

## From the world of general insurance

### Asbestos developments

In late April, the New Jersey Supreme Court ruled that a retired worker at an Exxon refinery could seek damages against Exxon for the death of his wife in 2001 from mesothelioma, which he claims she contracted from washing his work clothes which would have contained asbestos dust. The finding relates to the premises owner's liability to persons exposed outside the site, which appears to have been expanded by this ruling. It is likely to set a precedent within New Jersey (the first state whose supreme court has considered this specific issue), but is feared by insurers to have potentially wider implications.

More generally, an increasing number of US states are passing legislation stipulating medical criteria to be met before asbestos litigation can commence. Such legislation is already in place in seven states and pending in a further eight. Where the criteria are in place, the result is that the number of outstanding asbestos suits has dramatically reduced. Similar federal legislation is also possible – the latest version of the Fairness in Asbestos Resolution Act (being debated in the Senate in early June) includes such criteria. In the UK, however, the House of Lords has ruled that there should be compensation limits in mesothelioma cases involving several employers, none of which can be specifically identified as the cause of the fatal asbestos-related illness – the total award should be allocated to employers pro rata to the time the employee worked for them. The decision was that an employer should not be held liable for more than the damage that it had caused, and was contrary to the joint and several liability permitted under the 2002 *Fairchild* decision – it is thought likely that it will result in savings to insurers amounting to some millions of pounds. Separately, the UK Department for Work and Pensions has stated that it is in discussion with

insurers to speed up the payment of compensation in respect of mesothelioma victims. Also in Britain, on 19 May, General Motors (GM) filed suit against Royal & Sun Alliance (R&SA), seeking payment of \$1bn for all asbestos-related claims for which GM considered the insurer responsible. This replicated a January 2005 lawsuit in the US, and the new suit reflected the fact that GM was concerned that the insurer had inadequate reserves held in the US. R&SA stated that the suit was 'without foundation'.

### Terrorism

Risk manager delegates at the Risk & Insurance Management Society conference in Honolulu were almost unanimous in their view that there should remain a role for the US government in providing ultimate back-up to the insurance industry in respect of terrorism risk after the Terrorism Risk Insurance Extension Act 2005 expires at the end of 2007. The consultation period set by the presidential taskforce established to consider the issue expired in late April.

In mid-May, a judge in a New York District Court ruled that a janitorial services contractor with clients in the World Trade Center (WTC) could recover claims for business interruption for the entire period until the 'hypothetical rebuilding of the WTC', rather than the period until their clients were relocated in alternative accommodation. A jury trial to define this period was scheduled for August 2006.

### Finite risk reinsurance and contingent commissions

ACE has paid \$80m in restitution and penalties, as ordered by the New York attorney general, Eliot Spitzer, to settle various charges relating to bid-rigging and improper use of finite risk reinsurances. The charges were originally brought by attorneys general in Connecticut and Illinois – it is understood that

further charges brought by other states remain outstanding. As part of the settlement, ACE apologised for the behaviour of certain of its employees, which had not been up to the level of expected business practice or of the company's own standards.

At the end of March, Max Re announced that it was the latest company to have to delay the publication of its financial results (first quarter 2006 results in this case), while it reviewed the accounting treatment of three finite risk reinsurance contracts. It is understood that there was potential for the review to involve a restatement of the 2005 results by up to \$50m.

By early May it became apparent that Liberty Mutual Group Inc was likely to be the first company to challenge in court the allegations against it by Mr Spitzer. The company is charged with bid-rigging and the use of contingent commissions in conjunction with the broker Marsh McLennan Cos Inc. The case has been filed in the State Supreme Court in Manhattan, and follows two years of investigations. It is understood that two employees who were said to have been involved in the practices have since left the company.

### PX Re

In early May, PX Re shareholders filed a class action alleging that the company had concealed the extent of its 2005 hurricane losses from investors. The company's chief executive and chief financial officer were also charged with violating the Securities and Exchange Act.

