

From the world of general insurance

Asbestos and pollution developments

The 9th US Circuit Court of Appeals has confirmed a lower court ruling that a Canadian company which disposed of hazardous waste in Canada was subject to the US Superfund law, because the pollutants were carried into US by the Columbia River. The decision, which has significant potential implications for waste disposal near international boundaries, may yet be appealed by the Canadian company or the national government.

In the UK, following the comments made by prime minister Tony Blair which were reported in these columns in the August issue, changes in the system for compensation of mesothelioma sufferers were announced by John Hutton, secretary of state for work and pen-

sions. The changes include the introduction of a standard claim letter intended to ensure that sufferers receive priority in the handling of their claims and an initiative to improve the tracing of employee records.

A proposal is to be put to creditors of Federal Mogul (parent company of Turner & Newall) in early September which would establish funds for claimants separate from the company's trading accounts; the company would thus hope to be able to trade forward without further concern for claims from past asbestos-related activities by the subsidiary.

Terrorism

The major claimants under property policies in relation to the attacks on the World Trade Center on 11 September 2001 are seeking Supreme

Court confirmation that their plans for redevelopment of the site, including the use of insurance proceeds, will not adversely affect their outstanding insurance recoveries. This is in light of refusal by some of the insurers to provide such guarantee, stating that the proposed rebuilding was not covered by the policy conditions. Following this development, two of the insurers concerned gave the required undertakings, but one (Allianz Global Risks US Insurance Co) maintained its refusal to do so, in spite of pressure from various politicians.

On 10 August, British police announced that they had foiled a plot to bomb up to ten passenger planes on transatlantic flights. In addition to the saving of thousands of lives, this almost certainly prevented losses amounting to several billions of dollars to the worldwide aviation insurance industry. No major impact is anticipated on premium rates, although had the plot been successful, significant increases would undoubtedly have been imposed. Insurers may, however, attempt to impose restrictions on terrorism cover when renewals are negotiated in the last few months of 2006.

Finite risk reinsurance and contingent commissions

John Byrne, a former executive of Cologne Reinsurance (Dublin) Ltd, has been banned by the Australian Prudential Regulation Authority from being a manager or director of a general insurer, and by UK's Financial Services Authority from performing any role that requires their approval. This results from his involvement in arranging various 'sham' reinsurances on behalf of a number of subsidiaries of General Re.

Canadian-based Fairfax Financial Holdings Ltd has announced that it will be restating its financial accounts following an internal review. This relates to the inappropriate accounting of a finite risk reinsurance

contract with Swiss Re, a contract which was due to be commuted in August. The restatement was expected to reduce shareholders' equity by over C\$200m.

RenaissanceRe Holdings Ltd has put forward to the Securities & Exchange Commission (SEC) a proposal to settle the charges brought against the company by the SEC in relation to inappropriate accounting of finite risk reinsurance policies. Under the proposal, it would pay a civil penalty of \$15m to the SEC in final settlement of the investigations, and hire an outside consultant to review its internal controls and policies. It would not, however, affect investigations being carried out by other bodies such as the New York attorney general's office.

St Paul Travelers has settled regulatory charges of bid-rigging and the inappropriate payment of contingent commissions for a total of \$77m and agreement to reform its policies. The payment is made up of fines of \$40m to the states of New York, Connecticut, and Illinois, and \$37m in compensation to the affected policyholders. The settlement also resolves charges of the misuse of finite risk reinsurances.

Andrew Kendrick, chairman of the Lloyd's Market Association and chairman and chief executive of ACE European Group, has called for the Financial Services Authority (FSA) to provide guidelines to brokers requiring greater transparency in relation to broker remuneration. This is seen as a reaction to the recent spate of charges brought by Eliot Spitzer, the New York attorney general, against major international firms of brokers alleging bid-rigging and the payment of contingent commissions. The FSA has agreed to consider the issue of greater disclosure in this respect, although there is a preference for a market-led solution.

American International Group (AIG)

In late July, AIG sued two former employees who now work for Starr



Louise Pryor

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Professor Ray Panko

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Aviation, charging that they were using AIG's confidential and proprietary information and engaging in anti-competitive practices, which resulted in the recruitment by Starr of 20 further AIG aviation staff. A couple of weeks later, CV Starr countersued AIG, alleging that up to 100 AIG employees had conspired to poach Starr employees, steal their trade secrets and their customers. Thus the feuding between the two related companies (Starr owns 47m AIG shares and AIG owns over 300m AIG shares) continues – watch this space for further fireworks!

