore, these legal systems may seem attractive for both Nomads, as a destination to relocate to, and for insurers as a promising business opportunity. However, it is important to note that the regulatory environment and legal systems in each country have their own unique features, challenges, and opportunities that need to be considered when assessing the potential for foreign insurers and Nomads to operate in these jurisdictions.

While the legal systems of Brazil, Canada, India, and the US do not have explicit limitations that may affect the model plans of foreign insurers, implicit limitations may arise from those systems. In the cases of Brazil, Canada, and India, these restrictions may originate from binding conditions set by the regulatory body in charge of the insurance sector. In the case of the US, challenges may arise from an overly protective and potentially obsolete law, particularly in the state of New York. These implicit limitations need to be taken into account when assessing the potential for foreign insurers and Nomads to operate in these jurisdictions.

All the differences observed in the legal systems of Brazil, Canada, India, Norway, and the US seem to stem from one overarching reason: their diverse historical contexts that have forged unique environments in each legal system. Even though these systems are close to each other

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<sup>76</sup> Brown, E. G. (1964). *British Statutes in American Law 1776 - 1836*. (Ann Arbor: University of Michigan Law School)

geographically, such as Ontario and New York, they each provide for their own unique vision on private insurance market regulations. This observation highlights the need for harmonization globally as the next major trend in the private insurance sector. Harmonization would bring consistency and predictability to the regulatory environment for private insurers, making it easier for them to operate in different jurisdictions and reducing the barriers to entry for foreign insurers. This would ultimately lead to greater competition, innovation and better service for customers.

#### **4.2 Absence of Transnational Harmonization**

This research has observed that the absence of transnational harmonization is an ever-increasing problem, which has become more apparent today. Despite the lack of explicit limitations, indirect limitations can still arise from legislation itself or the domestic regulatory body vested with authority to supervise them. While some jurisdictions share similarities in these areas, others do not. Regardless of the specifics of each jurisdiction, they are all very different from each other, which creates a greater overarching issue for both Nomads and insurers. The lack of harmonization makes it difficult for them to navigate the different legal systems and regulations, which can lead to challenges in establishing and maintaining insurance and pension benefits, as well as in securing a global social safety net.

The circumstances that came to define the unique features of each jurisdiction are also varied and different. Some jurisdictions, such as Brazil, were created by the Portuguese Empire and then populated by different ethnicities. Others, like India, try to actively change their historical context by adopting Western-like legal system organization. Additionally, the legal landscape of the jurisdictions discussed is not static and continues to evolve in the modern day. This can lead to further challenges for Nomads and insurers as they try to navigate and comply with the changing laws and regulations. It highlights the need for ongoing monitoring and analysis of the legal landscape in different jurisdictions in order to stay current and make informed decisions.

The globalized context of the contemporary world provides its own set of circumstances that may see sovereign legal actors moving even further away from each other, thereby aggravating the issue for Nomads and private investors. While this problem is not directly connected to the global insurance market, its ripple effect may be felt by the market. Recently, the globalized context has been defined by multiple disruptions in supply chains due to the COVID-19 pandemic, which posed the first major challenge to the organized global economy and globalization itself.

However, the pandemic has also brought about positive impacts in the realm of remote work and digital nomads. With the widespread adoption of remote work and the understanding that work can be conducted over the internet, companies are now able to hire employees from across borders, leading to a more diverse and global workforce. This also allows for more flexibility in terms of location, as digital nomads are now able to relocate to remote areas without having to worry about sacrificing job opportunities.

This shift towards remote work and the blurring of geographical borders also has the potential to level the playing field in terms of access to social safety nets and job opportunities. With the ability to hire from anywhere in the world, companies are now able to access a wider pool of talent, which could result in a more inclusive and fair world. The pandemic may have accelerated this shift, but it has also opened up new possibilities and opportunities for digital nomads and remote workers.