### Alea

Late in May, Alea (the reinsurer whose decline into run-off has been documented in these columns over the past few months) sold its Delaware-based excess and surplus lines insurer, Alea North America Specialty Insurance Company, to Hannover Re for \$4m in excess of the company's net asset value, the

overall figure expected to be around \$30–35m.

### Swiss Re

Swiss Re's \$1bn rights issue, intended to assist in the funding of the company's proposed acquisition of GE Insurance Solutions (GEIS), has been 69% subscribed by existing shareholders. This is considered to be a good outcome for a Swiss-based company. The balance is expected to be raised by a public offering.

Meanwhile, General Electric has moved Ron Pressman, president and chief executive of GEIS, to a similar role at GE Asset Management, prior to the completion of the takeover.

### HIH Casualty & General Insurance Ltd (HIH)

In addition to its failure to claim film finance losses from its broker, as reported in the May issue of *The Actuary*, HIH has also had an award for costs made against it, and been refused permission to appeal the decision.

The New South Wales Court of Appeal has dismissed the appeal by former HIH director Rodney Adler against his four-and-a-half-year prison sentence for his part in the collapse of the company. At much the same time, the Australian Prudential Regulation Authority banned two former non-executive directors of HIH (Justin Gardener and Alexander Gorrie) from future directorial or senior management role within the insurance industry.

### Cash-in-transit scandal

Following the February bankruptcy of Heros, the leading German cash-in-transit agent, as a result of embezzlement by directors, Marsh McLennan Cos Inc may face losses for failing to disclose problems at Heros to Amlin, the leading underwriters of the business. The brokers are legally required to report any

## From the world of general insurance

such material irregularities to the insurer. It is believed that losses from the insolvency may amount to €320m, and that Amlin may hold Marsh responsible for any losses presented to it. The main issue is likely to be exactly how specific was the knowledge available to Marsh.

### Large losses

Loss updates and related issues include:

■ **Hurricane Wilma (17–24 October 2005)** Insured losses have been reported by the property claims services department of the Insurance Services Office to have increased from \$9.35bn to \$10.3bn, largely as a result of additional claims reports from Citizens (the property insurer of last resort in Florida) and the time being taken to complete repairs.

■ **Explosion and fire at oil depot at Buncefield, Hertfordshire (11 December 2005)** An initial report into this event by the UK Health and Safety Executive has blamed the explosion on overfilling of a fuel tank, following the failure of two safety devices. This is understood to have led to the instigation of a number of legal suits against the depot's operator. There remains very considerable uncertainty about the total cost of claims arising from the incident, which could reach £1bn.

■ **Tornadoes, hail, and thunderstorms in Tennessee and adjacent states (6/8 April)** Insured losses are estimated to be of the order of \$675m.

■ **Tornadoes, hail, and thunderstorms in Illinois, Iowa, Wisconsin and Indiana (13–15 April)** Insured losses are estimated to be of the order of \$720m.

■ **Hail storms in Texas (21 April)** This saw baseball-sized hailstones being suffered in the San Marcos area. Estimates suggest nearly 120,000 insurance claims totalling \$315m. The majority of the claims are understood to relate to damage to automobiles.

■ **Fire at fuel depot in Pasir Gudang, Malaysia (28 April)** This

was the result of a lightning strike on a large fuel tank owned by Petronas. The blaze spread to two other tanks, and destroyed nearly 700,000 litres of petrol, causing insured losses initially estimated at around \$25m – it is understood that these are retained in the local insurance market.

■ **Air crash in Black Sea (3 May)** An Armenian Airlines Armavia Airbus 320 jet, flying from Yerevan to Sochi in southern Russia, crashed in poor weather killing all 113 passengers and crew on board. Insurance is understood to be placed in the London market.

■ **Fire at Brussels international airport (5 May)** This destroyed a hangar containing four planes, a Belgian military plane and three Airbus 320s including, bizarrely, another of the small fleet of 320s owned by Armavia (see above). Early estimates put the insured loss at around \$120m, with the three commercial planes insured in Lloyd's, with AIG and with ACE.