PX Re/Quanta

It was revealed in August that PX Re had lost 82% of its business since the beginning of the year, following the rating downgrades suffered in February. The company is considering its options, and placement of the company into run-off appears quite likely.

Following rating downgrades, Bermudian reinsurer Quanta Capital Holdings has placed most of its business into run-off and announced significant second quarter losses. In addition, it is considering the possible sale of the company or of the remaining renewal rights, to avoid default on its credit agreements. PriceWaterhouseCoopers has resigned as the company's auditors.

Lloyd's

A group of former Lloyd's names has sued the UK Treasury, claiming that it did not properly implement the first European Union directive on non-life insurance in the period up to 2001 when it was the regulator of the Lloyd's market. The Treasury denies the accusation.

The Heritage managing agency at Lloyd's has created a new syndicate in mid-year to take advantage of the capacity shortfall in the US property insurance market. Syndicate 3200 will provide £35m of additional capacity in 2006, but it is then intended that it will be merged into Heritage syndicate 1200 at the end

of the year. This is seen as a creative solution to the mid-year inflexibility in capacity in the Lloyd's market in relation to syndicates supported by a mixture of individual and corporate capital.

Lloyd's has provisionally advised managing agents that the central fund contribution is likely to remain at 1% of capacity in 2007, although a reduction is likely in 2008.

Motor insurance

Standard & Poor's, a credit rating agency, has called for increases in UK motor premium rates to restore profitability in light of the increasing level of claims inflation in the motor industry. Almost immediately (and probably coincidentally) Norwich Union, the second largest motor insurer, announced rating increases averaging 16%.

UK personal injury claims

The Association of British Insurers (ABI) has called for an increase from £1,000 to £5,000 in the maximum compensation level to be eligible for resolution in the small claims court. This is part of its campaign to reform the personal injury compensation practices to accelerate the process and reduce costs. In addition, the ABI revealed the results of some research which it had commissioned into the impact of the representation of claimants by lawyers, rather than representing themselves; the findings showed that claimants received higher awards when they had no legal representation and, what is more, they received their award more rapidly.

Reserving for catastrophes

Evan Greenberg, chairman and chief executive of ACE, has called for changes in accounting rules to allow companies to set up reserves for future catastrophes. He contended that this would allow insurers to deal with the greater risk posed by the

increased frequency and severity of hurricanes. Other speakers at the International Insurance Society conference supported this call, but with varying degrees of confidence that such a change would prove attainable.

Job losses

Further job losses in the general insurance industry have been announced by Zurich Financial Services (ZFS) and Norwich Union (NU), following those reported from R&SA and Allianz in these columns in August.

ZFS stated that it may reduce its German workforce by 1,000, and 700 jobs were at risk in UK call centres in Newcastle, Portsmouth, and Cardiff, while NU announced the closure of a customer service centre in Liverpool where 321 staff are employed.

Large losses

Loss updates and related issues include:

■ **Hurricane Katrina (25–30 August 2005)** Insurers have won the first of a series of court cases under which they maintained that they were not liable for certain claims from water damage arising from Katrina which were affected by the flood exclusion.

■ **Air crash in Irkutsk, Russia (9 July)** updated figures indicate that 122 (rather than 150) deaths resulted from this crash, and that the insurance coverage was placed with Ingosstrakh Insurance Co in Moscow, and in the London market, where there was a \$750m policy – of this, the hull was valued at approximately \$19m.

■ **Capsize of Cougar Ace in north Pacific (23 July)** This 55,000 tonne car carrier was en route from Japan ➤

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Insurers join FTSE 100

Monday 18 September saw household name brand Rentokil and blue-blooded bank Schroders make their exit from the FTSE, at least for the time being. Unusually the replacements were two life insurers – Standard Life, following its recent demutualisation, and Resolution Life, which has grown rapidly by acquisition of other life funds, including most recently the life funds formerly owned by Abbey.

Age discrimination in Irish insurance

Discrimination against senior citizens in quotation for motor insurance appears to be a sensitive subject in Ireland. The controversy goes back to a landmark victory won by 77-year-old Jim Ross against Royal & Sunalliance in 2003. The insurer was unable to justify to the Equality Tribunal that its practice of across-the-board refusals of quotations to over-70 drivers was supported by actuarial data.

The controversy appears now to be spreading

to availability and price of travel insurance. The industry attempts to justify its practices by reference to the prevalence of various medical conditions among the elderly but is increasingly being challenged by the argument that it is using too broad a brush. 'If somebody is in good health, there shouldn't be an age premium on insurance', said a spokesperson for Age Action Ireland.

