

FROM THE WORLD OF GENERAL INSURANCE

**Asbestos developments**

The proposed Fairness in Asbestos Injury Resolution bill in the US has received wide criticism from the insurance industry since its passage by the Senate Judiciary Committee in late May. This criticism centred on the amount to be paid into the trust fund by the industry (\$46bn) and on the fact that claimants could revert to the tort system in the event that the trust fund was exhausted. Some insurers, however, went further, and opposed the concept of the trust fund in its entirety. The Senate is expected to vote on the proposals later this year.

Increases in reserves for asbestos-related claims have been advised by American International Group (by \$850m) and Equitas (£167m). AIG credit ratings were subsequently downgraded again by Standard & Poor's, this time from AA+ to AA. In spite of the increase by Equitas, the solvency margin reported in its latest published accounts increased by £16m from the previous year.

Judge Michael Kershaw has rejected an attempt by Municipal Mutual Insurance Ltd in run-off (MMI) to challenge the payment of asbestos claims in UK under public liability policies on a 'manifestation' basis, claiming they should be allocated on an 'exposure' basis. MMI intends to appeal the decision which was widely expected, and which clarifies the interpretation of such policies.

**World Trade Center (WTC)**

Several London insurers have sued the Port Authority of New York and New Jersey (PA) on the basis that, following the most recent *Silverstein* decision, PA is attempting to collect double sums insured from its own property insurances. As owner of the World Trade Center, it has already received \$950m. While there are some similarities between the two insureds, it is understood that the latest case is unlikely to take such a long time to resolve as the two-plus years involved in the Silverstein action.

**Contingent commissions**

Marsh and McLennan Cos (MMC) has sent letters to 135,000 US clients, advising them how much they can receive from the \$850m fund established earlier this year as part of the settlement of the investigations by the New York attorney general, Eliot Spitzer, into various anti-competitive practices in business acquisition. Amounts involved vary, but the largest is understood to be nearly \$1m.

Meanwhile, the European Commission has announced that it is commencing investigations into the way in which competition is working in the insurance industry across the European Union.

**American International Group (AIG)**

Problems continue at AIG with the threat of civil action by Eliot Spitzer in relation to the possible misleading of investors and regulators by AIG inflating financial reserves and understating losses. These issues are under investigation by a federal grand jury. Also Hank Greenberg, the chairman and chief executive, has now resigned from the board. See also the comments above under 'Asbestos'.

**Finite risk reinsurances**

General Re has terminated the consultancy contract of its ex-chief executive, Ronald Ferguson, after he declined to answer questions from the US Securities and Exchange Commission as part of its investigations into the use of finite risk reinsurance products. In addition, two former General Re executives have admitted conspiracy charges in relation to the setting up of a sham reinsurance deal – they could face up to 5 years in jail.

Further companies (see the previous issue of *The Actuary*) have received subpoenas in relation to the US regulatory investigations including ACE, RenaissanceRe, PartnerRe, and Platinum Underwriters.

**European Reinsurance Directive**

The European Reinsurance Directive, under which reinsurance regulation will be harmonised across the European Union (EU), was passed in early June. It is expected to come into force in 2007, when it will impose a consistent regime of reinsurer solvency requirements across the EU and enable companies to trade in all EU territories one they have been authorised.

At the press conference to launch the directive, Peter Skinner, the rapporteur for the directive, indicated that he considered inevitable the eventual abolition of the US collateral requirements under which alien (including European) reinsurers are required to provide capital in the US in relation to their liabilities in the US. Mr Skinner considered this to be one of the consequences of the passing of the directive, and stated that some discussions had already taken place

between the EU commissioner and the US regulators. This matter was also discussed by the National Association of Insurance Commissioners at its summer meeting in June.

**Large losses**

It has been revealed in an article in *Science* journal that the earthquake which caused last December's Indian Ocean tsunami was of the longest duration on record, and caused the whole planet to vibrate by at least half an inch.

A Scottish judge has dismissed a claim against Imperial Tobacco brought by the widow of a man who died from lung cancer after years of smoking – the decision reflected the fact that no proof was provided by the plaintiff that it was Imperial Tobacco products which caused his cancer.

There still appears to be a relative lack of major general insurance incidents up to early July, although there are a few worthy of individual note. It is, however, noticeable that there have been a number of (relatively minor) natural events which could be linked to climate change. In particular, floods affected Romania (April and May), São Paulo, Brazil (end of May), southern China (early and mid-June) and North Yorkshire (20 June).

■ **Hurricane Adrian** The first hurricane of the Caribbean season, Adrian, struck El Salvador and Nicaragua in late May, causing the evacuation of 23,000 people and one death. Damage was quite limited, and the storm quickly blew itself out.

■ **Chile earthquake** An earthquake measuring 7.9 on the Richter scale hit Chile in mid-June, causing 11 deaths. Although it affected the main copper-producing area, none of the main mines appears to have been damaged.

■ **Collision between passenger train and coal truck in Israel (21 June)** This resulted in 8 fatalities and 200 injured passengers. The financial cost has been estimated to be in excess of \$33m.