This research has shown that there is a need for a global safety net, but it has not concluded on the best way to reach that goal. Whether it will be solved by states, similar to the EU/EEA arrangement, remains to be seen. As the thesis has shown, it could be possible for private actors to solve it by providing private insurance plans. In the situation that nothing changes this is more likely to be the solution.

A third and unexplored option is a combination of the two. As many developing countries are keen to seek new opportunities for growth in their economy, they could very well join private initiatives in this solution. Imagine countries with little resources to provide publicly funded

social security nets. If they make agreements with private actors looking to provide insurance coverage similar to what is described in the model plans. This could not only improve the lives of the population in that country, and the stability of the government, but it would also connect the country to a new era where they could be the frontrunners.

This research has highlighted the significant differences between the selected legal systems and the ongoing challenges to globalization that may exacerbate these differences by pushing certain jurisdictions closer to their nationalistic ideals. In light of this, it is crucial for the international community to come together and discuss the harmonization of a transnational legal system that can accommodate the needs of digital nomads and private insurers operating in multiple jurisdictions. A harmonized system can provide a more stable and predictable environment for these actors, which would encourage the growth of the private insurance market and make it easier for digital nomads to relocate and access social safety nets.

It may be argued that the suggestion of a harmonized transnational legal system is ambitious and unrealistic. There are already many international organizations in existence, and most of them have much broader goals than just harmonizing legal systems. For example, the UN Security Council focuses on global political issues and has the power to issue binding resolutions to sovereign states. However, these existing platforms may be seen as outdated or built on outdated foundations, and may not effectively address the specific concerns of the private insurance market and the needs of digital nomads. Therefore, the need for a dedicated international platform or organization to address these issues is still a relevant idea.

The current international legal order is largely based on the outcomes and consequences of World War 2, and as a result, many international organizations under the UN's management prioritize the ideals of the 20th century, which primarily focus on preserving the territorial integrity of sovereign states, rather than promoting cooperation between them. While the territorial integrity of a sovereign state is important, there may be a need for an alternative international organization that is founded on different principles than those that underpin the existing transnational legal order. Such an organization could focus on fostering cooperation and coordination between

nations, especially in areas that have become increasingly globalized such as the private insurance market and the rights of digital nomads.

In conclusion, this research has demonstrated the unique challenges faced by Digital Nomads and private insurers in different legal systems. The historical context, cultural and economic factors of each jurisdiction have led to the emergence of specific limitations and obstacles for those looking to establish themselves in a new location. However, the ongoing challenges to globalization and the need for a global social safety net for Digital Nomads, highlights the need for a transnational legal system. Such a system could potentially waive lengthy establishment procedures and legal challenges, allowing for greater flexibility and cooperation between sovereign states in the private insurance market. Future research could explore the potential for such a system and the ways in which it could be established and implemented.

A transnational legal framework that is designed specifically for Digital Nomads and private insurers could have several benefits. Firstly, it could waive lengthy establishment procedures, or other historically influenced legal challenges that insurers may encounter when expanding to different jurisdictions. Secondly, it could establish a system similar to EFTA, which would allow private insurers to expand with minimal resources spent. Thirdly, it could consider flexibility for insurance plans that are interesting to Nomads, such as removing sovereign borders when it comes to enjoying benefits under a plan from another state. This could be achieved through private welfare agreements between certain sovereign countries, or through a grassroots initiative from the insurers themselves, such as lobbying international institutions such as the International Labour Organization (ILO).

This research suggests that it is crucial for the international community to come together and discuss ways to achieve this. The current challenges facing Digital Nomads and private insurers in terms of accessing social safety nets and expanding their businesses in different jurisdictions highlight the need for a more cohesive and harmonized legal system. Such a system could potentially eliminate the barriers and limitations that are currently present in different legal systems, making it easier for Nomads and private insurers to navigate the global market. This could lead to more economic opportunities and stability for all parties involved.





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