European solvency regime for pensions?

In its most recent review, the Conference of European Insurance and Occupational Supervisors (CEIOPS) contrasted progress on Solvency II for insurers with virtually no progress on harmonisation of pension scheme supervision.

'There are varying stages of convergence within and between insurance and occupational pension sectors. These are historic and dictated by national cultures and jurisdictions. There is considerable divergence across member states and their supervisory authorities', CEIOPS said. 'CEIOPS is addressing these differences related to

past traditions and approaches', it added. 'The room for improvement is still significant from this perspective. However, it should be emphasised that, at this stage, challenges to achieving further convergence are also related to the low level of harmonisation of the EU regulatory framework.'

'The Solvency II project takes up many of these challenges in the insurance sector, aiming at a harmonised EU prudential regime, including finding more streamlined arrangements for the supervision of multinational groups. Regarding the occupational pensions sector, obvious limits to supervisory convergence have related to the lack of harmonisation in the prudential regime, pending the actual implementation of the directive. In addition, significant differences between jurisdictions in the legal status and management of the institutions concerned present particular challenges. As already mentioned, CEIOPS is planning to monitor and compare relevant aspects of national transpositions. The results of this work could lead to further initiatives', CEIOPS concluded.

LDI – opportunity or danger? – see p18 ➤

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➤ to Canada with a cargo of 4,800 vehicles, when it started taking in water south of the Aleutian Islands. The hull is valued at \$8m, insured in the Japanese market, and the cargo value is estimated at \$91m. All members of the crew were successfully evacuated, but subsequently a naval architect from the salvage team was drowned when he fell from the listing vessel, which was still drifting in stormy seas.

■ **Forest fires in north-west Spain/northern Portugal (early August)** These caused at least three deaths and economic losses estimated at €500m, although any insured losses are expected to be nominal, because of the lack of involvement of buildings. Four people were arrested for suspected arson in connection with the fires.

■ **Floods in Gujarat and Andhra Pradesh, western India (early August)** These resulted in the loss of over 200 lives and displacement of 4.5m people from their homes. They were caused by two weeks of heavy rain, and resulted in closure of many industrial plants. Economic losses are estimated at around

\$3.2bn, of which only about 10% is insured.

■ **Typhoon Saomai in China (10 August)** This typhoon had wind-speeds of around 140mph when it made landfall in Zhejiang province, making it the most powerful storm to hit China for over 50 years. 1.7m people were evacuated from their coastal homes at the approach of the storm. Over 300 lives were lost, tens of thousands of homes were destroyed, and severe flooding followed the storm, which caused an estimated economic loss of \$1.4bn, but relatively modest insured losses.

■ **Earthquakes (11–13 August)** There was a series of earthquakes over this weekend, starting with one of magnitude 5.9 in Mexico. This was followed by a magnitude 5.7 quake off the Taiwan coast and a magnitude 6.3 one off the Indonesian coast on the Saturday. Sunday saw a magnitude 5.1 tremor on the South Island of New Zealand. Damage and injuries appear to be minimal from all these events.

■ **Marine collision in Indian Ocean (14 August)** This involved a Japanese oil tanker (*Bright Artemis*)

which collided with a burning cargo ship (*Amar*), as the tanker went to the rescue of the crew of the *Amar*. There was limited oil spillage, and it is not thought likely to cause major environmental damage or insured loss.

■ **Dell laptop recall (mid-August)** This resulted in the recall of 4.1m laptop computers containing Sony battery packs which were considered liable to overheat and burst into flames. It is understood that the company has product recall insurance, and that there is potential for losses amounting to \$400m.

■ **Air crash in Ukraine (22 August)** This involved a Tupolev 154 of Pulkovo Airlines which crashed following a fire on board, killing all 170 passengers and crew. The plane was carrying passengers (including 45 children) to St Petersburg after holidays on the Black Sea. Insurance coverage is placed in the Russian market.

■ **Air crash in Lexington, Kentucky (27 August)** This involved a Comair jet, which crashed on take-off from a runway of apparently inadequate length and burst into

flames, killing 49 of the 50 on board. The hull was valued at \$17.3m and combined hull and liability insurance was led by AIG.

■ **Tropical storm Ernesto (27–31 August)** This caused the first death of the 2006 Atlantic storm season in Haiti before making two landfalls in US, in the Florida Keys, where there was only moderate rainfall, and North Carolina following which there were a small number of additional deaths and significant flooding in various east coast states from North Carolina to New Jersey. The storm veered away from the Gulf of Mexico oil platforms, which were threatened at one time.

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