**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](http://www.actuaries.org.uk/Display_Page.cgi?url=/general_insurance/gen_ins-curr-issues.html)

 DAVID HART

## What should 'all risks' mean?

'All risks' covers have frequently been the reason for losses in property insurance. This form of coverage insures against material damage stemming from all non-excluded perils. While 'all risks' covers are offered in virtually all conventional property insurance markets, neither direct insurers nor reinsurers have ever been entirely at ease with them.

The latest technical publication from Swiss Re (at [www.swissre.com](http://www.swissre.com)) is an attempt to analyse the main weaknesses of the all risks policy, sketching out several modifications which, taken together, are likely to result in a product that is satisfactory for both the policyholder and the insurer. This publication is an attempt to deal with the lack of transparency that impairs conventional all risks books of business.

Swiss Re has also published its annual review of the global insurance market which shows that the insurance industry continued to expand and regain financial strength during 2004. Globally, inflation-adjusted premiums rose by 2.3%, to \$3,244bn. Key highlights of 2004 were the return to growth in the life business and the positive underwriting results achieved by non-life insurers. Looking forward, 2005 is likely to see growth gain momentum in life but decelerate in non-life insurance.

## Irish health insurance controversy

Actuary Mercer found itself at the centre of a political storm in Ireland last month when minister for health Mary Harney accepted the advice of the firm that it was not yet necessary to introduce risk equalisation compensating payments to Voluntary Health Insurance (VHI) from BUPA and other competitors. The minister found herself under attack for allegedly favouring the foreign BUPA at the expense of the local VHI.

The background to the controversy is that health insurance in Ireland is community-rated rather than being conventionally priced according to actuarial characteristics of individual risks such as age. In order for such a system to be sustainable following the advent of competition for the VHI, it was necessary to provide for risk equalisation payments in the event that new competitors including BUPA attracted better risks.

## Terrorism insurance shortfalls

Nearly four years after the 11 September terrorist acts that hit the US – the most costly disaster ever for the insurance industry – conditions on terrorism insurance markets have improved. Yet according to a new OECD report ([www.oecd.org](http://www.oecd.org)), there are continuing shortfalls in coverage, which could be revealed by another large-scale attack.

'Terrorism Risk Insurance in OECD Countries' examines market evolutions since 2001, as well as industry and government initiatives to address the challenge of modern terrorism compensation. One of its main conclusions is that private markets are not yet able to fully cover the extremely large losses that could result from terrorist acts in the future.

The report draws attention to major pending concerns:

- Terrorism insurance take-up rates remain low in various countries (at end of 2004, only about half of companies were insured in the US, while less than 3% of eligible firms have contracted with the German compensation scheme). Under these circumstances, the economic and social impact of a new large-scale attack could be greater than in 2001. OECD countries concerned should develop risk awareness and could consider incentives to extend coverage and increase

the financial capacity of terrorism risk compensation mechanisms.

- Chemical, biological, radiological, and nuclear terrorism risks (CBRN) are generally excluded from insurance coverage and are not always fully covered through existing government-backed insurance schemes. Governments should work with the insurance industry to find sustainable solutions for coverage.

- Estimates on maximum losses resulting from a single terrorist attack range from \$50bn to \$250bn. The losses associated with very large-scale terrorist attacks can remain beyond the capability of the private insurance and reinsurance industry to price and to absorb alone.

- Mega-terrorism may even result, in some countries, in losses exceeding the joint compensation capacity of private markets and governments to compensate for them without threatening national economic stability. Ex-ante co-operation between interested countries may thus be considered in the future.

Appearing just two days before the London bombing tragedy, the OECD report appeared likely to be used by the US insurance industry to resist moves to reduce government support these.

The Minister was eventually obliged to publish the advice from Mercer (see [www.dohc.ie/publications/pdf/advice\\_mercer.pdf?direct=1](http://www.dohc.ie/publications/pdf/advice_mercer.pdf?direct=1)) which is an interesting analysis of the pros and cons of introducing risk equalisation at the present time. It does, however, seem unlikely that risk equalisation can be much longer delayed.

## Anti-trust action on limitation of liability

From the US has come news that the mighty Justice Department was contemplating anti-trust action against the principal insurer of actuarial professional indemnity risk.

The background is that captive insurer Professional Consultants Insurance Co Inc (PCIC) responded to deterioration in its claims experience by encouraging its member actuarial firms and many other actuaries and firms to take steps to limit their liabilities by introducing changes to

their terms of engagement. Several meetings were allegedly held to encourage this change.

The Justice Department duly became concerned that liability was being more severely limited that should be the case in a competitive environment. The case was settled by agreement in which PCIC agreed to desist from its alleged previous nefarious activities and to furnish the government with information on an ongoing basis.

## Entente cordiale

Watson Wyatt (WW) has signed a strategic alliance with Actuaris, a French actuarial and insurance consultant. It gives WW a presence within the French insurance industry. At present the majority of its European fee income comes from the UK. The French deal follows WW's hiring of Torsten Köpke from Feri Institutional Management, Germany's top investment consultant, to set up a German operation.

