

FROM THE WORLD OF GENERAL INSURANCE

Asbestos and pollution developments

The latest Fairness in Asbestos Injury Resolution Act (FAIR) has now been introduced into the House of Representatives in Washington – this closely follows that which failed to be passed in the previous administration.

Equitas has, subject to the necessary court approvals, settled what it claims to be its largest remaining direct asbestos exposure, that with Babcock & Wilcox. A payment of \$415m has been made into a trust account from which current and future asbestos claimants will be paid.

Following the news of the High Court ruling on pleural plaques, reported in last month's issue, the insurers concerned (Aviva and Zurich Insurance) have stated that they will also appeal the decision, as a consequence of an appeal lodged by one of the claimants regarding quantum of damages.

Contingent commissions/placement service agreements

Marsh McLennan Companies (MMC) has announced a further 2,500 job cuts (in addition to the 3,000 previously reported) following the investigations by Eliot Spitzer, the New York attorney-general into price-fixing, bid-rigging, and undisclosed incentive payments.

Aon has agreed to pay \$190m in settlement of its involvement in similar practices – this amount will be paid in instalments over the next three years into a fund from which affected US clients will be compensated. As in the recent case of MMC the agreement was on a no-fault basis, but accompanied by an apology from the company.

A related matter in Germany has now been dealt with by the local competition regulator who has fined ten major German insurers a total of €130m in relation to price-fixing practices.

Meanwhile, a survey by British Insurance Brokers' Association in UK has concluded that the US investigations have had little or no impact on the reputation of the industry.

Finite risk reinsurances

After more than 35 years in charge of the company, Hank Greenberg, president and chief executive of AIG, has resigned following the extension of the investigations into AIG, including the sending of subpoenas by the Securities and Exchange Commission (SEC) in the US to 12 of the company's executives. AIG's annual accounts were delayed as a result of the investigations, which particularly involved a number of 'finite risk' transactions, including one or more with the General Re subsidiary of Berkshire Hathaway, whose

renowned chairman, Warren Buffett, is now also said to be in discussions with the SEC and Mr Spitzer's office. AIG has admitted that at least one of these contracts was 'improper', being inappropriately recorded in its accounts. Subsequently, AIG was downgraded by Standard & Poor's (S&P) from AAA to AA+.

The Financial Services Authority (FSA) has given UK insurers six weeks to provide a broad outline of their exposures to finite risk reinsurances.

Underwriting practices

John Tiner, chief executive of the FSA, has stated that there needs to be a 'sea change' in the behaviour of London Market underwriters. In particular, he has pinpointed the inefficiency and lack of cost-effectiveness of many of their practices, which often result in contract details only being provided to the insured many months, or even years, after the commencement of the risk. While acknowledging that the Lloyd's moves towards standard policy wordings were a step in the right direction, he left no one in any doubt that further improvement was necessary, with the threat of more detailed regulation if such improvement was not achieved.

WorldCom

The trustee of the New York State Common Retirement Fund has reached a settlement with the former WorldCom chairman, Bert Roberts, who has agreed to pay \$4.5m of his personal assets to settle the case against him. Similarly, 11 other directors and officers of the company have also agreed to pay a total of over \$20m, and the directors and officers liability insurers will pay \$36m. The trial of Arthur Andersen LLP, the company's auditors, commenced on 23 March.

Converium

Following last year's reserve additions, reduced security rating and resultant loss of business by the company, major Swiss-based reinsurer Converium has replaced chief executive Dirk Lohmann with Terry Clarke, thus significantly increasing the profile of UK actuaries in the global general insurance and reinsurance industry.

Lloyd's

Lloyd's has announced a settlement of its dispute with central fund reinsurers, who had resisted the claim for £480m. It is understood that the settlement resulted in a recovery of £152m and an associated reduction of £226m in the central fund assets. S&P has stated that this will have no direct impact on the market's security ratings.