■ **Fire on passenger ship Calypso in English Channel (6 May)** This broke out in the engine room whilst the 11,000 tonne ship was en route from Tilbury to Guernsey carrying 463 passengers, mostly Dutch. It was controlled relatively quickly and the vessel was then towed into Southampton. Insurance is understood to be with the Lloyd's market and the West of England P&I club, but losses are expected to be relatively modest.

■ **Typhoon Chanchu (11–18 May)** This struck the Philippines, where it caused landslides and flooding and 41 lives were lost (mostly on a ferry which sank after the skipper ignored a coastguard ban on sailing), before intensifying and narrowly missing Hong Kong. Its landfall on the Asian mainland was, in fact, in south-eastern China where over 40 fatalities were caused, nearly a million people were evacuated from their homes, and widespread damage is reported. No insured loss information is to hand.

■ **Fire in cargo section of Ataturk International Airport, Istanbul (24**

**May)** This was thought to arise from an electrical fault. It caused significant damage and temporarily halted air traffic. Insured loss estimates are not to hand.

■ **Earthquake in Java, Indonesia (27 May)** This caused an estimated 6,000 deaths in Yogyakarta and the surrounding area. The majority of the fatalities resulted from collapsing houses and other buildings. The epicentre of the earthquake was near to Mount Merapi, which has been on the verge of a major eruption for some time, and suffered a number of relatively minor eruptions over a period of several weeks before and after the quake. No estimate of insured losses is available at present.

Early in May, the Property Claims Services (PCS) department of the Insurance Services Office in the US

announced that insured claims from thunderstorms, hailstorms, and tornadoes in the Mid-West this year had already reached \$3.5bn. It is thought that these losses will be largely retained within the local market. The PCS also suggested that such high levels of loss may become the norm in this area.

### 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

**Louise Pryor**

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**Louise Pryor MA PhD FIA**  
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[www.louisepryor.com](http://www.louisepryor.com)  
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louise@louisepryor.com

## With-profits life insurers are bigger and stronger, but...

Large with-profits funds are still growing, and looking stronger than a year ago, with assets now totalling £380bn, up from £347bn, according to the Centre for Risk and Insurance Studies at Nottingham.

Chris O'Brien commented: 'The "realistic balance sheets" that life insurers issue as part of their returns to the Financial Services Authority (FSA) help remove some of the mysteries about with-profits funds. This is our fifth annual survey, covering the 20 top with-profits life insurers.'

Companies have been helped by good investment returns in 2005. Highlights are:

- ◆ In total, insurers' assets are 6.88% more than their liabilities (on this 'realistic' valuation), a surplus of £24.5bn. The surplus a year ago was £20.7bn.
- ◆ Prudential had a £10.7bn increase in its assets; with £89.3bn assets in total, it remains the largest with-profits life insurer.
- ◆ Standard Life, planning to demutualise, shows realistic assets exceeding realistic liabilities by £4.1bn, 24% up from £3.3bn a year ago.
- ◆ In total, companies are setting aside £24.4bn for options and guarantees (included in their liabilities), up from £23.2bn a year ago.

The FSA also requires companies to carry out 'stress tests', to check they can cope with specified adverse scenarios. These require a further £8.5bn (2004: £9.7bn) of capital, and all firms meet this requirement. Indeed, if we look at the companies' insurance business as a whole, then their capital is £33.4bn (2004: £26.6bn) more than regulatory requirements.

Despite this improvement, June also saw the single biggest 'zombie' transaction to date, with Resolution agreeing to acquire a number of life companies from Abbey (formerly Abbey National, and now owned by Banco Santander of Spain) for a consideration stated at £3.6bn. The transaction is subject to various conditions, including the agreement of Resolution shareholders.

