

FROM THE WORLD OF GENERAL INSURANCE

Asbestos developments

The proposed Fairness in Asbestos Injury Resolution bill in the US has made slow progress, but eventually an amended version was accepted for consideration by the full senate. A total of 80 amendments were tabled for consideration in the 'mark-up' phase of the bill's progress, but very few of these were progressed in the first few days. However, one amendment which was accepted at this stage was one which would have the impact of allowing Equitas Ltd to seek 'hardship' adjustments to its payments into the fund, a relief which would have been very difficult under the original bill, but which would place Equitas in a position to other insurers. Subsequently, a further amendment which would allow insurers to discount their provisions for payments into the fund was also accepted. It is, however, believed that some senators who agreed for the latest version to be referred back to the full senate will vote against it when it is next considered.

Meanwhile, moves continue in various US state legislatures to approve bills which require asbestos claimants to meet specific medical criteria in order to pursue their claims. In particular, Florida and Texas approved such a bill (joining Ohio and Georgia).

RAND Corp has produced a report which analyses the costs of asbestos litigation in the 30-year period to 2002. This indicates that only 42% of the cost is received by claimants, with 31% being absorbed by defence costs and 27% by costs on the plaintiff side.

Another major asbestos and pollution settlement has been made by Equitas, which has settled its outstanding liabilities with Goodyear Tire & Rubber Co for a total of £61m, of which only £22m is to be paid immediately.

World Trade Center (WTC)

A London court has ruled that reinsurers are not liable for sums paid out under a business travel policy to families of Aon Corp employees killed in the terrorist attacks. Approximately £90m was paid in respect of the 169 employees who died in the WTC, but the terms of the policy were not met, as the employees concerned were not on an 'authorised business trip' as they were at their normal place of work at the time.

Contingent commissions

Willis Group Holdings Ltd has set aside \$20m to settle further potential legal claims and laid off 500 staff following the major settlement with the New York attorney general (see June issue of *The*

Actuary). In addition, another major broker, Arthur J Gallagher & Co, has set aside \$35m in relation to its involvement in contingent commissions and other anti-competitive practices, which they now claim to have ceased using. They have agreed payment (on a no-fault basis) of \$27m with the authorities in Illinois, as part of this, and are under investigation relating to such practices in a number of other US states.

One stage further on, Fortune Brands, one of the ex-clients of Marsh and McLennan Cos (MMC), has sued MMC for compensation over alleged bid-rigging and similar practices in the placement of its insurances.

American International Group (AIG)

Following the problems at AIG which have been reported in recent issues of *The Actuary*, the company has introduced new non-executive directors, appointed Frank G Zarb as chairman, and established new board committees to improve corporate governance. It has also suspended two further senior employees pending investigation of their role in certain accounting practices. Most importantly, following investigations by an outside firm of lawyers, they have restated their accounts by \$2.7bn in respect of the accounting treatment of various finite risk reinsurances. In addition, accusations that AIG misreported workers' compensation (WCA) business as general liability have surfaced – the impact of this is that the company would pay less into state WCA funds. These recent developments have led to the downgrading of the group from AAA to AA+ by AM Best. Finally, Hank Greenberg, ex-chief executive of AIG, is now understood to be under investigation by regulators for an alleged attempt to manipulate the company's share price in the period leading up to his replacement.

Finite risk reinsurances

Investigations in USA into finite risk reinsurances are now said to involve the Federal Bureau of Investigation, which is looking into issues of corporate fraud related to those already investigated by the New York attorney general and other regulatory bodies. Restatements of financial accounts in respect of such reinsurances have been made by CNA Financial Corp, MBIA Inc, and Renaissance Holdings Ltd, in addition to AIG (see above). Zurich Financial Services Australia Ltd are also said to be in discussion with their local regulator as to whether a restatement is necessary in their case.

Elsewhere, further companies to become

involved in the US regulatory investigations include Hannover Re, XL Capital, GE Insurance Solutions, Assurant Inc, Munich Re, Axa Re, Conventium Holdings Ltd, Faraday (the Lloyd's managing agent), and Cologne Re (Dublin). Senior officials connected with the last two of these companies have been suspended pending the outcome of the investigations.

To add some balance to the picture, Warren Buffett, the chairman and chief executive of Berkshire Hathaway Inc, which owns several of the companies under investigation, has stated that finite risk reinsurance is a useful product, provided that it is not misused.

HIH

Terry Cassidy, former managing director of the Australian HIH insurance group, has been sentenced to 15 months in prison for his role in the collapse of the group.

Australian regulations

APRA, the Australian financial services regulator, has released proposals to strengthen the management of Australian insurers. These require the preparation of an annual financial condition report by an approved actuary, disclosure to APRA of reinsurance contracts, and strengthened business planning and risk management. Regulations are expected to be introduced on the lines of these proposals early in 2006.

