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Liability for Germanwings Crash May Still Rest With Airline, Insurer

Copilot's secrecy wouldn't necessarily exonerate Lufthansa, lawyers say

By ROBERT WALL

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LONDON—The unusual circumstances surrounding the Germanwings crash on Tuesday wouldn't necessarily free the airline and its insurers from claims of negligence, according to aviation lawyers.

Deutsche Lufthansa AG and its insurer could still face large legal liability claims in the crash of Germanwings Flight 9525 despite indications that the co-pilot who [deliberately crashed the plane](#) into a mountainside hid medical problems from his employer.

"The airline has unlimited liability unless it can prove it is free from fault," said Steven Marks, a partner at aviation litigation firm Podhurst Orseck. The crash of the Airbus A320 on Tuesday killed all 150 people on board.

Flight 9525 co-pilot Andreas Lubitz [was suffering from depression](#) and had been excused from work by a neuropsychologist for a period including the day of the crash, according to a person familiar with the investigation. He ignored the advice and reported to work without informing the airline of his condition. **Even so, the carrier could struggle to demonstrate it wasn't partly at fault. "Apart from inadequate psychological monitoring, the carrier could have enacted the two-person cockpit rule that might have prevented the accident," Mr. Marks said.**

The pilot of Flight 9525 had left the cockpit temporarily and appears to have been [locked out by Mr. Lubitz](#) as he set the jet on its descent that ended in the plane crashing into the French Alps. European rules don't require two crew members be in the cockpit at all times, though many carriers including Lufthansa last week moved to such procedures in the wake of the crash.

Lufthansa could be liable for more than the approximately \$150,000 the families of victims are automatically entitled to receive under international rules governing commercial flying, said Kevin Durkin, a personal-injury lawyer specializing in aviation for Clifford Law Offices. Families' rights to make further claims aren't waived by accepting those payments.

Lufthansa on Friday said it would pay an initial sum of €50,000 (about \$54,000) per person to the relatives of Flight 9525 passengers. The payments wouldn't affect potential further claims made by the families, the airline said.

In the aftermath of some crashes, next of kin have been able to win multimillion-dollar awards, Mr. Durkin



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said. After a crash, airlines tend to settle quickly to avoid further damage to their reputation from a prolonged legal battle, he said.

Lufthansa, which has struggled to meet financial targets amid labor unrest and restructuring measures, wouldn't pay the legal costs itself. The financial liability rests with its insurer, a unit of Germany's [Allianz](#), which typically is reinsured. The airline later could face higher insurance premiums though those would remain a small part of a carrier's costs compared with fuel and staff, an airline-insurance specialist said.

Allianz on Friday said it retains the liability element of the policy despite the seeming deliberate act of the co-pilot. The company said it wouldn't disclose detailed claims estimates it considers confidential nor the extent to which it is reinsured.

Costs to cover the loss of the plane shift to Lancashire Holding's Cathedral unit which wrote the insurance to cover such an event in case of war or a deliberate act, according to aviation consultancy Ascend Worldwide.

'The airline has unlimited liability unless it can prove it is free from fault.'

—Steven Marks, partner at aviation litigation firm Podhurst Orseck

Allianz also insured Malaysia Airlines which suffered two jetliner accidents last year. [Flight 370 was lost](#) more than a year ago while traveling from Kuala Lumpur to Beijing with 239 people on board. Four months later, in July, Flight 17 was shot down over eastern Ukraine killing all 298 passengers and crew. Allianz also insured AirAsia Flight 8501 that crashed in Indonesia in December killing the 162 persons aboard.

The size of legal payments could depend on where cases are filed. Payouts for cases in Germany could be limited compared with those for families that bring their cases in the U.S., where large settlements are easier to secure, Mr. Marks said. Factors such as where a victim lived, bought the ticket and was traveling to influence where a case can be brought.