## Pension deficit at BAE Systems

As we went to press, news emerged of an agreement between employer BAE Systems and unions representing its employees on a strategy to eliminate its defined benefit pension scheme deficit of £3.1bn. The plan involves sharing of the burden 60% by the company (in the form of increased regular contributions and total special contributions of £1.1bn) and 40% by employees (through a combination of higher contributions and reduced benefits. The plan

also includes agreement on sharing of the burden of future increases in longevity. Unions praised the consultation process pursued by BAE, which may become a benchmark for others. More detail at [www.baesystems.com](http://www.baesystems.com).

## 98% say yes to Standard demutualisation

Saddam Hussein might have been proud of the very positive vote by Standard Life's with-profits policyholders in favour of the demutualisation of the company at a special general meeting in Edinburgh on 31 May.

If the demutualisation is completed, it will return Standard to the status it enjoyed for the first hundred years of the existence of the company before it became a mutual in the 1920s. The fact that over 1.5m out of a possible 2.4m customers voted in favour meant that Standard Life's plans enjoyed the backing of an absolute majority. This is likely to have helped subsequent court approval.

Standard chairman Sir Brian Stewart said: 'We are delighted with this outcome. We have a clear and emphatic vote of confidence in our proposal to demutualise and float on the London Stock Exchange, and this decision is an excellent outcome for the future of Standard Life.'

'Today's result is historic, but we still have work to do. On 15 June we plan to mail members, customers, and employees with details of our preferential offer, if they are eligible. All of this will

culminate with our proposed flotation in July when we expect Standard Life plc to list on the London Stock Exchange. As I have said throughout this process, we believe this outcome is in the best interests of members, policyholders, and our business.'

## No tobacco day

The World Health Organization (WHO) on 31 May accused the tobacco industry of continuing to use misleading labels such as light, clean, fresh, cool, or mild in order to lure millions of people, many of them children, to take up the deadly habit of smoking each year.

The theme of this year's World No Tobacco Day, 'Tobacco: deadly in any form or disguise', called attention to the tobacco industry's lies and to the existence of a great variety of deadly tobacco products.

'The purpose of World No Tobacco Day 2006 is to remove the deceit and unveil the truth behind tobacco products,' said a WHO spokesperson. 'Tobacco products are deadly in any form, whether it be cigarettes, pipes, bidis, kreteks (clove cigarettes), chewing tobacco, betel nut used with tobacco, or cigars.'

WHO emphasised that the industry's use of misleading descriptors and manufacturing methods, such as mild, light, low tar, full flavour, fruit-flavoured, chocolate-flavoured, natural, additive-free, and organic do not make tobacco products safer.

## Eat less and live longer...

We saw this (good?) news in *Life Insurance International*:

'Actuaries may have to drastically revise mortality tables if scientists who met at a conference on life extension and enhancement held at the UK's Oxford University in March are correct. "Life expectancy is going to grow significantly", said Paul Hodge, director of Harvard University's Generations Policy Program. He explained that while it has long been accepted that 120 was the maximum a person could be expected to live, medical progress is rapidly changing this.

'Echoing Hodge's view, Richard Miller of the Michigan University Medical School said tests on mice and rats, which are genetically similar to humans, revealed that by limiting calorie intake their lifespan could be extended by 40%. In human terms, this would mean average life expectancy in developed regions such as North America and Europe rising from about 80 to 112 years.'

## and choose a young mother!

Society's oldest members are most likely to be born to its youngest mothers, new research suggests. The odds of living to 100 and beyond double when a person is born to a woman under 25 years of age, compared to those people born to older mothers, according to one of the most rigorous studies on the subject yet conducted.

The finding may also help clear up a statistical mystery – three years ago, the same husband-and-wife team of researchers found that being the first-born child in a family also boosted longevity, although no one knew why. 'It turns out that the whole phenomenon of first-born order and longevity is driven by young maternal age', said study co-author Leonid Gavrilov, a research associate at the Center on Ageing at the University of Chicago.

In other words, he said, first-born children are simply more likely than their siblings to have been born when mum was in her teens or early 20s.