Large losses

There has been a major ruling in the UK Court of Appeal regarding excess of loss recoveries on the *Exxon Valdez* incident in 1989. The court found that certain payments which have already been made by reinsurers were not, in fact, covered by the reinsurance policies concerned. This will result in many participants in the London Market excess of loss (LMX) spiral having to review their position and potentially claw back recoveries which have already been paid to their reinsureds.

A final report has been released on the China Airlines crash in Taiwan in May 2002 – this blamed metal fatigue which could be traced back to repairs after an earlier accident in 1990.

Munich Re estimates that natural catastrophe insured losses in 2004 amounted to \$44bn, making the year the most expensive year ever in this respect. They further estimate that economic losses were up to \$145bn, making only about 30% of the total cost insured – this was obviously significantly affected by the Boxing Day tsunami. Swiss Re has produced an estimate of insured losses which is approximately 10% higher, probably resulting from a slightly different measurement basis.

In contrast, the number of aviation insured losses in 2004, at 15, is said to be the lowest on record, although the severity of losses continues to increase. Nevertheless, the estimated total losses are only \$577m, well below the norm over recent years.

Recent notable general insurance incidents/losses include:

■ **Indonesian earthquake** (28 March) – Insured losses from this event, which measured 8.7 on the Richter scale, are estimated to be relatively trivial. This results from the very poor standard of living on the island of Nias, which was principally affected. The undersea earthquake was accompanied by much smaller tsunami waves than that on 26 December last year, but still resulted in loss of life currently estimated to be of the order of 1,000, mainly through collapse of buildings. Aftershocks continued for several days. This adds further impetus to the implementation of an early warning system for seismic events in the Indian Ocean area – the first phase of the agreed system is now expected to be in operation later this year.

Current issues newsletter

Other recent developments are covered in the General Insurance Current Issues newsletter at: www.actuaries.org.uk/files/pdf/general_insurance/gicnews20050301.pdf.

DAVID HART

Actuaries on trial?

The role of the actuarial profession, as well as the actions of individual members, seem likely to be subject to the minutest scrutiny in Court 76 of the Royal Courts of Justice over the next several months as the High Court tries the case brought by Equitable Life against its former auditors and directors.

Despite speculation as to a possible settlement, the case eventually opened on 11 April in front of Mr Justice Langley. If the case continues until scheduled completion towards the end of 2005, approximately a dozen actuaries will have been subject to cross-examination on matters variously of fact or of opinion. It also seems likely that the role of the profession in setting standards will loom large, and counsel has already quoted Sir Derek Morris.

Press comment suggests that this is a case neither side can afford to lose, which in some circumstances might be good reason to expect a settlement. On the other hand, commentators agree that there is a strong public interest in exploring and resolving what should be the duties of auditors, directors, and indeed actuaries in various capacities. Disciplinary proceedings by the accountancy and actuarial professions have been stayed pending this trial, and can hardly fail to be influenced by its outcome.

Annuity market changes

Sales of impaired life annuities were 44% higher in the fourth quarter compared with the first quarter of 2004 and comprised 19% of all annuities sold in the open market in the UK, according to a survey by Watson Wyatt. Volumes of enhanced annuities sold were £120m in the first quarter, growing to £173m in the fourth quarter, its highest level for nearly two years.

Watson Wyatt believes that this dramatic growth in the number of people taking out impaired life or enhanced annuities – which includes annuities enhanced for serious medical conditions and as a result of lifestyle factors such as weight, smoking, occupation, and geographical location – is set to continue. 'It is generally believed that up to 40% of people taking out an annuity may be entitled to enhanced rates and so 28% or higher is quite possible', said Mark Joannes, a senior consultant at Watson Wyatt.

Although further growth is expected in 2005, the growth in this market will meet

Finis finite reinsurance

April was the month when unease about misuse of 'finite' reinsurance escaped from the pages of *The Actuary* and other professional and trade magazines and became front-page news. We have previously written about criticisms of the apparent role of reinsurance in problems at HIH, Independent, and Equitable, but this month saw regulators take an interest in how reinsurance was used by giants such as American International Group (AIG) and Warren Buffett's Berkshire Hathaway unit General Re. (See also p14.)