Large losses

There appears to have been a remarkable lack of major general insurance incidents recently (up to the time of writing in early June) – hopefully this will not be reversed by the time this edition lands on your desks.

■ The only one on which I can report is an explosion at an oil depot in the Xinjiang Uigur area of China. This involved at least five fatalities and the destruction of about 1,000 tons of oil. It is unlikely to have a significant impact on western insurers.

Current issues newsletter

Other recent developments are covered in the General Insurance Current Issues newsletter, which can be accessed via the profession's website at: www.actuaries.org.uk/Display_Page.cgi?url=/general_insurance/gen_ins-curr-issues.html

 DAVID HART

Fund managers are not society's policeman!

Corporate governance activism – desirable doctrine or damaging dogma? is the title of a new book by actuary Arjuna Sittampalam which challenges what he says is the growing orthodoxy that investing institutions should play an active part in the governance of the firms in which they invest.

'There are growing signs that activists are going too far and that corporate governance intervention has become a religion, with an addiction to dogma that adherents of all religions are prone to. Undoubtedly, corporate governance activism under the appropriate circumstances has a lot to be said in its favour, but this does not justify its proponents undertaking evangelism. There is a need for the elimination of emotion and for an examination of the underlying principles', he says.

Although Mr Sittampalam is careful to distinguish between general governance standards such as Higgs and its predecessors and institutional activism in particular cases, his views are nonetheless likely to be controversial in at least some quarters. For more on this book, visit:

www.sageandhermes.com/publications/corp-gov-activism/

Is control cycle wobbly?

A new survey by Deloitte of how UK life insurance firms operate a financial control cycle suggests many firms will have to adapt and automate their accounting processes to deliver their commitments to both policyholders and shareholders. Key challenges for firms included:

- To clearly identify assets and their investment flows corresponding to different groups of policyholders so that their contribution to policyholder bonuses and shareholder profits may be calculated. For the first time last year, life companies were required by the FSA to publish their principles and practices and financial management (PPFM). These have shown that many with profits firms either use, or give themselves the right to use, different asset mixes for different groups of policyholders. Without a clear mapping of assets to the groups of policyholders it may be difficult to prove companies have dealt with customers fairly.

- Develop tax management and the understanding of tax variance to improve shareholder value management.

Reinsurance directive approved at last

The European Commission has welcomed last month's vote in the European Parliament to approve the proposed directive on reinsurance. The directive would establish supervision of reinsurers by competent authorities in their 'home' country, on the basis of which they could operate throughout the European Union (EU). That supervision would have to be exercised in line with provisions which all member states would need to apply.

Internal market and services commissioner Charlie McCreevy said: 'Excellent co-operation between Parliament, Coun-

cil, and Commission has led to this major step towards a more efficient and secure cross-border market in reinsurance. The directive will fill a gap in current EU legislation, which does not regulate specialised reinsurers, and give insurance companies greater confidence in seeking the best deal available wherever it is to be found in the EU. More competition at this level should ultimately benefit policyholders. The proposed directive would also contribute to reinforcing international financial stability, an issue over which there has been concern in major international fora.'

- Develop a better understanding of the impact of lapses of policies on shareholder value and also upon remaining policyholders. Understanding what causes customers to lapse policies is also an important step to treating them fairly.

- Improve the use of the general ledger for management information. The current inability to compare actual performance with actuarial predictions creates difficulties in managing the business effectively.

Prudential publishes economic capital analysis

Prudential plc published important new financial disclosures on 2 June. Philip Broadkey, finance director, commented: 'The difference between the regulatory capital view and the economic capital view is really one of being able to look at the group as a whole; recognise the fact that we've got operations in the UK, Asia, and the US, and that economic conditions and investment returns, and so on, will never be quite the same in all of those markets at once. The technical term for it is "diversification benefit".'

'So what we do, with the economic capital model, is imagine 1,000 different scenarios of investment performance, adverse conditions that could apply to the group, but recognising that the same things won't be happening in all of the markets at once. What we then do with this model is to run forward over 25 years to think about the effect of those investment conditions and make sure that we've got sufficient capital to meet almost all of these adverse scenar-

ios that we imagine. And that we have sufficient capital at the end that enables us to say, with the same sort of confidence as would apply to a AA bond rating, that we've got sufficient capital to meet these adverse conditions that could befall us.

'I think a lot of insurance groups are working on something similar and there are two reasons why we've built it. The first is linked to the way we want to present information to investors. We want to be able to demonstrate that we are allocating the right amount of capital, justified by the model, to the business that we're writing and on which we measure our returns.

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Geoffrey V Trahair

In the April issue of *The Actuary* the following report was published in relation to Mr Geoffrey Vincent Trahair: 'Actuary Geoffrey Trahair had his career in insurance terminated this month when APRA, the Australian regulator, disqualified him from involvement in the management or directorship of a general insurer.'

We understand that Mr Trahair is disqualified only from acting as an Approved Actuary, director, or senior manager of a general insurer in Australia. He is currently and remains employed as an actuary in Sydney.