**Consultation on PPF levies**

The Pension Protection Fund (Pension Protection Levies Consultation) Regulations 2005 (SI 2005/1440) have been published. Before the beginning of each financial year the PPF Board must determine how it intends to calculate the pension protection levies due from eligible schemes. The regulations require it to consult on the manner in which it intends to calculate the levies.

The regulations just set out the consultation procedure, and do not provide details about the proposed basis itself. Consultation on the calculation of the risk-based levy was due to commence at approximately the end of July.

**PPI briefing note**

The Pensions Policy Institute (PPI) has issued Briefing Note 21, 'Kiwisaver: Another lesson from New Zealand?' It is available at [www.pensionspolicyinstitute.org.uk](http://www.pensionspolicyinstitute.org.uk).

**GAD survey**

The Government Actuary's Department has published 'Occupational pension schemes 2004 – twelfth survey by the government actuary'. The report includes comparisons with results in earlier surveys by the government actuary and other data sources, details of how the survey was carried out, and a glossary of terms. It is available at [www.gad.gov.uk](http://www.gad.gov.uk).

**S&P deficit amortisation guidelines**

Standard & Poor's (S&P) has issued the first guidelines to help UK pension schemes determine an appropriate policy and timeframe for eliminating scheme deficits. The guidelines reflect scheme maturity and risk of sponsor failure. S&P notes that the typical deficit amortisation period for UK defined benefit pension schemes has historically been longer than the periods

suggested by its new approach.

**People's pensions coalition calls for a fair deal for pensioners of the future**

Four organisations, including the TUC, have announced the formation of a new People's Pensions Coalition to speak on behalf of millions of UK citizens and to call for a new pensions settlement that will deliver a fair deal for pensioners of the future.

A statement from Which?, Help the Aged, Age Concern, and the TUC says that Britain is stoking up a pensions crisis, with governments of all parties and employers retreating from providing a decent income in retirement. Meanwhile most people cannot afford to save for a pension and even those that can aren't saving enough.

The People's Pensions Coalition statement says that:

■ The UK needs a radical new pensions settlement not based on support from those with a vested interest in the pensions system but on popular support from tomorrow's pensioners.

■ Everyone in retirement should be able to count on pension provision from the state that lifts pensioners above the poverty line.

■ The current voluntary system is failing, with employers who do provide decent pensions being undercut by those that don't. Employers and employees should contribute to a pension that will provide an additional pension on top of that provided by the state.

■ The four organisations oppose retirement ages set by the state or employers. Employees should have more choice about when and how they retire.

■ The UK must move towards a pensions system that is much fairer for women and based on the idea of everyone building up their own independent pensions entitlement.

**From Court 76**

Last month was largely devoted to cross-examination of former Equitable directors.

An emotional apology to Equitable Life policyholders was unexpectedly offered this week by John Sclater, former non-executive chairman, who said the previous board was 'so very sorry' that Britain's oldest mutual 'ended up as it did'.

At the end of his evidence in the High Court negligence action which the society is bringing against 15 former directors – including Mr Sclater – the retired City banker told the court there were 'one or two personal things I would like to say, to get them off my chest'.

He first apologised to fellow former board members for the impact that events at the society had had on their lives and careers – although he also thanked them for 'their enormous support to me personally'.

Many of the directors involved in the High Court action have spent extended periods in the witness box. One has been excused because of ill health.

But Mr Sclater went on to address policyholders: 'We, the old board, are often accused in public of never having said a word of regret about what happened.'

He said this had made him 'angry and sad because it is false'. The first thing he had said to the Treasury select committee that looked into the Equitable turmoil was 'how bitterly sorry we all were that things turned out as they did'.

Nevertheless, he said: 'I have not consulted the others, but I am sure I speak for them all in repeating what I said then, that in spite of doing all we possibly could to save the day, the society which we loved ended up as it did, we are so very sorry.'

*Financial Times 1 July*

Ernst & Young, the accountancy firm defending a £2bn negligence claim over its auditing of Equitable Life, yesterday decided not to call the five partners responsible for the audit work to give evidence in the case. Lawyers said the last-minute move to pull the partners at the centre of the dispute out of the case was practically unheard of when fighting a professional negligence claim.

John Bannon, Paul McNamara, Richard Combes, Gregor Stewart, and Tim Roff were due to give evidence as soon as Tuesday.

But in the High Court yesterday, E&Y said it had decided it did not need to make the men give evidence as it considered the negligence claim being brought by Equitable was 'hopeless'. E&Y said it believed all of the relevant points about the audit had already been dealt with in the evidence given by 15 former directors, and so there was no need to prolong the trial unnecessarily by calling the men.

However, the move will also spare the five any potential embarrassment that cross-examination by Equitable's lawyers might have caused.

*Financial Times 15 July*

Following the withdrawal of the EY factual evidence, the next witnesses are likely to be expert actuaries and accountants from PricewaterhouseCoopers, KPMG, Milliman, and Watson Wyatt. It is probable that these will appear after the legal vacation.