As we went to press, Buffett was explain-

ing to the Securities and Exchange Commission what he knew of a deal between the two which allegedly flattered AIG's balance sheet. AIG's own legendary leader, Maurice 'Hank' Greenberg, had already been jettisoned by his fellow directors because of the same deal.

In an unrelated development, Australian regulator APRA indicated that it continued to probe the role of General Re and of named executives in the problems at HIH, and Zurich Australia restated several years' results because of acknowledged inappropriate treatment of reinsurance.

an interesting challenge in April 2006 (A-Day), when new regulations will be introduced, allowing greater freedom and choice of in-retirement vehicles.

'One impact that should be considered is that fragmentation of the market is likely to result in worse annuity rates for healthy lives,' said Mark Joannes. 'Therefore, it could be that for healthy lives, some of the new options and flexibility on offer after A-Day may prove to be valuable. For them, one option may be to defer buying a traditional annuity, so retaining the option of taking out an enhanced annuity if ill health should occur in later life.'

Industry push to modernise US life assurance regulation

A new industry group, the Affordable Life Insurance Alliance, was launched in March and will push for product reserving that uses principles rather than formulae.

Co-chair Dennis Glass, president of Jefferson-Pilot Financial, said the new group wants to ensure that 'Americans have safe and affordable insurance' based on modern state laws that reflect a principle-based approach to reserving. A fundamental goal, he continued, was to offer 'properly reserved, innovative, affordable life insurance products'.

'Excessively redundant reserves', a spokesman noted, could discourage product innovation without providing additional solvency benefits. The new group supports and will work with the American Academy of Actuaries as well as the American Council of Life Insurers and the National Association of Insurance Com-

missioners (NAIC). The Academy has been advancing the approach for ten years and the NAIC is working on several projects that use a principle-based approach to reserving as a keystone for reserving requirements.

Academy president Robert Wilcox said that while the Academy is interested in creating a dialogue with those favouring a principle-based approach, it also will not be tightly linked with any group in order to maintain a professional stance.

Trowbridge Deloitte split

Trowbridge Deloitte, the Australian actuarial arm of big-four auditor Deloitte Touche Tohmatsu, will split in two with the departure of 60 of its general insurance staff. Trowbridge is one of the biggest consultant actuarial groups in Australia although its founder, John Trowbridge, is no longer involved.

The move is believed to be in line with new corporate governance standards, which have raised conflict-of-interest problems for the different divisions of professional services firms. The new organisation will be called Finito Consulting, under the control of the former Deloitte Trowbridge chief executive. The name Deloitte Trowbridge will stay with the life insurance division.

When in Rome... don't be late for your meeting

It is important to be punctual for business meetings in the Netherlands, whereas Brazilians believe latecomers are likely to be more successful in commerce than

FROM THE GLOOMY WORLD OF PENSIONS

Rover and the PPF

Two days after it formally came into existence, the new Pensions Protection Fund (PPF) seemed likely to face its first significant test with the threatened insolvency of car maker Rover. The press speculated that pension funding problems had been a factor in the breakdown of negotiations between Rover and a potential Chinese purchaser. At the time of writing, there has been no public comment by the PwC administrators on the potential implications of insolvency for workers.

The latest accounts for Rover showed a pension fund deficit of £68m, suggesting that on a buyout basis the deficit would be well in excess of £100m. Much the greater threat to the finances of the PPF, however, continues to be the potential insolvency of car parts maker Turner & Newall, with an estimated deficit approaching £1bn.

An ill wind

Higham Group's PPF Preparation Service opportunistically offers administrative, project management, and actuarial assistance to trustees, guiding their pension schemes through the PPF assessment period. The Preparation Service includes project planning, data cleansing, benefit conversion to PPF levels, and PPF valuations. It also facilitates data storage whatever the outcome of the PPF assessment period and will handle activities once the assessment period ends – normally entry into the PPF or scheme wind-up outside the PPF.