The Actuary welcomes the opportunity to clarify the position and apologise to Mr Geoffrey Vincent Trahair for the inaccuracy of its original report.

'And the second reason is to help shape a discussion that is taking place across Europe now as to the next stage of the regulatory agenda, the so-called Solvency II Project, which is likely to take into account the sort of features that we've built into our model as regulators look at, again, improving the way in which they look at capital needs for insurance groups.'

For more visit www.prudential.co.uk/prudentialplc/investor_home/pressreleases/pressrelease?id=3668693

Pensions reform – for and against citizens' pensions

Former social security minister Frank Field was in trenchant form in an interview he gave on the Cantos website:

'I think this parliament will probably see the end of occupational schemes as we know them. I think smart-arsed lawyers will be taking their clients into court claiming they do identical jobs with somebody else in the firm, and that person is in the final salary scheme and they are not. I think the courts, given the European Convention on Human Rights, will rule in favour of the so-called dispossessed. At that point employers will throw up their hands and say the whole thing is pointless, we were never in this sort of game.'

'So we are going to get root-and-branch reform. The one thing the government has got to do is decide the question: what level of pension should we try and provide collectively? I believe that we should have a revamped state pension which keeps the pay-as-you-go scheme and links it with a funded scheme, which guarantees, because a community can do that if it

wants to, that at the end of the day when we have paid our full contributions we get a pension which takes us above means-testing.

'These are the proposals put forward by the Pension Reform Group of which I am part. It clearly is that the government has got three options; it has got this option; it has got what Adair Turner sometimes talks about, which is a funded Serps scheme, and we all know what happened to Serps schemes; there is a do-nothing scheme and bury-your-head-in-the-sand; or there is the Citizenship Pension view, which I just do not think is tenable. The British political culture is not about giving people something for nothing, it is about people earning something. That is what the friendly societies and the trade unions formed as a culture before welfare was nationalised.

'So they are the four options, the government will have to choose between them.'

However, Frank Field's views were challenged by the National Association of Pension Funds (NAPF), which released research showing that more than half (57%) of those interviewed in a MORI poll supported the idea of a universal state pension worth £109 a week, paid to all on the basis of citizenship, rather than on National Insurance contributions, and 80% agreed that 'women should get the same state pension as men, even if they stayed at home instead of going out to work'. NAPF chief executive Christine Farnish said: 'There can be little doubt about consumers' lack of faith in the current, over-complicated pensions system. People are crying out for a simpler, fairer system, and the Citizen's Pension addresses that need.'

Changing world of work and retirement

The world's local bank – HSBC – has published the world's most comprehensive study on global attitudes to ageing and retirement, which shows that for many people traditional retirement is a thing of the past. 80% want to scrap mandatory retirement while just 14% equate financial independence with old age.

Entitled *The future of retirement*, the study examines attitudes in Brazil, Canada, mainland China and Hong Kong, France, India, Japan, Mexico, the UK, and the US – countries and territories which contain over half of the world's people and combine to give a representative sample of the global population. Find out more at www.hsbc.com/public/groupsite/retirement_future/en/_overview_future_of_retirement.jhtml

Queen's awards invite applications from finance sector

Successful finance companies are being invited to apply now for a chance to win a Queen's Awards for Enterprise – the UK's most prestigious award for business-related achievement.

The official 'call for entries' for the 2006 queen's awards went out in June, targeting successful firms from all sectors across the UK. The awards are open to any UK-based organisation with two or more people, which has excelled in any of three categories – international trade, innovation, or sustainable development. The deadline for applications is 31 October 2005.

Alongside the prestige of winning and a reception at Buckingham Palace, a queen's award brings with it genuine business benefits – notably widespread publicity, national and international recognition, and enhanced staff pride and morale. Winners are also entitled to use the queen's award emblem as a recognised 'badge of success' throughout their marketing and operations, for a period of five years.

Organisers recommend that companies apply early. Applications submitted before 1 September can be checked by the queen's awards office and, if necessary, further information requested to enhance applications. Application forms for the 2006 Queen's Awards for Enterprise are now available at www.queensawards.org.uk, or call 08705-134486.

Simpler mutual recognition of professional qualifications

The European Council approved on 6 June a new directive intended to simplify the recognition within the European Union of professional qualifications, including actuarial qualifications.

This directive will consolidate 15 existing directives in the field of recognition of professional qualifications for regulated professions. While maintaining the main existing guarantees for migrants, the directive will improve conditions of free movement and ensure a simpler management of the system.

One key element of the new directive is

the facilitation of temporary and occasional provision of services, in particular through lighter formalities and through a limitation of the prior check of qualifications to professions which have health or safety implications. The final result strikes a balance between the right to free movement of fully qualified professionals and the need to protect consumers. Other developments introduced by the new directive include more automatic recognition on the basis of common platforms and increased involvement of representatives from professions.