Pensions to inhibit corporate activity?

Senior executives of major UK organisations cite pensions issues as one of the factors most influencing their M&A decision-making in the next six months. 56% ranked pensions issues as a concern, with 28% citing pensions as a 'high' or

'major' concern.

Marc Hommel, of PricewaterhouseCoopers, said: 'Over two-thirds of FTSE 350 businesses expect an increase in UK M&A activity over the next six months, but 56% of these organisations are worried about the impact of pensions. We are seeing companies pulling out of deals, citing uncertainty around pensions issues. Yet there are solutions to the pension challenges, whether they are around pricing, using the clearance procedures available from the new Pensions Regulator, or working together with pension scheme trustees to arrive at mutually beneficial outcomes.'

Raised employer contributions?

The new Pensions Regulator – which has a responsibility to minimise the number of schemes claiming on the PPF – has released a draft code of practice on scheme funding, increasing pressure on

employers to make substantial payments against their scheme deficits.

A separate requirement for companies to secure clearance from the regulator for major financial transactions will create a further drive to fund scheme deficits. The regulator will be under pressure from 6 April to demand increased scheme funding in deficit cases as a quid pro quo for transaction approval.

Ironically, the greatest pressure from these new measures is likely to be felt by the most creditworthy employers.

Tim Keogh, worldwide partner at Mercer, said: 'The funding code says schemes should be fully funded as soon as practicable, and requires trustees to assess when this should be. Many people think well-capitalised companies can use their financial strength to justify maintaining their pension deficits. Obviously the regulator thinks otherwise, no doubt with one eye on the risk of substantial PPF claims from corporate failures.'

continued from p16

people who arrive early. And although Italians expect you to be timely for a meeting, they will make a point of turning up late to show you who's boss. As they say in Rome (and everywhere else in Italy), *Le persone importanti si fanno aspettare* – important people make you wait!

Understanding these cultural quirks of business etiquette could be the difference between success and failure for British companies looking to win new customers overseas, according to global credit insurer Atradius.

Will Clark, Atradius's regional director UK and Ireland, explains: 'The Internet and email might have made the world a smaller place, but when it comes to doing business we still like to meet in person and agree deals with a handshake.'

Many overseas customers do business in English, giving British firms a head start over their foreign rivals. However, just because English is spoken, a turn of phrase does not always mean the same in a foreign country as it does in the UK – especially when it comes to saying no.

Customers in south-east Asia and east

Asia feel it is impolite to say no and will often say yes, even though they are not agreeing to the deal.

In other countries your seemingly innocuous body language can actually cause offence:

- ◆ In Chile, holding your palm upward and then spreading the fingers signals that someone is 'stupid', while slapping your right fist into your left open palm is considered obscene.
- ◆ In India, never point your feet at anyone, as they are considered unclean. If your shoes or feet touch another person, apologise.
- ◆ Be careful not to sit with your legs crossed in Egypt as showing the sole of your shoe is considered an insult. And don't tap your two index fingers together – this is considered a crude gesture meaning 'will you sleep with me?'
- ◆ In Saudi Arabia the 'thumbs up' gesture is offensive.

The meeting is a crucial part of doing business overseas and can be almost a ritual for many countries:

- ◆ In Japan most decisions are reached

through a group decision-making process, so expect to make your presentation to many people at a lot of meetings.

- ◆ In China, business culture may seem regimented and slow, but let your hosts set the pace of a meeting. The Chinese put a lot of store in rank, so select a senior member of your team to be spokesperson.
- ◆ Italians prefer to do business with the most important people in your organisation.
- ◆ In the Netherlands, late arrival will be frowned upon, as the Dutch believe that people who can't use their time wisely cannot be trusted.
- ◆ Data collection is also important to the Dutch, so don't be surprised if your host has a complete dossier on you when you arrive for a meeting.
- ◆ Brazilians do business with people they like – and being late for appointments suggests you're relaxed. Brazilians like to get to know their business partners, so expect a lot of negotiation and several meetings before agreeing a deal.